



NAIROBI CITY COUNTY ASSEMBLY

OFFICIAL REPORT

Second County Assembly – Third Session

Wednesday 11th December 2019

The House met at 2.30 p.m.

[Hon. Speaker (Ms. Beatrice Elachi) in the Chair]

PRAYERS

QUORUM

Hon. Speaker: Serjeant-at-Arms please ring the bell for seven minutes.

(Quorum bell was rung)

Hon. Speaker: Proceed!

COMMUNICATION FROM THE CHAIR

Hon. Speaker: Hon. Members I need you to sit, I have a communication to make.

(Hon. Okeyo and Hon. Nyambura entered the chamber)

Order! Hon. Members I am on my feet but I will seat down so that Hon. Okeyo and Nyambura can sit.

ADJOURNMENT OF THE ASSEMBLY FOR THE LONG RECESS

Hon. Members, I have the following Communication to convey.

Hon. Members, as you are all aware, today marks the end of the Third Session of the Second Assembly of Nairobi City County pursuant to provision of Standing Order No. 28 (1) which was extended vide a procedural Motion adopted on Tuesday, 26th November 2019, extending the Assembly sitting to today Wednesday, 11th December 2019.

Hon. Members, as the Assembly anticipates its adjournment, the Office of the Speaker wish to recognize with appreciation some of the notable output by this Second Assembly of Nairobi City County, particularly, during this concluding Thirds Session.

ON BILLS

Hon. Members, during the Third Session, the Assembly has seen introduction and consideration of 13 Bills with 11 Bills, being passed and assented into Acts. Accordingly, it is worth noting and acknowledging key contributions by the following Members:

Chairperson, County Budget & Appropriations with 6 Bills on behalf of the Committee, largely, financial related;

The Hon. Kabiru Mbugua, MCA for Sponsoring -The Nairobi City County Corporations Bill, 2019, and The Nairobi City County Pop-up Markets and Street Vendors Bill, 2019;

The Hon. Pius Mbono, MCA for sponsoring – The Nairobi City County Community Health Services Bill, 2019,

The Hon. Wanjiku Kariuki, MCA for sponsoring The Nairobi City County Sexual and Gender-Based Violence Management and Control, 2019;

Hon. Anthony Kiragu, MCA for sponsoring the Nairobi City County Outdoor Advertising and Signage Control and Regulations Bill, 2019;

Hon. Osman Adow, MCA for sponsoring The Nairobi City County Transport Bill, 2019; and

The Majority Leader (Hon. Charles Thuo, MCA) for sponsoring the Nairobi City County Tobacco Control, 2018.

ON MOTIONS

Additionally, Hon. Members, during the Third Session, a total of 123 Motions were tabled in the Assembly constituting 54 - Procedural Motions, 22 - Motions on Committee Reports of which 4 are pending approval, 47- Substantive Motions of which thirty-two (32) were passed, six (6) were withdrawn, one (1) was negative and eight (8) are pending for debate.

Equally, Hon. Members, the Office of the Speaker wishes to acknowledge the greatest contributors of Motions in the Assembly. These being; - Hon. Kabiro Mbugua, MCA and Special Elect with 8 Motions, Followed closely by Hon. Silas Matara, MCA and Member for Dandora Area II with 6 Motions, Hon. Daniel Ngengi, MCA and Members for Nairobi CBD with 5 Motions and Hon. Silvia Museiya, MCA and Special Elect with 5 Motions. Thumbs up! Hon. Members.

ON STATEMENTS

Hon. Members, during the Third Session, that being from February to December 2019, a total of 106 Statements were requested in the floor of the Assembly pursuant to provision of Standing Order No. 45 (2)(c). As at today, Hon. Members, the County Executive has responded to 44 Statements in the Assembly and 62 Statements pending response.

A total of 46 Members sought Statements from deferent Committees with both Hon. Redson Onyango, MCA and Member for Ngei Ward and Hon. Daniel Ngengi, MCA and Member for Nairobi Central Business District Ward having sought 11 Statement Request each. This was followed by the Minority Party Whip, Hon. Peter Imwato MCA and Member for Makongeni Ward with 8 Statements Requests.

Hon. Members, as you all know, Statements in one of the tools used by Assemblies and Parliament in the execution of its oversight role over the County Executive through Committees. Accordingly, Hon. Members, the Office of the Speaker also note with appreciation, efforts by Committees in consideration of such statement as the case with; Sectoral Committee on Transport and public works which considered and responded to 27 Statements Requests.

Sectoral Committee on Planning and Housing with 19 Statements Responses, Select Committee on County Budget and Appropriations Committee with 11 Statements Responses, Sectoral Committee on Environment with 10 Statements Responses and with a number of remaining Committees with an average of 6 considered Statements.

DECLARATION OF INCOME, ASSETS AND LIABILITIES

Hon. Members, you are aware of the communication that was conveyed by the Chair last week that Members should declare their Income, Assets and Liabilities. It comes to the attention of my office that out of 123 Members, 90 Members have picked their forms from the Human Resource Office, 30 Members returned their forms whereas 33 Members have not yet picked their forms.

Hon. Members, Section 27 of the same, Public Officer Ethics Act, 2017 provides that declaration shall be submitted in December of every second year and that persons joining Public Service are required to make an initial declaration within 30 days of becoming state officers and final declarations within 30 days of ceasing to hold state of Public Office.

Hon. Member, the Office of the Clerk, through the Human Resource Department, has designated a Service Desk at the Charter Hall to facilitate and assist Members in filling the Declaration of Income, Assets and Liabilities Form to ensure compliance with the law. I, therefore, urge you all to visit the Service Desk to ensure that you fill your declaration of Income, Assets and Liabilities Form on or before 20 December 2019.

STATE OF THE COUNTY

Hon. Members you are all aware of the happenings in the County Government Leadership. Following the ruling of the court, this morning and the speculation on the leadership vacuum in the County. This situation is unique hence it is important that we wait for advisory from the Institution of the Attorney General and the relevant Bodies on the matter to allow us to proceed.

In that regard, Hon. Members, the Assembly will proceed for the recess as we wait for a recall for a Special Sitting Pursuant to the provision of Standing Order No. 30 should the need arise.

AD HOC COMMITTEES MEETINGS

Hon. Members, you are aware that the County Assembly Service Board formed the Ad Hoc Committee to inquire into various issues of operations in the County Assembly. The Committees were to operate for a period of three (3) months and report to the Board. This is, therefore, to direct the Ad Hoc Committees to continue with their functions until 20th December 2019 as they resume in January 2020. In addition, any other Committee that has pending business may sit until 20th December 2019.

I thank you, Hon. Members.

(Applause)

Hon. Speaker: Hon. Minority Whip, there has never been a point of order on the communication from the Chair. Can we proceed in sequence?

(Hon. Peter Imwatok spoke off the record)

You will have time. I can see you are coming in with a statement in that you are able to deal with the matter also.

(Hon. Peter Imwatok spoke off the record)

Hon. Member, do you really want to argue with the Chair? In terms of respect, you know very well that when the Chair communicates, he doesn't open the communication for debate. But you have a right to debate on it when we come to the right time. That is all I am asking.

Hon. Peter Imwatok: Madam Speaker, with all due respect, under Standing Order No. 1, you have a discretion to give me an opportunity.

Hon. Speaker: Hon. Member, I would never want to start a parliamentary practice that has never been there. That is why I have given you an opportunity and you will react to it at the right time.

(Loud consultations)

(Several members walked out of the Assembly)

Hon. Members, Order!

STATEMENTS

Hon. Speaker: Hon. Silas Matara.

REQUEST FOR A STATEMENT REGARDING THE STATUS OF LOADING ZONES IN NAIROBI COUNTY

Hon. Silas Matara: Hon. Speaker, pursuant to Standing Order no.45 (2) (c), I wish to request for a statement from the Chairperson of the Sectoral Committee on Transport and Public Works regarding the status of loading zones in Nairobi County.

Hon. Speaker, under Article 186 (1) of the Constitution of Kenya Fourth Schedule on the functions and powers of County Government, among others covers County Transport, including county roads, street lighting, public roads, transport, traffic and parking. The city has designated preferential parking zones and bus termini throughout the city with parking restrictions for each zone. The County has continuously tried to continuously decongest the city but there has been a concern of some county officials who have been authorizing public service vehicles, matatus to drop and pick passengers on unauthorized zones.

Hon. Speaker, in the statement, the Chairperson should inquire into and report on:

1. Who authorized the location of loading zones;
2. Which are the designated loading zones in the County; and
3. Why are unauthorized officers and staff have the rights to allocate loading zones?

Thank you, Hon. Speaker.

Hon. Speaker: Chairman of Transport?

Hon. Joyce Kamau: Thank you, Madam Speaker, I request the member to give us six Assembly days after the recess.

Hon. Speaker: I think Hon. Matara, we can deal with the matter, but I will ask the Chair if you are able to deal with it so that when we come back you will tell us whether you were able to deal with the issue or not. Hon. Silas, you have something?

Hon. Silas Matara: Thank you, Hon. Speaker. This is a matter of urgency and the situation is chaotic especially in downtown. I believe since you made communication with regards to extending the sittings of committees to 20th December, the committee could dispense with it notwithstanding the Assembly days. If that is the only way you can direct, it is okay.

(Point of order)

Hon. Speaker: What is the point of order, Hon. Obuya?

Hon. Kennedy Obuya: Hon. Speaker, I am rising on a point of order under Standing Order no.36. Looking at the mood and the body language, I don't know whether my eyes are deceiving me, I wanted you to confirm whether we have a quorum to proceed. I can see there is no quorum, but I stand guided.

Hon. Speaker: Hon. Member, you have already clocked in. I said when I came the last time that I will never look at the numbers but the number of members that have clocked in. We are not going to play with the public resources of Kenyans.

(Applause)

You clock in there, you let the House run its business. So, the House will run until it finalizes its business based on the monies that you have just taken from Kenyans.

(Applause)

Chairperson of Planning, Hon. Wambugu.

MOTIONS

DRAFT LOCAL PHYSICAL DEVELOPMENT PLANS FOR PROJECTS UNDER THE KENYA INFORMAL SETTLEMENTS IMPROVEMENT PROJECT

Hon. Joseph Wambugu: Thank you. Hon. Speaker, on Tuesday 19th November 2019, the draft Local Physical Development Plans for projects under the Kenya Informal Settlements Improvement Project (KISIP) was tabled in the Assembly and committed to the Planning and Housing Committee for considerations and reporting to the House on the same.

The Kenya informal settlements improvement project is a government project funded by the World Bank. The project will be implemented in the counties through the Ministry of Transport, Infrastructure, Housing and Urban Development in conjunction with the relevant counties. The project was initiated in the year 2009 and so far, Nairobi County has benefited through various interventions in the selected informal settlements.

Hon. Speaker, Kayole, Soweto, and KCC Village are two settlements that have been upgraded through infrastructure development that is roads, streetlights, solid waste plant and stormwater drainage. Six other settlements, namely; Kahawa Soweto, Embakasi Village, Redeemed, Kambi Moto, Ex Grogon, and Mathare Valley Fire Victims are under the Planning and Survey component where the settlements are being planned with the aim of granting the security of tenure to the beneficiaries on completion.

Hon. Speaker, the planning process of the targeted informal settlements has been undertaken by different consultants contracted by the Ministry of Transport, Infrastructure, Housing and Urban Development. Draft reports and local physical development plans have been submitted by the said contractors contracted by the ministry of transport, infrastructure, housing and urban development.

The draft report and local physical development plans have been submitted by the said contractors to the county assembly for approval.

Upon scrutiny of the draft plans and reports, the committee is cognizant to the fact that the formulation of these documents was inspired by the objective to improve living conditions in informal settlements in Kenya and particularly in Nairobi county through enhancement of security of tenure and improving infrastructure based on plans developed in consultation with communities involved.

Hon Speaker, I am grateful to the members of the committee who committed the time to scrutinize the draft plans and now it is my pleasure to invite all the members of this assembly to endorse this great initiative that will ensure that the living conditions of the target areas are enhanced by supporting this report on the draft local physical development plans for the projects under the Kenya Informal Settlement Improvement Project.

I now call upon the hon Komo to second this motion.

Hon. Joseph Komu: Thank you Madam Speaker, in the constitution of Kenya under Article 42 everybody has a right to a clean healthy environment including the right to have the environment protected for the benefits of the future generations hence I stand to second, thank you.

(Question proposed)

Hon. Sylvia Moseiya: Thank you Madam Speaker, I rise to support this very good motion. First and foremost, because it is a motion that falls directly under the Big Four Agenda, one tenet being housing. Secondly, because it is part of our responsibility and the house to implement the Jubilee agenda. While at it I want to mention that we have struggled hard for the Jubilee government to take hold of Nairobi county.

As a Jubilee house with the majority of members, we are going to do everything in unison to make sure that the house is in order and that motions, Bills and statements that are tabled will go to the general good of Nairobians and Jubilee agenda will be implemented safely and smoothly, so I arise to support this motion. Also incognizant that even people in the informal settlement have a right to a clean environment and a right to development within their own ability or skills and that means local physical development plans so be it. I rise to support, thank you.

Hon. Fredrick Njogu: Thank you very much, I stand to support given that PDP under the informal settlement in Nairobi will go a long way in ensuring there is a security of tenure and especially in the slums.

It will also go a long way in ensuring we have infrastructure and basically speaking if you check the ADP of Nairobi county there was a memorandum of understanding concerning the same that this project would be undertaken by the World Bank and hence the county government of Nairobi did not put any penny except for the consultation and therefore giving them the mandate and adopting the report would go a long way in ensuring the World Bank will invest in this project and we are going to see a changed face in Nairobi concerning the slums. I beg to support.

Hon. Millicent Mugadi: Thank you Madam Speaker, coming from an area that is kind of informal or slum I rise to support.

Hon. Joseph Wambugu: Thank you Madam Speaker, mine is thank those who supported this noble cause that is our duty to make the lives of the people from informal settlements to be more of dignity in offering them very basic services which are good roads, clean water, good drainage and as my hon

colleague Hon Sylvia has said this is part of one of the pillars of the Big Four Agenda by H. E The President Uhuru Kenyatta on affordable housing. Thank you, everyone, who supported, I beg to move.

(Question put and agreed)

PROHIBITION OF AGRICULTURAL ACTIVITIES ALONG RIVER BANKS IN THE COUNT

Hon. Silas Matara: THAT aware that the Constitution of Kenya under Article 42 provides that every person has the right to a clean and healthy environment including the right to have the environment protected for the benefit of present and future generations through legislative and other measures;

Further aware that paragraph 10 of Part 2 of the Fourth Schedule to the Constitution provides for the implementation of specific national government policies on natural resources and environmental conservation including soil and water conservation as a function of the County Government;

Concerned that most small scale farming activities in the City are done along river banks of the Nairobi River, Mathare River, Mbagathi River and Ngong River across the County, such farming activities are done using dangerous chemical fertilizers that are washed into the rivers whose contaminated water is used to wash farm products such as vegetables;

Noting that in the long term, people living downstream accumulate dangerous metals such as lead which may cause anaemia, kidney and brain damage and even death; acknowledging that Section 6 of Environmental Management and Coordination (Water Quality) Regulations, 2006 prohibit any person from cultivating or undertaking any development activity within a minimum of six meters and a maximum of thirty meters from the highest ever recorded flood level, on either side of a river, this Assembly urges the County Executive to prohibit farming activities along rivers banks to reduce the pollution of the rivers and the use of polluted river water to irrigate crops along the river banks in the County.

Hon Speaker in few words the import of this motion, you realize that of late there is a lot of people who are suffering a lot from cancer and most of this is caused by what we consumed especially in Nairobi. You realize that when you go areas like Ruai or rivers around Nairobi there are farming activities. There was a report from the environment sector that all the rivers around Nairobi are polluted from chemicals especially in the informal sectors, you realize that toilet facilities are not enough.

So, people get to release waste into the rivers. With that in mind, we find that people farming in those areas and that food ends up in our markets. If you go to supermarkets, you find green Sukuma wiki, but you realize it has been farmed near the rivers. People elected us to this House to make laws to protect them in terms of health and otherwise.

Hon. Speaker, I pray that this House urges the executive to ban agricultural activities along the said riverbanks until when the rivers are cleaned up so that we ensure Nairobians get safe food to put on their tables. I beg Hon. Samora to second the motion.

Hon. Samora Wacira: Thank you, Hon. Speaker. I beg to second.

(Question proposed)

Hon. Speaker: Hon. June Ndegwa.

Hon. June Ndegwa: Madam Speaker, I fully support Hon. Ogwae's motion. I know we are all in agreement as an Assembly. Because of time and reading the mood of the House, I would request that you call the mover. Thank you.

Hon. Speaker: Mover.

Hon. Silas Matara: Thank you, Hon. Speaker. I take this opportunity to extend my gratitude for the silent support that the Members have given this motion. I beg to reply. Thank you.

(Question put and agreed to)

ADJOURNMENT OF THE ASSEMBLY IN ACCORDANCE WITH THE CALENDAR OF THE COUNTY ASSEMBLY

Hon. Speaker: Leader of Majority.

Hon. Charles Wakarindi: Thank you. I wish to move the following motion. THAT, pursuant to the provisions of Standing Order 29 (3), this Assembly adjourns until Tuesday, 11th February 2020, in accordance with the Calendar of the County Assembly (Regular Sessions). I call upon Hon. Defao to second the motion.

(Question proposed)

Hon. Speaker: Hon. Silas Matara.

Hon. Silas Matara: Thank you, Hon. Speaker. Let me take this opportunity to thank the Hon. Members for the way we have transacted business over the year. I rise to support this motion because we need time to go and have some rest and exchange with our constituents in our respective wards. I also take this opportunity to wish members a happy holidays ahead. And remember to spend wisely, engage wisely because January is coming. Thank you. I beg to support.

Hon. Peter Warutere: Thank you, Hon. Speaker. I rise in support of this very important motion. One of the important components of this Assembly is the representation aspect. We know quite well that it has been a busy three months. A time has come where we need to go and address our wards and because of the rains, there is a lot that we need to do at the ward level. I take this opportunity to wish all of you to go and engage the electorates and do representation for the next two months.

I wish you all Merry Christmas. Let us continue with this spirit. We thank God that we are upstanding and as we take on the issue that are going to be in the next year, it looks like it's going to be a rocky time but we thank God because we are up standing and we pray for our Governor. As we proceed to the next level, I pray that we go in one peace and come back the same. Thank you Hon. Speaker. I support.

Hon. Speaker: Hon. Leah

Hon. Leah Supuko: Thank you Madam Speaker. I would like to support the motion on adjournment. We have had bad days as an Assembly and we need to go home and reflect on how to bring back sanity into this house. I want to wish all of us a merry Christmas and a happy new year.

(Hon. Speaker left chair)

(Hon. Temporary Speaker [Mr. Silas Matara] took the chair)

Hon. Temporary Speaker: Hon. Nancy Muthami

Hon. Nancy Muthami: Thank you Speaker for catching my eye. I just came from the hospital and heard that there were some ongoing issues at the Assembly. Therefore, I decided to pass by and execute the work given to me by the people of Ngando. I want to wish everybody a merry Christmas and a prosperous new year. Thank you.

(Hon. Speaker resumed the Chair)

Hon. Speaker: Hon. June Ndegwa

Hon. June Ndegwa: I rise to support this motion and encourage members now that we are in a peculiar situation leading to a lot of speculation and emotions. I would like to urge each and every one of us to look for each other in the spirit of Christmas, peace, love and forgiveness as we celebrate Jesus Christ. However heavy our hearts may be. We pray that we will embrace each other and when we come back next year, we will have cleansed ourselves from the commission that has occurred in the last four months. Therefore, I rise to support this motion. Thank you.

Hon. Speaker: Hon. Wambughu

Hon. Joseph Wambughu: Thank you Madam Speaker. All work without play makes Jack a dull boy and with that, I beg to support.

Hon. Speaker: Hon. Maurice Gari

Hon. Maurice Gari: Thank you Madam Speaker. I rise to support the adjournment of the House. We have been away from our children since they closed school and I believe that it is time that we go and relax our brains. This is a House calendar that we have to follow and you must stand your ground as the Speaker of the Assembly of Nairobi so that respect prevails. I am one person who believes that when something is good it is and when it is bad then it also is. We cannot be swayed by propaganda and malice. Let us adjourn the House and if there is need, you will have to recall the House. We are not going on sin die. There are committees that are ongoing and we do not need to live in fear. Let me not speculate the issues that are in the courts. Let us go for recess and come back and with that, I beg to support.

(Applause)

ADJOURNMENT

Hon. Speaker: Hon. Members, the adjournment motion does not have to be replied to. I therefore want to thank you all as we close the third session of this Assembly and thank the leadership of this Country his Excellency the President Uhuru Muigai Kenyatta and say that this country is moving forward.

Nairobi County still has a Governor who is under investigations and his office is not vacant. We have to respect the law and I believe that his Excellency the President will give directions on the way forward. The law of the Assembly as gazetted states that we have to go for recess and we will have to follow it.

I thank all of you as you engage in public participation for the BBI to ensure that constituents understand the document. I wish Nairobi as a whole a merry Christmas and trust in God. I wish you well and your children and may the Lord bless you

There being no other business, this House adjourns to 11th February, 2020 at 2:30 p.m.

The house rose at 4:40 p.m.