



NAIROBI CITY COUNTY ASSEMBLY

OFFICIAL REPORT

Second County Assembly – Third Session

Tuesday 26th November 2019

The House met at 2.30 p.m.

[Hon. Deputy Speaker (Mr. John Kamangu) in the Chair]

PRAYERS

Hon. Deputy Speaker: Hon. Members, we need your quorum. Please be seated. Clerk, proceed.

COMMUNICATION FROM THE CHAIR

DECLARATION OF INCOME, ASSETS AND LIABILITIES

Hon. Deputy Speaker: Hon. Members, I have the following Communication to convey;-

Hon. Members, you may be aware of the requirements of Section 26 (1) of the Public Officers Ethics Act 2003 and as revised in 2016, which provides that;

“Every public officer shall, once every two years as prescribed by section 27, submit to the responsible Commission for the public officer a declaration of the income, assets and liabilities of himself, his spouse or spouses and his dependent children under the age of 18 years.”

In addition, 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 is required to make initial declaration within 30 days of becoming state officers and final declarations within 30 days of ceasing to hold state of Public Office.

Hon. Members, it is also worth noting that, Section 32 of the same Act provides that, and I quote;

“A person who fails to submit a declaration or clarification as required under this Part or who submits, in such a declaration or clarification, information that he knows, or ought to know, is false or misleading, is guilty of an offence and is liable, on conviction, to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year or to both.”

Hon. Members, the Assembly is in receipt of a Communication from the Ethics and Anti-Corruption Commission (EACC) vide a letter ref: EACC.7/10/4 VOL.V (107) dated 27th September 2019 and received on 2nd November 2019, bringing the attention of the County Assembly Service Board, the requirements of the aforementioned provisions.

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. You are so guided.

SPEAKER'S KAMUKUNJI FOR MEMBERS

Lastly, Hon. Members, the Office of the Speaker wishes to notify and invite all Members of the Assembly to the Speaker's "Kamukunji" scheduled for Tuesday, 3rd December 2019 at 10.00 am for deliberations and way forward on Assembly matters and welfare of Members. You are all requested to attend. I thank you, Hon. Members.

NOTICES OF MOTION

Hon. Deputy Speaker: Hon. Mary Ariviza. She is not there. Clerk, proceed.

STATEMENTS

Hon. Deputy Speaker: Hon. Redson Otieno. He is absent. Clerk, proceed.

PROCEDURAL MOTION

ALTERATION OF THE COUNTY ASSEMBLY CALENDAR

Hon. Deputy Speaker: Leader of Majority.

Hon. Charles Thuo: Thank you, Hon. Speaker. I wish to move the following procedural motion. That, pursuant to the provisions of Standing Order 29 (4), this Assembly resolves to alter the Calendar of the County Assembly and adjourn today, Tuesday, 26th November 2019 until Thursday, 28th November 2019. I call upon the Minority Leader, Hon. Mberia to second the motion.

Hon. Deputy Speaker: Hon. Mberia.

Hon. David Mberia: Thank you. I want to inform the Leader of Majority that there is motion number 8. I don't know why the Leader of Majority has skipped motion number 8 in the order of sequence. Before I second the motion.

Hon. Deputy Speaker: Hon. Mberia, it is motion number 8.

Hon. David Mberia: There is motion number 8 which was supposed to come first before we go to motion number 9 on the calendar of the House. There are two motions here. Motion number 8 and 9.

Hon. Deputy Speaker: You need to second number 8.

Hon. David Mberia: Thank you. I stand to second motion number 8 to adjourn the House tomorrow. Tomorrow is a very important day for this country. The much awaited BBI report will be launched at Bomas

of Kenya. I want to urge the Members, after the release of the report today and official launch tomorrow, to go through the report on the 9-point agenda of President Uhuru Kenyatta and Hon. Raila Odinga.

Hon. Speaker, if Members do not know the nine points' agenda, which was passed by the two national leaders, are as follows:

1. Ethnic antagonism and competition;
2. Lack of national ethos;
3. Inclusivity;
4. Devolution;
5. Divisive elections;
6. Security;
7. Corruption;
8. Shared prosperity; and
9. Responsibilities.

Hon. Speaker, I do not want to go deep because I have not yet read the report but I want Members to attend the said launch of the BBI initiative tomorrow at Bomas of Kenya and get copies after the launch and go through the report fully.

Hon. Speaker, this House will have a chance to debate the report after the release and after Kenya goes through the report because the amendments of the Constitution needs a threshold of 24 County Assemblies and I am sure after the reading of the report this House will be one of the Assemblies which will pass the BBI report. I beg to second.

(Question proposed)

Hon. Speaker: Mover!

Hon Charles Thuo: Hon. Speaker, I am grateful that Members realize the Importance of the special event that is going down tomorrow and their presence is needed there and without much ado, I will urge the Members to make sure that they attend the event and again and learn as much as they can from the event. Thank you.

(Question put and agree to)

PROCEDURAL MOTION

ALTERATION OF THE COUNTY ASSEMBLY CALENDAR

Hon. Speaker: The Leader of the Majority Party!

Hon. Charles Thuo: Thank you, Hon. Speaker, I wish to move the following motion. That, pursuant to the provisions of Standing Order 28 (2), this Assembly resolves to alter the Calendar of the County Assembly by extending its sittings to Wednesday, 11th December 2019. I will call upon the Minority Whip to second the motion.

Hon. Peter Imwatok: Hon. Speaker, I rise to second and I would like to appreciate the Majority side lead by able Majority Leader for accepting the request and presenting this before the House, as you are all aware that this Assembly needs to fulfill the motion, statements, and responses.

Therefore, it is prudent through the leadership that we have an additional of two weeks in December to be able to achieve our targets. I, therefore, arise to second the motion.

(Question proposed)

Hon. Speaker: Mover!

Hon. Charles Thuo: Thank you, Hon. Speaker, there is a need to extend the sitting of the Assembly so that we can conclude business before the close of the year. I appreciate the fact that Members are constant about that fact and I wish that we are going to use the time well to execute the said business thank you.

(Question put and agree to)

Hon. Speaker: Hon. Members, I invoke the Standing Order 41 and I would like to take this opportunity to allow Minority Whip on behalf of Mary Ariviza to give Notice of the Motion.

Hon. Peter Imwatok: Thank you, Hon. Speaker, allow me to read the notice of motion on behalf of my able Member Hon. Aliviza who just gave me a call a while ago.

Hon. Speaker, I beg to give notice of the following motion that aware that under the article 186 (1) of Constitution 2010 and the fourth schedule the functions powers and County Government among others covers County Transport including County roads, street lighting, public roads, transport and traffic and parking.

Further aware that recent years have witnessed a marked increase in the number of Public Service Vehicles (PSV) plying various routes in the County. Acknowledging that a well-performing transportation system is both efficient and effective and it is a prerequisite to social-economic growth and environmental certain ability. Concern that most Public Service Vehicles Passages vehicles have not embraced the provision of Article 54 (1) (C) which provides for the person with special needs access to public transport.

Consider that the County Government enacted the Nairobi City County Persons with Disability Act 2015, which provides for proprietors of PSVs to embrace persons with disabilities in a manner prescribed in Persons with Disability Boards Act.

This Assembly urges the County Executive to ensure all PSVs operating within the County have designated seats with clear signs attached herewith for persons with disabilities. Expectant women and elderly people, and persons with infants to promote easy mobility using public transport services for such persons with special attention. I beg to give notice of motion Speaker.

Hon. Speaker: Thank you, Minority whip!

BILL

SECOND READING

The Nairobi City County Sexual and Gender-Based Violence Management and Control Bill, 2019

(Bill No. 7 of 2019).

Hon. Mary Kariuki: Mr. Speaker I beg to move the Nairobi City County Sexual and Gender-Based Violence Management and Control Bill, 2019 (Bill No. 7 of 2019) to be read the second time.

The Summary of what the Bill provides is the administration of justice sexual gender-based violence County Management Committee, Civic Education in the County Assembly, Access to Health Care Services

and Safe House and shelter. There are some amendments that are being done and it will be tabled after the discussion with the Committee of the Whole House. I would like to ask the Chair of Labour to second me.

Hon. Peter Wanyoike: Thank you, Mr. Speaker this is a good Bill, which provides for promotion of public awareness on causes, impact, consequence, and means of provision of Sexual and Gender-Based Violence.

The Bill was committed to the committee that I chair and the committee conducted public participation whereby it reflected positive reactions from the public. Mr. Speaker, I beg to second.

(Question proposed)

Hon. Deputy Speaker: Clerk proceed. Members, debate. Any request for debate? The mover?

Hon. Mary Kariuki: Mr. Speaker, I would like to ask the Members of the House to debate.

Hon. Deputy Speaker: They have refused, so proceed.

Hon. Mary Kariuki: They have not refused.

Hon. Deputy Speaker: I can see Hon. Kiragu.

Hon. Anthony Karanja: Hon. Speaker, I wish to support this motion and say that it is long overdue for us to have such a Bill and such a committee to look into these issues. I am also hoping that the mover of this motion is also aware that men are grossly sexually abused at the workplaces, in the streets and everywhere. I believe that this is a good Bill.

Hon. Speaker---

Hon. Deputy Speaker: Yeah, I can hear you.

Hon. Anthony Karanja: Hon. Speaker, I beg to support.

Hon. Deputy Speaker: Thank you. Hon. Leah?

Hon. Leah Supuko: Thank you Mr. Speake sir. I want to support this motion based on the violence that has been witnessed in our country of late. A lot of women are being sexually harassed and beaten by the bad society that we have these days. It is a good motion and I think this House should support and more so the women. I beg to support.

Hon. Deputy Speaker: Hon. Anyule?

Hon. Peter Imwatok: Hon. Speaker--- *(Laughs)* It is you alone who knows that name. That name means a lot to me and my ancestors.

Hon. Deputy Speaker: It also means a lot to me, proceed.

Hon. Peter Imwatok: Hon. Speaker, I rise also to support Hon. Wanjiru on this important Bill. I was talking to my leader here whether we are duplicating the Bill from a national Bill to a county Bill. When perusing I realized two very pertinent items; Part 5 and Part 6. Which speaks about access to healthcare services by the casualties of this heinous act.

Hon. Speaker, as we support his bill by the Hon. Member who is a special elect, it also calls upon all special elects to think outside the box and make sure that such Bills are supported fully. I would like to challenge the government side and in particular the Chair for Health, that the health situation in our county is wanting. We are talking about how these vulnerable people in society can get quick response and

admissibility in our hospitals. It is speaking about a forensic laboratory that we don't have to wait for the national laboratory to these things.

Mr. Speaker, indeed, if you look at the 4.5 million Kenyans living in Nairobi, there are cases of sexual harassment and violence daily. Well put by Hon. Bishop, not only women are being violated, sometimes you find even us men as you walk you find women saying, "this man how I wish it could be". Literally in your psychological mind, you are tortured.

Mr. Speaker, we must agree that sexual harassment and challenges are in this City, the health centres must be well equipped. Subject to that Mr. Speaker, safe houses were to keep these people. I remember this county wanted to build houses just for *chokoras* and it is now 7 years down the line and we have not been built even one. I believe the County Government through the Committees of Culture and Urban Renewal and Health Services should even do just one safe house first to show that at least when they are passing this Bill there is this one safe house.

For example, Mr. Speaker, in the history of Nairobi across Pumwani, there was a hospital which was then like Gertrude Hospital, but it was grabbed. How I wish that next to Pumwani that the Committee of Health and the County Government can go practicability and put a safe house for our sisters, others not only small girls who are raped, even in our family's women sometimes become a problem and a man decide to do against their will. At that particular time, it is rape.

You also here young men being sodomized by their uncles; these cases are there in the newspapers. We need to have at least one safe house for the county. In the modern world, these things are there. If you go to the Netherlands, the only crime that is being reported there is suicide and the act of sex. But here in Kenya, there are floods, robbery with violence are the highest. We don't raise the real problems in our houses which are sexual issues that our mothers and sisters and even our young boys go through.

There are also mothers who are in their sunset years when they see a young man like Hon. Warutere maybe has gone home in good attire and then he is invited to a house in Kileleshwa where he has never stayed before. When he gets there, this mother decides that he is not leaving the house, that is sexual harassment. Mr. Speaker, we need this haven house at least one in the County before we go to the sub-counties.

Therefore, this is a challenge to the government on our side, it needs to up its game and do its job. We don't want to pass Bills here to gather dust then after that we are told that in Kariobangi somebody was killed, in Kayole, this happened. We need action. The Chairs for Health, Planning, and Culture, you are all on the government side, help Nairobians, you can make a difference before you go. One day can make a difference and maybe because of that difference you will stay. Do your part at your own time that God has appointed you to do until the last moment, you are still the Chair. Kindly before that last minute, make a difference that this county can remember and always value you.

Once again I want to congratulate Hon. Wanjiru, she is a very quiet lady. She should listen to me as I speak, I have the numbers to fall this Bill. Wanjiru, I have the number to make your Bill fall so you should listen to me. Hon. Speaker I never imagined her quietness can come up with ideas that can make a difference in the County. Therefore, I stand authoritatively to support her and the Bill.

Hon. Moses Ogeto: Thank you, Hon. Speaker and also for recognizing my last name. I want to support this Bill on a few principles, which I have seen in this Bill. When you look at Section 16 of the Bill, it is talking about; *'the County Government shall facilitate the establishment of safe houses'*. Hon. Speaker what they mean is that in all 17 sub-counties is that, the funding of this Bill after we have passed it—we want to ensure that even when Hon. Bishop Kiragu has been beaten by somebody from his place in Waithaka, will have a safe place in Dagoretti North where there is a house to host him.

Hon. Speaker, I want also to congratulate Hon. Wanjiru by ensuring again that in Part 19 of the same Bill that the funding must be there in the next financial year. This means that the Governor must sign this Bill or write a memorandum giving the reasons why this Bill should not be signed. In the same Bill, it is very clear on how the funding is going to be done and how those funds should be utilized.

In the same Bill Hon. Speaker, they have said that the same fund should be audited quarterly. For the purposes of looking at those who want to violate the rights of the opposite gender, I want to congratulate Hon. Wanjiru for ensuring that in the memorandum of understanding in the same Bill, it is very clear that violence is not only on women. As men we have our chairman of *Maendeleo ya Wanaume*, you know him very well. He also protects us. Hon. Speaker, as we continue sexual violence has been related to only ladies and they have their offices in Lavington, in my Ward.

I believe that this Bill will ensure that we have a *maendeleo ya wanaume* office to protect us. I beg to support.

Hon. Deputy Speaker: Hon. Ondiek Akama

Hon. Jared Ondieki: Thank you, Mr. Speaker. I also want to echo the fact that you have been able to notice my last name. Most importantly, I wish to start my contribution by demystifying the Columbus act of politics where a politician comes late and takes all the advantage. I want to correct my able Whip by saying that this Bill was committed before the social service, which is under Labour and my chairman is here. We agree that this Bill is long overdue for ensuring that we have a safer society for all of us.

The mover must note that in the aspect of implementing, it is important to recognize our health caregivers also referred to as the community health workers who will be crucial in implementing the Bill on the ground by ensuring they identify victims and give them the necessary service. The first contact of these victims will be through the health centres. We should also ensure that we have mechanisms of rehabilitating them to handle the trauma these people go through.

Therefore, it is important that the mover incorporates that and understand our parameters as a county. I do not know whether the Bill allows us to arrest and prosecute perpetrators. Mr. Speaker, having said that, I want to support this motion and say that we will give it our full support. Thank you

Hon. Deputy Speaker: Hon. Odenje Emily.

Hon. Emily Oduor: Thank you, Mr. Speaker. I stand here to support the Bill and note that it is a very important one. I think that most women go through sexual violence and it is a very heavy cross that not only the county should carry but we should also educate the police. Many people go through this but and at times when they go to report to the police then they are made to feel as if they asked for it. We need to do a lot as a society to stop the violence against women and men. Let us make the P3 forms available and have a safe house for them. I support Mr. Speaker

Hon. Deputy Speaker: Thank you, Hon. Emily. Hon. Anita Thumbi

Hon. Anita Thumbi: Thank you so much, Mr. Speaker. I want to take this chance to support this Bill and congratulate Hon. Wanjiru for coming up with such a good Bill. We all know that this act has many implications starting from rape, suicide, depression, post-traumatic stress, and other things.

Mr. Speaker, Hon. Wanjiru has explained in chapter ten how we are going to educate them on gender violence through institutions, schools, and churches. Nowadays churches are talking about sex unlike in the olden days when it was a taboo. We have all seen and heard of the "twa twa video" and that tells you that the church is ready to speak up on issues sex. It is, therefore, a high time that schools start teaching children on sex education.

I support this Bill and note that sexual violence is not only about women. We have seen men facing the same challenge although I do not understand how it happens physiologically. Sexual violence is not only about the act of sex, but it can also be through the use of vulgar language that is not welcoming. So I support this Bill and encourage my fellow Honorable Members to support it because if we need to change our ways of doing things.

Hon. Deputy Speaker: Thank you, Hon. Thumbi. Hon. Clarence Munga

Hon. Clarence Munga: Thank you, Mr. Speaker, for giving me this opportunity. Let me first start by congratulating Hon. Wanjiru for coming up with a very nice Bill and I want to support it on the following three basis. The issue of creating a Board that will oversee the day-to-day management of gender-based violence in society and education and creating awareness to our people. In a nutshell Mr. Speaker, this Bill is going to protect and ensure that we raise our children in an environment that is safe and sound and where the county takes responsibility for these kids before they are taken back to the society. I am in support of the Bill and once again congratulate Hon. Wanjiru for coming up with the Bill. Thank you

Hon. Deputy Speaker: Mover Hon. Wanjiru.

Hon. Mary Kariuki: Thank you, Mr. Speaker. I want to thank all the members who have supported me and also tell Mr. Akama that thank you so much for the advice. There are still amendments going on and I am sure all that you have raised today –Akama, Imwatok – will be taken into consideration.

Mr. Speaker, I beg to move that Nairobi City County Sexual and Gender Violence Management and Control Bill 2019 No. 7 of 2019 be read for the second time.

(Question put and agreed)

(The Bill was accordingly read the Second Time)

(Point of Order)

Hon. Peter Warutere: Hon Speaker I rise on Standing Order 56(l) to seek leave to defer business appearing on Order Paper 11.

Hon. Speaker pursuant to Standing Order 56 (l) I beg to move that this assembly defers to a later date...

Hon. Deputy Speaker: Hon. Warutere, it has not been mentioned. Sit down, don't be in a hurry. Let's proceed.

Hon. Peter Warutere: Sorry Mr. Speaker for jumping the gun. I rise on Standing Order 56 (I). I seek leave to defer business appearing in Order Paper 11.

Hon. Speaker pursuant to Standing Order 56 (I) I beg to move that this Assembly defers to a later date, the business appearing in Order 11 of the Order Paper.

I am seeking leave of this very important House through shelving of this crucial Bill to a later date because of a few issues. One, I must mention that I have been away, I returned two days ago and when this business was slotted I did not manage to sit in the House Business Committee.

There are a few issues that we felt we wanted to iron out with the stakeholders and I am seeking leave through this House that at least we get a week or so to dwell on those issues. Once we are done with the consultation we will be able to come back and proceed to the next stage.

Hon. Peter Imwatak: Hon Speaker this is a House of rules and procedures. I was consulting with my leader here that this is Bill on tobacco, which this House passed unanimously. It ought to be an Act of County of Nairobi and people of Nairobi.

Speaker, what was tabled to this House was a memorandum from the Governor. A memorandum from the Governor does not need the Chair of Health to consult. It only requires this House to consult its conscience and say whether what was passed was out of context or within context and either to agree with H.E The Governor or to disagree and sent this Bill as it is to the Governor. If we sent it as it is the Governor has no choice. What we are waiting for here is the memorandum to be brought to this House and know what the Governor said. Do we agree or not agree?

Hon Chair of Health, there is no provision for negotiation or consultation. The Governor consulted his legal advisers, the drafters of the Bill on his side, now it is us to make our independent judgment- whether we are taking the memorandum. Speaker let's not take this House as a market.

Hon. Deputy Speaker: I thought it was me to propose the question...

Hon. Peter Warutere: As chair of Health, the Governor made a decision. It is prerogative of the Committee on Health to persuade this House and Hon. Members through consultation. I love the astuteness of one Hon. Imwatak, and why I am saying when I talk about consultation is that for us to reject a memorandum from the Governor we need to marshal 82 members form this House.

We sat down and made resolutions, and passed this Bill as a House. In terms of consultations – I just came in yesterday- I have not talked to the membership of this House to persuade them to see sense in what we did at that time. It is the prerogative of this House, and I believe the Executive side had its day on this Bill.

We decided, deliberated, we passed this Bill. I think it is the prerogative of these members to deliberate, agree to disagree or agree to agree with the memorandum. That is what I am seeking leave to discuss with the membership of the entire Assembly. Prerogative

Hon. Deputy Speaker: Hon members pursuant to Standing Order 56... Hon Warutere, who is seconding you? Yes, Hon. Gikonyo?

Hon. Stephen Gikonyo: Hon Speaker I stand to second because we just arrived two days ago with my chair and we would like to request the whole House to support that we reschedule or plan for another day that we can be able to table the Tobacco Bill, thank you.

(Question on deferment proposed)

Hon. Deputy Speaker: Any request? The mover?

Hon. Peter Warutere: Thank you Hon Speaker, I was still consulting with the leadership from this other side, however, we agree that we need time. I have managed to persuade the whole House that we need an extra ten days to work on a few issues that I need to work with my good members. Once that is done I will come back and report as advised, Hon Speaker.

(Question on deferment put and agreed to)

MOTION

Hon. Speaker: Hon Leah Supuko

Hon. Leah Supuko: Mr. Speaker, according to Standing Order 55 I beg to withdraw the Motion to a later date.

Hon. Deputy Speaker: Thank you, Hon Leah. The Motion stands deferred to a later date.

ADJOURNMENT

Hon. Deputy Speaker: Hon. Members there being no other business, the House stands adjourned till Thursday 28th November 2019 at 2.30 p.m.

(The House rose at 3.50 p.m.)