



NAIROBI CITY COUNTY ASSEMBLY

OFFICIAL REPORT

Second County Assembly – Third Session

Thursday 8th August 2019

The House met at 2.30 p.m.

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

QUORUM

Hon. Deputy Speaker: Serjeant-at-Arms, kindly ring the bell for ten minutes. Majority Whip, kindly whip your people so that we can start the session.

(Quorum bell rang for ten minutes)

Hon. Deputy Speaker: Serjeant-at-Arms, we still don't have quorum and I urge you to ring the bell for another five minutes. Do not allow anyone to leave for now.

(Quorum bell rang for five minutes)

Hon. Deputy Speaker: We now have quorum, Clerk, proceed.

NOTICE OF MOTION

Hon. Deputy Speaker: Hon. Wahinya, Pangani? I have just seen him here a few minutes ago. Clerk proceed, Wahinya is not prepared.

(Notice of Motion dropped)

STATEMENTS

Hon. Deputy Speaker: Hon. John Kamau.

REQUEST FOR A STATEMENT REGARDING ENCROACHMENT ON PUBLIC LAND IN THE COUNTY

Hon. John Muthiga: Thank you, Mr. Speaker. Pursuant to Standing Order No. 45 (2) (c), I wish to request for a statement from the Chairperson of the Sectoral Committee on Planning and Housing regarding the encroachment on public land in the County.

Hon. Speaker, in planning law, a provision is made for guidelines, masterplans on allocating and designing public land for the construction of specific government installation for the purpose of benefitting the citizens. For instance, health facilities, water and sanitation installations, transport installations and education facilities.

Hon. Speaker, the case of alleged encroachment on the transport land installation at Highway Depot, Nanyuki Road Depot and Kariobangi are some of the shocking cases of encroachments that the County needs to investigate and report to this Assembly. In addition, there is also an allegation that the County has given leases to developers to use part of the said pieces of land.

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

- i. The original acreage of land that was allocated for construction of aforementioned installations for roads, public works and transport sector activities;
- ii. Whether the County has given leases to private entities and if yes, how much of the piece of land and for how long; and
- iii. Steps that the County Executive is taking to map out, revert and protect county public land from encroachment.

Thank you, Mr. Speaker.

Hon. Deputy Speaker: Chair of Planning? Vice Chair? Proceed, Hon. Kiragu

Hon. Anthony Karanja: Thank you, Hon. Speaker. I request one and a half months since we are proceeding for recess.

Hon. Deputy Speaker: One and a half months?

Hon. Anthony Karanja: Yes.

Hon. Deputy Speaker: Hon. Kamau, are you comfortable with one and a half months?

Hon. John Muthiga: This is serious, Mr. Speaker. I am not comfortable with the one and a half months.

Hon. Deputy Speaker: Hon. Kiragu, what other offer do you have?

Hon. Anthony Karanja: Thank you, Hon. Speaker. I request for two weeks, however, I will also request that you call for a special sitting so that I come back to respond to the Member.

Hon. Deputy Speaker: Come again?

Hon. Anthony Karanja: I ask that you call for a special sitting so that we can answer the Hon. Member because we will be on recess. Once we are back from recess, we will need seven days to contact the Executive. I seek your indulgence.

Hon. Deputy Speaker: What is the offer now? Are you stuck on the one and a half months?

Hon. Anthony Karanja: One month.

Hon. Deputy Speaker: Which is two weeks after recess?

Hon. Anthony Karanja: Yes.

Hon. Deputy Speaker: I agree with that. Hon. Kamau, is that okay?

Hon. John Muthiga: Taking into consideration that we are going for recess, I am comfortable with that.

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

REQUEST FOR A STATEMENT REGARDING COLLECTION OF GARBAGE WITHIN CBD AND ITS ENVIRONS

Hon. Daniel Muturi: Thank you, 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 Environment and Natural Resources regarding the collection of garbage within the Nairobi Central Business District and its environs.

Hon. Speaker, currently the collection of garbage from CBD and its environs has been left to the private garbage collectors who charge the County on trips made to the land field. The amounts claimed and the level of cleanliness of the CBD demonstrates a disparity in the work done by the garbage collectors, creating a major conduit for graft.

Hon. Speaker, despite repeated calls to take over the function and oversee garbage collection from the CBD by the relevant County department, the County has largely left the private collectors to run the CBD waste management to the disadvantage of the County.

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

1. The criteria of licensing private garbage collectors;
2. The number of private entities licensed by the County to undertake garbage collection in the CBD and the County by extension; and
3. The policy measures the County has put in place to ensure proper monitoring of the works undertaken by these entities to enhance efficiency.

Hon. Speaker, I have another request for statement.

Hon. Deputy Speaker: Hon. Ngengi, why don't we clear with the first one?

Hon. Daniel Muturi: Okay, Mr. Speaker.

Hon. Deputy Speaker: Hon. Kamau, Chair of Environment?

Hon. John Muthiga: Thank you, Mr. Speaker. We request for one and a half months.

Hon. Deputy Speaker: Let me note that committees are ongoing. So, it does not mean that since we are going on recess they are not going on.

Hon. John Muthiga: That communication, Mr. Speaker---

Hon. Deputy Speaker: Let me bring that to your attention. Committees will break for one week and I will make communication on that.

Hon. John Muthiga: Mr. Speaker, I still request for one and a half months after recess.

Hon. Deputy Speaker: Hon. Kamau, be serious.

Hon. John Muthiga: Two weeks after recess, Mr. Speaker.

Hon. Deputy Speaker: Since Hon. Ngengi is not requesting for too much---

Hon. John Muthiga: I have said two weeks after recess, Mr. Speaker.

Hon. Deputy Speaker: Let me make this order because I think that you are making fun of me here. I dictate that all statements requested to be tabled in the first week after recess. Thank you. Hon. Ngengi, one week after recess you will get your response. Proceed.

Hon. Daniel Muturi: Thank you.

Hon. Deputy Speaker: Go to the next one.

REQUEST FOR A STATEMENT REGARDING HARASSMENT OF MOTORCYCLE OPERATORS

Hon. Daniel Muturi: 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 Justice and Legal Affairs regarding harassment of motorcycle operators.

Hon. Speaker, operators have often been found to violate County Government policies and directives especially their operations within the Central Business District (CBD), leading to their arrests and confiscating of their motorcycles. Following the recent ban, the operators had a joint meeting with the police and County officials and resolved that:

- a. Officers from City Hall and at St. Peter's Clavers would neither undertake separate operations on motorcyclists nor do storage or confiscation as has been done before;
- b. The County would allow the operators to operate from temporary designated stages in the city in the long-term; and
- c. Motorcycle operators would be allowed to operate without harassment on Kirinyaga Road, University Way, Uhuru Highway, Landhies Road, Haile Selassie Avenue and there are minutes attached to that effect.

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

- i. Steps the County Executive has taken to ensure that motorcyclists are treated as per the agreement of the meeting with the County officials; and
- ii. Steps taken by the County Executive to provide designated zones for motorcycle operators to operate from.

Thank you, Mr. Speaker.

Hon. Deputy Speaker: Chair of Legal, Hon. Malde?

Hon. Jayendra Malde: Thank you, Hon. Speaker. Two weeks after recess.

Hon. Deputy Speaker: I said that all responses should be brought to the floor of the House first week after recess because committees will be ongoing.

Hon. Jayendra Malde: Agreed, Hon. Speaker.

Hon. Deputy Speaker: Hon. Kamau?

REQUEST FOR A STATEMENT REGARDING THE OPERATIONS OF THE LEGAL DEPARTMENT

Hon. John Muthiga: Thank you, Mr. Speaker. Pursuant to Standing Order No. 45 (2) (c), I wish to request for a statement from the Chairperson of the Sectoral Committee on Justice and Legal Affairs regarding the operations of the Legal Department.

Hon. Speaker, it is a known factor that the County Government of Nairobi continues to use external legal counsel for litigation despite having a Legal Department. It is instructive that the Legal Department as currently constituted is very lean and has been unable to fully execute its mandate. As a result, it is not clear how the department operates leaving room for confusion and obscure chain of command, which has occasioned the loss of money to external lawyers for matters that the County would have effectively handled. For instance, in Nairobi case ELC NO. 368 of 2015 involving the Githunguri Farm versus Nairobi County Government, the lawyer on record KTK Advocates alleged that he was informally instructed by the County Government to take a neutral position when the matter directly involved the County.

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

- i. Detailed procedures and authorizations for securing external counsel for the County's litigation;
- ii. Responsibility for managing external counsel throughout a matter once engaged and reporting mechanisms; and
- iii. Who gave the informal instruction for counsel on record to take a position contrary to the best interest of the County and is it standard practice for officers to give verbal instructions to counsels without further reference to any laid down procedures if any?

Thank you.

Hon. Deputy Speaker: Chairman of Legal, Hon. Malde?

Hon. Jayendra Malde: Thank you, Hon. Speaker. Two weeks after recess

Hon. Deputy Speaker: One week after recess.

REQUEST FOR A STATEMENT REGARDING IMPOSITION OF ILLEGAL TOWING CHARGES ON CITY RESIDENTS BY THE INSPECTORATE DEPARTMENT

Hon. Daniel Muturi: Thank you, 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 Justice and Legal Affairs regarding the imposition of illegal towing charges on city residents by the Inspectorate Department.

Hon. Speaker, officers of the Inspectorate Department have been levying towing charges on unsuspecting motorists sometimes charging exorbitant fees for towing cars for short distances using private towing services providers. Some residents being charged as high as Ksh. 8,500 for towing a vehicle for a distance of just 500 meters despite the Finance Act 2018 fixing the charge at Ksh. 1,000.

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

- i. Measures put in place by the County Executive to ensure that the provisions of the County Laws, specifically the Finance act 2018 is enforced appropriately;
- ii. Steps taken by the County Executive to eradicate malpractices among the enforcement officers; and
- iii. Whether the County has entered into any contractual agreement with private towing entities and details on the same if any.

Thank you, Hon. Speaker.

Hon. Deputy Speaker: Hon. Malde?

Hon. Jayendra Malde: Thank you, Hon. Speaker. Three weeks after recess.

Hon. Deputy Speaker: One week after recess, Hon. Ngenji, you will get your response.

Hon. Kabiro?

REQUEST FOR A STATEMENT REGARDING DISPOSAL OF EFFLUENT FROM ABATTOIRS OPERATING IN THE COUNTY

Hon. Mbugua Kabiro: Thank you, Mr. Speaker. Pursuant to Standing Order No 45 (2) (c), I wish to request for a statement from the Chairperson of the Sectoral Committee on Water and Sanitation regarding the disposal of effluent from abattoirs operating in the County.

Hon. Speaker, Article 423 (1) (b) gives every citizen a right to adequate and reasonable standards of sanitation and proper solid waste disposal. This function has been devolved to the County Government by

the Constitution of Kenya. The National Environmental, Management, and Coordination Act further spells out the acceptable standards of solid waste disposal through the NEMA.

Hon. Speaker, the Sectoral Committee on Agriculture, Livestock and Fisheries visited Kiamaiko Slaughterhouse on the 12th February of 2018 to inspect handling of meat at the abattoir and found that solid waste disposal violated the guidelines in law. The committee recommendation led to the closure of the abattoir for six months in 2015 for violation of guidelines on population and waste disposal to support His Excellency Governor's campaign to clean up Nairobi River. The abattoir has since resumed work and is allegedly releasing untreated effluent into the County sewerage system and Nairobi River as required.

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

- i. Whether Kiamaiko abattoir has since complied with the requisite sanitation standards as per the law and order given to it by NEMA;
- ii. Whether the County has since issued a license to the abattoir to continue with justification for the interrupted supply of operations despite the NEMA order on its sanitation;
- iii. Justification for an interrupted supply of water to the line supplying the abattoir by Nairobi Water and Sewerage Company despite the concern raised, amount consumed and their compliance with payment of water bills to the company;
- iv. Measures that the County has put in place to ensure sustenance of sanitation standards around abattoirs and others where high standards of sanitation is required.

Thank you, Mr. Speaker.

Hon. Deputy Speaker: Thank you, Hon. Kabiro. This request cuts across three committees namely; Environment and Natural Resources, Water and Sanitation and Health Services. Therefore, I will suggest that a request for a joint meeting be done through my office so that we can have one response. The coordinator should be the Chair of Water.

Hon. Peter Warutere: Seniority dictates here, Hon. Speaker.

Hon. Deputy Speaker: Hon. Warutere, can I read something before you proceed?

Hon. Peter Warutere: Okay.

Hon. Deputy Speaker: Standing Order No. 194 on the joint sittings of committees of a County Assembly reads;

"194 (1) Two or more committees of the County Assembly considering similar matters may with the approval of the speaker hold joint sittings

(2) The Chairperson of the Joint sitting of the committee shall be the Chairperson of the committee with the longest cumulative period of service in the County Assembly and shall be deputized by the Chairperson of the committee with the second-ranking cumulative period of service in the County Assembly. If the Chairperson of the respective committee holding joint sittings have equal cumulative period of service in the County assembly, members of the joint committee shall in the first sitting elect a chairperson or Vice Chairperson of the committee."

Therefore, the Standing Order is very clear. We have the longest serving member of the County, Hon. Kados Paul who will be the chairman and coordinator, deputized by Hon. Peter Warutere. Thank you. Hon. Kamau should be a member of that committee.

(Loud consultations)

Hon. Peter Warutere: The Standing Orders does not recognize gender in that committee.

Hon. Deputy Speaker: The Chairperson of Agriculture is also a member of that committee.

Hon. Paul Kados: Hon. Speaker, on behalf of the four committees you have named, I request we be given two weeks after recess.

Hon. Deputy Speaker: Okay, two weeks after recess. I think, Hon. Kabiro, you are comfortable with that.

Hon. Mbugua Kabiro: Mr. Speaker, I will accept on condition that the report will be brought within those two weeks and they call me to appear before them within those two weeks.

Hon. Deputy Speaker: Okay, thank you. Hon. Malde!

REQUEST FOR A STATEMENT REGARDING STATUS OF APPROVED OUTDOOR SIGNAGE AND
ADVERTISING FIRMS

Hon. Jayendra Malde: Thank you, Mr. Speaker, I have a request for a statement. 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 planning and Housing regarding the status of approved outdoor signage and advertising firms and the methodologies of differentiation of approved billboards and outdoors signs erected by the advertising firms and those that are not approved.

Hon. Speaker, outdoor advertising has proved to be a lucrative venture in the city, as billboards and signage are erected in the different wards. It is noted that the ward offices neither receive communication of approvals in the Ward nor are they aware of the specific areas approved for signage and erection of the billboards. Further, the licenses issued to the advertising firms do not show the specific billboards approved. Subsequently, it is increasingly hard to determine which licenses are paid for, which specific area, and how much is paid for the rent of the specific spaces.

Hon. Speaker, for instance in Parklands Ward, the ward office is not able to ascertain the number of billboards paid for and the specific area the billboards are to be erected. This blank check is likely to be subject to abuse by advertising firms.

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

- i. The process of identification and differentiation of signage and billboards that have been approved in the various wards;
- ii. Whether payments for licensing of billboards give the various firms a blank check on the areas to erect the billboards and signage; and
- iii. The status of approved billboards and signage in Parklands Wards.

Thank you, Mr. Speaker.

Hon. Deputy Speaker: Hon. Kiragu, Chairperson of Planning?

Hon. Anthony Karanja: Thank you, Hon. Speaker, I would like to request for one month and one week because that is an easy question. Revenue is not ward-based and even sub-county based, just like land rates. It is not easy because we have not integrated our revenue into that. Therefore, immediately after recess, I will be able to answer him.

Hon. Deputy Speaker: Hon. Malde, are you comfortable with two weeks?

Hon. Jayendra Malde: One week is comfortable. Hon. Speaker, thank you.

Hon. Deputy Speaker: Hon. Kiragu you gave two weeks or one week?

Hon. Anthony Karanja: One week.

Hon. Deputy Speaker: Okay, one week after recess. Thank you, Hon. Kiragu. Hon. Malde, proceed with the response.

RESPONSE TO A STATEMENT REGARDING APPROVAL FOR BOREHOLE DRILLING IN THE COUNTY

Hon. Jayendra Malde: I have a response to a statement requested by the Hon. Daniel Ngengi.

Mr. Speaker, on Tuesday, 16th July 2019, Hon. Daniel Ngengi, MCA, rose on the floor of the Assembly pursuant to Standing Order No. 45 (2) (c) and requested the Chairperson of the Sectoral Committee on Justice and Legal Affairs for a Statement regarding the approval for borehole drilling in the County.

Mr. Speaker, the Committee wrote to the Chief Officer responsible for Security and Compliance on 18th July 2019 inviting him to a meeting of the Committee on 24th July 2019. The purpose of the meeting was to enable the Chief Officer to furnish the Committee with the response to the Statement requested by the Member.

In this regard, Mr. Speaker, I wish to report to the Assembly as follows: Mr. Speaker, the Committee was informed by the General Manager Hotel Ambassadeur that an application had been made to Nairobi County Chief Officer of Roads and Public Transport to drill a borehole at the Hotel's frontage (at the pavement) but within 1 meter from the plot No. LR. 209/8688. That the access to the Hotel's back entry has a low head clearance that is not accessible by a drilling rig, hence the proposal to drill the borehole on the pavement at the hotel's frontage.

Mr. Speaker, the Committee was further informed by the General Manager that relevant permits have been obtained from Nairobi City County (NCC), Nairobi Water and Sewerage Company (NWSC), Water Authority Resource Management (WARMA) and National Environment Management Authority (NEMA) (see attached).

That despite fulfilling the aforementioned requirements, they have not been able to proceed with the development because of County Inspectorate officials who descended on the site and demolished the hoarding that had been constructed on the site.

In addition, Mr. Speaker, the Committee was informed that other hotels have boreholes located externally on road pavements within the Central Business District. Similarly, numerous companies have their power cables, internet fiber cables installed beneath road pavements within the Central Business District.

1. *The circumstances that led to the stoppage of the projects in light of the said approvals and licenses;*

Mr. Speaker, the Committee was informed by the Chief Officer Security and Compliance the law enforcement agency is obliged to administer and enforce all County laws as they check on the safety of the public and their properties.

That on 6th July 2019, the Chief Officer Security and Compliance gave instructions on the stoppage of the drilling of the borehole to abstract water for hotel use by the Ambassadeur Investments (K) Limited.

That this was upon confirmation that the drilling has been done from a public pavement that is between Moi Avenue and Tom Mboya Street on a space facing the National Archives without the formal authority from the Nairobi County Government.

That the approvals acquired by the Ambassadeur Investments (K) Limited from Water Authority Resource Management (WARMA) and the no objection response received from Nairobi Water and Sewerage Company (NWSC), was on condition that the drilling be done strictly between the stated parcel of land LR. No. 209/8688.

2. Measures put in place by the County Executive to ensure that developers and investors are expeditiously facilitated to roll out their investments pursuant to the relevant laws;

Mr. Speaker, the Committee was informed that the main role of the Nairobi City County is to provide sustainable quality services, where we enhance community participation and the creation of a secure climate for political, social and economic development.

Mr. Speaker, Hon. Daniel Ngengi attended the meeting with the Chief Officer and raised the following reservations:

(a) *The reason as to why despite obtaining all the approvals of the hotel has been denied an opportunity to drill a borehole to provide potable water to the Hotel.*

Mr. Speaker, a copy of the detailed response has been given to Hon. Daniel Ngengi who requested for the statement and a further copy is hereby attached to this report.

Mr. Speaker, I beg to lay this Statement. Thank you.

Hon. Deputy Speaker: Hon. Ngengi, are you comfortable with the response

Hon. Daniel Muturi: Thank you, Hon. Speaker. First, I would like to congratulate and appreciate the Committee on Justice and Legal chaired by Hon. Malde. Indeed, I received the report and I attended the said meeting. I raised the following reservations:

The reasons why despite obtaining all the approvals, the hotel has been denied---

(Loud Consultations)

Hon. Speaker, can you ask the Hon. Members, to consult in low tones?

Hon. Deputy Speaker: Hon. Members, please give attention to what the member is contributing. Hon. Ngengi, proceed.

Hon. Daniel Muturi: Thank you, Hon. Speaker. As I had mentioned earlier, I received the report but with the following reservations:

(b) *The reason why despite the Ambassadeur Hotel obtaining all the approvals had been denied the opportunity to drill a borehole to provide potable water to the hotel.*

Hon. Speaker, the report is satisfactory, but as the representative of CBD where there is a population influx and there is a big water problem, the County should be providing basic services such as water. In the event such fails, the investors end up taking the role of the County and do the same. As I mentioned earlier, with all the approvals, they have been denied to drill a borehole.

I would like to request the Leader of Majority Hon. Guyo, who is also a member of the Implementation Committee and the Minority Leader Hon. Elias Otieno who is the chairman of the Implementation Committee to assist also in this matter so that Ambassadeur Hotel can have its water because it is on the verge of closing down. There is lack of sanitation, no water in their rooms. They cannot run their restaurant due to this problem.

Thank you, Hon. Speaker, I am satisfied.

Hon. Deputy Speaker: Thank you very much. Hon. Members, I will refer you back to your Standing Order No. 41 (2) which says:

"Business shall be disposed of in the sequence in which it appears in the Order Paper or such other sequence as the Speaker may, for the convenience of the County Assembly, direct."

Therefore, I direct you go back to Standing Order No. 5 again and I request the Chairperson Budget and Appropriations Committee to table the paper.

PAPERS

COUNTY REVENUE AND ADMINISTRATION BILL, 2019

Hon. Robert Mbatia: Thank you, Mr. Speaker. Pursuant to Standing Order No.191 (6), I beg to lay the following paper on the Table of the Assembly today, Thursday 8 August 2019:

The 18th report of Select Committee on County Finance, Budget and Appropriations on the Nairobi City County Revenue and Administration Bill 2019.

Mr. Speaker, I beg to lay. Thank you.

(The paper was laid on the Table of the Assembly)

Hon. Deputy Speaker: Thank you, Chair of Budget. Let us go back to the Order Paper as scheduled.

MOTION

HOUSE ALLOWANCE FOR MEMBERS OF THE COUNTY ASSEMBLY

Hon. Deputy Speaker: Leader of Majority, proceed.

Hon. James Kariuki: Hon. Speaker, I beg to move the following Motion:

THAT, aware, of the devolved Governments are a key component of governance in the Republic of Kenya established under Article 11 of the Constitution 2010; further aware that the office of Member of the County Assembly has been strongly anchored as a fundamental component in the County Administrative System; cognizant of the remunerative needs of each public and State officer to ensure adequate facilitation for successful execution of their duties and mandates; further cognizant of the existence of disparities within the State offices within the Republic on remuneration of the office holders, particularly the payment of house allowances to which the Member of the County Assembly have to their detriment been deprived of; noting that the High Court in the Republic has in Constitutional Petition No. 328 of 2016; Council of Governors versus Salaries and Remuneration Commission pronounced that denying some state officers similar benefits enjoyed by other State officers is discriminatory, unjustifiably selective and contrary to Article 27 of the Constitution, 2010; acquiescing that such conduct is a violation of the fundamental rights of the state officers which such conduct is desirous of denunciation by the Members of the County Assemblies ab initio; whereas the Governing Council of the County assemblies Forum has resolved that the non-payment of housing allowance for the Members of the County Assembly is a fundamental breach of the rights of the Members; whereas the Governing Council has further resolved and directed that there be effected payment of Housing allowance for Members of the County Assemblies in tandem with the High Court finding; and whereas the resolution of the Governing Council finds precedence and relative applicability from Parliament of Kenya's payment of housing allowance to its Members despite lack of the Salaries and Remuneration Commission directive in affirmative of the same; this assembly resolves to approve and adopt the resolution of the County Assemblies Forum Governing Council that:-

a) The Salaries and Remuneration Commission (S.R.C) do set housing allowance for Members of the County Assembly in tandem with the ideal and adequate endowment;

b) The set house allowance be effected and implemented as of the date of issue of the ruling of the High Court in Constitutional Petition No. 328 of 2016 is the 5th day of October 2018; and

c) The implementation of the payment of the house allowance to the Members of the County Assembly be commenced with immediate effect upon action by S.R.C.

Hon. Speaker, the issue of members' benefits has been with us since 2013 when this House first sat. The S.R.C in the determination of our benefits has consistently failed to consider certain critical issues that arise from representatives in Nairobi. You are all aware that we have even gone to court over this matter in the past and obtained favorable orders.

Hon. Speaker, it cannot be that Nairobi is graded the same as Mandera yet the cost of living is higher here. We have made every attempt through our various caucuses to have these issues addressed. We have sought the audience with the S.R.C to sit down on this issue to no avail. That is why the ruling regarding the question on house allowance for deputy governors represents a win for us all. It is a win because the court made it clear that discriminatory of any form cannot be tolerated. It is unacceptable that MCAs are treated like secondhand citizens of this Country when it comes to discussions about their benefits.

Hon. Speaker, there is a lot of propaganda and on exactly what benefits we get. The public has been made to believe that MCAs are the source of the country's huge wage bill. This cannot be further from the truth. It is time we get what is due to us like every other state officer. For that reason, we must be paid our house allowance.

(Applause)

I beg to move and I call Hon. Gari to second the Motion.

Hon. Deputy Speaker: Hon. Gari?

Hon. Maurice Gari: Thank you, Mr. Speaker, I rise to second this Motion. This is a motion that has come at a time that every Kenyan is seeing the weight MCAs have towards their living conditions. This should have been brought in the first sitting in this Assembly because Nairobi is unique. I hope that this time the S.R.C will honor the court ruling that was done on 5th October 2018. As per that, I wish all the clerks of the 47 counties will pay the MCAs their dues from the date of ruling to date.

Mr. Speaker, we have been living in very hard conditions because you will find an MCA with a salary of Kshs. 144,000 plus a loan. When the loan is deducted, you remain with less. I have been earning Kshs. 7,000. When I show you my payslip, you will wonder because I have to take a loan to develop myself. The remaining salary cannot sustain us to pay even rent.

Hon. Speaker, in the last Assembly, there was an MCA who was evicted because she could not pay rent. It is shameful that we are being elected but *wananchi* do not know how we spend our money. They think that we earn like Kshs. 500,000 yet we earn only Kshs. 144,000 minus taxes. We suffer a lot. I will encourage the majority and minority leaders of all the assemblies to persuade His Excellency the President to give us a car grant of only Kshs. 1.5 million because we are state officers so that when we are out of this Assembly, we should not hide. When we meet our former colleagues sometimes, you can even shed tears.

(Applause)

I have been saying this and I will repeat, our welfare should come first because if your welfare is good there is nothing you can't do. There will be no issues of corruption. I will not run here and there to look for money to subsidize what I am earning. I hope the SRC has gotten these orders and should move with speed so that this can be implemented and we get our house allowances on time. We can even live away from the people we represent. You find someone is elected in a slum area like Kibera or Mathare but he

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cannot be able to rent a house of Kshs. 60,000. When you become a public officer you must change your lifestyle and your children must go to good schools, drive a good car, and dress well so that you can be differentiated from the electorate. I hope our Majority and Minority Leaders will take this and they will pay us from 5th October 2018 to date. Thank you, Mr. Speaker, I beg to second.

Hon. Deputy Speaker: Thank you, Hon. Gari.

(Question proposed)

Hon. Deputy Speaker: Hon. Anyule, you have anything to say?

Hon. Peter Imwatok: Thank you, Mr. Speaker. Thanks to the Deputy Majority Leader for tabling this important motion on behalf of the Majority Leader, and more importantly on behalf of the entire Assembly of Nairobi. As a member representing CAF from Nairobi County Assembly, I think what we are passing here is of fundamental importance to the entire assemblies in Kenya.

Mheshimiwa Gari has just spoken in-depth that the issue of house allowance is not a favour by the SRC. I have never imagined in life where an employer gives you employment and never gives you an opportunity of where to live while employing you. It is only in the county government where the SRC decided that you have salary and sitting allowance which is meager. More worrying is, there is nowhere to live.

You are aware in the recent days, the Speaker of the National Assembly defended the parliamentarians. They have now introduced another allowance called the night allowance. Let me explain what this night allowance is; Mr. Speaker the argument in parliament was that every parliamentarian represents a constituency and it is not based in Nairobi. The only place that a parliamentarian has a house is in his constituency.

In addition to the house that he owns in his constituency where he was elected, a parliamentarian has been given a mortgage of Kshs.20 million to own a house in the capital city or wherever he wants. That for a parliamentarian to serve in parliament for three days, he needs to spend time in Nairobi. Whether he has come from Garissa, Marsabit, Turkana, Kajiado, Wajir, he must spend his time in Nairobi. Therefore, to safeguard the interests of that parliamentarian, he must be paid night allowance to be able to spend where he has come to represent his people.

Mr. Speaker, what members of county assemblies are asking is a simple thing from the SRC; that, we only need where to sleep, a decent place. Chapter 6 of the Constitution speaks about taking yourself in a way suggestive to that position. But currently from Hon. Gari's perspective, there is no position and respect that comes with the name of an MCA. I have always said many times an MCA position is more or less a gratified or a glorified social worker which should not be the case because we are all state officers.

As CAF, we are going to make sure that SRC implements this Motion. I am happy that today we are going to approve this Motion in tandem with other county assemblies. The SRC must know that we are also mothers, fathers, sons, and daughters of mothers and fathers somewhere. My daughter needs to live a decent life.

You can imagine I, *Mheshimiwa* Guyo, *Mheshimiwa* Gari, *Mheshimiwa* Azangu and the rest are the pioneers of the First County Assembly. Parliament has an act on that, that if you serve for a second term as a member of parliament, you are paid pension. What is the difference between the Constitution framework where it says a national government exists with the three arms of government? If a judge today retires from the judiciary, he is certified to have pension. But when an MCA takes two terms and retires from the county assembly, he has nothing to take home.

Mr. Speaker just an example, I was taking lunch in K'osewe with my former colleague. If they share what they are going through outside there, you will feel for them. These are people who have enacted laws in this County and have shaped the destiny of our County. We cannot assume or pretend that all is well because we are inside here. It is only 2 years and we are outside there. What else?

Mr. Speaker, it is not about bullying the SRC, let the media know that we have been tainted enough, there is nothing to hide again. When an MCA speaks, he is wrong, when he is quiet, he has eaten. What do we do as MCAs in Kenya?

(Applause)

The notion of 'let's keep silent and watch' is over, and the notion of saying 'let's wait and see' is no longer existing in these assemblies. I respect the entire leadership and the entire membership, let us walk together on behalf of CAF and all county assemblies to make sure that every member is given a house allowance. Looking at our job groups, imagine it is only a county assembly job group that has never been upgraded since 2013. It is only a member of the county assembly in Kenya that has no appraisal in terms of his job group.

Today Hon. Guyo, Hon. Bishop, and I and the rest, when we were employed to this County Assembly in 2013 and re-employed in 2017, we went back to the same salary that we earned when we first came to this County Assembly. This is the most disappointing job in society. Yes, it is a call to duty, but it must go in tandem with welfare as Hon. Gari says. Hon. Speaker, we are not going to beg the SRC, we are not going to beg anyone for a favour. It is our right to have house allowance and have a decent life. Thank you, Mr. Speaker.

(Applause)

Hon. Anthony Karanja: Thank you, Hon. Speaker. I would like to oppose this Motion in the interest of Wanjiku. The timing is wrong, the country is---

(Loud consultations)

Hon. Deputy Speaker: Order! Hon. Kiragu is on the floor! Proceed, Hon. Kiragu.

Hon. Anthony Karanja: Thank you, Mr. Speaker, for protecting me. I believe the economy cannot afford---

(Loud consultations)

Hon. Deputy Speaker: Order, please! Can you give Hon. Kiragu a chance! You will all have a chance to talk.

Hon. Anthony Karanja: Thank you.

Hon. Deputy Speaker: Hon. Kiragu, proceed.

Hon. Anthony Karanja: Hon. Speaker, I am a senior member of the 'team Wanjiku' and I cannot in any way support anything that adds or *inaongeza mizigo* to the common *mwananchi* of this country. The economy is not doing well and I believe we should be patient. Members of this County Assembly should persevere and sympathize with the *wananchi* who are currently overburdened.

Hon. Speaker, I beg your protection from Hon. Mberia.

Hon. Deputy Speaker: Hon. MCA Karen, Order! Please give him a chance.

(Loud consultations)

Hon. Deputy Speaker: Order please! Hon. Kiragu is a member like any other member and has all the rights to be heard. You have a card and you can request and say whatever you want. Hon. Kiragu, are you through?

Hon. Anthony Karanja: Not yet.

Hon. Deputy Speaker: Please proceed.

Hon. Anthony Karanja: Hon. Speaker, as much as I would like to agree with my colleagues that I am a second term MCA and it is true that we do not earn enough. However, I do not believe that the economy or the common *mwananchi* should be burdened further. The reasons why Members of this County Assembly are under pressure and maybe members of every other county in this country is because our health systems are not in good condition. I would be happier to see that the money we are asking for house allowance would be used to better our health sector, our roads, and provide water to the people we represent. I would be very ashamed to go back to the people of Waitthaka today and tell them that I am earning a house allowance after seven years in the same position.

Hon. Speaker, I would like to oppose this Motion because the reasons I have heard here justifying a house allowance are not enough and are not mature. I am very fearful of my life from these members. I would beg for your protection and I beg to oppose. Thank you, Hon. Speaker.

(Loud consultations)

Hon. Deputy Speaker: Thank you, Hon. Kiragu.

Hon. Peter Imwatok: Mr. Speaker---

Hon. Deputy Speaker: Order please!

(Point of Information)

Hon. Peter Imwatok: Mr. Speaker, allow me to inform this Hon. House that we are not debating an issue of Wanjiku, we are debating about the welfare of an individual member sworn in before this County Assembly. We are aware of the members who are fond of publicity. Some publicity is not worth. Having been identified as a 'team Wanjiku' is more or less as identifying yourself as 'team punguza mizigo' and 'team BBI'. But that one has no basis in this argument, the basis here is beyond the constitutionalism. Is it proper that a section of the state officers are discriminated against a proper constitutional act?

Mr. Speaker the issue of Wanjiku for those go on trailer and drink and shout until morning, we don't care about it. What we care about is that we must put this Motion into a question. The mover, reply.

Hon. Deputy Speaker: Hon. Anyule, I have heard you.

Hon. Leah Supuko: Thank you, Mr. Speaker sir. I rise to support this Motion. I want to say as the Minority Whip has said, we have other people who are used to publicity. Mr. Speaker since I came here, at least I know how other people were dressed when I first met them. However, with time their suits have changed, their wardrobes have changed. When God created the five fingers, they are not the same. I am talking for the voiceless and those who are not equal with the rest in this House. I might be staying in the right address of the republic of Kenya, but there are those who are living in Eastlands.

What I am trying to say is that, if one is comfortable, the other is not comfortable. Let the truth be told even if it is not the right time because we have heard our President say that he can't make money and that

there is nowhere he can get money. Nevertheless, I want to state here that we are not lesser than those MPs who passed their house allowances and we are also leaders. I sympathize with those elected leaders of this House. I sympathize with them because I see them even looking for *panya* routes to pass as their constituents wait for them at the gate. They don't have anywhere to hide and so if they don't have money to give to the *mwananchi* and they are not staying well in wherever they are staying in Eastlands, I don't think it is right for the Hon. Member, my Chairman of Planning to oppose this Motion because of--- Can I finish my time, Mr. Speaker sir? Protect me from this man.

Hon. Deputy Speaker: Hon. Leah, can you please proceed?

Hon. Leah Supuko: I have the right to finish my time. I want to inform this House---

(Loud consultations)

Hon. Deputy Speaker: Hon. Leah, please proceed.

Hon. Leah Supuko: I won't sit down until I finish my time. I have a right to finish my time.

(Loud consultations)

Hon. Deputy Speaker: Hon. Leah, please proceed.

(Loud consultations)

Hon. Leah Supuko: Mr. Speaker I have a right to finish my time. I haven't finished speaking.

Hon. Deputy Speaker: Hon. Kiragu, can you please approach the bench?

(Loud consultations)

(Hon. Anthony Karanja walked out of the Assembly)

Hon. Deputy Speaker: Hon. Leah, proceed.

Hon. Leah Supuko: Thank you Mr. Speaker sir. Actually, I was at the tail end of my statement that this Hon. Member has three things that have changed his mind; he has changed his wardrobe and transplanted some hair on his head.

(Loud consultations)

Hon. Deputy Speaker: Hon. Abdi?

Hon. Abdi Hassan: Thank you, Mr. Speaker Sir---

(Loud consultations)

Hon. Deputy Speaker: Order in the House! Order! I want to warn Hon. Susan Mayunzu. Listen very carefully, you are in the Assembly and not in the Ward. I have seen you trying to interrupt other members. If you don't have anything to contribute, please sit down and give a chance for others to contribute. Take note you are in the Assembly and not the Ward. Hon. Abdi, proceed.

Hon. Abdi Hassan: Thank you, Mr. Speaker sir. Let me add my voice to this Motion. The Nairobi City County Assembly Members are the most disadvantaged lot across the 47 counties. When you go to my home county, for example, my Ward representative of Bulesa earns close to Kshs. 200,000 for just mileage.

I am a Majority Leader of this County Assembly but earn less than Kshs. 50,000 and I have not taken a loan. You can guess what other members are taking home. And someone expects members of the Nairobi County Assembly to oversight more than Kshs. 35 billion. It is not possible.

(Applause)

How do you expect a person who earns less than Kshs. 50,000 to oversight more than Kshs. 35 billion? The SRC is biased towards county assembly members. That fault goes to the County Assembly Forum. They have slept on the job yet it is a body that is charged with the responsibility of fighting for the welfare of members. The earlier lot that was removed from the office by new vibrant members are the ones who slept on the job, led by a former chairman who is the Speaker of the Kajjido County Assembly. They negotiated for speakers' salaries but forgot their members of county assemblies who are supposed to be taken care of by that forum.

Members of county assemblies cannot engage the SRC direct. They expected that forum to do that on their behalf but did not. The forum went ahead and negotiated for house allowances for speakers. Who is supposed to be an employee of the MCAs? You pay one state officer house allowance and deny the other, I don't know what kind of rationale was behind the thinking of the SRC.

Mr. Speaker, two weeks ago, that was on 16th July, the SRC came up with phase three review of salaries of the county executive members. They adjusted their salaries upwards. The other arm of the government which is supposed to oversight the Executive has been left out since 2013. It is not fair. I want to assure members as the County Assembly Service Board, with the support of the County Assembly Forum where our able Minority Whip sits on, that we are going to take the SRC to court if they are not going to implement this. We are not going to shy away in fighting for the welfare of our members,

(Applause)

Someone will say that MCAs are greedy. We are not greedy. How do you expect someone who is earning Kshs. 50,000 to meet his obligation in this city? Nairobi City County Assembly is the largest after the National Assembly. Ask my friends from the fourth estate here to go and take my payslip from the Human Resource (HR). I ask the HR to give my payslip to these journalists. They will see that I earn less than Kshs. 50,000.

The SRC put the majority and minority leaders of the Senate and the National Assembly and their whips at par with cabinet secretaries. Across the 47 county assemblies, all the majority and minority leaders earn less than chairpersons of committees, and someone is telling us SRC is doing its job. It is sleeping. We are asking the National Assembly to disband this commission. It has no benefit to Kenyans. It is one of the commissions that earn taxpayers' money for no value at all. When we are going for a referendum, we will make sure that the SRC is disbanded because it has no values to Kenyans.

Mr. Speaker, someone was saying that we should think of our voters. That is what we are doing. The leadership of common *mwananchi* is vulnerable. How do you expect that leader to safeguard the public money? It is not possible. I want to urge my good friend who has left unless he has some other earnings which some of us don't, and maybe he stays in his mother's house in a rural area there---

(Laughter)

The Members of the County Assembly of Nairobi suffer a lot and he should stand with us on this. Even Nairobian will stand with us. Unless people tell us don't oversight and let the County Executive pilfer the Kshs. 35 billion and we join them to make sure the money does not go down to *mwananchi*.

With those few remarks, I beg to support. Thank you.

Hon. Deputy Speaker: The mover to reply.

Hon. James Kariuki: Thank you, Mr. Speaker. As I reply, I am a bit disappointed by one member who polluted the environment with his sentiments. I know he might be using loans to deliver his goodwill messages, which most members of this House do not have.

This goes to the fourth estate because I am expecting tomorrow a statement that is going to be against what we are discussing before this House today, I earn a salary of less than Kshs. 100,000. Every week I have at least three burials in my Ward. Some within and others outside Nairobi. My salary, when you divide by 30 days is around Kshs.3, 300 a day. I am expected to pay for hospital bills for members from my Ward. We serve a very poor community and not upmarket areas of Runda and Karen where even funeral expenses are collected in terms of millions. We have to seek a waiver for most of our cases. Therefore, the reason why we need this house allowance is because we are not able to run our families due to the heavy burden we have in the Wards. As I reply to this Motion, I urge Hon. Kiragu, if he is capable and he feels that he earns enough, he should donate his salary to the same people he came to support.

(Applause)

If you are with Wanjiku, your salary should be donated to Wanjiku in solidarity with the sentiments if they were genuine. Thank you, Mr. Speaker, I reply.

(Question put and agreed to)

Hon. Deputy Speaker: Next Order?

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

ADJOURNMENT OF THE ASSEMBLY (REGULAR SESSIONS)

Hon. James Kariuki: Thank you, Mr. Speaker.

THAT, pursuant to the provisions of Standing Order No. 29 (3), this Assembly adjourns until Tuesday, 10th September 2019, in accordance with the Calendar of the County Assembly (Regular Sessions).

Mr. Speaker, due to the normal pressure we as members of this Assembly undergo, I wish to accord more time to members to pursue their core duties in their Wards within this duration. That is why I find it wise to seek this time. I call upon Hon. Imwatok to second the Motion.

Hon. Peter Imwatok: Thank you, Mr. Speaker and Deputy Majority Leader for the Motion. As he has said, we have issues to sort out in our Wards and also meet our constituents despite our work constraints. It is so unfortunate that we are going to our constituents but there is nothing good to take to them. We hope

that the Executive will play a role as we go for this one-month recess, to make sure that different development projects that are supposed to be initiated in the Wards are effected. More importantly, bursaries that we were issued with should be expedited so that members will receive the vouchers and present them to the electorates. As we come back on 9th September, our constituents will be comfortable. I beg to second.

(Question proposed)

Hon. Deputy Speaker: Any member who wants to contribute? Hon. June Ndegwa?

Hon. Juliet Ndegwa: Thank you, Mr. Speaker. I think and stand guided that this Assembly should not adjourn for recess. I oppose the Motion. We have so much work to do for Nairobians. We have gone for recess so many times. There are statements that have been requested just today only and we have to give them a month and a half for response---

Hon. Deputy Speaker: Order! Sit down! Before you proceed, you should note that this calendar was approved---

Hon. Juliet Ndegwa: Standing Order No. 31 (4) says that the county assembly can redo and reschedule the calendar---

Hon. Deputy Speaker: Hon. June, *“the county business committee shall, with the approval of the county assembly determine the calendar of the county assembly.”* This matter has gone through. That one of yours needs a procedural Motion. Hon. Mbugua?

Hon. Mbugua Kabiro: Mr. Speaker, thank you very much. I stand to support this Motion. I want to believe that Hon. June needs some time off so that she can go and read her Standing Orders and understand them fully. When we will come back, she is energetic enough and raises oppositions where it matters.

Mr. Speaker, I think this session has been very profitable to this Assembly. The fact that we have also rewarded ourselves with the last Motion, I think it is a good thing to go for recess and wait for the SRC to implement the motion before we come back. I support.

Hon. Deputy Speaker: Mover to reply.

Hon. James Kariuki: Thank you, Mr. Speaker. I am grateful for those who supported the Motion. Members, go and have time with your constituents. As we break, I wish you the best and take care of yourself. Avoid all those that could endanger your peace. Thank you.

Hon. Deputy Speaker: Thank you. Standing Order No 29 (3) on Adjournment Motion provides that no question is to be put after the debate of the Motion.

Hon. Deputy Speaker: Honorable Members, I want to make some remarks that committee meetings will have a one-week break and resume on 19th August 2019. Thank you.

ADJOURNMENT

Hon. Deputy Speaker: There being no business, the House now stands adjourned until Tuesday 10th September 2019. and I wish you well as you go for your recess.

(The House rose at 4:10 p.m)