



## NAIROBI CITY COUNTY ASSEMBLY

### OFFICIAL REPORT

#### Second Assembly – Fourth Session

Tuesday 1<sup>st</sup> December 2020

The House met at 9.30 a.m.

*(Hon. Temporary Deputy Speaker (Mr. John Kamangu) in the Chair)*

PRAYER

**QUORUM**

**Hon. Temporary Deputy Speaker:** Clerk confirm whether we have the quorum.

*(The Clerk- at- the Table confirmed there was a quorum)*

There is quorum, therefore proceed.

#### **NOTICE OF MOTION**

**Hon. Temporary Deputy Speaker:** Hon. Wakarindi Thuo

SEPARATION OF ENFORCEMENT AND COMPLIANCE UNITS FOR EFFICIENCY IN SERVICE  
DELIVERY

**Hon. Charles Thuo:** Thank you Hon. Speaker. I beg to give Notice of the following Motion. That aware that four functions namely, the County Health Service; County Transport service; County Public Works, Utilities and Ancillary Services and County Government Planning and Development were transferred to the Nairobi Metropolitan Services. Deeply concerned that tussles continue to persist between NMS and County Executive which have resulted into provision of poor services and creation of two centers of power. Recognizing that Nairobi City County Inspectorate Service Act, 2017 is intended to provide for proper organization of functions and powers of the Inspectorate Unit in the County. Regretting that police officers seconded from the National Police Service are now taking orders from Directors and supervisors who are non –uniformed civilians; a practice which is not ideal for proper functioning of the security, enforcement and compliance department of the County. Observing that selective secondment of enforcement officers to the Nairobi Metropolitan Services segregated the more experienced and senior Officers who now feel greatly

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underutilized and disenfranchised; an issue that is confounding the much needed synergy and seamless working relationship amongst the enforcement officers. Noting that lack of proper modus operandi and chain of command coupled with selective choice of officers seconded to NMS would compromise efficiency in the enforcement unit. This Assembly urges the County Executive and Nairobi Metropolitan Services to administratively develop a framework solely intended to make Enforcement a completely separate and distinct unit from Compliance with ideal and proper chain of command that will enhance service delivery. Thank you Hon. Speaker.

### MOTION

#### SEPARATION OF ENFORCEMENT AND COMPLIANCE UNITS FOR EFFICIENCY IN SERVICE DELIVERY

**Hon. Charles Thuo:** Thank you Hon. Speaker. I wish to move the following Motion: that aware that four functions namely, the County Health Service; County Transport service; County Public Works, Utilities and Ancillary Services and County Government Planning and Development were transferred to the Nairobi Metropolitan Services. Deeply concerned that tussles continue to persist between NMS and County Executive which have resulted into provision of poor services and creation of two centers of power; RECOGNIZING that Nairobi City County Inspectorate Service Act, 2017 is intended to provide for proper organization of functions and powers of the Inspectorate Unit in the County. Regretting that police officers seconded from the National Police Service are now taking orders from Directors and supervisors who are non –uniformed civilians; a practice which is not ideal for proper functioning of the security, enforcement and compliance department of the County. Observing that selective secondment of enforcement officers to the Nairobi Metropolitan Services segregated the more experienced and senior Officers who now feel greatly underutilized and disenfranchised; an issue that is confounding the much needed synergy and seamless working relationship amongst the enforcement officers. Noting that lack of proper modus operandi and chain of command coupled with selective choice of officers seconded to NMS would compromise efficiency in the enforcement unit; this ASSEMBLY URGES the County Executive and Nairobi Metropolitan Services to administratively develop a framework solely intended to make Enforcement a completely separate and distinct unit from Compliance with ideal and proper chain of command that will enhance service delivery.

Hon. Speaker, I beg the Deputy Majority Leader to second the Motion. Thank you.

**Hon. Peter Wanyoike:** Thank you Mr. Speaker. I rise to second this good Motion. Let me take this opportunity to congratulate the Hon. Member, former Majority Leader, Hon Thuo Wakarindi, for coming up with such a good Motion that if passed will streamline the structures of the County under NMS. Mr. Speaker it is demoralizing to see that a uniformed officer is reporting to an ununiformed officer. This will haunt the duties of these officers Mr. Speaker. With that I beg to support.

*(Question proposed)*

**Hon. Temporary Deputy Speaker:** Members please contribute. Those who are on zoom please raise your hands if you want to contribute. I now call Hon. Moses Nyangaresi

**Hon. Moses Ogeto:** Mr. Speaker Sir, first and foremost I want to congratulate Hon. Thuo Wakarindi for bringing such an important Motion before this Assembly.

Hon. Speaker, I was among those who brought the Nairobi City County Inspectorate Service Act in the last Assembly. The same Act was published by this Assembly in July 2017. Its main objective was to serve the chain of command. All over the world, you are aware that service men and women do receive commands from their bosses.

In the Act, Section 2 of it has given the functions of a Chief Officer. Today, the Chief Officer of Security and Compliance is Dr. Leleruk. He is the one who links the National Police Service and the Inspectorate. You will find some non-uniformed officers giving commands recklessly. This Motion will give streamlined operations so that we do not receive commands. General Badi only commands his juniors in the force. The only civilian that can command is the President, Uhuru Kenyatta because he has been given the powers by the Constitution of Kenya.

Mr. Speaker, with respect which we want the NMS and the Executive to work, it is imperative to give a command when you are a civilian. Like here in the Assembly, we have the Serjeant-at-Arms. Their boss gives commands. You cannot get the juniors and other staff giving commands to the boss. The only person that can give orders is the Speaker of the County Assembly. The moment you get two commands; the institution will start tumbling down.

Mr. Speaker, I have seen parking boys are running the city because there is disorder. If everyone gives an order, then there will be no cohesiveness in working. Even in the USA, the Commander in Chief said that they are giving [President]Trump few minutes because they wanted to protect 200 years which they have in power. [President]Trump succumbed to pressure. It is not about who is there, it is about respecting the rule of law and the chain of command. With those few remarks, I beg to support this Motion.

**Hon. Daniel Muturi:** Mr. Speaker, I rise to support this Motion by Hon. Wakarindi. This is a very timely Motion. As a representative of the Nairobi Central, CBD, the security has been compromised, from theft, pickpockets, and parking boys extorting money from drivers. The link between us and the police force definitely has to be the officers. As we have been in this County for a very long time, it has always been the police--- for the NMS to work, we cannot continue having civilians. With all due respect, I don't even know why we are having this conversation. There is no one time a civilian has commanded a uniformed officer, even a corporal, forget the rank of Dr. Leleruk who is a step away from being the Inspector General of the Police (IG).

Hon. Speaker, I support this Motion and I urge the Implementation Committee that this matter is handled expeditiously so that we can have order in Nairobi. With those few words, I beg to support.

**Hon. Jeremiah Themendu:** Thank you, Hon. Speaker. I rise to support the Motion. It is timely Motion from Hon. Wakarindi. I urge the Members to support the same. We have those functions that were transferred to the NMS, which were four. The Inspectorate Department is among the transferred functions. We have seen confusion where the Transport Department is concerned. It was transferred to the NMS yet there is confusion when collecting parking fees. We have the two, those from the Executive and the other from the NMS. I don't see anyone bothering to see what is happening. Are we heading to the right direction? If not, we need to change the strategy of doing our work in Nairobi because Nairobians are looking at us. So, if we don't do things in the right way, the we are doing disservice to the Nairobians yet they elected us so as to show them the way.

Hon. Speaker, I support the Motion and I urge NMS to wake up and make sure the functions that were handed to them are implemented to the letter. And also urge the Executive side to perform the functions they were left with. With that, I beg to support.

**Hon. Temporary Deputy Speaker:** Thank you very much Hon. Jeremiah Themendu. Hon. Mbugua Kabiro on Zoom. Are you there? Proceed.

**Hon. Mbugua Kabiro:** Mr. Speaker, I am trying to get the gist of this Motion but am really struggling. I do not know why, but please allow me to oppose this Motion, boldly.

I would like to start by saying that in this County I do not think that the structure is an issue, the structure can be put on paper but implementing it is a disaster. We have four functions that were transferred and those are the functions that need a structure on. These other functions, the Governor is in charge, these other functions General Badi is in charge. I really do not see why we should draw a structure that would then bring another acrimony and present another challenge over what currently exists in the County.

Because one, there is a budget that is not functioning. In so much as we really want to draw a structure, we cannot draw a structure that will activate the budget issue or that will solve anything in the budget. I would really support the Motion, but I really fail to understand why there should be a structure and who will actually be responsible in drawing this structure. The NMS side will draw their perfect structure which we will approve, the Governor's side will draw their perfect structure which we will approve. But then why would we want to put two parties who are not agreeing, to come up with a structure.

I do not think this Motion is implementable and am sorry to actually say maybe we should just draw the structure ourselves as an Assembly and put it in the House. That structure should actually be contained in that Motion that Hon. Wakarindi Thuo was actually proposing, so that we can strongly say in the House that this is the structure that we need to be used when now the structure of command is then adopted in the Assembly or this is the chain we are supposed to follow.

Otherwise, if that structure is not present in this Motion I would actually beg to just oppose it. And if I was in the House maybe I would have actually moved an amendment to provide for this structure; so that we have the Governor and Badi at almost the same level or one slightly lower, then we have the Inspectorate and we have all the other chain of commands and these seconded staff and the other seconded staff, and any other staff that has not been seconded so that we know who is going to report to who.

If that is contained in such Motion, then it is purely implementable. But as it stands, I do not think that we will be able to have the guts to actually take this Motion to the Executive since either of them would draw a structure that would be befitting to them.

I also think the biggest challenge that we have in the Executive and NMS is proper working mechanism that would allow them to work together and if we actually got them to work together, that would be easier than drawing a structure or getting them to draw a structure themselves.

So I would really appeal if the Hon. Wakarindi Thuo can draw a structure and let us debate on the structure and not on giving them the mandate to develop the structure. Thank you very much Hon. Speaker.

**Hon. Temporary Deputy Speaker:** Thank you very much Hon. Mbugua Kabiro. Hon. Antony Gathombe Kongo.

**Hon. Antony Kimemia:** Good morning, Mr. Speaker. I want to say this Motion is supportable and at the same time it is opposable. For one, the spirit of the Motion seems to be in denial that some of the function went with NMS and that NMS has had to prepare its own structures on how to work. And if I heard the sponsor well he is complaining that some City Inspectorate staff are being redundant, that they are not able to do their job.

I would tell him that the four functions that were transferred have their own Inspectorate staff to deal with their issues. And speaking specifically about my ward, when I go to the office of the Inspectorate I find a police officer and an inspectorate officer and they seem to work well, but in issues where the transferred function is not within the county, the police officer takes charge.

There need not be a new structure for the NMS because it is a body by its own and these are transferred functions. That is why I said the sponsor seems to be in denial that these functions are transferred. And also the functions that were left behind, they have their own officers as Inspectorate. So my suggestion is that maybe the mover should add a little bit of meat and bone in this Motion and tell us what he really wants with the Motion because it seems not to be clear. That is what I want to say to the mover. Thank you Mr. Speaker.

**Hon. Temporary Deputy Speaker:** Thank you Hon Antony.

**Hon. Moses Ogeto:** Hon. Speaker I want to implore the Members, I believe the secretariat should have shared the Motion because you realize Hon. Kimemia and Hon. Kabiru who is my learned friend, the Motion is very clear. I believe if the same could have been shared to them on Zoom, and that is why I am requesting the secretariat to share such Motions on the platform so that they can understand the spirit of the Motion.

Hon. Speaker the spirit of the Motion is that we have said we cannot have two chains of command. We are imploring that there is nowhere a civilian can command a uniformed officer, and in my moving notes while supporting this Motion, we said the only place in the whole Republic of Kenya where we have a civilian is only the President of the Republic of Kenya. And Hon. Wakarindi is very precise; the Assembly urges the county executive and NMS to administratively develop a framework.

I have been a Member of Justice and Legal Affairs Committee since 2013. We started with Munyambu, then followed another one whom I have forgotten the name. He was from a police force. The framework which he is employing is the one we passed as an Act.

The chain of command of giving instructions should start from up-down and not down-up. If we don't follow that perspective, then we will lose focus. Hon. Kimemia, who was not supporting or opposing and Hon. Kabiro should be provided with such information on time so that they can understand what Hon. Thuo Wakarindi was trying to bring before the floor of this House. We have given examples that there is nowhere within the Republic of Kenya and in the world where non uniformed officers give instructions to uniformed officers. That is the clarification which I wanted to make.

**Hon. Temporary Deputy Speaker:** Thank you. Let me finally give chance to Hon. Rose Ogonda. Are you with us? I think we cannot connect Hon. Rose. Mover, please reply.

**Hon. Charles Thuo:** Thank you, Hon. Speaker. I am grateful the Members have found time to interrogate and contribute to the Motion and most Members including those who are sending messages congratulating me for this good Motion. It seems there are few who have not understood correctly what we were talking about. Mr. Speaker, I beg that you give me time to explain.

What we are saying in this Motion is that we accept and appreciate the fact we have functions that we have transferred, and those functions need enforcement. We are supporters of the NMS, but for the NMS to function properly and also the functions that have not been transferred, we need a proper chain of command. Issues of enforcement are security issues. That is the reason why the writers of our Constitution provided that every county in Kenya has a senior police officer who is the chief officer in charge of security and compliance.

We have such officer in the County who is a very senior police officer. He is a deputy commissioner, Dr. Mark Leleruk. Since we have that office of security and compliance, then it is from that office that all uniformed security officers should take orders. We are not saying that people should have two structures: one for the NMS and the other for the Executive, no, we are saying let us have one officer who is in charge of security and compliance to give orders to uniformed security officers. If other departments wish to have some of the things enforced so that they ensure proper service delivery, then it is the chief officer who is to be communicated to, and then it is him who is going to communicate to his officers. I hope I have made myself clear.

It is a good Motion that is basically meant to enhance service delivery. A lot of thought and effort have been put into coming up with this Motion. I cannot forget to thank the members of staff, specifically clerks - Mr. Kiptoo and Mr. Manyi, Clerk's office, your office and the office of the Speaker. I just want Members to know that this is something that we have thought a lot about and it has been discussed even with the NMS. It is going to enhance service delivery and make sure that we don't have two people issuing orders. I beg all Members to support this Motion. Thank you, I beg to reply.

**Hon. Temporary Deputy Speaker:** Thank you, Hon. Wakarindi. Clerk, can you confirm whether there is quorum before I put the question.

*(The Clerk-at-the Table confirmed there was quorum)*

*(Question put and agreed to)*

### ADJOURNMENT

**Hon. Temporary Deputy Speaker:** Hon Members, there being no any other business, the House stands adjourned until today at 2.30 p.m. May God bless you all.

**The House rose at 10.25 a.m.**