



NAIROBI CITY COUNTY ASSEMBLY

OFFICIAL REPORT

Second County Assembly – Fifth Session

Thursday 11th March 2021

The House met at 2.30 p.m.

[Hon. Temporary Deputy Speaker (Ms. Emily Oduor) in the Chair]

PRAYERS

QUORUM

Hon. Temporary Deputy Speaker: Clerk do we have quorum?

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

PAPERS

Hon. John Muthiga: Thank you Madam Speaker. Pursuant to Standing Order No. 131 (4), I beg to lay the following Paper on the Table of the assembly today Thursday 11th March 2021; the report of the Sectoral Committee on Environment and Natural Resources on the consideration of the Nairobi City County Public Nuisance Bill 2020. I beg to lay, thank you.

Hon. Temporary Deputy Speaker: Thank you.

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

NOTICE OF MOTION

ADOPTION OF THE REPORT OF THE SELECT COMMITTEE ON LIAISON AND CONSOLIDATION OF ASSEMBLY COMMITTEE'S ANNUAL REPORTS FROM JANUARY TO DECEMBER 2020

Hon. John Kamangu: Thank you Madam Speaker. I beg to give notice of the following motion: That, this assembly adopts the report of the Select Committee on Liaison and Consolidation of assembly committee's annual reports from January to December 2020 laid on the Table of the assembly on Tuesday 2nd March 2021. Thank you, Madam Speaker.

STATEMENTS

REQUEST FOR STATEMENT REGARDING THE OBSTRUCTION OF PEDESTRIAN WALKWAYS BY MATATU OPERATORS

Hon. Paul Shilaho: Thank you Madam Speaker. Pursuant to Standing Order 45 (2) (c), I wish to request for a statement from the Chairperson of the Sectoral Committee on Transport and Public Works

regarding the obstruction of pedestrian walkways by matatu operators in the county specifically in Kangemi Ward.

Hon. Speaker, it is of great concern that operations of matatus on the said routes has posed risk to the residents as they operate besides the road flouting the laid down regulations hence inconveniencing other motorists and pedestrians. Hon. Speaker, it is alleged that around ten *matatu* operators' intent to join the said area despite the congestion that has posed insecurity among other vices in the said area.

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

1. Measures taken by the transport department to enforce laid down regulations;
2. Plans that the county government has in place to facilitate commuters in the area to have a smooth flow; and
3. Action being taken against *matatu* operators flouting the regulations going forward.

Thank you Madam Speaker.

Hon. Temporary Deputy Speaker: Is the Chair of Transport around? Is he online? He is not around. Can the Majority Leader take responsibility for that?

Hon. Abdi Hassan: Thank you Madam Speaker. I take the undertaking that the committee will give a response in three weeks' time. Thank you.

Hon. Temporary Deputy Speaker: Hon. Shilaho, are you okay with the three weeks?

Hon. Paul Shilaho: Madam Speaker, because it affects my people, three weeks is a long time. May be one week if the Chair will agree with me.

Hon. Temporary Deputy Speaker: Sorry, Hon. Shilaho, but you know for some of these questions there has to be consultations and within a week is not going to be easy. I believe he has given you three weeks because next week they can consult and the other two weeks we are going for recess. The only time that they can give you the response is after three weeks. I can see the logic why he has asked for three weeks.

Hon. Paul Shilaho: Then it is okay Madam Speaker.

Hon. Temporary Deputy Speaker: Thank you for that. Hon. Mberia, kindly go ahead and read your statement.

REPORT OF THE IMPLEMENTATION COMMITTEE

Hon. David Mberia: Thank you Madam Speaker. I have the following statement to make. The Select Committee on Implementation is established under Standing Order No. 201 of the County Assembly and is mandated among others to:

1. Scrutinize the resolutions of the County Assembly including adopted committee reports, petitions and the undertakings given by the County Executive Committee
 - (a) Whether or not such decisions and undertakings have been implemented and where implemented, the extent to which they have been implemented and whether such implementation has taken place within the minimum time necessary; and
 - (b) Whether or not legislation passed by the County Assembly has been operationalized and where operationalized, the extent to which such operationalization has taken place within the minimum time necessary.

Madam Speaker, the Implementation Committee may propose to the County Assembly sanctions against any member of the County Executive who fails to report to the relevant Select Committee on Implementation status without justifiable reasons.

Hon. Speaker, the committee has been engaging the County Executive and Nairobi Metropolitan Services on the implementation of assembly's resolutions as provided for in the Standing Orders. Specifically, Madam Speaker, the Standing Order No. 193 states that the County Executive shall provide and report on the implementation of the County Assembly resolutions to the relevant committee of the County Assembly in accordance with Article 153 (4) (b) of the Constitution of Kenya.

Hon. Speaker, the committee had written several letters to the County Executive and the Nairobi Metropolitan Services requesting for reports on the implementation of the County Assembly resolutions including passed Bills, adopted reports and motions. The committee has received several responses from the County Executive and the Nairobi Metropolitan Services. Some of the reports and responses include the following:

1. Response of the County Executive Education Sector on implementation of the assembly resolutions under the sector.
2. A response from the CEC Member for Devolution and Public Service Management on the report of the Sectoral Committee on Labour and Social Welfare.
3. The response of the Nairobi Metropolitan Services on the secondment of Engineers to the County Executive
4. The response from the Nairobi Metropolitan Services on the implementation of projects under the transferred functions
5. Response from the Nairobi Metropolitan Services on the implementation of the Nairobi County Assembly resolutions under the Urban, Planning, Lands and Urban Renewal and Housing Sector.
6. Response from the County Executive Sector on the implementation of the County Assembly resolutions under the sector.

Hon. Speaker, the committee further requested the County Executive to provide the status report on the operationalization of the Bills passed by the County Assembly. In this regard Hon. Speaker, the committee has adopted the work plan for the period of March to May 2021 with the objective to ensure that the committee generate a comprehensive report on the implementation of the County Assembly resolutions in the inception of the second Assembly in September 2017 to December 2020.

Hon. Speaker, the committee having received some of the responses from the County Executive under the Nairobi Metropolitan services, noted that most of the responses were voluminous thus becoming very hard for the committee to consider them virtually. The Covid-19 pandemic has negatively affected the effectiveness of the committee, as it has been cumbersome for members to consider bulk reports during virtual sittings. The committee therefore resolved to hold physical meetings on Thursdays and virtual meetings on Fridays to ensure efficient and effective consideration of the responses. The committee further proposed to request for an office of the Chair and the secretariat to enable the committee to operate

effectively and efficiently. The office is also supposed to be a storage for the voluminous committee documents and I will therefore be requesting the County Assembly service board to consider the request.

Hon. Speaker on behalf of the members of the select committee on Implementation, do request your permission to hold physical meetings on Thursdays and when we have visitors. Hon. Speaker, the committee wishes to sincerely thank the office of the Speaker and that of the Clerk of the County Assembly for the continuous support and services extended to the members. I am grateful to the members of the committee and their support at all times. As a committee, we are determined to deliver on our mandate this year. With those few remarks, I thank you Madam Speaker.

Hon. Temporary Deputy Speaker: Thank you Chair Implementation. That is a very good report and it should be an example to other sectoral committees. I hope that you will continue doing the good job. Clerk.

PROCEDURAL MOTION

EXTENSION OF THE PERIOD TO CONSIDER THE COUNTY FISCAL STRATEGY PAPER BY AN ADDITIONAL
21 ASSEMBLY DAYS

Hon. Temporary Deputy Speaker: Chair, Budget?

Hon. Robert Mbatia: Thank you Madam Speaker. The pivotal role of the County fiscal strategy paper that is played in any given financial year is secured by the provisions of section 117 of the PFM Act 2012 and our very own Standing Order 221. Hon. Speaker, the paper plays a role in determining and setting the broad strategy and priorities earmarked for implementation in the subsequent financial year. Most importantly, the paper sets the ceilings for the respective sectors beyond which their respective budgets submitted in April should not exceed. The importance of these ceilings are even more paramount in the case of Nairobi City County where the Deed of Transfer of functions dictates that resources allocated for the transfer function shall not fall below a figure last appropriated by the County Assembly. In arriving at this flow of resources to be allocated to the transferred functions, the County allocation of revenue ---

Hon. Temporary Deputy Speaker: Order!

Hon. Robert Mbatia: Thank you Madam Speaker. In arriving at this flow of resources to be allocated to the transferred functions, the County allocation of revenue Act 2020 has laid down some elaborate engagement criteria that would guide the actors in the County budget process in arriving at the final budget figures. This process would therefore not be realized within the limited time available for consideration of the CFSP hence the need to extend this deadline to make it possible to have a budget document that meets the aspirations of the County Government both for the transferred and non-transferred functions.

In this regard Madam Speaker, I beg that the Assembly agrees with the committee for the extension of the time as proposed by the Assembly through its committees to do justice to the CFSP 2021. Madam Speaker, I wish to request that this Assembly, notwithstanding the provisions of Standing Order 221 subsection 7 and pursuant to the provisions of section 90 of the Public Finance Management Act 2012, that we extend the period to consider the CFSP by an additional 21 Assembly days from the 15th of March. Madam Speaker, I want to ask my very Honorable Member Emmamet Kemunto to second. Thank you.

Hon. Temporary Deputy Speaker: Hon. Emmamet?

Hon. Emmamet Kemunto: Thank you Madam Speaker and before I second this Motion, I want to wish you and my fellow ladies a happy belated International Women's day. As you understand, most of the resources were allocated to the NMS and we need time to ensure that all departments are well-represented and factored as amendments in the financial year budget. I beg to second. Thank you.

Hon. Temporary Deputy Speaker: Chair, Budget?

Hon. Robert Mbatia: Thank you Madam Speaker. You share names with my wife; she is also called Emily Oduor and when you instructed me that you are still on the chair, I thought that she was around. I wish to thank the House as I reply for allowing this Assembly to extend the period. It is good to note that this is one of the most important documents in the budget cycle. This document is normally tabled on the 28th of February and should be determined by the 15th of March.

As I had earlier indicated and as I have read and even as Hon. Emmamet has indicated, this is the most important document in the budget process as it sets the policy framework for the entire year. I wish also this should be a debate not only in this hon House but even in the consideration in all other counties that there should be a longer period to determine this.

Considering COVID 19 pandemic, public participation has been a challenge. So, just having fifteen days to pick the opinions of members of the public and every other sector, and now we have the NMS which is also another arm of government in this whole scenario, is a tall order.

I thank the House for allowing us to have extra twenty plenary days. So, I reply. Thank you, Madam Speaker.

Hon. Temporary Deputy Speaker: Thank you, Chair. Clerk, proceed!

PROCEDURAL MOTION

Hon. Abdi Hassan: Thank you, Madam Speaker. I want you to protect me from Hon. Mutheu; she is harassing me.

Hon. Temporary Deputy Speaker: Hon. Mutheu, kindly move from there. You should keep social distance. Go and sit at the back.

Hon. Abdi Hassan: Madam Speaker, we are in the third wave of COVID 19 which is severe!

Hon. Temporary Deputy Speaker: We will not proceed until she moves.

(Hon. Mutheu moved to the seat at back row)

Hon. Abdi Hassan: Madam Speaker, thank you for that.

RESOLUTION TO REDUCE PUBLICATION PERIOD OF NAIROBI CITY COUNTY SUPPLEMENTARY BILL 2021 FROM SEVEN TO ONE DAY

Hon. Abdi Hassan: THAT, notwithstanding the provisions of Standing Order 127, this Assembly resolves to reduce the publication period of the Nairobi City County Supplementary Appropriation Bill 2021 (Assembly Bill No.1 of 2021) from seven (7) days to one (1) day.

I ask the Chair of Chairs to second the Motion.

Hon. John Kamangu: I second. Thank you.

Hon. Temporary Deputy Speaker: I am kindly requesting Hon. Mutheu to sit on this side.

(Hon. Mutheu spoke off the record)

We shall not proceed until you move to this other side. I am the Chair.

(Hon. Mutheu crossed to the Minority side)

Continue, the Majority Leader!

Hon. Abdi Hassan: Thank you, Madam Speaker. I can see I was not the only person who was harassed by Hon. Mutheu. I want to thank the House for supporting this Procedural Motion. I beg to reply.

BILL

First Reading

THE NAIROBI CITY COUNTY SUPPLEMENTARY APPROPRIATION BILL, 2021 (ASSEMBLY BILL NO.1 OF 2021)

(Order for First Reading read accordingly)

BILL

Second Reading

THE NAIROBI CITY COUNTY SUPPLEMENTARY APPROPRIATION BILL, 2021 (ASSEMBLY BILL NO.1 OF 2021)

(Order for Second Reading read accordingly)

Hon. Temporary Deputy Speaker: Chair, Budget.

Hon. Robert Mbatia: Madam Speaker, I beg that the Nairobi City County Supplementary Appropriation Bill, 2021 be read a second time.

Madam Speaker, this morning the County Assembly adopted the report of the Finance, Budget and Appropriation [committee] on the consideration of the First Supplementary Budget Estimates for the financial year 2020/2021. In the adopted report, the County Assembly has granted authority for payment of pending bills under the finance and economic planning sector, with substantial resources also being allocated for settlement of pending obligations under the other respective sectors.

Further, the approved budget has authorized the Nairobi Metropolitan Services to continue with the good work that they are doing currently in ensuring that the County is clean, the healthcare is fixed, and the transport infrastructure lives up to internationally accepted norms and standards. The approved budget also succeeded in ensuring that all the Members of this County Assembly like their counterparts across the country, shall enjoy the car grant benefit which has been long overdue.

Madam, Speaker, we call upon the Clerk of the County Assembly, the County Executive Committee Member for Finance, and the Controller of Budget to act expeditiously to ensure timely disbursement of all these funds. The approved budget shall also guarantee timely payment of salaries, efficient operations of the County Executive, the efficient operations of the Nairobi Metropolitan Services, and adequate facilitation of the County Assembly to perform its functions.

Madam Speaker, this Appropriation Bill therefore aims to provide a legal basis for utilization of the funds approved by the County Assembly. The Budget Committee has scrutinized the substantial Bill and confirmed that it is consistent with the figures approved in the supplementary estimates report this morning. There recommendations have been incorporated as resolved by this Assembly.

Madam Speaker, I wish to beg the Hon Members to support this Bill and give the County the go ahead to utilize the funds for completion of the development projects and other lines of expenditures outlined herein before the end of the current financial year.

Hon. Speaker, I beg to move and request Hon. Mberia to second me. Thank you.

Hon. David Mberia: Thank you, Madam Speaker. As I second this Bill, I want to remind the Chairman our resolution yesterday to fast track the payment of the arrears of the 'ten over ten ng'arisha Jiji' workers who come from our various wards. For that purpose, I beg to second the Bill.

(Question of Second Reading proposed)

Hon. Temporary Deputy Speaker: We have to check if there is somebody online who might want to contribute before we call the mover. Please just give us a few minutes. Okay, there is none. Mover.

Hon. Robert Mbatia: Thank you Madam Speaker, I wish to thank the Assembly and the Chair for the support that this Bill be read a second time. Madam Speaker, I know that it is not that the Members do not have anything to support but I know most contributed in the morning and some are in agreement with all that we are doing and they feel that this Bill should have been passed like yesterday.

Therefore, Madam Speaker, I want to thank the Assembly, the Budget and Appropriation Committee, the Finance and Budget Committee, the Executive and the NMS for making this a possibility. Thank you Madam Speaker. I reply.

Hon. Temporary Deputy Speaker: Thank you, Members, I know Members wanted to contribute but this was discussed intensively in the morning.

(Question put and agreed to)

(The Bill was read a Second Time and committed to a Committee of the whole House today by leave of the House)

COMMITTEE OF THE WHOLE ASSEMBLY

(Hon. Temporary Deputy Speaker left the Chair)

IN THE COMMITTEE

(Hon. Chairman, Hon. John Kamangu, took the Chair)

THE COUNTY SUPPLEMENTARY APPROPRIATION BILL 2021

Hon. Chairman: Hon. Members we are now in the Committee of the Whole Assembly to consider the Nairobi City County Supplementary Appropriation Bill 2021 (Assembly Bill No. 1 of 2021).

Clause 2

(Question that Clause 2 be part of the Bill proposed)

(Question that Clause 2 be part of the Bill put and agreed to)

Clause 3

(Question that Clause 3 be part of the Bill proposed)

(Question that Clause 3 be part of the Bill put and agreed to)

Hon. Chairman: Hon. Mutheu, please consult in low tones. Hon Warutere, I think you should move from that end and go back to the government side. Leave opposition side to [Hon] Mutheu.

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First schedule

(Question that the First schedule be part of the Bill proposed)
(Question that the First schedule be part of the Bill put and agreed to)

Title

(Question that the Title be part of the Bill proposed)
(Question that the Title be part of the Bill put and agreed to)

Clause 1

(Question that Clause 1 be part of the Bill proposed)
(Question that Clause 1 be part of the Bill put and agreed to)

Hon. Chairman: Mover.

Hon. Robert Mbatia: Thank you Chair. I beg to move that the Committee do report to the Assembly its consideration of the Nairobi City County Supplementary Appropriation Bill No.1 of 2021 and its approval thereof without any amendments.

Hon. Chairman: Thank you Chair.

(Question put and agreed to)
(The House resumed)
(Hon. Temporary Deputy Speaker in the Chair)

REPORT AND THIRD READING

Hon. John Kamangu: Hon. Speaker, I beg to report that the Committee of the Whole Assembly has considered Nairobi City County Supplementary Appropriation Bill 2021 (Assembly Bill No. 1 of 2021) and approved the same without amendments.

Hon. Temporary Deputy Speaker: Mover.

Hon. Robert Mbatia: Thank you Madam Speaker, I beg to move that the Assembly do agree with the Committee's report in the said determination.

(Question proposed)

Hon. Temporary Deputy Speaker: Mover.

Hon. Robert Mbatia: Madam Speaker, I beg to move that the Nairobi City County Supplementary Appropriation Bill 2021 (Assembly Bill No. 1 of 2021) be now read a third time.

(Question proposed)
(Question put and agreed to)
(The Bill was accordingly read the Third Time and passed)

ADJOURNMENT

Hon. Temporary Deputy Speaker: Hon. Members, there been no other business the Assembly stands adjourned until Tuesday 16th March 2021 at 9.30 a.m.

The House rose at 3.55 p.m.