



NAIROBI CITY COUNTY ASSEMBLY

OFFICIAL REPORT

Second County Assembly – Fifth Session

Tuesday 8th June 2021

The House met at 2.30 p.m.

[Hon. Speaker (Mr. Benson Mutura) in the Chair]

PRAYERS

QUORUM

Hon. Speaker: Clerk, confirm if we have quorum.

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

COMMUNICATION FROM THE CHAIR

APPEAL AGAINST SANCTIONS LEVELLED AGAINST THREE MEMBERS OF THE COUNTY ASSEMBLY

Hon. Speaker: Hon. Members, there is a communication, it relates on appeal against sanctions levelled on Hon. Ann Thumbi, MCA, Hon. Sylvia Museiya, MCA, and Hon. Millicent Jagero, MCA

Hon. Members, the office of Hon. Speaker is in receipt of the appeal from Hon. Ann Thumbi, MCA, Hon. Sylvia Museiya, MCA, and Hon. Millicent Jagero, MCA regarding suspension from the House and its committees on 2nd of December 2020.

Hon. Members, having considered the appeals, I wish to guide as follows: -

The conduct of Members of the County Assembly and the breach thereof, are provided for under the Privileges Act, 2017 and Standing Order of the County Assembly. The application of the sanctions for the breach of the privileges is equally detailed under Section 16 of the Privileges Act and Standing Orders.

Critically, the application of these sanctions are aligned with the provisions of Article 50 of the constitution, which provides that ‘every person has a right to have any dispute that can be resolved by the application of the law, decided in a fair and public hearing before a court or appropriate another independent and impartial tribunal or body, in this case being the County Assembly, and its mechanism under the law and the Standing Orders.’

Hon. Members, the decision obtained herewith arose from the proceedings of the House whence the Members were issued suspension by the Hon. Speaker and their appeal from that suspension indeed lies squarely with the office of the Hon. Speaker by virtue of Standing order 114(5). And therefore, the Chair is properly seized of the jurisdiction to make a finding on these appeals as follows: -

Hon. Members, having perused the appeals and the sanctions meted therewith, and taking into context the time served in the suspension, I am inclined to advise as follows: -

The appeals are allowed and such privileges attendant thereof to the Hon. Ann Thumbi, MCA, Hon. Sylvia Museiya, MCA, and Hon. Millicent Jagero, MCA are reinstated with immediate effect. For the avoidance of doubt, Hon. Ann Thumbi, MCA, Hon. Sylvia Museiya, MCA, and Hon. Millicent Jagero, MCA immediately resume their service to the House and its committees, and all the pecuniary benefits restored as such. The relevant offices of the Assembly are instructed to take necessary action to effect this communication. It is so directed. Thank you Hon. Members.

PAPERS LAID

THE REPORT OF THE SECTORAL COMMITTEE ON HEALTH SERVICES FOR THE INSPECTION VISIT TO KWIVA LODGE HELD ON 15TH MARCH 2021

Hon. Speaker: Chairperson, Committee of Health?

Hon. Peter Warutere: Pursuant to Standing Order No. 195, I beg to lay the following Paper on the Table of the Assembly today Tuesday the 8th June 2021. Thank you.

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

NOTICES OF MOTION

ADOPTION OF THE REPORT OF THE SECTORAL COMMITTEE ON HEALTH SERVICES FOR THE INSPECTION VISIT TO KWIVA LODGE HELD ON 15TH MARCH 2021

Hon. Peter Warutere: Thank you Hon. Speaker. I beg to give Notice of the following Motion: That this Assembly adopts the report of the Sectoral Committee on Health Services on Inspection visit to Kwiva Lodge on 15th March 2021, laid on the table of the Assembly on Tuesday 8th June 2021. Thank you Hon. Speaker.

DEVELOPMENT OF A COUNTY CHILDREN WELFARE POLICY

Hon. Mbugua Kabiro: Thank you very much Mr. Speaker. Hon. Speaker, I beg to give Notice of the following Motion: That aware that the United Nations Convention on the rights of the child (UNCRC), is the most widely ratified international human rights treaty in history, ratification which Kenya is party to. Noting that the convention has 54 Articles that cover all aspects of the child's life and set out the civil, political, economic, social and cultural rights that all children everywhere are entitled to, and also explains how adults and governments must work together to make sure all children enjoy the rights. Deeply concerned that ensuring child's right in Kenya is still a challenge twenty-six years after the ratification of the treaty, and efforts by the state to enforce these rights has not been sufficient as evidenced by the rampant cases of abuse and neglect. Children's Act of 2001 states that 'it is the duty of local authorities', in this case the county government, to safeguard and promote the rights and welfare of children within its jurisdictions. Recognizing

that if the county government do not supplement efforts to address child rights by national government, the implementation of the UNCRC Charter will remain a mirage. Considering the huge mandate that the Nairobi City County has in respect to children, this Assembly urges that the County Executive committee develop a County Children Welfare Policy to provide for a fully-fledged children's department to work hand in hand with the national government agencies in ensuring the protection of the child's rights, welfare and related concerns within the county. Thank you very much Mr. Speaker.

STATEMENT

CHANGES EFFECTED BY THE BOARD REGARDING THE OFFICE OF THE CLERK

Hon. Abdi Hassan: Mr. Speaker I had a statement to issue. Mr. Speaker Sir, as you are aware, the changes which were effected by your Board yesterday, and I have seen another letter which was written by the former Clerk, which was delivered to one of the officers and based on that letter, is continuing writing a letter despite a clear court ruling which was made on Friday, and I have read part of the ruling. It says *'to injunct both parties from acting as Clerk, Nairobi County Assembly. For clarity both Mr. Edward Gichana Ombwori and Jacob Muvengei Ngwele are hereby injuncted from exercising the powers, privileges and responsibilities of the office of the Clerk, Nairobi County Assembly pending the hearing and determination of the intended appeal.'*

Mr. Speaker Sir, yesterday I saw two letters. One emanating from your office as a Chairperson of the Board and another one emanating from a Clerk who was barred by the court, writing a letter on 6th and the court order was issued on 4th. And there are some officers in this Assembly, based on that letter which was written by a barred Clerk, are now writing a letter purporting to be an Acting Clerk, Mr. Speaker. That first is insubordination to your office as the Chairperson of the Board. Secondly, it puts confusion to the Nairobi County Assembly. We need clarity on who is supposed to be the Acting Clerk, secondly, what will happen to the person who wrote a letter in clear contradiction of the court order and in contradiction with communication from the Chair of the Board.

Finally, Mr. Speaker, we saw letters or minutes purporting to come from the Board signed by three Board Members. Once I was a Board Member, in fact I was the Vice Chair of the County Assembly Service Board, I have never seen any document of the Board in any social media. That is a serious breach of secrecy of oath. We need disciplinary action to be taken against those officers, starting with Mr. Edward Gichana and the one who now purports to act as the Acting Clerk. They are breaching what the Board has approved. We need answers on those. Thank you, Mr. Speaker Sir.

Hon. Speaker: Thank you. I believe all Members are aware on what happened on 4th, we got a court order saying that the Clerk steps aside. This does not mean that we don't have a Clerk. So, the Office of the Clerk should remain vacant till the court gives direction. But let me say this, in the absence of direction this being an institution, I am there to guide the institution because the institution has to go on. I had made my decision and I had given my way forward, I also went to an extent of even giving a communication. For avoidance of doubt, let it be known that no one, including myself, is indispensable. If you don't follow clear direction, consequences will be taken. Thank you.

(Applause)

Next Order!

MOTION

Hon. Speaker: Hon. Kiriba, proceed.

PARTNERSHIP BETWEEN THE COUNTY GOVERNMENTS AND MINISTRY OF ENVIRONMENT AND MINERAL RESOURCE FOR THE REGISTERED MINING YOUTH GROUPS IN THE COUNTY

Hon. James Kiriba: Thank you, Hon. Speaker. I beg to give Notice of [move] the following Motion: AWARE THAT Article 55 (b) of the Constitution of Kenya, 2010 requires the state to take measures, including affirmative action programmes, to ensure that the youth have opportunities to associate, be represented and participate in political, social, economic and other spheres of life; further aware that mineral excavations and quarrying activities in various parts of the County has led to development of infrastructure, created employment opportunities, growth of towns and has contributed to the establishment of various industries; concerned that despite the economic gains, mineral extraction and quarry activities result into environmental degradation and pollution that cause health hazards such as respiratory diseases and accidents in abandoned quarry pits without safety fences; deeply concerned that due to poverty and inadequate education, most quarry workers operate without protective clothing and appliances, or use deteriorated protective gears that compromise safety; acknowledging that Section 101 (1) of the Occupational Safety and Health Act, 2007 provides that every employer should provide and maintain for the use of employees adequate, effective and suitable protective clothing and appliances, including, where necessary, suitable gloves, footwear, goggles and head coverings, especially the employees who are involved in activities such as breaking or dressing of stone, concrete or slag at their work place; further acknowledging the need for the County Government of Nairobi in conjunction with the Ministry of Environment and Mineral Resource to empower, promote, and provide safety for the quarry workers in various sites in the County; this Assembly resolves that the Nairobi Metropolitan Service (NMS) in conjunction with the County Executive partners with the Ministry of Environment and Mineral Resource towards initiation of the following interventions for excavation and quarry workers:

1. Encourage all workers in such sites to register SACCOs that would attract recognitions for supply opportunities for the County Governments;
2. Undertake a Health and Occupational safety programmes that would see all quarry workers in the County issued with free protective clothing and appliances and sensitized on occupational safety; and,
3. A land refill levy be introduced and included in the subsequent County Finance Act with 40% of the soil refill per lorry being channeled for support and welfare of the registered Quarry SACCOs; and
4. County Government to encourage such SACCOs to apply for government tenders relating to provision of construction materials for self-reliance.

Mr. Speaker, I beg to move, and I request Hon. Karani to second the Motion.

Hon. Jeremiah Themendu: Thank you, Mr. Speaker. I first congratulate the mover of the Motion because it is a good Motion. It seems it will help some youths and women work on those quarries. I suggest something, I don't know whether it is in order. One, is to encourage all workers in those sites to register SACCOS so that they can be able to sustain themselves and at the same time not harassed by the county

askaris, as it is normally being done. The Motion will be good for Nairobians and those surrounding those quarries. Thank you, I beg to second.

(Question proposed)

Hon. John Mukiri: Thank you Hon. Speaker for this opportunity. I stand to support the Motion. To speak the truth, there is great danger in the quarries because of the materials that have been removed. I stand to support the Motion, thank you Hon. Speaker.

Hon. Speaker: Thank you. ICT, can we have Hon. Kamau Muthiga on Zoom?

Hon. John Muthiga: Mr. Speaker Sir--

Hon. Speaker: Proceed I can hear you.

(Technical hitch)

Hon. Mbugua Kabiro: Thank you very much Mr. Speaker. I would like to thank Hon. Kiriba for this good Motion that supports the youth and women of this great County of Nairobi. Mr. Speaker, I would like to start by saying that this Motion seeks for a partnership between the County Government and the Ministry of Environment and Natural Resources for the registered mining youth groups in the county.

It is a good Motion and I appreciate that organizations provide opportunities in organizing industries and specific groups by facilitating them to help themselves, is something that we cannot ignore. We have seen counties like Murang'a which thrives through saccos because it is like it has Saccos for everything. It has a Sacco for avocados, for matatus and all farm produce have a Sacco. It is one of a documented case study when it comes to Saccos. Sacco organizations help in resources trickling down to the members.

A Sacco is a self-help organization in which members stock pile their savings to allow them to access credit or loan facilities in order for them to advance their interests. This Motion seeks to organize those employees or employers who are working in quarries and mineral pits who are a forgotten lot – if I can use that word. This is because very few counties can get people to help them in mining activities. For Hon. Kiriba to think about them, I think he must have been looking for gold and never got it or he is interested in getting other precious metals. I think Hon. Kiriba for thinking about this.

I got lost yesterday when I was going somewhere and I found myself in some area where mining was being done between Mihango and Matopeni wards. I would not like to experience such a thing in future because I got lost while using Goggle maps. I could see the big pits there and how the miners struggled to pull out rocks from the bottom of these pits. And then you tell me that those people will manage to get Kshs.100 a day and never have hope that one day they will be able to feed for their families or organize themselves in a way that they are able to access credit or even take their children to good schools.

We have seen very needy children like in the just released KCPE results by CS Magoha whose parents are mine workers. These parents may not be able to pay school fees for their children. But if they are organized as saccos they can be able to access loan facilities to pay the school fees for their children. We have seen people who have benefited from credit facilities. Look at the women groups, women have organized themselves so well that whenever the government launches anything there is a women group for it. Whether it is getting small loans, they have already organized themselves.

This Motion seeks to organize the youth and women and also the quarry workers to access government opportunities. We have talked about AGPO; this is the availability of opportunities for young

people in government. Right now the supply of building materials which is one of the biggest tenders given by the government has been taken by the big fishes. We want these groups to organize themselves in Sacco's in a bid to get these tenders. I think Hon. Kiriba should follow up on whether the procurement laws are amended to allow Sacco's to bid for such tenders and they should be given special preference.

I believe that it is a very good Motion and I support it strongly. I believe the quarry workers will be very pleased to see this being amended now that I also serve in the Implementation Committee as the vice Chair. Thank you very much.

Hon. Speaker: Thank you. ICT, did you manage to get Hon. Kamau Muthiga on Zoom? Okay. We can have Hon. Nicholas Okumu.

Hon. Nicholas Okumu: Thank you Mr. Speaker. I want to strongly support this Motion because I worked at a quarry immediately after high school. I understand what happens there as young men who do not have job opportunities go there. It is also a very difficult job and for that, I wish to tell Hon. Kiriba that he thought wise by bringing this Motion so that they can be recognized to access credit facilities so as to jumpstart their lives.

I would also like to bring to your attention that two weeks ago, there was a communication on the floor of this House on the position of the Minority Whip. I need your protection Mr. Speaker because when the communication has been done, your office is supposed to facilitate me so that I can be able to access the office. I therefore would like to ask your office to facilitate me so that I get to discharge my duties. On the same breath, I would like to thank the former Whip Hon. Imwatok for serving his time---

Hon. Speaker: Hon. Okumu, kindly contribute on the Motion.

Hon. Nicholas Okumu: Mr. Speaker, I have already contributed on the Motion.

Hon. Speaker: Check your Standing Orders on the relevance of the information.

Hon. Nicholas Okumu: Thank you Mr. Speaker. I support the Motion.

Hon. Speaker: Thank you. Can I have Hon. Nyangaresi

Hon. Moses Ogeto: Hon. Speaker, I rise on a point of order. I wanted to inform the Member, as he was not here in the morning that the same issue was dispensed with. So let us all work for the Orange Democratic Movement party. Thank you Hon. Speaker

Hon. Speaker: Thank you. Hon. Members, there being no other intervention may I call the mover to reply.

Hon. James Kiriba: Ahsante sana Bwana Speaker. I would like to thank the Members who have supported this Motion akiongozwa na bwana Hon. Themendu

Hon. Speaker: Hon. Kiriba, our Standing Orders are very clear. You stick to one language but do not switch from one language to another.

Hon. James Kiriba: Nashukura Kaimu Spika wa Bunge hii la Nairobi, ila nachukua fursa hii kumshukuru Mheshimiwa Themendu kwa sababu ameiunga hii mjadala haswa tunapolenga maeneo tunapotoka. Ukitembea kimawazo, sehemu zile unapata wachimba quarry wanapata vumbi mingi na hapo ndipo wanaweza kusomesha watoto wao mpaka shule kuu. Kwa hivyo tukizingatia kurahishisha maisha yao, itakua muhimu sana. Nashuru pia mheshimiwa Mukiri kwa sababu anatoa eneo ambapo mashimo yalichimbwa na yakabaki kua hatari kwa maisha ya mwananchi wa kawaida. Kile kilicho hapa ni mpangilio

mwema wa kurahishisha utendakazi ule na ushauri mkuu unaofaa. Kwa hivyo tukiweka vikundi hivi ambavyo tunaita “Sacco” vijana hawa watapewa vifaa vya afya na pia serekali ya kaunti itaweza kulipisha io shughuli na maisha yao itaimarika. Tunaelewa kwamba serikali haijaweza kuweka ajira na tukiweza kuleta ajira bora zaidi, tuna uhakika kwamba maisha yao italainika. Hii pia italetta mpangilio mwema hata kama kutakua na ugonjwa, itakua rahisi kuidhibiti na kujua vile maisha yao inavyoendelea. Bwana Spika, tukiwa na vijana wengi kazini, nina uhakika kwamba usalama pia itaimarika. Nasema ni asante Bwana spika

Hon. Speaker: Thank you Hon. Member

(Question put and agreed to)

ADJOURNMENT

Hon. Speaker: Hon. Members, there being no other business, the House stands adjourned to Thursday 10th at 2:30 p.m.

The House rose at 4.00 p.m.