



NAIROBI CITY COUNTY ASSEMBLY

OFFICIAL REPORT

First County Assembly – Second Session

Wednesday, 12th November, 2014

The House met at 2.30 p.m.

(Hon. Speaker in the Chair)

PRAYERS

Hon. Speaker : (Mr. Alex Ole Magelo): Good afternoon Hon. Members.

Hon. Speaker: Sergeant-at-Arm to ring the bell for ten minutes.

PAPERS

Hon. Member for Harambee Ward (Mr. Ronald Milare): Thank you Mr. Speaker sir, pursuant to Standing Order 186 I beg to lay the following Paper on the table of the Assembly today Wednesday 12th November 2014. The report on the Sectoral Committee on Culture and Community Services on the site visit to Commune Di Trepuzzi (Ie). Italy 16th to 23rd June 2014.

Hon. Speaker: Thank you.

Notices of Motion

Hon. Ronald Milare: Hon. Speaker I beg to give Notices of the following Motion: that this Assembly adopts the report of the Sectoral Committee on Culture and Community Services on the visit to Commune Di Trepuzzi (Ie). Italy laid on the table of the Assembly today Wednesday 12th November 2014.

Hon. Speaker: Yes Hon. Kagiri.

Hon. Member for Pipeline Ward (Mr. Samuel Kagiri): Mr. Speaker, before you adjourned the Assembly last time, I had a Motion of definite matter of County Importance and I would like you to allocate some time for the Motion to be discussed today. Thank you... under Standing Order 30.

Hon. Speaker: Hon. Kagiri can you give the notice then---

Hon Kagiri: Hon. Speaker I beg to give Notice to the following Motion. That aware that the security of the precincts of County Assembly is paramount and must be ensured at all times, for the safety of Members and staff of the Assembly; noting that most parliaments, including National Parliament, adopt a system of Security fencing that features walls and different levels of entry and exit to ensure security; is fully aware that the Assembly lacks crucial amenities or facilities due to lack of space;

Deeply concerned that most of the premises belonging to the Assembly are still under occupation by strangers and efforts to reclaim the same have been sluggish. Disturbed that Members don't enjoy certain privileges guaranteed by the privileges Act due to lack of space at the Assembly precincts, for instance a Members lounge, media centre, resource centre and library among others, regretting that effort to secure Assembly precincts by fencing them off were met with hostility and poles for the same uprooted by unknown persons from County Executive and Assembly premises remain under occupation by strangers.

This Assembly resolve that the County Executive move with speed and have all premises allocated to the Assembly but still under businesses rented, the same premises the old Council vacated

forthwith and surrendered to the Assembly, to enable the Assembly secure its precincts and provide missing facilities for Members. Thank you Mr. Speaker.

Hon. Speaker: After the Motion on Hon. David Mberia then we will now come and allocate time for this.

STATEMENTS

Member for Parklands (Hon Jaffa Kassam): Thank you Mr. Speaker Sir, on Thursday 16th October, 2014 Hon. Ibrahim Hassan MCA rose on the floor of the Assembly pursuant to Standing Order 41 2(c) and requested for a Statement from the Chairperson of the Committee on Justice and Legal Affairs regarding the skirmishes between askaris and hawkers in the County. He asked the Chairperson to inquire into the report as to;

1. Whether the County Executive was aware of the allegation?
2. Whether the inquiries have been made into the said allegation?
3. The steps being taken to curb the menace caused by the County Askaris?
4. The measures being taken to transform the askaris into a police friendly service

Mr. Speaker Sir, the Committee wrote to the Chief Officer responsible for Security and Compliance and Disaster Management on the 23rd of October, 2014 requesting to be furnished with the written response to the Statement requested by Hon. Abdi Ibrahim Hassan.

In this regard Mr. Speaker Sir I wish to report to the Assembly as follows;

1. That on whether the County Executive was aware of the allegation and the status of the investigation: The County Secretary reported that the Executive is aware of the allegation which appeared in the media. They went public and demanded for victims to come out and identify the assailants and to provide some evidence but none has come forth so far. The County appealed for anybody with a complaint to report to the Central Police Station or the nearest Police Station for the matter to be investigated and is currently waiting investigation to be completed by the Police.

2. The measures taken to curb the menace and to transform the City Inspectorate: Mr. Speaker Sir, the Officer in charge of security indicated that the County is taking the following measures to reform the City Inspectorate.
- a) Retraining. It has started retraining and reforming the officers and 30 Security Officers were to report to Dagoreti Training School on 3rd of November, 2014. Note that eight of the Officers are undergoing training on Customer Service, Human Rights and Gender. Another eight Officers will start training on 4th November 2014 on Customer Service and Human Rights. The subject to be undertaken include human rights, customer care service, gender sensitivity, search, arrest and prosecution, escort of suspect, basic traffic rules and regulation, bits and patrols enforcement of by-law and other laws and the County court procedures.
 - b) Rebranding. The County is in the process of changing the uniform for the Security Officers so as to rebrand the whole unit. Personal numbers and names will be reflected on the chest.
 - c) Lectures. The department has managed to hold joint lectures for the senior officers to the junior most touching on discipline, professionalism in application of law, operation to enforce by law, provision of service to customers, acceptable working skills, moral values and team work.
 - d) Disciplinary measures. Officers found to be errand in performing their duties have always been dealt with through an internal mechanism. Others have been interdicted and punished as provided by the Law.
 - e) Devolution. Most of the officers have been deployed to serve the Counties. Each sub County Administrator has a Divisional Commander with Security Officers under him.
 - f) Provision of Transport and Communication. The County is in the process of purchasing 18 pick-ups, two lorries and modern communication gadgets.

Mr. Speaker Sir I beg to lay this response. Thank you.

Hon. Speaker: Hold on Hon. Akuk. Just to dispense off with --- let me have that paper. The Hon. Abdi Ibrahim Hassan. Respond to your Statement on the issue of Inspectorate

Hon. Minority Leader: Thank you Mr. Speaker Sir. With your indulgence I want to go through it so that I can ask for more clarification Mr. Speaker Sir.

Hon. Speaker: Very well

Hon. Minority Leader: Thank you.

Hon. Speaker: Yes Hon. Akuk

Member for Highrise Ward (Hon. Maurice Akuk): Thank you Mr. Speaker Sir I stand here on a Point of Order Number 30. As you are aware that adjournment on definite matter of urgent County importance, I will read 30 (1) : *Any Member may at any time rise at his or her place and seek leave to move the adjournment of the County Assembly for the purpose of discussing a definite matter of urgent County importance.*

Mr. Speaker Sir, there has been an illegality in this County Assembly of Nairobi and we need your guidance however much you are being referred to, subsection 2/1 states that I can stand and give my opinion, and that is for adjournment. Any appointment letter of a public officer, whose approval is supposed to pass through the County Assembly, should be written like this: "Having been approved by the County Assembly..." This is also stated in the C.E.C Members' letters of appointment, and this has not been stated in the appointment letter of the Clerk. I am requesting that the House adjourns so that we discuss this matter because it is of importance to the County of Nairobi, to the people of Nairobi and this House will not be used to---

Hon. Speaker: Order Hon. Member!

Hon. Maurice Akuk: To do an illegality---

Hon. Speaker: Order! Please.

Hon. Maurice Akuk: That is going on and we are requesting for an adjournment so that this matter is discussed and his name is brought here for approval.

Hon. Speaker: Order Hon. Akuk. Yes Hon. Gathundo.

Hon. Charles Thuo: Thank you Mr. Speaker Sir. I am moving on a Point of Order Number 30. I am seeking that you adjourn the House to discuss a matter of importance to this county. I am seeking your leave that we adjourn this Assembly so that we can discuss the apparent state of the washrooms of this Assembly. It is said that if you want to know the value of an institution, then you look at how they keep their washrooms. Our washrooms are wanting. We cannot relieve ourselves peacefully. You know we are supposed to go there and relax and even pick calls and text. We cannot do that. Please adjourn this House so that we can discuss this matter. I wish the Clerk will let me address the Chair. Thank you.

Hon. Speaker: Thank you Hon. Thuo. Hon---

Hon. Stephen Kambi: Thank you Mr. Speaker Sir. Kindly protect me from my loudly consulting colleagues. There was a time I stood on this floor. This is a House of 129 Members. And whenever there is an issue that is being pushed for, there is more than meets the eye. To cut the long story short, kindly, I do believe that you are the chairman of the County Assembly Service Board and the issue of the Clerk's appointment has been very thorny to the hearts of these Hon. Members. I think it is wise and very advisable that you as the Chair give this House direction and notify us on whether the Clerk has been appointed or not. Was he confirmed by the Service Board or not? Was he given a letter of appointment or not? If so, if he was given as my good friend, Akuk, is saying, let us know which laws were used to ensure that the letters of appointment was given to the Clerk or the confirmation by Assembly Service Board towards the Clerk's position. Thank you.

Hon. Speaker: Hon. Millicent. Then I can answer.

Hon. Millicent Mugandi: Thank you Mr. Speaker. I just have one question to ask and I think once we get the answer of the question, then we will be able to know if we are going in the right direction or not. This issue of the Clerk, who is supposed to confirm the Clerk and what is the procedure of confirming the Clerk. I think once all the Honorable Members know that, I don't think there will be an issue of debating or...you know, that is what I think. Thank you.

Hon. Speaker: Hon.Samuel Nyangwara.

Hon. Member for Viwandani Ward (Hon. Samwel Nyangwara): Mr. Speaker, I want you to give direction to this House concerning a petition that was presented to this House of which we did not agree because some of us felt it was an illegality done on the floor of this House. If you look at the Standing Order No. 194, it spells out what petition is. On the same, this issue of the Clerk is not the first time it has come here and its high time Members declare their interest in this matter.

There is a time some Members were asking to have the name be brought to the floor of this House and there was a bit of exchange on the floor of this House and the matter came to rest. This is now the third time and it has come from different angles. You fail to understand, you find may be somebody going to push for his issues and if they don't seem to work, he comes to the floor of this House to try to bring an illegality on the floor of the House.

It will be proper if we get direction, and we understand the manner in which the name of the Clerk is always being bashed here every now and then, and even we know the manner in which he received the appointment letter Mr. Speaker, and we fail to understand because the Clerk in the County Assembly Service Board does not even have a vote Mr. Speaker. The Members who represent us at the County Assembly Service Board it is us who elected them Mr. Speaker. How can we question ourselves Mr. Speaker? I strongly feel Mr. Speaker you should give us direction in this matter. Thank you.

Hon. Speaker: Hon. Members good afternoon once again? Hon. Members first of all to dispense off with the petition, the petition which came to the Office of the Speaker yesterday, and this is the way the petition was and the petition was dated 11th November 2014. According to the Constitution of Kenya County Government Act Section 13(1) there shall be a Clerk of the County Assembly appointed by the County Assembly Service Board with the approval of the County Assembly. As per the same section 15(1) (a): A person has a right to petition a County Assembly to consider only matters within its authority including enacting, amending or repealing any of its legislations. It is in the above matter that the following Members of the County Assembly of Nairobi County did present a petition to the County Assembly Service Board to avail the name of the Clerk to the Assembly for approval.

Hon. Members, in the first place that petition was in a bad taste. Secondly the meaning of the petition Standing Order 194, for the purpose of this petition means writing to the County Assembly by a Member of the Public requesting the Assembly to consider any matter within its authority including enacting, amending or repealing any legislation. Submission of a petition to the County Assembly shall be submitted to the Clerk by the petitioner and reported to the County Assembly by the Speaker or presented by a Member on behalf of the petitioner with the consent of the Speaker.

Notwithstanding paragraph 1(b), a Member shall not be a legible to present a petition on his own behalf. The Clerk shall have within seven days from the date of the petition, review the petition to ascertain whether the petition meets the requirement of these Standing Orders or the law. Hon. Members, the County Government Act, section 17 and an employment Act section 34 clearly gives the direction of employment of an officer in any organization. I therefor wish to state that by the resolution of the Nairobi City County Assembly Service Board sitting held on 10th June 2014 confirmed and appointed a Clerk to Nairobi City Assembly proposed and seconded respectively by the Hon. Leader of Majority and the Hon. Leader of Minority. I thank you.

(Loud consultations)

Hon. Member for Dandora II, (Mr.Stephen Kambi): Thank you Sir. Protect me from my colleagues.

Hon. Speaker: Order Hon. Members!

Hon. Member for Dandora II, (Mr.Stephen Kambi): I will only listen to Mr. Speaker. Thank you Sir. I will only adhere to your ruling.

Hon. Speaker: Hon. Members I have finished and the matter rest.

(Loud consultation)

Hon. Speaker: Order! Order!

Hon. Member for Kariobangi North, (Mr. Stephen Kambi): Point of clarification Mr. Speaker Sir.

Loud consultation

Hon. Speaker: Anybody aggrieved can go to court.

Hon. Maxwell Ochieng: Mr. Speaker let Members deliberate on this...

Hon. Speaker: Order! Order!

Loud consultation

Hon. Member for Kariobangi North, (Mr. Stephen Kambi): We want clarification because even yesterday we had the Chair.....

Hon. Speaker: Order Hon. Member! Hon. Akuk Order! But sit down. Sit down

Loud consultation

Hon. Speaker: Next Order please.

(Loud consultations)

Hon. Speaker (Mr. Alex Ole Magelo): Next Order please.

(Loud consultations)

Hon. Speaker: Next order!

(Loud consultations)

Hon. Speaker: Hon. Members the House is adjourned until tomorrow 2.30 p.m. Thank you.

House rose at 3.58 p.m.