



NAIROBI CITY COUNTY ASSEMBLY

OFFICIAL REPORT

First County Assembly – Second Session

Wednesday, 25th June, 2014

The House met at 2.30 p.m.

(Mr. Speaker in the Chair)

PRAYERS

COMMUNICATION FROM THE CHAIR

Hon. Speaker: Hon. Members, I have the following Communication to make;

Presentation of the 2014 budget highlights revenue raising measures.

Hon. Members, Standing Order 213 provides that *“the Member of the County Executive Committee responsible for Finance shall appear before the Budget and Appropriation Committee for the purpose of making a public pronouncement of the budget policy highlights and revenue raising measures for the County Government”*.

Hon. Members, the House Business Committee has since received a request from the Budget and Appropriation Committee seeking to be allowed to use the Chamber tomorrow, Thursday 26th June, 2014. The Committee intends to hold a sitting to receive the budget highlights and revenue raising measures for the year 2014/2015 from the County Executive Committee Member responsible for Finance. The House Business Committee resolved to ask the House to adjourn tomorrow at 3.00 p.m. and it is therefore expected that tomorrow the Assembly will adjourn at 3:00 p.m. to give way to the important County event. Thereafter, Members are invited to attend the sitting of the Budget and Appropriation Committee in the Chamber. I thank you.

Hon. Chief Whip of Minority: Mr. Speaker sir?

Hon. Speaker: Hon. Hashim, what is it? You want to make a Statement? Request for a Statement? Okay.

STATEMENTS

REQUEST FOR A STATEMENT ON BREACH OF LEASE ON CHURCH LAND

Hon. Leader of Minority (Mr. Hashim Kamau): Thank you, Mr. Speaker. Pursuant to Standing Order number 41(2c), I wish to request for a Statement from the Chairperson of Sectoral Committee on Planning and Housing regarding land registration number LR 36/7/586 located on General Waruinge Street. It was allocated to Gospel Fathering Fellowship in 1938 on certain conditions.

Hon. Speaker, land registration number LR 36/7/50 and /51, /52 and /117 were consolidated into a single piece of land under LR 36/7/586 issued to Gospel Fathering Fellowship Church. LR number 36/7/117 was plained to Gospel Fathering Fellowship on the condition that the parcel be used for mission purposes only and that in the event that the freehold plot ceases to be used for that purpose the grant of the Title will lapse and the land will revert back to the Nairobi City Council, now County Government.

Nowadays we are going digital, Mr. Speaker, they are called gears. However, Gospel Fathering Fellowship has since sold the same piece of land LR number 36/7/117 to Darasa Investments Limited in total disregard and breach of the lease conditions under which the road reserve in question was originally allocated as part of the Church's consolidated Title Deed. In the Statement, the Chairperson should enquire into and report on; Measures the County Government has taken to ensure the road reserve allocated to the church under LR number 36/7/117 reverts back to the Government since a breach of the condition of the lease has occurred. Thank you.

Hon. Speaker: Thank you. Hon. Chairperson for Trade and Planning.

Hon. Member for Imara Daima (Mr. Jairus Atenya): Planning and Housing.

Hon. Speaker: Yes and Hon. Chairperson, I am sure this time we shall get proper records---

Hon. Jairus Atenya: Yes.

Hon. Speaker: And a proper report. Go on, Hon. Atenya.

Hon. Jairus Atenya: Thank you, Mr. Speaker sir. I beg to be given just one more week.

Hon. Speaker: Very well, one week to have the report on the Table. Hon. Jaffer Kassam, Member for Parklands Ward and the Chairperson for Justice and Legal Affairs;

REQUEST FOR A STATEMENT ON DEVELOPMENT OF A PLOT ADJACENT TO WESTGATE SHOPPING CENTRE

Hon. Member for Parklands Ward (Mr. Jaffer Kassam): Thank you, Mr. Speaker. I wish to request for the following Statement pursuant to the Standing Order 41 (2c). I wish to request for a Statement from the Chairperson of the Sectoral Committee on Planning and Housing regarding the development in progress on the plot adjacent to Westgate Shopping Centre along Peponi Road Parklands Ward. Trees along the road were cleared on Wednesday 18th June, 2014 and a private developer began construction on the site on Sunday 22nd June, 2014. The plot is a riparian reserve and was declared a wetland by Ministry of Environment Water and Natural Resources. Hon. Speaker sir, in the Statement the Chairperson should enquire into and report on:

1. How the building plans were approved despite NEMA restriction on the plot;
2. The ownership of the plot;
3. The measures being put in place by the County Government to protect the wetland.

Thank you, Mr. Speaker, sir.

Hon. Speaker: Hon. Chairperson for--- I hope this is not the one that we are waiting for you to report on today at 3:00 p.m.?

Hon. Leader of Majority (Mr. Elias Otieno Okumu): It is the same thing.

Hon. Speaker: Is it the same thing? You know, because of the matter of urgency we are going to have a report from the Leader of Majority because the Chairperson of Planning was not in. However, this has been overtaken by events and subsequently the Hon. Leader of Majority will give us a full report because we gave him that mandate yesterday.

RESPONSE TO A STATEMENT ON DEVELOPMENT OF A WETLAND AREA

Hon. Leader of Majority: Thank you, Mr. Speaker. First of all, I must thank Members for their concerns. Mr. Speaker, you gave this order yesterday at around 4:30 p.m. but I started work on this yesterday at around 5:30 p.m. and I have a full report.

Proposed boundary wall on LR number 1870/11/160 land registration number CPFAB691 PCEA registered trustees.

“The above mentioned premise is situated at the junction of Peponi Road and Mwansi road in Westlands.” The used opening in the title is ‘educational purposes, accommodation for health head teachers and offices’. The premise is owned by PCEA Registered Trustees. The application for boundary wall was received on 24th June, 2013 and after payment of the submission fees on the plans was scrutinized it was presented to the technical meeting on 18th July, 2013 and it was declined on the allegation that it is a wetland.

Later after confirming that it is not a wetland; the application was again presented to the technical meeting on 29th January, 2014 but deferred again, to be cleared by NEMA. After NEMA clearance yearly assessment license the plan was again presented for consideration and approved in the technical meeting of 30th April, 2014. Earlier on the title had been revoked by the Registrar of Titles but it was reinstated by ELC number 71 of 2011 of the High Court of Kenya March, 2013.

It should be noted that by the time of submission of the plan for the boundary wall, the revocation had been done (*See confirmation by National Lands Commission in their letter dated 5th February, 2014*). The granting of permission to fence the property was to prevent encroachment by squatters. The riparian way-leave was pegged by Water Resources Management Authority and the report presented to NEMA (*See the letter dated 13/11/2013*). Attached are the copies of all documents pertaining to the plot for your further action. Report written by Acting Assistant Director, John Ojwang.”

Mr. Speaker, these are the documents and it shows very clearly where it is wetland and where it is riparian and where buildings should be put up:

“Certificate of Environment Management, NEMA”

This is to certify that the Environment Impact Assessment License Number 0021240 is issued on 17th March, 2014 to PCEA Presbyterian Foundation.

Mr. Speaker, added to that there is a NEMA certificate which is confirming to PCEA that that is not a wetland so they can continue with their construction. Then, after that, there is another one here, ‘Request for Clearance to develop on LR No. 1860/1160’.

‘Reference made to the subject matter. The National Lands Commission, hereafter the ‘Commission’, is a Constitutional Office established under Article 67, Chapter 15 of the Constitution of

Kenya and the National Land Commissions Act of 2012. We acknowledge with thanks receipt of your letter dated 20th November, 2013 whose contents we have duly noted. According to our regards your Title LR No. 186/11/6 which was revoked via gazette notice number 1274 of 2011 was reinstated, vide ELC, Case number 71 registered against the property was withdrawn on 5th July, 2013 and the property reinstated to the Presbyterian Church of East Africa registered trustees and Afro Machineries Kenya Ltd on tenancy in common for consideration for Ksh.250,000 on 8th July, 2013”.

Mr. Speaker, this is another letter which is dated 13th November, 2013:

LR No. 1870/11/160, PCEA Presbyterian Foundation. “We acknowledge the pegging exercise which took place yesterday, 12th November, 2013 and we await the Water Resource Management Authority Report and the remaining clearances from the Nairobi City County Government on the approval of development plan. Please submit the above together with the projects report for the EIA process to be undertaken and processed accordingly. Please take the necessary action. Sephenia O. Ouma for Director General. Copy to PCEA Church”.

Mr. Speaker, this is also WARMA who applied for their pegging. So, WARMA also applied to know where they can build and where there is wetland. Mr. Speaker, if I am not wrong, the Title is here also and the Title shows the users’ offices. So, I beg to rest my case from there, whoever has any questions can come and take this one, this is my own investigations which I did and I need a clap for that because the amount of time I was given was too short but I have done a very good job, Mr. Speaker. Thank you.

Hon. Speaker: Hon. Thuo, you asked for this yesterday?

Hon. Member for Karura Ward (Mr. Stephen Kamau Thuo): Thank you, Mr. Speaker.

Hon. Speaker: What did you say?

Hon. Stephen Kamau Thuo: Thank you, Hon. Speaker, we must respect the sanctity of a Title Deed and it has been provided here and the report has been Tabled which is conclusive and comprehensive. Mr. Speaker, I have no further questions to that matter, let it rest. Thank you.

Hon. Speaker: I want to thank the Hon. Leader of Majority and Hon. Thuo and this is the Chairperson’s report. You can see, I made the order yesterday at about 4.00 p.m. and we have all the documents with us, so when you guys go for two, three weeks to reply to Statements I really do not know what you go to do. However, since the records have been put straight, now the matter rests. Next Order.

(Loud consultations)

Hon. Speaker: Next Order? The matter rests. Hon. Chairperson for--- There is an earlier question and this one is rather urgent, I have the information. Hon. Masiga, you have one minute, only one minute.

Hon. Member for Eastleigh South (Mr. Nelson Masiga): Thank you, Mr. Speaker sir. I want to register my complaint about the security of the Members in this House. Personally, there are rumours going around that I am going to be sued for attempted murder.

(Loud Consultations)

Hon. Speaker: Order, Members!

Hon. Nelson Masiga: And there has been murmuring around with one Hon. Karen saying, soon we are going to be a minority in this House. I do not understand how.

(Loud Consultations)

Hon. Speaker: Order, Hon. Members! Order, Deputy Leader of Minority! Hon. Hashim! Members, you see, we have to be extremely careful with words because as civilized and intelligent as we are and indeed, articulate, we should not use words without reasoning. The word 'murder' is not a word to be used and I will request the Member to report the matter to our security officers of Nairobi County for further investigation. The security of Members, once again, I told you it is the responsibility of the Speaker and I will take that issue upon myself.

However, as you go to report, Hon. Jackie Nyang'ala reported a threat that was on her phone; you could read it and you could produce it but up to today the County security has done nothing. So, Hon. Nelson Masiga, again tomorrow morning go and report because you have to report. It is your life in danger and I will follow up on it myself, but the Committee of Justice and Legal Affairs, you are not doing us justice. Chairman, Jackie Nyang'ala reported a threat on her life and the person who threatened her moves in and out of City Hall as if he is a Member of the County Government or the County Assembly.

I will ask this question again and Chairperson of Justice, I want a report on Tuesday on why action has not been taken on Jackie Nyang'ala's incident and again, the Leader of Majority who represents the Government, I want you to take our disappointment to the County Government with regard to the security of Members. One; we applied for security even to guard the precincts of the Assembly and for the last three months we have not received any.

So, the Leader of Majority, once again I have seen that you are a very fast mover, take our disappointment to His Excellency, Dr. Kidero because of lack of commitment of his security personnel with

regard to the Assembly here. We don't want to issue any threats but if cases regarding MCAs--- Hon. Wamari's case, we reported his case personally, we were together when we were reporting and it is now six months and still nothing has been done. He had to move from his home to Kiambu and no action has been taken to date. Therefore, it looks like we have a problem and we are detached from the security and if I get the report from the Chairperson for Legal and the Leader of Majority, then we shall engage the provisional police officer in regard to the Assembly. We will detach ourselves from the County Government if that is to be the case. I thank you. Hon. Leader of Majority.

Hon. Leader of Majority: Mr. Speaker, I think the matter which has been brought here by Hon. Masiga, is very important for us to discuss because if somebody told him that he is going to be charged with attempted murder and at the same time he was threatened by Karen, that in the near future he is going to be a minority, that means there is a hidden agenda somewhere. The reason why you want him to be charged with attempted murder is because they know very well they are going to remove him and I will be made the Leader of Minority. Karen, I don't fear being in the minority, I will just be comfortable with the office you are going to give me but in the near future I don't see Masiga going anywhere. Thank you.

(Laughter and Applause)

(Loud Consultations)

Hon. Speaker: Hon. Members, order! I have made a ruling and the ruling is that---

(Loud Consultations)

Hon. Speaker: Order, Members! You do not shout from your seats because I will show you the door. I will allow only one person because this now goes to the police, and you are not policemen and you are not investigators. Hon Karen.

Hon. Karen Githaiga (Nominated Member from Njiiru): Thank you, Mr. Speaker sir. Standing Order 104---

Hon. Chief Whip of Minority: Point of Information!

Hon. Speaker: To inform on what?

Hon. Chief Whip of Minority: Mr. Speaker, was the Member, *Mheshimiwa* Masiga, in order? He has put it very clearly that it was rumours and murmuring. He got that information through rumours and murmuring. Is it allowed in the House, Mr. Speaker?

(Applause)

Hon. Speaker: Hon. Members, I made it very clear that if the Member has been threatened in any way, not only Nelson Masiga but any other Member of this County Assembly he or she should report to the police for further investigation. We have no jurisdiction to investigate and even if we contributed to that matter we are not in a position to make--- What do you expect, Mr. Speaker to say? To say Masiga you are right and Karen is wrong or Karen is right? No.

Hon. Member for Viwandani Ward (Mr. Samuel Nyang'wara): Point of Order!

Hon. Speaker: Order, Members! Nyang'wara! Order, Hon. Members! Order! Hon. Karen.

Hon. Karen Githaiga: Thank you, Mr. Speaker and thank you my Whip, for the information. Mr. Speaker sir, in this House we use the Standing Orders. Standing Order 104(d) states very clearly, if a Member "*persists in making a serious allegation without, in the Speaker's opinion, adequate substantiation*".

Mr. Speaker sir, I am a very Hon. Member of this House, and a Hon. Member has made a very serious allegation without any evidence. Can he substantiate because he is ruining my name and we have Press in this House? So, can he give evidence of what I said? Mr. Speaker, am I capable of threatening even an insect?

(Applause)

(Loud Consultation)

(Consultations between Speaker and the Clerk)

Hon. Karen Githaiga: Mr. Speaker sir, he should withdraw my name from that, please.

Hon. Speaker: Hon. Members, I have made a ruling.

Hon. Chief Whip for the Majority: Next Order, Mr. Speaker.

Hon. Speaker: Hon Chief Whip, I think you look tired and I think you want to go and relax outside. You will go. Maybe there is a match you want to go and watch.

(Laughter)

Hon. Members, I have made a ruling in that regard and let us not dwell on things that could end up being petty because this is a Hon. House and remember that when the report of the police will come on this floor that is when we shall punish the Member who is responsible. The Chairman of Appropriation and Budget;

Hon. Karen Githaiga: Point of Order, Mr. Speaker!

Hon. Speaker: I made a ruling, Hon. Karen, and the matter is to be investigated accordingly.

Hon. Karen Githaiga: *(Inaudible)*

Hon. Speaker: That is okay, it is not a problem.

(Loud Consultation)

Second Reading

THE NAIROBI CITY COUNTY APPROPRIATION BILL NUMBER 2014, BILL NUMBER 7 OF 2014

Hon. Member for Embakasi Ward (Mr. Michael Ogada): Thank you very much, Mr. Speaker sir. Mine is now different, I have come with money matters which I think is important to all of us. I wish to beg that we read the Nairobi City County Appropriation Bill number 2014, Bill number 7 of 2014 for the second time. Mr. Speaker sir, having gone through the estimates that we did last week and Members having looked at the documents and the figures and made several recommendations, I therefore, want to propose that Members again approve the Appropriation Bill for the same that was Tabled last week.

Mr. Speaker sir,---

(Loud Consultations)

Hon. Speaker: Order, Hon Ochola, we are listening to a very important thing.

Hon Michael Oganda: Mr. Speaker sir, having made several recommendations last week, we have come up with the final figures and therefore, this House is requested to give an authority to the Executive so that come the 30th of June this year, which is coming next week, then from 1st July, they will have an authority to spend. Having spent all that they had by the end by 30th of this month they will have no option but to spend but they cannot spend without the authority of this House and that is why we have come up with the Appropriation Bill so that they are allowed to spend. Mr. Speaker sir, having taken into account all the recommendation that were made in this House, the final figures for the Department have been indicated and I will just mention them briefly.

The County Assembly in terms of recurrent expenditure is going to be allowed to spend 1.45 billion; the Public Service Board will spend 101 million; the Governor's Office will be spending under recurrent expenditure 4.65 million; ICT will spend 72 million; Economic, Planning and Finance are going to spend 2.1 Billion; that is in terms of recurrent. Environment and Forestry are allowed to spend 840 million; Public Health to spend 5.3 billion; Housing and Planning to spend 387 million; Sports and Culture to spend 1.5 billion; Industrialization to spend 226 million; the Public Service 961 million and the Agriculture and Forestry to spend 325 million. So the total recurrent expenditure which I request this House to allow the Executive and the Assembly to spend is coming to a total of Ksh 19.4 billion.

In terms of development, Mr. Speaker sir, I wish to request this House to allow the County Assembly to spend a total of Ksh 320 million; Public Service Board to spend Ksh 50 million; Governor's Office to spend Ksh 516 million; ICT and E-payment to spend 450 million; Finance and Economic Planning to spend 127 million; Water, Environment, Forestry to Spend 160 million; Public Health to Spend 910 million; Planning Department to spend 555 million; infrastructure, that is Roads and Works Department to spend 5.4 billion; Education, Youth and Sports to spend 440 million; Trade and Industrialization to spend Ksh 430 million and the Public Service Management Board, finally, has to spend Ksh 42 million. So the total development is to be Ksh. 9.4 billion instead of the proposed 9.1 billion which was in the original budget.

Mr. Speaker, sir, that is the Bill that I am requesting this House to humbly pass so that from next week, that is from the 1st of July, we will be able to access finances either to pay for the services, salaries and even to start initiating our developments. Another thing that I need to request the Members of this House is that once we start the next financial year we now don't expect Members to start saying that developments are not being initiated. Let us ensure that developments are done in our Wards within this financial year starting from the 1st of July. That is my request to them. Please make sure that the Executive implements and fast tracks development in our Wards. Mr. Speaker sir, I wish to ask *Mheshimiwa* Adow to come and second.

Hon. Member for Eastleigh North Ward (Mr. Osman Adow): Thank you, Mr. Speaker. I wish to second the Motion. I think the Chairman has said all that needs to be said. I just wish and request the Members to shorten the debate so that we can pass this quickly. Thank you.

Hon. Speaker: Hon. Members, I propose the question that, the Nairobi City County Appropriation Bill 2014 to be read a second time. Hon. Members, I now call the Mover of the Bill to reply. There is no debate? That's what I saw.

Hon. Michael Ogada: Thank you very much, Mr. Speaker sir. This wonderful House makes me happy most of the time because whenever I come with these weighty matters they always support me and I

think that is something that we need to really appreciate. Thank you, Hon. Members, because looking at the signs it seems the Appropriation Bill has been passed and I really want to thank you, and from July I will beg you again to make sure that developments are initiated without any further delays, so that you don't complain again. Thank you very much, Mr. Speaker sir.

(The Question is put and agreed to)

(The Speaker leaves the House and the Deputy Speaker takes the chair of the Committee of the Whole Assembly)

IN THE COMMITTEE OF THE WHOLE ASSEMBLY

THE NAIROBI CITY COUNTY APPROPRIATION BILL 2014, BILL NO. 7 OF 2014

Hon. Deputy Speaker: Hon. Members, we are now in the Committee of the Whole Assembly and we are considering the Nairobi City County Appropriation Bill 2014, Assembly Bill No. 7 of 2014. Welcome.

Clause 2 –

Hon. Deputy Speaker: Hon Members, I propose that Clause 2 be part of the Bill.

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

Hon. Members, there being no amendments allow me now to put the question that, Clause 2 be part of the Bill.

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

Schedule

Hon. Deputy Speaker: Hon. Members, I now propose that the Schedule be part of the Bill.

(Question that the Schedule be part of the Bill proposed)

Hon. Members, I now put the question that the schedule be part of the Bill.

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

Title

Hon. Deputy Speaker: Hon. Members, I propose that the Title be part of the Bill.

(Question that the Title be part of the Bill proposed)

Any debate on this? Hon. Members, I now put the question that the Title be part of the Bill.

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

Clause 1

Hon. Deputy Speaker: Hon. Members, I propose that Clause 1 be part of the Bill.

(Question that Clause 1 be part of the Bill proposed)

Hon. Members, I now put the question that the Clause 1 be part of the Bill.

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

Thank you.

(The Speaker returns to his seat as the Chairman of Chairmen and Deputy Speaker leaves his seat in between the two Clerks)

IN THE PLENARY

Hon. Deputy Speaker: Mr. Speaker, sir, I beg to report that the Committee of the Whole Assembly has considered the Nairobi City County Appropriations Bill No. 7 of 2014, and approved the same without amendments. Thank you, Mr. Speaker.

Hon. Speaker: Hon. Chairperson.

Hon. Michael Ogada: Thank you very much, Mr. Speaker sir. I beg to move that the Assembly do agree with the Committee in the said report without amendments.

Hon. Speaker: Hon. Members, I propose the question which is that, the Assembly do agree with the Committee in the said report. Hon. Members, I put the question which is that, the Assembly do agree with Committee in the said report.

(Question put and agreed to)

Third Reading

THE NAIROBI CITY COUNTY APPROPRIATION BILL NO. 7 OF 2014

Hon. Michael Ogada: Thank you very much once again, Mr. Speaker sir. I now beg to move that the Nairobi City County Appropriation Bill No. 7 of 2014, be now read a Third Time. Thank you.

Hon. Speaker: Hon. Members, I propose the question which is that, the Nairobi City County Appropriation Bill No. 7 of 2014 be now read a third time.

(Question proposed)

Hon. Members I will put the question which is that, the Nairobi City County Appropriation Bill No. 7 of 2014 be read a third time.

(Question put and agreed to)

Hon. Michael Ogada: Mr. Speaker sir, I understand that now we have the Appropriations Bill. Thank you very much, Members.

(Applause)

(The House Rose at 3.58 p.m.)