



NAIROBI CITY COUNTY ASSEMBLY

OFFICIAL REPORT

First County Assembly – Third Session

Thursday 22nd October, 2015

The House met at 2.30 p.m.

(Hon. Temporary Deputy Speaker (Mr. Maurice Akuk) in the chair)

PRAYERS

Hon. Temporary Deputy Speaker: Hon. Members, I am made to understand that we do not have enough quorum. So, I will ask the Sergeant-At-Arm to kindly ring the bell for the next five minutes.

(Quorum bell rings)

Hon. Temporary Deputy Speaker: Sergeant-At-Arm, I think we have enough quorum, will you please stop ringing the bell? Thank you. Clerk, proceed.

COMMUNICATION FROM THE CHAIR

BILLS

Hon. Temporary Deputy Speaker: Hon. Members, I have the following communication to make: Hon. Members, as you are aware, the Assembly considered and passed the following Bills on 29th and 30th September and 7th October, 2015. They include the Nairobi City County Disaster and Emergency Management Bill, 2015, the Nairobi City County Solid Waste Management Bill, 2015, and the Nairobi City County Ward Development Fund Amendment Bill, 2015. The Bills were subsequently forwarded to the Governor on 14th October, 2015 and accented to on 16th October, 2015.

I wish to sincerely thank you, Hon. Members for your valiant efforts in considering these crucial Bills to completion. It is my hope that Nairobi County will implement these Acts for the benefit of Nairobi residents. Thank you.

PAPERS

Hon. Temporary Deputy Speaker: Hon. Jaffer Kassam, with all due respect, we will have the Majority Leader's papers first.

THE COUNTY BUDGET REVIEW AND OUTLOOK PAPER

Hon. Carolyne Muga (Nominated Member): Thank you, Mr. Speaker. I beg to lay this Paper on behalf of the Majority Leader: Pursuant to Section 118 (4) (a), of the Public Accounts Management Act, 2012, I beg to lay the following Paper on the Table of the Assembly today, Thursday 22nd October, 2015: The County Budget Review and outlook Paper for the financial year 2015-2016.

Hon. Temporary Deputy Speaker: Hon. Member for Parklands/ Highridge.

Hon. Member for Parklands/ Highridge Ward (Mr. Jaffer Kassam): Thank you, Mr. Speaker. The Sectoral Committee on Justice and Legal Affairs received a petition for consideration from the Speaker on behalf of the residents of Nairobi who are members of Nairobi United IDPs, CBO, made up of families who were affected by 2007/2008 post-election violence whose prayers is request for resettlement.

Mr. Speaker sir, after going through and having several meetings, the Committee made the following recommendations: THAT Section 5 (11) (a) of the Prevention, Protection and Assistance to the Internally Displaced Persons and Affected Communities Act, 2012 stipulates that the Government shall bear the primary duty and responsibility to facilitate the administration of settlement areas and designate where necessary official areas for the settlement of IDPs in the Republic; hence the Government should take the responsibility of resettling the vetted genuine IDPs who qualify to be resettled.

The County Government should collaborate with the National Government in the process of resettlement of vetted genuine IDPs and the Ministry of Devolution and Planning be requested to conclusively deal with the matter and the IDPs be informed of the Government position on the pavement of the further claim.

Pursuant to standing order 202 (2) Mr. Speaker sir, I beg to lay the following papers on the table of the Assembly today on Thursday 22nd October, 2015. That is the report of the Sectoral Committee on the Justice and Legal Affairs, on the petition by the Nairobi United and Internally Displaced People to Nairobi County Government on the request for resettlement.

NOTICES OF MOTION

BAN OF MOTORCYCLES AND TUKTUK FROM ENTERING THE CITY CENTRE

Hon. Nominated Member: (Ms Magdalene Mbogori) Thank you, Mr. Speaker and I want to give notice of Motion on behalf of Hon. Akuk. That aware that Nairobi City is getting over populated and there is need to have an efficient transport system deeply concerned that the Nairobi City Streets have no special lanes for the motorcycles and many accidents occur on daily bases.

Further aware that some of these motorcycles are known to use pavements, therefore causing unnecessary traffic jam and that to avoid future disasters since our Hospitals are recording a high number of motorcycle's victim there is need to urgently deal with the situation.

This Assembly resolves that the County Government bans motorcycles and tuktuk from entering the City Centre.

Hon. Temporary Deputy Speaker: Hon. Members, consult in low tones. Thank you.

STATEMENTS

DEBILITATED STATES OF ROADS IN EASTLEIGH SOUTH WARD

Hon. Temporary Deputy Speaker: Hon. Members, do we have Hon. Masiga in the House please proceed.

Hon. Member for Eastleigh South Ward (Mr. Nelson Masiga): Thank you Mr. Speaker sir, pursuant to standing order number 41 2 (c) I wish to request for a statement from the Chairperson of Sectoral Committee on Transport and Public Works regarding the deliberated states of roads in Eastleigh South Ward.

Hon. Speaker, most roads such as Mutalakwa road, 17th Street, Mwende Street, Ole Simoni Road, 19th Street road and Kiambio road are in deliberated state making them impassable. In the statement the Chairperson should inquire into and report on:

The last time the road were rehabilitated and whether there are plans by the County Executive to upgrade and maintain the road and when. Thank you, Mr. Speaker.

Hon. Temporary Deputy Speaker: Thank you. Hon. Member for Kangemi Ward, are you in the House Hon. Ishua. I will reply to that later.

GRABBING OF PUBLIC LANDS IN KANGEMI WARD

Hon. Member for Kangemi Ward (Mr. Peter Isuha): Thank you Mr. Speaker sir, I have a statement to Planning Committee. Pursuant to Standing Order 41 2 (c), I wish to request a statement from the Chairperson of Sectoral Committee for Planning and Housing regarding the grabbing of Public lands in Kangemi.

Hon. Speaker, private developers have grabbed Public lands being plots numbers T461, T411, T418, T422, T420, T421, T423, T454, T453, T425, T429, T462, T449, T433, T431, T414, T415, T413, 261, 258, T424, T428, T427, T417, T439, T437, 260, 262, T432, T434, T438, T120 and T412 where they have built illegal temporary structures.

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

1. Who gave the approval for the constructions of private structures on the Public lands?
2. Ownership of the said land
3. Measures the County Executive is taking to revert ownership of the grabbed Public lands in Kangemi. Thank you.

Temporary Deputy Speaker: Thank you. Hon. Member for Sarangombe Ward, are you in the House or are you represented for your statement. If he is not in could we have the Chairperson for Transport and Public Works? Could you possibly tell us when you will reply to this statement? Any Member of that Committee!

Hon. Member for Baba Dogo Ward (Mr. Shadrack Juma): Thank you Mr. Speaker, give us only two weeks.

Temporary Deputy Speaker: Noted, thank you, Hon. Chairperson for Planning!

Hon. Member for Korogocho Ward (Mr. Maxwell Ochar): Thank you Mr. Speaker. Give us two weeks.

Hon. Temporary Deputy Speaker: Noted, thank you. The following Statements are due for response today; Hon. Shadrack Juma from the Chairpersons of the Sectoral Committee on Water and Sanitation, and Agriculture, Environment and Natural Resources regarding the waste water leaks from the East Africa Breweries, Hon. Chairperson.

Hon. Member for Kwa Njenga Ward (Mr. Alex Mulatya) Thank you Mr. Speaker, on behalf of the two Chairpersons; Hon. Alex Ouda and Benson Amutavi, I stand before you to respond to the statement requested by the Hon. Shadrack Juma, Baba Dogo Ward. Mr. Speaker sir, on Wednesday March 4th March

2015, the Hon. Shadrack Juma rose on the floor of the Assembly pursuant to Standing Order 42 (2c) and requested for a statement from the Chairpersons of the Sectoral Committee on Agriculture, Environment and Natural Resources, and Water and Sanitation for a statement regarding waste water leaks from the East Africa Breweries. On the statement, the Member sought a reply on the measures being taken by the County Executive to ensure that East Africa Breweries put a stop to the harmful leakages.

Mr. Speaker sir, the committees wrote to the County Executive Member responsible for Environment, Forestry and Natural Resources on 9th March 2015 requesting to be furnished with a written response to the statement sought by the Hon. Member. In addition, both committees held a site visit to the affected areas in Baba Dogo Ward on Tuesday 24th March 2015 to ascertain the issues raised in the statement request. The committees received two replies from the Chief Officer, Water, Energy and Natural Resources vide letters Ref. NCC/WENR/MGN/1/912/2015 dated 24th June 2015 and ref. NCC/WENR/MGN/2/943 dated 31st July 2015.

In this regard Mr. Speaker sir, I wish to report to the Assembly as follows;
Following the request the Nairobi Water and Sewerage Company Technical Team visited the area and established that:

1. The state of waste water leaks for the East Africa Breweries in Babadogo Ward
Mr. Speaker sir, arising from the information submitted by the Executive and the site visits findings, the committee observed as follows;
 - i) There exists a collector sewer line form East African Breweries that discharges into River Ruaraka Trunk Sewer through an overhead across Ruaraka River. The line consists of bitumen lined steel pipes supported on a steel bridge. These pipes have been corroded over the years leading to numerous perforations through which raw sewer is discharged into the river.
 - ii) Bad smell emanated from the leaking sewer while the vegetation around was drying due to the effects of the chemical being leaked.
2. Measures being taken by the County Executive to ensure that the East Africa Breweries Limited put a stop to the harmful leakages

Mr. Speaker sir, The Chief Officer, Environment, Energy and Natural Resources informed the committee that the Nairobi City Water and Sewerage Company Technical team visited the area and the EABL premises to seek for corrective measures. I addition, the County government raised a complaint to the National Environment and Management Authority (NEMA) to take necessary steps to stop the leakage. To this end, East Africa Breweries in collaboration with the Nairobi City Water and Sewerage Company have repaired the leaking pipes at the Ruaraka crossing and reduced the spillage by more than 90% (Attached are the photographic evidence of the current status).

The Technical Team confirmed that the East Africa Breweries Limited operates a waste water pre-treatment facility which treats their waste water prior to discharge into the Nairobi City Water and Sewerage Company sewers. Further, plans are now underway for total replacement of the corroded pipes to ensure that waste water from EABL is discharged into the river. Lastly, the Nairobi City Water and Sewerage Company is addressing the other sewer blockages in Baba Dogo Ward. Mr. Speaker, I beg to lay this response. Thank you.

Hon. Temporary Deputy Speaker: Thank you. Hon. Shardack Juma, Member for Baba Dogo Ward.

Hon. Member for Baba Dogo Ward (Mr. Shadrack Juma): Thank you, Mr. Speaker. First is to appreciate the good work of the Committee and I am glad that what I had requested has been done. So I am satisfied Hon. Speaker. Thank you Hon. Member.

MOTION

Hon. Temporary Deputy Speaker: Hon. Members, do we have anyone who has been delegated that Motion, Members of the Transport Committee?

Hon. Maxwell Ochar: Mr. Speaker, on Wednesday yesterday, I know very well that this task was given to Hon. Abuka and today I have not seen him here because the Chair was away. Today I don't know where the Chair is but we were with him in the meeting. Mr. Speaker, I don't know now who again was given the task.

Hon. Temporary Deputy Speaker: Are you a Member of the Transport Committee?

Hon. Maxwell Ochar: Of course yes I am.

Hon. Temporary Deputy Speaker: Do you have the report with you so that we dispense off with it please?

Hon. Maxwell Ochar: I don't have it with me but--

Hon. Temporary Deputy Speaker: Can you approach so that we offer you the report and we dispense with it?

(Hon. Kennedy Oduru walked in)

Hon. Chairman for Transport can you please proceed with the Motion? Proceed Hon. Chairman.

Hon. Member for Lucky Summer Ward (Mr. Kennedy Oduru): Thank you Mr. Speaker sir. That this Assembly adapts the report of the Sectoral Committee on Transport and Public Works on the site visit to Transami plot 10 Road in Pipeline Ward laid on the table here on 15th. Thank you Mr. Speaker. I therefore call Hon. Osman Adow to come and second the Motion.

Hon. Temporary Deputy Speaker: Hon. Chairman will you please bring back my copy?

Hon. Member for Eastleigh North Ward (Mr. Osman Adow): Thank you Mr. Speaker, I do support the Motion and agree with its findings. I would just like to advise on one thing, I don't think the name of a road should be under a plot number, plot 10 road. A whole road being named Plot 10. I will volunteer my name to be added so that the road is named after me.

Hon. Temporary Deputy Speaker: Are you seconding the Motion or you are volunteering your name and amending the Motion? Can you be clear Hon. Member of Eastleigh please?

Hon. Osman Adow: I am seconding the Motion.

Hon. Temporary Deputy Speaker: So are you withdrawing the statement?

Hon. Osman Adow: No that is just a by the way. It is not a---

Hon. Temporary Deputy Speaker: It is a by the way Hon. Member but you wanted your name on this road. I just want you to be very clear.

Hon. Osman Adow: In case they are thinking in the future to change the name then I volunteer my name, thank you sir.

Hon. Temporary Deputy Speaker: So what name will you suggest Hon. Adow?

Hon. Osman Adow: Yes sir.

(Question proposed)

Hon. Temporary Deputy Speaker: Hon. Member for Kilimani Ward.

Hon. Karen Wanjiku (Nominated member): Point of Order.

Hon. Member for Kilimani Ward (Mr. Moses Ogeto): Mr. Speaker sir---

Hon. Temporary Deputy Speaker: Hold on, it's allowed.

Hon. Karen Wanjiku: Thank you Mr. Speaker sir. The Member who has moved the Motion has not told us what the report says, the recommendations and we don't have the report, some of us. We don't understand what we are supposed to support. Thank you Mr. Speaker.

Hon. Temporary Deputy Speaker: Hon. Members I think the Sergeant-At-Arms is going round giving you that report. Can you confirm if every Member has the report? We don't have the report?

Hon. Moses Ogeto: Mr. Speaker, this report was given---

Hon. Temporary Deputy Speaker: Hon. Member please just take a seat so that we dispense off with this matter. Hon. Members, as you are aware yesterday we had an adjournment of the Assembly. This report was provided to each and every Member who was present. We do believe that you should have kept your reports for today. Please proceed Hon. Member for Kilimani.

Hon. Moses Ogeto: Mr. Speaker---

Hon. Temporary Deputy Speaker: Point of Order on what, Mr. Imwatok? Please proceed.

Hon. Member for Makongeni Ward (Mr. Peter Imwatok): Mr. Speaker first of all I must say thank you so much because you are on the seat again and I'm so much disappointed on behalf of the Nairobians. You were on the same seat when you gave a ruling that the issue of adjourning this Assembly to discuss the matter of importance of the death of Madaga should be done but to date it is so disappointing since we have never discussed that issue.

Hon. Temporary Deputy Speaker: Hon. Member no please take your seat.

(Loud consultations)

Proceed on...seniority please, Hon. Chief Whip---

Hon. Majority Chief Whip: Hon. Speaker I'm surprised with the Hon. Peter Imwatok. It has become a habit that the Member always enters this House fully armed. The Member is carrying a firearm to this House which is very dangerous to Members of this House.

(Loud consultations)

Hon. Temporary Deputy Speaker: Seargent-At-Arms could you come and confirm that.

(Loud consultations)

Hold on Hon. Members, I will give you your time. Seargent-At-Arms that will be a great gross misconduct if at all you allowed that to happen.

(Loud consultations)

Seargent-At-Arms can you confirm if that is a firearm?

(Seargent-At- Arms confirmed off the record)

Hon. Member you are suspended for the rest of the day.

(Applause as Hon. Peter Imwatok walked out)

Hon. Moses Ogeto: Mr. Speaker sir I want to congratulate---

(Point of Order by Hon. Leah Mumo)

Hon. Temporary Deputy Speaker: What Order Hon. Mumo, why can't you allow the Hon. Member for Kilimani to proceed? Proceed on allowed, approach the mic please.

Hon. Nominated Member (Ms. Leah Mumo): Thank you Mr. Speaker. Now that you have told the Hon. Member Peter Imwatok to go out how do we know the rest of the Hon. Members here don't have firearms? Can the Seargent-At-Arms search every Hon. Member who is here so that we can know because our lives here is at risk?

Hon. Temporary Deputy Speaker: Hold on Hon. Whip, hold on. I do understand that the matter is very serious and I will allow two Members starting with the Hon. Chief whip to debate on this issue then I will make a ruling.

Hon. Chief Whip (Mr. David Mberia): Mr. Speaker I wonder what is the designation of the Seargent-At-Arms. The Seargent-At-Arms are here in the County Assembly to ensure there is no firearm whatsoever which is supposed to enter this House. I think it is high time we reprimand the head Seargent-At-Arms. We don't know who else has a firearm in this House or any other weapon. It is dangerous, very dangerous. Some of us have weapons but we don't carry it every now and then, even in this House. It is very dangerous Mr. Speaker.

So it is upon the Speaker or chair to instruct the Seargent-At-Arm to make sure every Member who enters this House is fully searched and Mr. Speaker you need to make a serious ruling. Thank you.

Hon. Temporary Deputy Speaker: Hon. Member for Mugomoini

Hon. Member for Mugomoini Ward (Mr. Alex Otieno): Thank you Mr. Speaker sir. Mr. Speaker we are all Hon. Members. I'm very much aware this is a Honorable House, we are not supposed to be carrying firearms. Why should a Member subject himself or herself for the Seargent-At-Arm to search on you yet you are aware that when you are entering the Honourable House you must be surrendering your firearm?

So even us as Members we should also try and see that we follow all the procedures, all the rules that pertains to this Honourable house Mr. Speaker. Let it be a lesson, thank you.

Hon. Temporary Deputy Speaker: Hon [Member] representing the Special Elect for Njiru Ward

Hon. Temporary Deputy Speaker (Mr. Maurice Akuk): Hon. Representing the Special Elect for Njiru Ward.

Hon. Karen Wanjiku (Nominated Member): Thank you. Mr. Speaker sir, our Standing Order is very clear about fire arms and I don't want to take time to read but if you can give me one second I can

read it. Mr. Speaker it says; 'No Member shall bring a fire arm or any offensive weapon into the Chambers and any such weapon must be deposited with the Serjeant-At-Arms for safe custody before entering the Chamber and collected at the time of leaving the Chamber'.

Mr. Speaker sir, it is the responsibility of the Hon. Member and not the Serjeant-At-Arms. We are told that we should leave our arms with the Serjeant-At-Arms. So I don't see where the Serjeant-At-Arms is coming in. We should be leaving them there. So when you enter with it, you know that you are out of order. Thank you, Mr. Speaker sir.

Hon. Temporary Deputy Speaker: Thank you Hon. Member. I think I will make a ruling because we have a Motion that is currently on. Hon. Members, in deed it is quite sad, very sad that a Member can walk in with a fire arm in the Plenary and as the Speaker for today I will make a ruling on this and it is not more of a ruling but I would suggest that the Serjeant-At-Arm and the entire team... Serjeant-At-arms, through your leadership, we will require you to report to the Speaker's Panel meeting on Tuesday at 10 a.m. Hon. Imwatoke will appear before the powers and privileges committee to actually ascertain the matter on Monday 2:30 p.m. Thank you.

Proceed on Hon. Member.

Hon. Member for Kilimani Ward (Mr. Moses Ogeto): Thank you Mr. Speaker for the ruling because this Honorable House must be kept safe always. It is also a place that is immune to the court and even if you punch you senior for example Hon. Ngaruiya, then he won't be able to take me to court therefore the ruling is proper.

Mr. Speaker sir, I want to second this Motion especially in (iv) that is public-private partnership should be encouraged in rehabilitation of roads and drainage works. Such recommendation will make this County move forward. You realize that when public-private partnership comes in, it will not only help where the Members only visited, but it will help the whole of Nairobi.

Mr. Speaker, especially where I come from, you will find members of the public and private want to partner to ensure that these roads contribute some good amount so that they can make these roads. These are private contributions. But, Mr. Speaker, you will find that when they try engaging the County, they usually follow a lot of protocols yet the protocols don't help them. They usually get frustrated that they must follow certain procedures within the County. When we encourage public-private partnership, it will help even those Nairobians who are willing to be donors to ensure that the feeder roads which are heading to their places are made. It is not a must the County Government must spare money for making the roads; even private people can come in and engage. When they are engaging, let this County Government give them a good atmosphere for them to ensure that these roads can be completed quickly. Roman (ii) says that the roads, transport and public works sector should immediately avail INAUDIBLE to the said roads so that they are made multiple and walk ways are provided.

Mr. Speaker you realize that most roads in Nairobi do not have them because private developers have encroached road reserves. In my Ward Mr. Speaker people wake up very early in the morning to run on them. I ask that they be given as recommended by this committee. Mr. Speaker sir I beg to support. Thank you.

Hon. Temporary Deputy Speaker: Thank you. Hon. Member for Pipeline. Hon. Kagiri.

Hon. Member for Pipeline Ward (Mr. Samuel Kagiri): Thank you Mr. Speaker for this opportunity. Indeed the report talks of a road in my Ward and I agree with the recommendations that the committee has proposed, but I also have a problem with a part of it. We had a visit with the committee in my Ward where they came and saw the sorry state of the roads, actually it's just not one road but several.

Mr. Speaker by saying that the team from the roads department did some work on the roads is an outright lie. Part of the report before the recommendations talks of a team of engineers being sent to access the ground, the need for drainage and gravelling of the said road where the work of drainage and spreading of the hardcore material. Mr. Speaker the hardcore that they are talking about is two lorries yet the road is a span of almost a kilometer and nothing was done by the team and so I do not know whether it is in order to have a report containing false information---

Hon. Temporary Deputy Speaker: Hon. Member are you in support of this report or not?

Hon. Samuel Kagiri: I support the recommendations only Mr. Speaker

Hon. Temporary Deputy Speaker: You support the recommendation?

Hon. Samuel Kagiri: What they are talking about is not what is happening on the ground. What was done there was with private people after the County took too long to do the work. These recommendations are just paper work and nothing is going to be done. The County roads department will take years for some work to be done. I don't think I support the report.

Hon. Temporary Deputy Speaker: Did you say you don't think you are supporting the report? So you are not in support of the report?

Hon. Maxwell Ochar: Mr. Speaker---

Hon. Temporary Deputy Speaker: I haven't given you permission to speak Hon. Chairman! Do you want to speak Chair for planning?

Hon. Maxwell Ochar: Mr. Speaker I have to follow the rules. When you send me back to my seat then I have to go back. Thank you for giving me this opportunity. I happen to sit in the Transport committee which did a good work by going for a site visit and the Hon. Member accompanied us. Our duty was to see the pathetic state of the road and we made our recommendations. We recommend what we think if done will help the road be one which the people will use. The way that will be achieved or not is not part of our

duty but if the Executive cannot follow our recommendation then that is another problem all together, we shall go for them.

Mr. Speaker, if the Member said that we recommend but he knows very well that the recommendation will not go somewhere, I think he is wrong because we have done what we should do. If they don't, then it shall come back to us and then we call the CEC responsible for that department and we grill him. In fact, this Assembly had an opportunity and ways of dealing with such rogue CEC's. So, Mr. Speaker, I support the report. Thank you.

Hon. Temporary Deputy Speaker: Thank you. Hon. Deputy Minority Leader.

Hon. Ngaruiya Chege: Thank you Speaker for giving me the opportunity to support the recommendations by this particular committee. Mr. Speaker, when it comes to public-private partnership, this is a matter of trying to encourage partners to partner with the County especially on issues to do with the maintenance of the road. We cannot force. But I believe, Mr. Speaker, it would be very important for this County to invite all those particular partners as we carry out the reforms in this particular County to ensure that at least it becomes attractive to those people who want to finance such kind of projects.

So, it is an encouragement and I believe the best thing is that we also need to come up with a policy guideline which is going to encourage that all those particular companies on issues to do with corporate social responsibilities. They also partner with the County especially on matters to do with roads. So I support and I truly believe time will come when all these recommendations are going to be implemented. Thank you.

Hon. Temporary Deputy Speaker: Thank you. I call upon the mover to reply.

Hon. Kennedy Oduru: Thank you Mr. Speaker sir. This is a very good report because what the committee did...first of all they did findings and observations which are well labelled up to number 4 where even the Hon. Member of the Ward is aware that that part has been turned into a dumping site by residents of the area. The committee also noted that a section of the road has been turned into a dumping site making the area stench. He is aware of that. And also in our recommendations, they are well stated. Therefore, I take this opportunity to congratulate our committee members for the good work of this side and Hon. Members for contributing positively towards this report. Thank you Mr. Speaker sir.

(Question put and negatived)

ADJOURNMENT

Hon. Temporary Deputy Speaker: Hon. Members, this Assembly adjourns, there being no other business, until Tuesday, 2:30 pm. Thank you.

(House rose at 3:30 p.m.)