



NAIROBI CITY COUNTY ASSEMBLY

OFFICIAL REPORT

First County Assembly – Fourth Session

Wednesday 19th October, 2016

The House met at 2.30 p.m.

(Hon. Temporary Deputy Speaker (Ms. Karen Wanjiku) in the Chair)

PRAYER

QUORUM

Hon. Temporary Deputy Speaker: There is no quorum in the House. The bell to ring for ten minutes.

(Quorum bell rang for 10 minutes)

We have quorum now. We can proceed.

COMMUNICATIONS FROM THE CHAIR

Hon. Members. I have two communications to make. Conclusion of pending statements and communication on the use biometric system at the New Chamber.

CONCLUSION OF PENDING STATEMENTS

Hon. Members, statements are amongst the opportunities through which the Assembly exercises its oversight over the Executive functions. The Chair wishes to note and appreciate the zeal with which Members have leveraged statements to obtain information and answers from the County Executive on crucial issues in the County.

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However, the Chair has noted with concern the delay in responding to statements by Committees, lack of responses from the Executive and the poor management of responses on the floor.

Hon. Members after an audit of all statements from the Second Session to date, the Chair wishes to note that there are pending statements responses for the last two Sessions. In the Second Session (2014), we have a total of 9 pending statements while in the Third Session (2015) we have a total 47 pending statements and a total of 46 pending statements in the current (Fourth) Session. In total, we have 102 pending statements from the Second Session up to the current Session.

Hon. Members, as you continue working with the diligence you have exhibited in executing your oversight mandate for the benefit of Nairobi residents, I hereby direct that Chairpersons with pending Statements from the Second Session to date should move with speed to dispense off the statements in their respective Committees and give a status report to this Assembly by Thursday 27th October, 2016. Note that every Chair will be called upon to give his respective report on the material day.

Hon. Members, Chairpersons who fail to observe the foregoing direction must report to the Speaker the reason for such failure on time for the County Assembly Leadership to take necessary action on the same.

Hon. Members, the Chair commits to follow up on the forgoing to ensure all pending statements are responded to conclusively.

Thank you.

ON THE USE OF BIOMETRIC SYSTEM AT THE NEW CHAMBER

Hon. Members, as you may be aware, the New Chamber is equipped with a biometric system whose purpose is to improve efficiencies in the management of attendance of Plenary Sittings. The biometric system is part of the larger conference system installed as part of the state-of-the-art facilities in this New Chamber.

Hon. Members, the Chair is aware that the Assembly is still using a manual register for management of Plenary Sittings. The Chair now finds it fit that the Assembly now implement the use of the biometric system, commencing next week Tuesday, 25th October, 2016.

Consequently, Hon. Members, it is important that Members register their fingerprints with the ICT Department between today Tuesday 18th October, 2016 and Monday, 24th October, 2016.

Hon. Members, you are reminded that from Tuesday, 25th October, 2016, there will be no manual register for purposes of capturing attendance of Plenary Sittings. Members will sign into plenary via use of the biometric finger scanner at the entrance to this Chamber. It is so guided.

ON DECORUM WHEN ENTERING AND IN PLENARY

Hon. Members, the Chair has communicated in the past regarding decorum and disorderly conduct and the need to uphold the provisions of the Standing Orders on the same. The Chair is increasingly observing non-adherence to the provisions of the Standing Orders on decorum and orderliness, especially as regards observance of certain practices when entering the Chamber, crossing the floor, leaving the Chamber when the Quorum bell is ringing, making consultations and use of mobile phones.

Hon. Members, Standing Order 100 (1) provides *that every Member shall bow to the Chair in passing to or from his or her seat or across the Floor of the County Assembly but, a Member may show respect in any other manner consistent with the Member's faith and with the dignity of the County Assembly.*

Standing Order 100(2) further provides that *no Member shall pass between the Chair and any Member who is speaking or between the Chair and the Table except in so far as it is necessary for the purpose of the administration of Oath or affirmation of Allegiance.*

Additionally, Standing Order 101 requires that *except when passing to and from his or her seat or when speaking, every Member when in the Chamber shall be seated, and shall not at any time stand in any of the passages and gangways.*

Hon. Members, it is Parliamentary practice formalized in the Speaker's Rules that every Member bows at the bar when entering the Chamber. However, the Chair has observed that some Members bow at the mace, walking all the way from the entrance, contrary to existing practice. The Chair wishes to remind Members that bowing when entering the Chamber is to be done at the bar, and not at the Table.

In the same vein, Hon. Members, Standing Order 32(3) only makes exceptions for Party Whips to leave the Chamber when the Quorum bell is ringing. All other Members are expected to remain seated and orderly as per Standing Order 34. The serjeant-At-Arms are directed to heed this instructions keenly. The Speaker shall no longer entertain non-adherence to Standing Order 32(3) by any Member when the quorum bell is ringing.

Finally, Honorable Members, the Chair cannot stop you from using your mobile phones or having them in Plenary. But equally, the Chair will not hesitate to dole out sanctions to Members whose mobile phones ring out during Plenary to the annoyance of others and the disruption of orderly conduct of business, or Members who make phone calls within this Chamber while in session or make loud consultations. It is disorderly and cannot be allowed in this August Assembly.

Hon. Members, you are encouraged to familiarize yourselves with these and other minor rules of orderliness for your own benefit. The Chair will henceforth not tolerate Members who disregard the observance of the foregoing practices that contribute to general orderliness when dispensing with debate in plenary. It is so guided.

I thank you.

STATEMENTS

Hon. Temporary Deputy Speaker: Statement requested by Hon. Hashim Kamau from the Chairperson of Sectoral Committee on Culture and Community Services regarding Public/Private Partnership agreement between defunct Nairobi City County and a private investor in regard to Eastleigh Social Hall. We are going to statement requested by Hon. Elkana Mauti requesting for a statement from Chairperson of Sectoral Committee on Children, Early Childhood Education and Vocational Training regarding construction of Early Childhood Development classes in the County.

Hon. Member for Kwa Reuben (Mr. Elkana Mauti): Allow me to talk, yes thank you Speaker, I have two statements to make. One, pursuant to Standing Order 41(2) (c) I wish to request statement from the Chairperson of Sectoral Committee on Children, Early Childhood Education and Vocational Training regarding construction of Early Childhood Development classes in every Ward which were proposed.

Hon. Speaker Article 43 (f) of the Constitution guarantees every child the right to education. It is however noted that some of the Wards in the County do not have a single ECD centers like in my Ward Mukuru kwa Reuben. In other Wards the ECD centers do not have the capacity to accommodate children and the classes are not conducive for children's learning and safety. The County Executive was to rehabilitate and construct ECD centers in every Ward. Mr. Speaker the Chairperson in the statement should report into:

- I. The current status of the project
- II. Provide list of Wards to have benefitted from the project
- III. What action has the County Executive taken to ensure every Ward has ECD centers in the County to facilitate learning of the children?

Two, pursuant to Standing Order 41(2) (c) I wish to request statement from the Chairperson of Sectoral Committee on Water and....

Hon. Temporary Deputy Speaker: Hold on, let's call the Chairs first. Chair, Education?

Hon. Member for Laini Saba Ward (Mr. David Kitavi): Hon. Speaker, we shall be able to respond to that statement in two weeks' time.

Hon. Temporary Deputy Speaker: Okay. The next statement, Hon. Elkana Mauti will request for a statement from the Chairperson of the Sectoral Committee on Water and sanitation regarding the implementation status of water tank projects in every Ward.

IMPLEMENTATION STATUS OF WATER TANKS PROJECT IN EVERY WARD

Hon. Elkana Mauti: Pursuant to standing order number 41 (2) (c), I wish to request for a statement from the Chairperson of the Sectoral Committee on Water and Sanitation regarding the implementation status of water tanks project in every Ward.

Madam Speaker there is a mistake because this project proposed Ksh. 3 million to every Ward and so the Members of the County assembly were the ones who were to decide on what items the Committee do in their Wards. Most of the Members applied for water tanks and it was tendered.

Madam Speaker, article 43 (1) of the Constitution guarantees every individual the right to clean and safe water in adequate quantities which is important to the realization of the right to life. Residents of Nairobi City County are in dire need of clean water and safe drinking water, yet the water tank project has not been actualized in some Wards.

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

- i. The current implementation status of the said project in the 85 Wards
- ii. The cause of delay in the implementation of the project in different Wards and;
- iii. What measures has the County Executive taken to ensure realization of this project in every Ward.

Hon. Temporary Deputy Speaker: Chairman for Water and Sanitation?

Hon. Member for Mugumoini Ward (Mr. Alex Ouda): Thank you Madam Speaker. The statement is overtaken but I do undertake to give the full details next week on Wednesday. Madam Speaker, the Hon. Member knows very well that all the water tanks that had been proposed have already been procured and

they are now in the process of delivering in each of the Wards. Madam Speaker, I wish Hon. Gari was here because Nairobi West Ward has received all the 20 water tanks. Tomorrow they will be moving to Karen but I would like to be allowed to give the full details next week Wednesday Madam Speaker. Thank you.

(Loud consultations)

Hon. Temporary Deputy Speaker: Order Hon. Members!

Hon. Member for Korogocho Ward (Mr. Maxwell Ochar): Madam Speaker.

Hon. Temporary Deputy Speaker: Please press the interjection if you want to contribute.

Hon. Maxwell ochar: Madam Speaker, can the Chair tell us the criteria used to distribute this because it is now more than six months since we submitted all our lists. He should therefore tell us so that we know because if he is telling us that Hon. Gari has collected his and in fact they are coming from the same constituency.

Hon. Temporary Deputy Speaker: The Chair has said that he is going to give his response. It was a request for a statement and we are not supposed to debate about it. Chair I hope and believe that you will give a complete response because this is very important to the Wards. The issue on water is a really big concern. Thank you. Let us go to the next statement. A statement requested by Hon. Hashim Kamau from the Chairperson of the Sectoral Committee on Culture, and Community Services regarding Public-Private partnership agreement between defunct Nairobi City County and a private investor in regards to Eastleigh Social Hall.

PUBLIC-PRIVATE PARTNERSHIP AGREEMENT BETWEEN DEFUNCT NAIROBI CITY COUNTY AND A PRIVATE INVESTOR IN REGARDS TO EASTLEIGH SOCIAL HALL

Hon. Member for Harambee Ward (Mr. Robert Milare): Thank Hon. Speaker. On Tuesday 28th June, 2016 Hon. Hashim Kamau rose on the floor of the Assembly pursuant to standing order 41 (2) (c) and requested the Chairperson of Culture and Community Services Committee for a statement regarding Public-Private partnership agreement between defunct Nairobi City County and a private investor in regards to Eastleigh Social Hall.

In the statement the Member sought to know the following:

- a) Whether it is true a private investor entered into a Public Private Partnership with the defunct Nairobi City County and the name of the investor;
- b) How was the private investor involved in the Public Private Partnership Agreement and table the agreement;
- c) Duration of the lease in agreement issued to the investor;
- d) The size and the location of the Social Hall in the intended building;
- e) Who will be liable for the expenses incurred for the social utilities such as water and electricity; and
- f) Measures taken by the County Executive to ensure that the ownership of the County Social Hall does not change hands from the public to private ownership.

Hon. Speaker, the Committee therefore wrote to the Chief Officer responsible for Education, Youth, Sports, Culture and Social Services and the Director Legal Affairs on 30th June 2016 requesting to be furnished with a comprehensive report on the above issues. On 11th July 2016 a reminder letter to the aforementioned County Executive Officers was done. Hon. Speaker, to substantively response to the Hon. Member's statement, the Committee invited;

- i) Chief Officer responsible for Education, Youth, Sports, and Cultural Services;
- ii) Chief Officer, Lands;
- iii) County Chief Valuer; and
- iv) County Director of Legal Affairs.

Hon. Speaker the County Director Legal Affairs provided the Committee with the executed copy of the Public Private Partnership Agreement between the defunct Nairobi City Council and Marchais Limited on 3rd August 2016. In this regard Hon. Speaker sir, I wish to report as follows:

1. Whether it is true a private investor entered into a Public Private Partnership Agreement with the Nairobi City County and the name of the investor

It is true that there is a duly executed Public Private Partnership Agreement between the defunct City Council of Nairobi and Marchais Limited dated 3rd September 2008 over L. R. No. 36/VII/619/R situated at First Avenue Eastleigh/Muthingiri Road for the development of a modern Social Hall and other facilities with view of maximizing the income for the County.

2. How was the private investor involved in the Public Private Partnership Agreement and table the agreement

The Council entered into the agreement with the Marchais Limited for the company to finance, design and construct and develop a project facility that is, a modern Social Hall, a gymnasium, shops offices and similar conveniences.

3. Duration of the lease in the agreement issued to the investor

The lease term is forty five (45) years. Marchais Limited was exempted from paying rent for the first 15 years after the completion of the construction. After the 15 years rent waiver period, the company ought to pay a rent of 200,000/- payable quarterly in advance.

4. The size and the location of the Social Hall and the intended building

The project facility should consist of:

- a) A Social Hall with office facilities measuring approximately 5,000 ft²
- b) A gymnasium measuring approximately 2,000 ft²
- c) Shops, offices and similar conveniences (shopping complex)

The Social Hall Land Ref. No.36/VII/619/R is situated along First Avenue Eastleigh /Muthingiri Road in Nairobi.

5. Who will be liable for the expenses incurred for the social utilities incurred such as water and electricity

Water and the electricity bills shall be the responsibility of the County government and tenants in cases of rental agreements.

6. Measures taken by the County Executive to ensure that the ownership of the County Social Hall does not change hands from the public to private ownership.

The County Executive shall rely on the agreement to safeguard the Social Hall from changing hands to private entities.

Committee's observations

The Committee was informed by the Chief Valuer that the real Land Ref. No. was 36/VII/48/PT and not 36/VII/619/R as mentioned in the copy of the Public Private Partnership Agreement. The Committee was satisfied with the response given. Hon. Speaker I beg to lay this response. Thank you.

Hon. Temporary Deputy Speaker: Hasim Kamau.

Hon. Chief Whip Minority (Mr. Hashim Kamau): Thank you Madam Speaker and I have no objection with the response but just to highlight two issues. The PPP agreement which has been attached, in fact is invalid. Madam Speaker when you get a wrong L. R. No. and purport to be part of the agreement I think it is based on wrong information.



First, the Committee did a site visit to the Social Hall, it could be better if they attached the site visit report to make my work very easy because he has mentioned about the measurement of the Social Hall as 5,000 ft², actually the Social Hall has been partitioned and half of it is now stalls.

Two, he has mentioned about the gym. I don't know if the Chairperson is aware that now the gym is privately owned by somebody and not by the County.

Three, I don't know if the Chairperson is aware that in fact that Hall has no lift, electricity and it is not disabled friendly, so it could have been better if you could have attached the site visit report to establish because my question was about the size and location. Giving me a report that is missing a site report it will not be fair enough for me thank you.

Hon. Temporary Deputy Speaker: Well Hon. Member you could have given some pictures or something to show him what he wanted, but he has said that he is satisfied with the report, which is a job well done. So we can continue to the next Statement.

Statement requested by Hon. Alexander Mulatya from the Chairperson from Sectorial Committee on Culture and Community Services regarding the use of funds collected from liquor services in the County.

Hon. Member for Harambee Ward (Mr. Ronald Milare): Thank you Madam Speaker, on Wednesday 31st August, 2016 Hon. Alexander Mulatya, MCA, rose on the floor of the Assembly pursuant to Standing Order 41 (2) (c) and requested the Chairperson of the Culture and Community Services Committee for a statement regarding the use of funds collected from liquor licenses in the County.

In the statement the Member sought to know the following:

- a) Status of the money that has been collected from the liquor licenses to date;
- b) Status of the money spent by Liquor Licensing Board from the Kshs.300 million collected as licensing fee and the criteria used in expending the same and
- c) Action taken by the County Executive to ensure that the 85 Wards in the County benefit from the collected money from liquor licenses as per the Alcoholic Drinks control and Licensing Act 2014.

Madam Speaker, the Committee therefore wrote to the Chief Officer responsible for Trade Tourism and Cooperatives on Monday 5th September, 2016 requesting to be furnished with a Comprehensive report on the above issues. On Wednesday 21st September, 2016 a reminder letter to the aforementioned County Executive Officer was done.

In this regard, Madam Speaker, I wish to report as follows to the Assembly;

1. Status of the Money that has been collected from the liquor licenses to date

The total revenue from the liquor fund is as summarized below:

October 2014 – 30 th June, 2015	Ksh.211,991,000
July 2015 – 20 th November, 2015	Ksh.45,930,000
23 rd November, 2015 – 30 th June, 2016	Ksh.189,619,700
Total	Ksh.447,540,700

Ksh. 257,921,000 was deposited to the County Revenue account and Ksh. 189,619,700 was deposited in the liquor account.

2. Status of the money spent by Liquor licensing Board from the Ksh. 300 million collected as licensing fee and the criteria used in expending the same.

The Money accruing on the liquor account amounted to Ksh.189,619,700 as at June 30th, 2016 and Ksh.99,572,922 was spent as per the approved budget. Attached is the Liquor Board financial statement for the Financial Year ended June 30th 2016 and Supplementary budget 2015/16.

3. Action taken by the County Executive to ensure that the 85 Wards in the County benefit from the collected money from liquor licenses aspen the Alcoholic Drinks Control and Licensing Act, 2014.

The liquor Board has approved Ksh.30,000 per Sub-County i.e. 510,000 per month pending the establishment of proper infrastructure for further allocations.

Hon. Madam Speaker, Also attached to this report they have given their performance report and the programmes they intend to undertake including football tournaments in all 85 Wards, Public sensitization and participation and they are proposing that the Board intends to disburse 3 million to be distributed in all Sub-Counties Committee a sum of Ksh. 500,00 at intervals for public participation and sensitization on liquor related activities.

Also there is training and they indicated that the Board obtained a lease for the office in South C



Therefore, Hon. Madam Speaker, the Committee was satisfied with the response given and I beg to lay this response. Thank you.

Hon. Temporary Deputy Speaker: Hon. Mulatya!

Hon. Member for Kwa-Njenga Ward (Mr. Alexander Malatya): Thank you Madam Speaker, I will start by congratulating you to be in the Speakers Panel.

Hon. Alexander Mulatya: As far as the response is concerned, I am satisfied but I am not happy with what I can see on the second question that the Liquor Board has spent Ksh.99 million whereas only Ksh.30, 000 per sub-County is allocated to the residents of Nairobi which is very meager. Although he has already clarified that there are pending proper infrastructure for further allocation.

Hon. Temporary Deputy Speaker: Thank you, Hon. Member. Indeed Ksh.30, 000 per Sub-County is minimal. The Committee needs to do more so that more money goes to the Sub-Counties and the Wards. We go to the next Order.

THE NAIROBI CITY COUNTY ANIMAL CONTROL AND ABATTOIRS MANAGEMENT BILL, 2016 (ASSEMBLY BILL NO.3 OF 2016)

Second Reading

Hon. Temporary Deputy Speaker: Hon. Zulfa.

Hon. Zulfa Hakim (Nominated Member): Thank you, Madam Speaker. I beg to move that the Nairobi City County Animal Control and Abattoirs Management Bill, 2016 (Assembly Bill No.3 of 2016) be now read a second time.

Madam Speaker, the Committee observed that part of the Fourth Schedule of the Constitution gives the County Government powers to manage abattoirs and control animals within their jurisdiction. The Committee is therefore in agreement with the Bill since it seeks to effect to the provisions of part 2 of the Fourth Schedule of the Constitution.

Madam Speaker, the Bill seeks to address the following amongst other issues: The principle objective of the Bill is to regulate, establishment and operation of abattoir activities in the County. The Bill requires that the abattoirs be registered and licensed in accordance with the proposed law. We know what Nairobi goes through as far as handling of abattoirs is concerned.

As a Committee, it came as a concern that we need to lay a framework for regulations on the same. This Bill also establishes the institutional framework and provides for the abattoirs specifications, construction and meat inspection, sanitary facilities, and hygiene practices and related matters. We know it is the 11th hour of this Assembly and for us to go without addressing this issue is going to put us in a

negative light, Madam Speaker. Together with that and in line with the Constitution, I saw it in my wisdom to come up with this Bill to address these issues.

This Bill also deals with the registration and licensing of meat processing establishment within the County. I think that is self-explanatory. I want to urge this Assembly to ensure this Bill is implemented. With that, I beg to move and call upon Hon. Elizabeth Manyala to second. Thank you.

Hon. Member for Kayole South Ward (Ms. Elizabeth Manyala): Thank you Madam Speaker. I rise to second the Bill. Indeed it is timely to come up with this Bill because abattoir is a facility where animals are slaughtered for consumption. We need clean slaughterhouses. Going with the developing world where they slaughter animals which are abomination to us in under-developed countries, it is only prudent that we come up with a Bill that will streamline so that we get proper animals that can be slaughtered in a proper way. Also, we are sure of what we are eating in the County as opposed to eating any contaminated meat that can be a danger to humans. Without much ado, I wish to support. Thank you.

(Question proposed)

Hon. Jackline Nyangala: Thank you Madam Speaker. It's about time that we have control of these abattoirs and a management Bill that can be implemented. It has been very disturbing that you get information that the new people who've decided to visit our Country namely the Chinese go around looking for monkeys and we never know sometimes whether we are buying meat from monkeys. Anyhow the Bill is very important, I support.

Temporary Deputy Speaker: More contributions Members.

Hon. Minority Chief Whip: Thank you Madam Speaker. Read the mood of the House and call the mover to reply because the mood of the House is very clear.

Temporary Deputy Speaker: I can see one more request from Hon. Luchiri.

Hon. Nancy Luchiri: Thank you Madam Speaker. I wish to support the Bill. I consider a market in Nairobi as a bit corrupt because we have donkey meat as Hon. Jacky said and even the dogs that the Chinese are supplying all over. I support it, thank you.

(Question put and agreed to)

Hon. Temporary Deputy Speaker: Next Order

A Bill for an Act of County Assembly of Nairobi City to provide for a regulatory and enforcement framework and take up measures necessary from the view point of public health in order to ensure the proper management of abattoirs and slaughter and dressing of livestock for human consumption and to take provision for veterinary and hygiene controls in such abattoirs and for connected purposes,

Second reading.

MOTION

Hon. Temporary Deputy Speaker: Hon. Erastus Mburu, MCA.

Hon. Jackline Nyangala: Madam Speaker a Point of Order. I am standing on Point of Order Number 32. It seems like we are less than ten people and the owner of the Motion is not there. We have no quorum so can we defer this Motion until the owner comes? Thank you.

Hon. Temporary Deputy Speaker: Can the Serjeant- At-Arms confirm whether we have quorum?

Hon. Elizabeth Manyala: Point of Order. Even before we confirm whether there is a quorum or not, the mover of the Motion is not present. I don't think we have business to--- you cannot delegate a Notice of Motion neither a Motion when you are presenting. Let's defer it to the next day, thank you Madam Speaker.

Hon. Temporary Deputy Speaker: Members I'm advised the issue of quorum came first maybe the Member is on his way. The issue of quorum comes first. Confirm whether there is quorum. The bell to ring for ten minutes.

(Quorum bell is rung)

Hon. Temporary Deputy Speaker: Hon. Members we are not able to get a quorum so this Motion will be in the Order Paper for Tuesday. We adjourn the House until Tuesday 2:30 p.m. have a good and enjoyable *Mashujaa* day.

(The House rose at 3.40 p.m.)

