



NAIROBI CITY COUNTY ASSEMBLY

OFFICIAL REPORT

First County Assembly – Fourth Session

Wednesday 22nd June, 2016

The House met at 2.30 p.m.

(Hon. Speaker (Mr. Alex Ole Magelo) in the Chair)

PRAYER

Hon. Speaker: Serjeant-At-Arm to ring the bell for 10 minutes.

(Quorum bell is rung for 10 minutes)

You cannot leave the Assembly when the bell is ringing. Order Hon. Members! You cannot leave when the bell is ringing.

(Loud consultations)

Order Hon. Members, order! Hon. Members, we can now proceed.

PETITIONS

Nairobi City County Assembly Public Petition pursuant to Standing Order 195 by Pubs Entertainment and Restaurants Association of Kenya, Nairobi Branch.

Hon. Members, the Nairobi City County Assembly Public Petition pursuant to Standing Order 195 by Pubs Entertainment and Restaurants Association of Kenya, Nairobi Branch. Hon. Members, it is with the undersigned citizen of Kenya who are residents of Nairobi City County draw the attention of Nairobi City County Assembly to the following:

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Aware that the constitution of Kenya under article 37 and section 15 and 88 of the County Government Act 2012 provide the right for citizen to petition the authorities or the County Governments on any matter; that whereas the residents of Nairobi City County and members of the Pubs Entertainment and Restaurants Association of Kenya, Nairobi Branch, we wish to express our concern regarding payment of license fee by bar operators to the County Government and other state agencies such as National Environmental Management Authority and Music Copyright Society.

Hon. Members, that whereas bar and restaurant operators have to pay the said licenses fee amounting to Ksh. 200,500 in lump sum at the beginning of every calendar year; noting that most bar owners operate on small scale basis and therefore are unable to raise the amounts payable at once.

That whereas the bar owners and operators, due to their inability to raise the lump sum amount, end up not acquiring licenses and that results to bribing enforcement officers in order to continue operating, hence denying the County Government revenue.

That whereas the bar owners and operators are willing to pay all the fees payable to the County government, NEMA and Music Copyright Society only if it is done on a daily installments and this should be affordable to the operators.

And whereas NEMA and Music Copyright Society have expressed willingness to implement the daily installment payment system, which payments can be done through a mobile technology platform.

Now, therefore, your humble petitioners pray that the Nairobi City County Assembly intervenes and ensures that the County Executive restructures the licenses fee payment process by bar operators to allow a daily installment payment through a mobile technology platform.

Hon. Members, I therefore would like to commit this petition to the Committee on Culture for the purposes of onward implementation of the same.

STATEMENTS

The Hon. Elkana Mauti.

Hon. Member for Kwa Reuben Ward (Mr. Elkana Mauti): Thank you Mr. Speaker. Pursuant to Standing Order no. 41 (2) (c), I wish to request a statement from the Chairperson of Select Committee on Ward Development Fund regarding Ward Development Fund projects. Hon. Speaker, for the 3 years since the commencement of the Ward Development Fund Act in the County, there has been a slow implementation of various projects in the Ward most of which have been proposed by Members of the County Assembly.

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

1. Status of the ongoing projects currently under Ward Development Fund and the number of projects,
2. Status of the Ward Development Account and provide current bank statements,
3. Update on what the Ward Development Fund County Management Committee has achieved in the last three years,
4. Measures taken by the County Executive to ensure that the contractors who have completed the ongoing projects of the Ward Development Fund have been paid by the end of this financial year 2015/2016. Thank you.

Hon. Speaker: The Chairperson, Ward Development Fund.... Yes, Hon. Ishua.

Hon. Member for Kangemi Ward (Mr. Peter Ishua): Mr. Speaker sir, we request for a further 2 weeks.

Hon. Speaker: Hon. Ishua, when you look at your calendar, today is the 22nd. We have another 8 days to the end of our financial year and I would like to ask you and your Committee, what is it that you and your Committee don't want to bring to the Members of the County Assembly in regards to all that is happening surely? Members of this Assembly have cried day in day out to understand what is happening with the Ward Development Fund. Hon. Ishua?

Hon. Peter Ishua: Mr. Speaker sir, we were dealing with the amendments, maybe by---

Hon. Speaker: Order, Hon. Chairperson. There is an issue about the statements and those have nothing to do with the amendments. You had the question of the statements requested for by Hon. Elkana, because we know there was another request for statement in regards to what you are saying and we understood and we asked you to move fast but now it is the issue of statement and the issue of financial management of Ward Development Fund.

Hon. Peter Ishua: Mr. Speaker sir, I think that after forwarding the amendments tomorrow the question from Hon. Elkana will be overtaken by events in that we are now going to bring our response in two weeks.

Hon. Member for Viwandani(Mr. Samuel Nyangwara): Point of Order, Mr. Speaker.

Hon. Speaker: Hon. Nyangwara.

Hon. Samuel Nyangwara: Mr. Speaker is the Member in order to contradict a statement he had already given earlier that he is going to respond to Hon. Elkana's statement in two weeks. Now he is saying that by tomorrow it will be overtaken by events. Mr. Speaker, can he clarify what he means, if he is not

ready to bring Hon. Elkana's answers to the floor of this House he better say so. I have been reminded by Hon. Oduru that the gentleman is not even the Chair neither is he the Vice Chair of that particular Committee so there are some things he might not be knowing.

Hon. Speaker: But he is a Member of the Committee.

Hon. Peter Ishua: Mr. Speaker sir, I am a Member of that Committee and what I had suggested is because there are some things that we are supposed to get elaboration from the Executive side, that is why I was requesting if you could give us two weeks to respond to Hon. Elkana's question. Mr. Speaker, on the same amendments, we are going to table it tomorrow. Thank you.

Hon. Speaker: There is a Point of Information.

Hon. Member for Mwiki Ward (Issac Ngige): Mr. Speaker, thank you for giving me this opportunity. First of all I want to correct that particular statement because the Members of the County Assembly do not propose projects, the people who propose projects are members of the public. These projects emanate from the public as per the Ward Development Fund Act. Mr. Speaker, this has been a song and the Chairperson of the Ward Development Fund Committee is a Member of the County Assembly, elected. Therefore, when the Members of the County Assembly are complaining and I can see that you, Mr. Speaker, are concerned about this and so it concerns all of us.

When the Committee comes here and tries to play jokes with things that are very serious to the *mwananchi*, I think he is missing the point. So, Mr. Speaker, as Members of this House we have found that the Ward Development Fund Committee has a problem and we have engaged the Treasury and the Committee on Budget and Appropriation to get to understand the real problem of these particular projects. Mr. Speaker, we are in the process and that is why the Member is trying to bring to your attention that we had summoned them on Tuesday and we are again summoning them next week on Tuesday so that at least they can give a list of the projects and where they have reached with those particular projects.

So, Mr. Speaker, that is why I think the Hon. Member, Hon. Mauti should at least give the WDFC time so that on Tuesday when we have summoned them and they have told us the status of this particular projects is when the Committee will be in a position to give out a report. Thank you, Mr. Speaker.

Hon. Speaker: Very well, Hon. Members. Yes, Hon. Mauti.

Hon. Member for Kwa Rueben Ward (Mr. Elkana Mauti): Mr. Speaker, I remember on Thursday the same Committee said that they were supposed to table their amendments yesterday and you ruled out. Mr. Speaker, I do not know whether we are beating about the bush, today they are talking about 2 weeks and then they are telling us about tomorrow. When the Chairperson of the Ward Development Fund stands

here and cheats us, the following day he will not be available because he knew that maybe you were to be there. Mr. Speaker, I am worried about whether they ignore your rules or they underrate your rulings. Mr. Speaker, remember it is almost 5 months down the line when the amendments were done. They went on a trip to Mombasa to do these amendments and up to now they have not tabled. What is the logic behind that, that is what we are worried about, Mr. Speaker.

Hon. Speaker: Thank you. Hon. Members, you see, when the sun is setting in the community I come from, we do not quarrel. Now, Hon. Members, I am sorry because it is coming to sunset on the terms.....

Hon. Speaker: You see, when the sun is setting from the community that I come from, we don't quarrel. Now Hon. Members I am sorry it is coming to sunset on the term of the County Assembly Members of Nairobi and I want to tell you this is no longer a laughing matter. I just want to send a very strong message to the Chair of Ward Development Fund and the Committee, that failure to bring to us on the floor of this Assembly, all the details that are required by the Members of the County Assembly will mean that the County Assembly Members of Nairobi 2013-17 will be a waste. Therefore as a Speaker, I want to warn you that the consequences of Ward Development Fund and the Gratuity Fund for not being at the reach of the Members of this County Assembly, then the budget will not see the light of the day on this floor of this Assembly.

(Applause)

And I want to make it clear, we are not blackmailing anybody but time has come for us to break the ice. Members of the County Assembly of Nairobi are the last across the country and we are the people approving the budgets year in year out, and we have nothing to show, nothing is trickling to Members. I will be failing my duties if that budget is read in this Assembly minus the kitty of the Members of the County Assembly.

(Applause)

Therefore the Members of Ward Development Fund, together with your brothers from Budget and Appropriation, take note, you have eight days. If you talk to the Executive, let them trickle in our Gratuity and Ward Development Funds and by Wednesday 2.30 pm, everything that has been asked about the Ward Development Fund must be brought to the floor of this Assembly and then now we can call ourselves brothers and sisters.

This is what I want to tell you because these Members cannot be asking the same question for two years, Ward Development Fund. These funds belong to the County Assembly. If you look at a letter from the CRA, they have said that our Gratuity must be safe where you can access it even with your own eyes, not on the other side of the Executive. I have a letter which will be read to you shortly may be tomorrow or Tuesday next week, when all Members are here so that we know we are moving on the same direction. But currently things are not the way they are supposed to be and you cannot play now again with the

Members of the County Assembly of Nairobi. We have paid the price of being good boys and girls but I think we have now grown up and the Executive should wait for a very rough time; with your support we will manage it. So Ward Development Fund, bring all the details that are required by Members on the floor. Proceed please.

(Applause)

Hon. Speaker: Yes Hon. Nyang'wara Samuel.

Hon. Member for Viwandani Ward (Mr. Samuel Nyang'wara): Mr. Speaker, as you were addressing the Assembly, the Chair of the Ward Development Fund Committee just walked in. Mr. Speaker it will only be fair because he is the one who said that by yesterday they were supposed to table those amendments and we didn't see it, and today he is in Mr. Speaker, let him explain what is really going on with these amendments.

Hon. Speaker: Hon. Nyang'wara, he will be told by his brothers Hon. Wainaina, Hon. Isuha and all the other Members that the bush is now burring. Proceed, Hon. Wainaina.

Hon. Member for Kariobangi North Ward (Mr. Michael Wainaina): Mr. Speaker, I am just worried because we have the senior Member who has just talked in this House, he is a member of the Speaker's Panel and he knows the procedures. Mr. Speaker, amendments are ready but first of all they have to be adopted by the Committee so that they can be tabled.

Mr. Speaker, I want to remind my fellow Members that the Comptroller of Budget has been raising issues item by item, and this is what we wanted to evade Mr. Speaker. That is why I reported to this House last week that we want to do not only the three amendments the Member of Kwa Reuben is asking for, but we have done all the amendments, so that the Comptroller of Budget will not raise another issue. Why should we rush to bring three amendments and then tomorrow another issue will raise, Mr. Speaker? We want to do and I want to report to this House that this Committee is serious, and yesterday we had a joint meeting with the Budget and Appropriation and whoever was around even the friend of the Committee, he or she can tell what emanated from that meeting.

So Mr. Speaker, when we will table those amendments here, you will realize that it is not only three amendments but several, so that we can deal with this issue, once and for all. Thank you, Mr. Speaker.

Hon. Speaker: Hon. Wainaina, are you saying you are tabling the amendments tomorrow, or what did you say?

Hon. Michael Wainaina: Mr. Speaker, we requested to table on Tuesday because we adopted them today and we scrutinized. We want to bring a comprehensive report here Mr. Speaker. So on Tuesday without fail amendments will be here and I will also request this House to be full because I won't imagine on Tuesday the House lacking quorum, *na unasikia vile wanalia*. Thank you, Mr. Speaker.

Hon. Speaker: So are you saying we are going to have all the answers including the one for Hon. Mauti?

Hon. Wainaina: Yes Mr. Speaker

Hon. Speaker: Therefore I had earlier ruled that Wednesday but so be it on Tuesday 2.30 pm. Very well it is good you have brought back by one day, which is good for the assembly. Hon. Tabitha

Hon. Tabitha Ndigirigi (Nominated Member): Thank you Mr. Speaker sir I requested the statement on 19th...

Hon. Speaker: Order, order Hon. Tabitha, order. We have not finished the statements. There is Hon. Diana Kapeen, Hon. Petronilla

Hon. Petrolina Achieng (Nominated Member): Thank you Mr. Speaker sir, this is second time we are tabling this statement and it was requested by Hon. Member on 22nd March 2016; after deliberations and sittings with Hon. Member she agreed with us that at the end of it all the problem we are facing is that the Chief Officer saying in this particular case where people are cutting trees illegally no disciplinary action has been taken or instituted as no culprits were apprehended. So it has been sent to the forestry department. The forester is supposed to look at it and see where the trees were cut. I have another statement. The other was for 9th June 2015, the Hon. Diana Kapeen, MCA rose on floor of the assembly pursuant to Standing Order 41 (2) (c) and requested the Chairperson of Sectoral Committee on Agriculture, Environment and Natural Resources for a statement regarding the illegal sand and ballast selling business along Popo road and Olshabara road in South C.

She further asked who authorized the sand to be sold along the said roads, measures taken, efforts being made by the department to clean the environment, plans to get rid of the sand business along the two roads. After deliberations and walking around the Committee decided and sought the intelligence of the Member and we all agreed that this particular issues fall under Roads and Public Works, Trade, Security Compliance and Disaster Management, Urban Planning and Lands. These are the departments that are supposed to be handling the issue. So we agreed with the Hon. Member that she is going to write another statement so that the respective departments can handle the issue. Thank you, I beg to lay.

Hon. Speaker: Very good, now which other respective...Hon. Diana

Hon. Member for South C Ward (Ms. Diana Kapeen): Thank you Mr. Speaker sir, I had no alternative but to accept the statement the way it is. After two years of waiting the Committee has given a report that what I asked in June 2016 is what is being taken to different departments that is something that should have been done a long time ago. I however will write another statement hoping for a prompt statement, thank you.

Hon. Speaker: Thank you, we proceed. Transport and Public Works on the statement requested by Hon. Shadrack Juma regarding the construction of stage 25 in Baba Dogo

Hon. Member for Lucky Summer Ward (Mr. Kennedy Oduru): Thank you Mr. Speaker sir, we as a Committee we instructed our Clerk then we did a letter to the Executive. To date we have not received any response from the Executive therefore today we sat down as a Committee then we reminded our Clerk to do a reminder to the Executive, as per such am requesting if possible we be given another one week so as to get the response. Thank you.

Hon. Speaker: Thank you Hon. Chairperson but you should summon this people and if necessary use the Office of the Speaker to summon them. Can we proceed please?

MOTION

Hon. Speaker: Hon. Andrew Macharia Mbau

Hon. Member for Mlango Kubwa Ward (Mr. Andrew Mbau): Thanks Mr. Speaker, I beg to move the following Motion, That aware that recent years have witnessed increased road accidents with more than 3000 Kenyans dying annually because of road accidents; noting that a number of accidents in Nairobi City County are caused by hand carts pushed or parked along the roads particularly at night; deeply concerned that hand carts have no reflectors and often ply on the wrong side of the road which often get drivers unaware and cited as major causes of major avoidable accidents within the county; aware that County transport including traffic, parking, public road transport is the function of County Government under Part Two of the Fourth Schedule of the constitution; acknowledging that every individual life is important this Assembly urges the County Executive to ensure that all hand carts within the County are installed with reflectors. Hand cart pullers and pushers wear reflectors while on road and adhere to traffic rules to reduce road carnage within the County.

Mr. Speaker first I acknowledge the good job that the hand cart pushers do in our City. I come from an informal sector and it is because of the cheap transport that food items are available in our settlements but being the lawmakers in this County I believe we have responsibility over our citizenry.

We care for them and that is the reason as to why if feel obliged to come up with this legislation in order to protect all the road users. It is seems that everything that applies on the road should have reflectors, that is the reason why all carts must be fitted with reflectors, the bicycles and anyone who is running in the morning.

Mr. Speaker, but when it comes to these cart pullers and the hand cart themselves, they have no reflectors and their work is usually done very early in the morning when the reflectors are of art most importance.

Mr. Speaker, the biggest disadvantage of modern transport is the staled Environment in the form of pollution, luckily the hand cart don't contribute to such, but the fact that we don't have any rules and regulations administered to handcart pushers. It is a high time we to come up with such. Not once or twice have we ever witnessed accidents that occurred at night from a very awkward point, one bolted into the

road with his/her hand cart. The fact that they also follow against traffic has been a major cause of traffic accidents.

It is a high time we come up with rules, since accidents do a lot of damage to our economy, just last year our Country suffered more than 45 billion shillings because of accidents. Majority of these accident victims are pedestrians and a good number comprises of hand cart pullers Mr. Speaker.

Therefore, at this end I am going to call my senior brother Hon. Otieno to come and second this Motion.

Hon. Member for Mugumoini Ward (Mr. Alex Otieno): Thank you Mr. Speaker sir, and my Hon. brother Andrew. It is a high time we come up with By-law as the Nairobi City County. Mr. Speaker some of us during our free time we do move around down town, that is the lower part of Tom Mboya Street. Since we are in a Country that we are supposed to keep on the left but this people as they pull or push their hand cart they don't observe the rules of traffic. They pull on the right hand side and most of the accidents that occur at downtown normally are as a result of these people either pulling or pushing the hand cart wrongly.

Therefore, Mr. Speaker, we would also like the County because we are seeing the traffic marshals around and they can assist the County to enforce the law so that these people are told to pull or push on the left hand side. Mr. Speaker, as it's said by Hon. Andrew, these people are supposed to be putting on reflectors, either they should wear jackets with reflectors or something to indicate that there is somebody pulling a hand cart, so that whoever is driving around these roads can also take care. Since these people are careless, they pull them and even when you are driving along these roads they will come and knock your car and move away without even talking to you. So Mr. Speaker, it is a high time we come up with a law that will assist the County to enforce the cart pullers or the cart pushers. So Mr. Speaker, I second the Motion.

Hon. Speaker: Very well Hon. Alex Otieno.

(Question Proposed)

Hon. Speaker: Hon. Oduru!

Hon. Member for Lucky Summer Ward (Mr. Kennedy Oduru): Thank you Mr. Speaker sir, I beg to support the Motion. This is a very essential Motion and the reason why I am saying it is essential it's the way it has been illustrated by the Mover and the Seconder. In fact these people do not obey the traffic rules. I was once a victim regarding as to what particularly the seconder has stated. I had gone down town to purchase something's but unfortunately, my car was knocked by hand cart puller but didn't dare to stop and he just went on.

So not even that they are not aware of what they are doing since they are not even obeying the traffic rules because they are using the right hand side as shortcuts, instead of going around the roundabout keeping the left side of the road, they are using the right side as the shortcut.....

Hon. Kennedy Oduru:They are unaware of whatever they are doing. They are not even obeying traffic rules. They are using the right hand side as the shortcuts instead of the roundabout while keeping on the left hand side of the road. This is not only causing accidents but it also causes traffic snarl ups within the City. We know how harmful traffic jams are to our expenditure in the Country. I urge the County Government to develop a Bill and train these people on the right usage of our roads and the use of reflectors. Otherwise, Hon. Speaker I beg to support.

Hon. Speaker: Yes Hon. Karen Wanjiku.

Hon. Karen Wanjiku (Nominated Member): Thank you Mr. Speaker sir. I beg to support this Motion. Indeed it's a very noble Motion. As Hon. Members we support the small scale traders but we must maintain law and order. We must have social order in this town. This is the capital City of Kenya. We know that the *mkokotenis* don't have indicators they just go haphazardly in town. This has caused a lot of accidents as the Motion says. We cannot allow this to happen. The reflectors are not very expensive. They should put reflectors on those *mkokotenis*. Even the donkey carts that we see sometimes in the outskirts of the town should have reflectors and reflector jackets just like the *bodaboda* people. Mr. Speaker sir, I beg to support this Motion. As I sit, I want us to focus on Muthurwa. Around Muthurwa and Machakos Bus Terminus is terrible as a pedestrian and as a driver. Thank you Mr. Speaker.

Hon. Speaker: Hon. Rachael Kamweru.

Hon. Rachael Kamweru (Nominated Member): Mr. Speaker---

Hon. Speaker: Order Hon. Member! Do we have a stranger in the Assembly? A Member who walked in through the--- can you go back and walk in a proper manner to the Assembly? I want to see whether he is a stranger. Is that a Member of the Assembly? Can you proceed please?

Hon. Rachael Kamweru: Thank you Mr. Speaker. I am here in support of the Motion for the hand carts to have the reflectors and the hand cart pullers and pushers to wear reflectors. The people with the handcarts do a good job but if you go to Landhies Road especially in the morning near retail market you don't even know where to park or where to pass. At the end of the day they are parked on the road. I am looking at the bigger picture that ignorance of the law cannot be tolerated but I am looking at public participation whereby the County Government can bring up, through the Transport or Trade, whichever Committee can come up and give education to these people. At times it will also be goodwill that these people are trained and are told the importance, they may not know because they are saying they are hustlers. Going further, have these people called and educated on the safety of our roads, I beg to support.

Hon. Speaker: Can I have the mover of the Motion to reply?

Hon. Andrew Mbau: Thank you Mr. Speaker. Now that it's apparent to everyone that this law is long overdue, I think it is a high time that this law should be implemented at the grassroots level. The so

called Ward Administrators and everyone who has a responsibility under us to effect this law. It's important and long overdue.

(Question put and agreed to)

Hon. Speaker: Next order please. Hon. Members the Assembly is adjourned until tomorrow Thursday 23rd at 2:30 p.m. thank you.

(The House rose at 3.35 p.m.)