



NAIROBI CITY COUNTY ASSEMBLY

OFFICIAL REPORT

First County Assembly – Fourth Session

Wednesday 4th May, 2016

The House met at 2.30 p.m.

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

PRAYER

Hon. Speaker: The Serjeant-At-arm to ring the quorum bell for 10 minutes.

(Quorum bell is rung for 10 minutes)

Order Hon. Members! Order! Order Hon. Janet! You are back in the County Assembly of Nairobi and not in the Ghettos of New York.

Order Hon. Members! Hon. K’Otieno, order! Hon. Members, we have a quorum. We can proceed.

PAPERS

Hon. Member for Harambee Ward (Mr. Ronald Milare): Hon. Speaker, pursuant to Standing Order no. 180 (6), I beg to lay the following paper on the table of the Assembly, today, Wednesday 4th May 2016; the sight visit report of the Sectoral Committee on Culture and Community Services on the status of Joseph Kang’ethe Social Hall.

Hon. Speaker: Very well.

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NOTICES OF MOTION

Hon. Ronald Milare: Hon. Speaker, I beg to give notice of the following Motion; that this Assembly adopts the report of the Sectoral Committee on Culture and Community Services on the Status of Joseph Keng'ethe Social Hall laid on the Table of the Assembly today, Wednesday, 4th May 2016.

Hon. Speaker: Very well.

STATEMENTS

Hon. Speaker: Hon. Andrew Macharia Mbau.

Hon. Member for Mlango Kubwa Ward (Mr. Andrew Macharia Mbau): Thanks Mr. Speaker. Pursuant to Standing Order 41 (2) (C), I wish to request for a statement from the Chairperson of the Sectoral Committee on Transport and Public Works regarding the progress of pending privatization of clamping of vehicles that default to pay parking fee on time. Hon. Speaker, there are reports that the Nairobi City County Government is in the process of allocating a two-year contract to Mesayas Summit Covert Limited and other companies despite the fact that the County has adequate and qualified manpower to undertake this task.

Hon. Speaker, this move will negatively affect revenue collections since the contractor is allegedly set to pocket 70% of the clamping fees whereas the County will get a meagre 30%. Hon. Speaker, in the statement, the Chairperson should inquire into and report on;

1. Whether the County Government is in the process of outsourcing the services of clamping vehicles that default to pay parking fees.
2. Whether the County Government allegedly sought the services of a private company while the County is capable of undertaking the task.

Thanks.

Hon. Speaker: Hon. Members, Hon. Andrew Mbau, you have omitted the name of the other company. Which other company is being given the---

Hon. Andrew Mbau: Hon. Speaker, I am not privy to who the other company is but it is not going to be one.

Hon. Speaker: Now, Hon. Members, I need some advice here.

(Clerk approaches the Chair)

Hon. Members, in regard to this very touchy matter to the County Assembly, the Chairman of the Sectoral Committee on Transport and Public Works should give an undertaking in ten hours or less, because we want this report by tomorrow 2:30 p.m. This is not something to go for tomorrow or for a week because it is a touchy matter. Therefore, from where I sit, it is important that we have the report tomorrow, 2:20 p.m. Can you give an undertaking Hon. Chairperson?

Hon. Member for Lucky Summer Ward (Mr. Kennedy Oduru): Thank you Mr. Speaker sir. Even though I am going to give an undertaking but the revenue collection for the parking was diverted from our department. It is under revenue of which the right committee which should be dealing with this would have been Budget and Appropriations. It is not us because we are not concerned with the revenue collection. But even though it is under our department, what we will do---. Our officers are not there Hon. Speaker sir. They are heading to Mombasa. So, I don't know how we are going to do it but definitely, as per your instructions, we are going to try. Thank you sir.

Hon. Speaker: Now, if you have already indicated that this is no longer in your docket, then we will not tire you to go and do unnecessary investigations.

Hon. Karen Wanjiku (Nominated Member): Thank you Mr. Speaker sir. I believe the statement should be answered by transport and finance, both of them, because it concerns transport and it concerns revenue which is under finance. Thank you.

Hon. Speaker: Very well. Yes Hon. Nyangwara.

Hon. Member for Viwandani Ward (Mr. Samuel Nyangwara): Mr. Speaker, indeed as you are saying, this is a very serious matter and we understand that today or tomorrow, they are going to sign a memorandum of understanding. Mr. Speaker, this issue is with the Inspectorate and we have officers in the Inspectorate who are enough to pursue this particular issue and can do this particular job. We fail to understand as to why the County Government is giving it to a private company. Mr. Speaker, the right committee which is supposed to investigate this particular issue is Legal and Justice Committee where the Inspectorate lies under because the services of--- Mr. Speaker, can I be protected?

Hon. Speaker: Yes. Order Hon. Members!

Hon. Samuel Nyangwara: The City Inspectorate Department is the one which has the mandate of clamping all the vehicles. The issue here is not about revenue collection. It is clamping only.

Hon. Speaker: Very well. Hon. Leader of Majority?

Hon. Leader of Majority: Mr. Speaker, I am not for giving it to anybody because I think we have staff who are doing this work. We have several staff. In case we give it to somebody private, where will you take the staff to? This is another scandal. So, Mr. Speaker, we should stop this thing with immediate effect. I think it is between Transport and Finance Committees if I am not wrong. Because this one is about revenue collection. At the same time, it is about parking. So, it is between the two committees. But, Mr.

Speaker, as you are going to direct this one to those committees, I don't think they are going to just sit there because we know what they are normally doing when you have given us a certain job to do. I know Hashim is not part of any of those committees but he is going to be a broker of those people. So, just give them a thorough warning. They should just go and do proper work for this County. Thank you.

Hon. Speaker: Hon. Deputy Speaker.

Hon. Deputy Speaker: Mr. Speaker, kindly me to make at least a request before this Assembly.

Hon. Speaker: Yes Hon. Deputy Speaker.

Hon. Deputy Speaker: By leave of your Chair on adjournment on definite matter of urgent County importance on this issue and request made before the Assembly today that this Assembly adjourns for 20 minutes to discuss and come up with a resolution on this matter. If you could kindly allow these Members so that in the next two hours you do a letter to the Executive stopping the process before you get to the point of investigation because this will drag us and be overtaken by events. Thank you Mr. Speaker. Allow me to call Hon. Warutere to second my Motion of definite adjournment.

Hon. Speaker: Very well Hon. Deputy Speaker.

Hon. Member for Roysambu Ward (Mr. Peter Warutere): Mr. Speaker, we are privy to some information that what is happening is that the members in question, the M. A. Summit Covet limited, are waiting for the signing of this agreement so that should we have, as an Assembly should we start anything, they will rush to court. So, I want to concur with what the Deputy Speaker is saying. Let's rush and stop this madness because to me, what is happening is a big scandal. Bigger than the Anglo-leasing.

We have a responsibility as a County Aassembly to ensure that this scandal does not happen. Therefore, I second what the Deputy Speaker is saying.

(Loud consultations)

Hon. Speaker: Order Hon. Members! Hon. Members, Standing Order No. 1, "*In cases not provided for, the Speaker to decide. In all cases where matters are expressly provided for this Standing Order by the order of the County Assembly, any procedural question shall be decided by the Speaker*". Hon. Members, I do hereby adjourn this sitting for 20 minutes for further deliberations. Thank you.

(Applause)

(Loud consultations)

Hon. Speaker: You may be seated. Order Hon. Jackie Nyangala! Order Hon. Members, we can proceed. Hon. Isaack Ngige.

Hon. Member for Mwiki Ward (Mr. Isaack Ngige): Thank you Mr. Speaker. Pursuant to Standing Order No. 41 (2c), I wish to request for statement from the Chairperson of the Sectoral Committee on Planning and Housing regarding the grabbing of public land L.R. No. 9363/66 in Mwiki Ward. Hon. Speaker, the land L.R. No. 9363/66 is a public land. However the land has been grabbed by Naivas Supermarket management. Hon. Speaker in the statement the Chairperson should inquire into and report on:

1. Whether Naivas Supermarket management is the owner of the land;
2. Authorization of the transfer of the said land from public ownership to private ;and
3. Measures the County Executive is taking to curb the increased cases of grabbing of land in the County.

Hon. Speaker: Very well. Order Hon. Members!

Hon. Leah Mumo (Nominated Member): Point of Information! Thank you Hon. Speaker, we want to know where Hon. Imwato is going because we know he is a sycophant.

Hon. Speaker: Order Hon. Mumo. You are out of order. Hon. Chairperson of the Sectoral Committee on Planning and Housing, can you give us an undertaking please. Order Hon. Members!

Hon. Member for Korogocho Ward (Mr. Maxwell Ochar): Mr. Speaker, two weeks after recess.

Hon. Speaker: Very well. Order Hon. Proceed. A statement requested by the Hon. Kennedy Oduru from the Chairperson of Planning and Housing regarding the ongoing construction of a building near a culvert opposite Downstream carwash in Lucky Summer Ward and statement requested by Hon. Jackline Nyangala from the Chairperson of Planning and Housing regarding Kijiji settlement next to Nairobi primary School, Hon. Ochar.

Hon. Maxwell Ochar: Thank you Hon. Speaker. I will start with the statement of Hon. Kennedy Oduru. Mr. Speaker sir, Hon. Kennedy Oduru, MCA pursuant to Standing order 41 (2c), rose on the floor of the Assembly and requested the Chairperson of the Sectoral Committee on Planning and Housing for a statement regarding the ongoing construction of building near a culvert opposite Downstream carwash in Lucky Summer Ward. He further asked the Chairperson to inquire into and report on:

Approval process and the status of the ongoing construction of the building---

Hon. Speaker: Order Hon. Members! Please consult in low tones.

And the measures the County Executive is taking to stop the ongoing construction near the culvert. Hon. Speaker, I wish to report to the Assembly as follows:

1. That approval process and status of the ongoing construction of the building

Mr. Speaker sir the Committee was informed that when the technical officers visited the site, the building lacked approval for architectural and structural drawings. As such, enforcement Notice Serial No. 5955 was issued on 5th April 2015. Further, the structure was marked for demolition.

2. Measures the County Executive is taking to stop the construction near the culvert

The Chief Officer Urban Planning informed the Committee that the structure was marked for demolition and Enforcement Notice Serial No.5955 was issued on 6th April 2015. Mr. Speaker, when the Committee went there at Lucky Summer, the structure comprises of permanent building undergoing construction currently it is at its first level slab. We even photographed the building and it was earmarked for demolition Mr. Speaker.

Hon. Speaker: Thank you Hon. Ochar, you still have for Hon. Jackline Nyangala. Hon. Nyangala order! Hon. Oduru to interrogate.

Hon. Member for Lucky Summer Ward (Mr. Kennedy Oduru): Thank you Mr. Speaker sir. Following the statement that I requested, whatever that I had instructed the Chairperson to look into---

Hon. Speaker: Order Hon. Members so that I can hear the speaker.

Hon. Kennedy Oduru: Number one is very well answered but I have a problem with my second question which was; measures that the County Executive is taking to stop the ongoing construction near the culvert. Here is where I got a problem, the answer that I was given is not satisfactory because this one came here in the plenary in July last year until to date there is no action that has been taken on the ground. Furthermore, the construction is almost complete, they have fixed the doors and the plastering has been done. So I am wondering, however it is written here that there is an Enforcement Notice which was issued on 5th of April and this indicates that it is about a month ago while the construction is still going on the site. So I am worried I am not satisfied. Thank you.

Hon. Speaker: Hon. Ochar you heard the sentiments of Hon. Oduru.

Hon. Maxwell Ochar: Mr. Speaker on diverse dates, the Committee of Planning called the County Executive Committee Member responsible for Urban Planning and Lands and held a meeting on 4th of April 2016 and recommended that audit should be done on all buildings ongoing, complete with the County and those deemed not to have structural and on wetland be demolished Mr. Speaker, Including this one of Hon. Oduru of Lucky Summer. That one we called the Minister in-charge who is new in our department and we agreed that all buildings earmarked for demolition should be demolished, Mr. Speaker.

(Applause)

Hon. Kennedy Oduru: Hon. Speaker sir just on that, it is just one month since the Enforcement Notice was issued and it was issued again Serial No. 5595. And you know very well how the drainage

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system is, because this thing is built where there is riparian land, where the river and the stream are heading to. Therefore it is causing even havoc currently in Lucky Summer. The last two days that it rained heavily, we suffered because of this building on the road because there was no proper direction for the water where the stream was to dislodge its water, the flowing of the water was been interfered with. Mr. Speaker sir, my residents are sick because of this building and this is why I raised the issue and now I am not satisfied and even my residents are on me because of the same thing. Thank you sir.

Hon. Speaker: I think I will intervene on that I got what Hon. Ochar actually told the Assembly. What I want to tell you Hon, Oduru being a Chairman and in the Liaison Committee, if you can remember yesterday I formed a committee to go through what you have said here and you remember the statement by Hon. Shadrack Juma of Baba Dogo Ward. Therefore, liaise with your Chairman or your colleague in the Liaison Committee so that you can have those buildings which have been earmarked for demolition done. I thank you. Hon. Ochar.

Hon. Maxwell Ochar: Thank you, Mr. Speaker for asking my good friend, Hon. Oduru. He is sitting in Liaison, but because he was not in the House yesterday, he cannot get it well. But being my good friend, I will take him through.

Here is another response for Jacqueline Nyangala.

Hon. Speaker sir, on Wednesday, 3rd June, 2015, Hon. Jacqueline Nyangala, MCA, pursuant to Standing Order 41 (2) (c) requested the Chairperson of the Sectoral Committee on Planning and Housing for a Statement regarding Kijiji settlement next to Nairobi Primary School.

She further asked the Chairperson to inquire into and report on:-

- i. Whether due process was followed in establishing the Kijiji;
- ii. Whether the County Government collects revenue at the market;
- iii. Allegations that the Kijiji is a hotbed for drug peddling and prostitution; and measures being taken by the County Executive to stem alleged drug peddling and prostitution in the market.

Mr. Speaker sir, I wish to report to the Assembly as follows;

That, on the Kijiji settlement next to Nairobi Primary School, Mr. Speaker sir, the Committee was informed that officers from the Planning Department visited the site and established that the settlement was illegal. The structures were established by owners of the bungalows who had erected temporary extensions and small scale kiosks which mainly serve food to University of Nairobi students. To this end, it was resolved that the structures be demolished however due to the riots by University students which were ongoing then, demolition notices were not issued. However, once normalcy returns at the University, arrangements would be made for the structures to be demolished.

Mr. Speaker sir, the Executive stated that the Chief Officer – Security and Disaster management has been requested to urgently initiate investigations and take appropriate action on any case of drug

peddling and prostitution in the area. In addition, since the structures would be demolished, the vices, if any, would now be a thing of the past.

Mr. Speaker sir, thank you.

Hon. Speaker: Hon. Jacky Nyangala.

Hon. Jacqueline Nyangala (Nominated Member): Thank you, Mr. Speaker. I have seen the report and I would like to thank the Committee for the good work, even if it has taken 11 months. Mr. Speaker, I would like you to listen to this, please.

Hon. Speaker: Go ahead.

Hon. Jacqueline Nyangala: Thank you, Mr. Speaker. This has taken a very long time. I would like to appreciate the Planning Committee for the good work they have brought in. I pass there every day. All the kiosks and illegal structures have been demolished. The drug peddling and whatever was going on is in the past, like they say. However, I would like to say that in future, the Executive should avoid collecting money from such places because I understand that the County Government was collecting cess from the people in this market. Thank you, Mr. Speaker.

Hon. Speaker: Very well. Hon. Ndigirigi.

Hon. Tabitha Ndigirigi (Nominated Member): Thank you, Mr. Speaker. I requested a Statement from the Planning Committee on 19th November, 2015, concerning land grabbing in LR No. 37/386 in Nairobi West. The Statement has not been responded. I also requested another Statement concerning land grabbing in South C. The Planning Committee has not yet responded to my Statements. I don't know what is going on. I am still waiting for the reply. The Chairperson said that, after December recess, he will respond, but till now he has not done so.

Hon. Speaker: Hon. Ochar, can we have an undertaking in regard to that.

Hon. Maxwell Ochar: Mr. Speaker, I stated yesterday that we had more than 50 responses and we have done over 40. This is one of the few which are remaining. After the recess, we are going to clear everything on our table. This House should commend us because what we have done is recommendable. So, we shall answer that question in the near future. Thank you.

Hon. Tabitha Ndigirigi: I want to inform the Chair for Planning that we were arrested in Nairobi West because of the said land, and we are out on a bond of Ksh.500, 000. We want to know the reason why yet we have the LR No. we know the ownership of that plot. Thank you.

Hon. Speaker: Hon. Ochar, please undertake to bring these answers because you can hear the Member of the Assembly is out on a bond of Ksh.500, 000. Yes. Hon. Mbau.

Hon. Member for Mlango Kubwa Ward (Mr. Andrew Mbau): Thank you, Mr. Speaker. This touches on adjournment on definite matter of urgent County importance, pursuant to Standing Order No. 30.

NOTICE OF ADJOURNMENT MOTION

Hon. Speaker, I beg to give notice of the following Motion THAT, aware that Nairobi City County Executive employs a workforce of over 2,000 dedicated to the management of parking, towing, clamping and enforcement of the same for defaulters; deeply concerned that the County has engaged a contractor with a view to the privatization of the towing and clamping services; noting that the said privatization agreement is alleged to guarantee the contractor 70% of returns from the towing and clamping charges while the County gets a measly 30%; recognizing that if this Assembly does not intervene in the matter, the County risks losing millions in fees in revenue sharing agreement of the proposed privatization; this Assembly adjourns pursuant to Standing Order 30 in order to discuss the potential loss of revenue from the proposed skewed privatization of the clamping and towing services as a matter of urgent County importance.

Mr. Speaker, may I call Hon. Deputy Speaker to second this Motion.

Hon. Deputy Speaker (Mr. Kennedy Ng'ondi): Thank you, Mr. Speaker. I rise here to support Motion of Adjournment on the definite matter. Hon. Speaker, this is the decision which was left to be decided by few individuals on behalf of the entire City. It will get this County into very big problem. I kindly request the House to consider this Motion, ventilate on it and come up with a harmonized front on this so that the resolution made out of this Motion could be of benefit to the County of Nairobi. For that reason, Hon. Speaker, to allow Members to give their input and contribution towards this noble exercise which is just about to be signed and rob our employees who already have a role to exercise when it comes to the towing and clamping of vehicles in this City. Thank you, Hon. Speaker, I second.

(Question proposed)

Hon. Speaker: Hon. Warutere.

Hon. Member for Roysambu Ward (Mr. Peter Warutere): Mr. Speaker today is indeed a sad day. Looking at the way things are going, we are following a systematic analogy where as a County reverse the gains done by the National Government. Sample this; every day, when a car is clamped, we get Ksh.3, 000 from that car. Assuming in a normal day, we clamp 1, 000 vehicles, that would translate to about Ksh.3 million.

We have about 280 workers working on this clamping department alone. This means that we are going to lose about 300 workers. Every day just as it started with the Environmental department instead of us creating jobs we are creating unemployment. It started with the Environment and it is now creeping to

the Department of Clamping and soon I think this Executive will certainly privatize even this Assembly. We have a role to play and we need to be sober.

We need to look at this thing in a very sober way because I think the time has come – we only have 1 year left – we need to go into the right book in history and I think the best way we can do this is to say no to this madness. I think a time has come where we have to completely cut the ties between this Assembly and an Executive that is hell-bent on destroying the life of Nairobians.

Hon. Speaker: Hon. Millicent.

Hon. Member for Ziwani/Kariokor(Ms. Millicent Mugadi): Mr. Speaker, as my fellow *mweshimiwa* has said, today is a very sad day and I am yet to understand what the economic value is of such an agreement whereby you privatize the service and the Company gets 70% yet you provide everything and you as a County gets 30%. We have the workforce, we have the equipment and I am trying to understand going by this trend, the way things are going Mr. Speaker, we will privatize everything. We are not even sure on what the guarantee is of the revenue being collected that will come to the County. We already had an issue with Jambo Pay, now we have gone to the clamping service, the next thing is we will be going to the market and the people who are working for the County will have nothing to do.

So, I call upon my fellow Hon. Members to rise up and we fight this because this is not something that we should keep quiet and watch. Nairobians are watching and we owe them an explanation. We need to fight this and we need to consult on such issues so that we come up with a concrete way of providing proper services and not shoddy services that are being done behind closed doors without us getting involved. Thank you.

Hon. Speaker: Hon. Imwatok.

Hon. Member for Makongeni(Mr. Peter Imwatok): Mr. Speaker, kindly before I speak through your wisdom, ask *mweshimiwa* to withdraw the term the Duale of Mr. Kidero. I am not Mr. Duale, my name is Peter Imwatok and I work for the County Government of Nairobi. Mr. Speaker, let me put my statements---

(Members consulting)

Hon. Peter Imwatok: Thank you, Meshimiwa Mbau and the entire leadership of the Assembly to accord this important time to discuss this issue. Mr. Speaker I have a few issues to put across. First let me say that categorically as a Member representing Makongeni, Kaloleni, Mbotela Ward, there is a problem, there is a problem within and without. Mr. Speaker, the core value of the County Assembly of Nairobi as per the Constitution and the County Government Act are free. Number 1, Mr. Speaker, we are supposed to legislate the laws that govern this County.

Number 2, Mr. Speaker, we are supposed to do an oversight role towards Executive. Number 3, Mr. Speaker, is representation. Let me 'duale' myself on the second core function of the Assembly, maybe by definition. Let me just enlighten my fellow Member, Mr. Speaker what it means to oversight.

You cannot oversight a current situation but you can oversight a situation which has already happened. Mr. Speaker, currently the Motion before us is hearsay and if we are not careful there are cartel going to build themselves in and without. What do I mean, Mr. Speaker? I believe the policy making organ of the County Executive is very clear. Before they come to a conclusion such a thing must come into force. Mr. Speaker, there is economy of scale, we must understand that a policy has to be developed by the Executive. Under this policy is it benefiting the County Government of Nairobi? Is it benefiting the Nairobians?

For example, Mr. Speaker, Hon. Warutere has just said that if we clamp one vehicle in a day, the guy is supposed to take Ksh.2500 and the County Government gets Ksh.500. Mr. Speaker, assume the cost that the County Government is using to hire these clampers on a daily basis. Mr. Speaker, you must also be very careful, the same employees who are now crying that they are going to be rendered jobless, there is a kind of cartel inside that clamping. Mr. Speaker, for the County Government to come with that policy---

Hon. Speaker: Order. Hon. Imwatok, just to take note that we are not discussing about cartels in this Assembly because the cartels are not known to us and unless you name the cartels---

Hon. Peter Imwatok: I can name, like the one who went to---

Hon. Speaker: Therefore, please confine yourselves to the Motion of Adjournment.

Hon. Peter Imwatok: Mr. Speaker, I am confining myself by giving examples where policy is developed in the Government. Mr. Speaker, a policy does not come from obscurity, a policy has to be exercised by some eventuality and circumstances. What I am thinking about, before the County Executive Government comes on the policy of privatizing this service, there is a reason as to why.

Therefore, Mr. Speaker, saying it is an illegality is wrong. We must know what is legal and illegal. Therefore, I urge your able Chair to give a competent Committee to look at these issues in a very critical way. Other than mob justice here saying---

Hon. Speaker: Order! Can you withdraw the order of mob justice?

Hon. Peter Imwatok: Mr. Speaker, it depends on the context I have put the word 'mob justice' that is the truth. With all due respect I am contributing because---(*Members consultation*) You see this is a mob, Mr. Speaker, already.

Hon. Speaker: Order! Hon. Imwatok, you must withdraw the word 'mob justice'. We have one Speaker and this Assembly does not have mobs. Mobs are found somewhere in New York. We are men and women of dignity and it is the responsibility of these Members elected and Special Elect and I do not understand in what dictionary oversight that you have read. I would be very pleased to know the dictionary then the Members can buy it to exactly know their role of oversight. This is part of oversight, here we are not selling or buying. I don't want you to use those words because you are a good citizen but you must withdraw the word 'mob justice'.

Hon. Peter Imwatok: Mr. Speaker, allow me to withdraw that word and replace---(*Members consultation*).

Hon. Speaker: Order, Hon. Imwatok. Hon. Deputy Speaker.

Hon. Deputy Speaker: Mr. Speaker, I know why you should allow the Hon. Member to take this House for granted. First of all Hon. Imwatok should declare his interest on this issue. When the County Government is going in the wrong direction it is the obligation and the role of this House to take it back on track. Mr. Speaker, it was just the other day when the County Executive privatized the issuance of certificates for medical purposes. We had to intervene for the same to be brought back to the County. Hon. Speaker, this is a serious issue and you should not allow busybodies to come and occupy a lot of our time for no apparent reason. It is wrong.

Hon. Peter Imwatok: Mr. Speaker, the Deputy Speaker must also withdraw the word busybodies. I am a Member of the County Assembly and this mob justice I am not going to take it and I am not withdrawing it.

Hon. Speaker: Hon. Karen Wanjiku.

Hon. Member for Njiiru(Ms. Karen Wanjiku): Mr. Speaker, I am standing on order 103 and 104. 103, irrelevance or reputation, Mr. Speaker. The Standing Order is very clear and I believe this is the book that guides us as Hon. Members and this is a Hon. House. Mr. Speaker, if you have seen it we will read together. *'The Speaker or the Chairperson of Committees after having called attention to the conduct of a Member who persists in irrelevance or tedious reputation either of the Members own argument or the arguments used by other Members in debate may after having warned him/her direct that the Member discontinue his/her speech'*. 104, Mr. Speaker. *'Grossly disorderly conduct'*. *Conduct is grossly disorderly if*

the Member concerned (a) creates actual disorder?. I believe we can use that without even going to the others and you know what you are supposed to do when you read.

Hon. Speaker: Thank you. Hon. Mumo.

Hon. Peter Imwatok: Mr. Speaker, I have not finished my speech.

Hon. Member for Makadara (Ms. Leah Mumo): We do not want to hear about it. Thank you, Mr. Speaker. This is a House of rules and regulations and I think you should stamp your authority. You are the leader of this House and we look upon you. If he refuses to withdraw he should go out, we do not have time for busybodies.

Hon. Speaker: Order Hon. Members! Hon. Alex Otieno.

Hon. Member for Mugomo Ini Ward (Mr. Alex Otieno): Thank you Mr. Speaker sir. I think this is a House of rules and procedures. We are supposed to be convincing one another, you give your points, I give mine then you convince other members. I am here to oppose the Motion before us with reasons. Whatever we are discussing now was advertised in the local dailies.

Hon. Speaker: Order Hon. Members, give the member time to talk.

Hon. Alex Otieno: Mr. Speaker, what we are discussing is administrative matters and is supposed to be carried out by the Executive. For the Executive to have come up with the privatization they must have done an analysis and they advertised. The vendors must have been shortlisted and everything done. The world of today is going towards privatization. People are dealing with the core business. Let me give a good example, the current GK vehicles we have for the police, none were bought by the Government but are leased from the dealers.

Another good example is Kenya Breweries. The core business of Kenya Breweries is to brew beer then the private contractor picks, distributes and takes it to wherever they are required. If at all we are here to oversee, because our three major roles are legislation, representation and oversight. This one passed through the Cabinet of the County of Nairobi which approved and they found it necessary to privatize the particular job that they want to privatize.

Mr. Speaker, with all this, all Members ought to have seen this advert, criticize and then invite the Executive to give them the analysis of how they came about privatizing the particular job. Why don't we privatize and then wait and see whether there is a positive or a negative side. So, I oppose Mr. Speaker, thank you.

Hon. Speaker: Hon. Leader of Majority.

Hon. Leader of Majority: Mr. Speaker, I am supporting this Motion. We don't want to take too much time. If we allow these people, next time they will come up with another method that we are going to park for a certain time. They will charge one parking even twice or thrice a day. Nairobi County is not going to be a Nakumatt where if you enter to buy something you park then you pay in a limit of even 30 minutes. You pay then another customer comes and pays. Let us have our freedom of parking anytime we want without interference by the so called contractor. Those who are opposing this Motion must tell us the reason why they are opposing it because it has just come to our attention today. If they were aware of this Motion before, let us shed some light then we know. For now, let us not take time. Just put the question and we vote here right now because there are only two people here. The one called busy body and the other one who is mob justice.

(Loud consultations)

Mr. speaker, because I can see we are running out of time and we have so many Members here who are going to support this Motion, there's no point of dealing with busy bodies here and cartels. We have them here in this House. We know when we were discussing these issues outside there, they ran somewhere. When they came back they called us mob injustice. There is nothing like mob injustice, thank you Mr. Speaker.

(Loud consultations)

Hon. Speaker: Hon. Chief Whip Majority.

Hon. Majority Chief Whip (Mr. David Mberia): Thank you Mr. Speaker. I stand to support this Motion. *Na niweze kukosoa rafiki yangu*, my senior Alex Otieno. How do you privatize a department and get only 30% out of it whereas the private developer or whoever he is, is using our clamps, he will be using our enforcement officers. What is the 70% for? The question is, you get 30% and give the guy all facilities and he gets 70%. I can smell a rat Mr. Speaker. There is a lot of impunity, I cannot support this.

Mr. Speaker, our role is oversight. I don't know the role of Hon. Alex and Hon. Imwato. The entire House is in support of this adjournment Motion. We are adjourning to discuss a matter of definite importance in this County. In fact, the contract was supposed to be signed today. I believe maybe the contract has already been signed. We want this contract stopped. We want to understand the benefit of this privatization. I stand to support the Motion Mr. Speaker.

Hon. Speaker: Very well, Hon. Members, the mood is speaking and time is not on our side. I now call the mover to reply.

(Applause)

Hon. Andrew Mbatia: Thank you Mr. Speaker. I want to quote the words of the former president H.E Mwai Kibaki when the then KANU Government tried to rig him out during the famous Mlolongo

Elections. He said, "Even stealing requires some intelligence" this is a scandal in the making. There is no way you can give 70% of what you own to another party and you consider that proper.

Hon. Speaker: Order Hon. Members!

Hon. Andrew Mbau: Mr. Speaker, there is no way we can give our department out to a private person or a company 70% and that remains ours. We know the mood of this House, I move this Motion.

Hon. Speaker: Hon. Members, the Nairobi City County Assembly, First Assembly Fourth Session Speaker's direction on the adjournment Motion. First of all Hon. Members, I would like to thank you and thank the Members who got wind of this matter which is as clearly seen from both sides is to their hearts. I want to tell you Hon. Members without fear or favour. It is your obligation, it is your plate to do what you have done this afternoon and indeed it is not for us to sit with the famous words live and let others die. We must live and let others live.

I have heard you this afternoon. I wish to direct as follows regarding the adjournment Motion by the Hon. Andrew Mbau seconded by the Deputy Speaker Hon. Ken Ngondi. Given the weighty public interest concerns raised by the Hon. Members regarding this matter, it is fair and proper that the House take further concrete action. I therefore direct that the Transport and Public Works Committee saves itself of the matter and report back to the Assembly tomorrow at 2:30 p.m. Further I direct that the County Executive halt forthwith any further engagement with the contractor or contractors on the proposed privatization until the Committee reports comprehensively on the issue raised around the privatization arrangements as directed. Further Hon. Members, the officers who will defy and when I speak I see the Chairman of the Liaison Committee, the officers from the Executive who'll defy this order will meet the wrath of the County Assembly of Nairobi.

Hon. Members, it is so directed, I thank you.

(Applause)

PROCEDURAL MOTION

Hon. Leader of Majority: I need your attention Mr. Speaker. Mob injustice is just walking out.

Hon. Majority Leader (Mr. Elias Otieno): Mr. Speaker notwithstanding the provision of Standing Order 117 this Assembly resolves to reduce the publication period of Nairobi City County supplementary Appropriation Bill 2016, Assembly Bill 2 of 2016 from 7 days to 5 days.

Mr. Speaker I hereby call Hon. Hashim Kamau to come and second the procedural Motion.

Hon. Minority Chief Whip (Mr. Hashim Kamau): Mr. Speaker bearing in mind that we are going for recess tomorrow and the urgency of this Bill I second the Motion

(Question proposed)

Hon. Majority Leader: As I see the mood of this House I think everybody wants to reduce the 7 days to 5 days.

(Question put and agreed to)

BILL

THE NAIROBI CITY COUNTY APPROPRIATION BILL 2016, ASSEMBLY BILL 2 OF 2016

FIRST READING

(A Bill for an Act of Nairobi City County Assembly to authorize the issue of sum of money out of the County Revenue Fund and its application towards the service of the year ending 30th June 2016 and to appropriate that sum and sum voted on account by the Nairobi City County Assembly for certain public services and purposes)

FIRST READING

MOTION

Hon. Member for Embakasi West Ward (Mr. Robert Mbatia): Thank you Mr. Speaker, That aware that Nairobi City Inspectorate employs more than 1000 County Enforcement Officers whose primary duty is to enforce County laws and regulations which the department undertakes in key areas such as market, licensing and extra, deeply concerned that rather than focusing on enforcement. The Inspectorate department officers have often resorted to revenue collection, employing all manner of underhand tactics and intimidation of City residents while purporting to carry out the function which squarely lies with the County Treasury officers.

Noting that Article 29 of the Constitution grants every person the right to security including the right not to be treated, punished in a cruel, inhuman or degrading manner, concerned that a lack of a clear delineation of duties of enforcement officer has encouraged some Inspectorate Officers to engage in graft as recently exposed in the media, I urge this Assembly to resolve that the County Executive Committee as matter of policy to strictly retain the Inspectorate Officers as enforces of law and not to involve them in actual revenue collection by giving them monetary targets in order to curtail corruption and harassment in the revenue collection chain.

Mr. Speaker as we all know this has been an issue even in the previous Council before the promulgation of the new Constitution we had an issue with Inspectorate having been given targets. This point we have 17 Sub-Counties and we are aware the Inspectorate Officers have been given monetary targets; these policemen, I will call them policemen, you cannot think or prejudge or predict how many arrests you will make in a day. So this people have been left to arrest and meet these targets which results to harassment to Members of the public.

I will not belabor so much but I request these officers be assigned to particular departments so that they are given officers that are well versed with regulations for a particular department. I request this House resolves that enforcement officers be purely left to enforce and not to move around investigation or as specialized officers to know building plans. For example, in Huruma building that collapsed am sure there is an Inspectorate Officer who gave OK. I request Hon. Alex Otieno to support me, thank you Mr. Speaker.

Hon. Member for Mugomoini Ward (Mr. Alex Otieno): Thank you Mr. Speaker sir, I am here to support the Motion before me. We are all aware that even in Sub-Counties we have people called Ward Administrators, we again have Revenue Officers within our Wards, and Licensing Officers. How comes the Inspectorate are usurping the powers or duties of these officers? The Inspectorate are very notorious. They raid as early as 7 a.m., you open your shop you find them standing there without any respective officers. They are not Planners, Health Officers, Revenue Officers and if they find you have all the documentation they fabricate the offences such as dumping or maybe blocking the way. If they find you have everything they come up with other charges.

I think this Motion has come at the right time. Each officer should concentrate on his or her line. Earlier the defunct Nairobi City Council used to have a form that they fill telling you exactly what they expected of you. If you are having a building that has no approval it is indicated there and they tell you that you require to correct the mistake. The Inspectorate should concentrate on law enforcement, if they are to do it let them be accompanied by the respective officers. I support.

Hon. Speaker: Very well Hon. Members

(Question proposed)

Hon. Karen Wanjiku

Hon. Nominated Member (Ms. Karen Wanjiku): Thank you Mr. Speaker sir. I stand here to support this noble Motion. Indeed what we saw on the television was not on human dignity. The Constitution of Kenya is very clear on article 28, that every person has inherent dignity and the right to have that respected and protected. Personally I have seen this happen in Nairobi and some of us have even experienced it. Article 25 of the Constitution on the fundamental rights and freedoms that may not be limited. I will read section (a), (b) and (c).

Despite any other provision in this Constitution. The following rights and fundamental freedoms shall not be limited.

- a. Freedom from torture and cruel, inhuman or degrading treatment or punishment
- b. Freedom from slavery or servitude

c. The right to fair trial

We have bylaws. Bylaw number 11 on hawkers trading in the CBD is very clear. We have a City court, which even though looks like a kangaroo court acts by either fining or jailing them. Why should we kill? The Constitution is very clear on article 26 which states that every person has a right to life. I do not understand what we are doing as Hon. Members who are supposed to legislate and protect the people of Nairobi, as the hawkers continue to die. We keep quiet instead of coming up with a Bill. I support Mr. Speaker sir.

Hon. Speaker: The mover of the Motion to reply

Hon. Robert Mbatia: Thank you Mr. Speaker. I want to thank this House. The problem between this House and the Executive is lack of implementation. This has been the cry of this House ever since we came here. Three years down the line and we are still crying on the same. I will ask that if our resolutions are not implemented this time, then we shall know that those people were aired last time on KTN news are just farm hands and that their masters are in these offices. It is a defining time Mr. Speaker. The only measure that we can put on the Inspectorate team is compliance so as to ensure that they are working by abiding to law and order.

I have an experience which I want to share very fast with you. After putting this Motion on Thursday, I found out that my neighbour who runs a kiosk and has a license had been arrested. She has a one year old child with whom they were arrested and taken to the police station cells in Buru Buru because the courts had adjourned for the day. This lady had been paying cess and was accused of not having an operating license, yet her kiosk is an informal building which cannot be issued with a license.

This lady slept in the cells. I tried intervening and was later released Friday morning. As the rest of the people who were being ferried to City Hall courts, they passed near a kiosk in Buru Buru and picked someone so as to meet their target. They then informed me that as a result of my interventions they had released my person and were short of their target and so that was very necessary. Unfortunately the person who was arrested was a customer as the proprietor ran away. The customer was later charged for dumping and fined Ksh. 2,000.

This is what members go through every day. When we intervene on behalf of the people that we represent then we are told that they have targets to meet. I therefore request that we be firm this time. Thank you.

Hon. Speaker: Thank you very much Hon. Mbatia, Chair PAC

(Question put and agreed to)

Next order!

The Assembly is adjourned to tomorrow Thursday 5th 2:30PM. I thank you.

(The House rose at 4:44 P.M.)