



NAIROBI CITY COUNTY ASSEMBLY

OFFICIAL REPORT

First County Assembly – Fourth Session

Tuesday 5th July, 2016

The House met at 2.30 p.m.

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

COMMUNICATION FROM THE CHAIR

ISSUANCE OF WATER TANKS

Hon. Speaker: Honourable Members, I have the following communication to make –

Hon. Members, you will recall that the County Executive proposed the sum of Ksh.3 million for Water-related projects ranging from boreholes, water tanks, water Kiosks/points, sewage lines and water materials (such as pipes) for each County Ward.

Subsequently, Hon. Members, I am pleased to inform you that the first batch of Water Tanks will be rolled out today 5th July, 2016.

Hon. Members, this is therefore to inform Members who had selected tanks as their preferred water related project to prepare a list of beneficiaries and forward the same to the Chairperson of the Sectoral Committee on Water and Sanitation for endorsement and onward transmission to Mr. Mario Kainga, Director of Water and Sanitation whose office is at City Hall Annexe, 4th Floor.

It is so directed. Thank you.

CLARIFICATIONS ON FUNDING OF THE COUNTY ASSEMBLY – FINANCIAL CASH FLOWS

Honorable Members, I have the following communication to make –

Honorable Members, on the 16th of March, 2016, the Chair gave a communication in which he decried the erratic disbursement of funds by the County Treasury to the County Assembly, and its effect on the roll out of Assembly programs.

Hon. Members, the Chair had then directed that in order to solve the problem once and for all, all business emanating from the County Treasury be suspended until a commitment is received from the County Treasury on modalities for disbursement of monies owed to the Assembly, namely gratuity and other expenditure sums.

Hon. Members, consequently, the CFSP and Supplementary Budget Estimates were not tabled as directed until the stalemate is conclusively resolved. An earlier letter dated 11th March, 2016 was written to the Governor communicating the challenges of erratic disbursement of funds for the month of February, 2016, where the County Assembly had requested for the sum of Ksh.250 million, being monies for recurrent expenditure, development expenditure, gratuity, transfers and mortgages.

Hon. Members, the said letter indicated that the County Treasury had paid the sum of Ksh.113 million creating a shortfall of Ksh.137 million. It was on the basis of the foregoing deficit that the Chair had earlier suspended the consideration of any business from the County Treasury.

Hon. Members, subsequently, the County Executive Committee (CEC) member for Finance and Economic planning, Mr. Wainana and Mr. Gatimu were invited for a meeting at the Assembly Precincts, during which an undertaking was made by the County Treasury to give the Assembly Ksh.50 million for gratuity, and the balance of Ksh.62.4 million to be disbursed by end of April 2016. The foregoing was communicated by the CEC finance in a letter dated 17th March, 2016 and payments to that effect of Ksh.50 million made, with a balance of 62.4 million outstanding.

Hon. Members, it's on the basis of the foregoing commitment that the Chair subsequently lifted the suspension imposed on business from the County Treasury. Since then however, the Assembly has not received the outstanding balance from the County Treasury.

Hon. Members, in a letter by the Clerk of the County Assembly dated 27th June, 2016, the County Assembly tabulated all outstanding amounts owed up to end of June, 2016 to Ksh.299 million, which included Ksh.78 million recurrent expenditure, 62.4 million gratuity, Ksh.40 million Car Loan Scheme and Ksh.118 million development expenditure.

Hon. Members, the owed amount has since been reconciled and as of today, the County Treasury has not remitted the sum of Ksh.238 million as outstanding disbursements, of which Ksh.62.4 million is for gratuity, Ksh.78 million for recurrent expenditure and Ksh.53 million for development. The foregoing explains the delays in payment of salaries.

Hon. Members, as the Chair of the County Assembly Service Board (CASB), I am deeply disturbed by misleading information emanating from the CEC Finance and Economic Planning that monies for gratuity were remitted in 2014 to the County Assembly, yet the said CEC Member in a letter dated 29th April, 2016 undertakes to remit arrears of gratuity at Ksh.62.4 million by end of the budget cycle.

Hon. Members, this misinformation by officers who have willfully refused to fulfill their obligations and fund the Assembly is highly regrettable and irregular.

Hon. Members, it should therefore be noted for clarity that at the end of the 2015/2016 Financial year, the County Treasury owed the County Assembly the sum of Ksh.238 million in pending disbursements for various line items as highlighted variously, elsewhere in this communication.

As such, I leave it to Honorable Members to decide the next best course of action with regard to these matters. Hon. Members, the Chair can only do so much.

It is so communicated. Thank you.

PAPERS

Hon. Member for Eastleigh South (Mr. Nelson Masiga): Thank you Mr. Speaker, pursuant to Standing Order 180(6) I beg to lay the following paper on the table of the Assembly today Tuesday 5th July 2016, the report of Sectoral Committee on Planning and Housing on petition by residents of Githurail Ward on grabbing of public social hall, football pitch and land meant for dispensary.

Hon Magdalene Mbogori (Nominated Member): Thank you Mr. Speaker pursuant to Standing Order 180(6) I beg to lay the following paper on the table of the Assembly today Tuesday 5th July 2016 a report of Sectoral Committee on Planning and Housing on petition by Kenya County Government workers union regarding land grabbing within Nairobi City County.

Hon. Member for Kahawa west ward (Mr. Ngaruiya Chege): pursuant to Standing Order 180(6) I beg to lay the following paper on the table of the Assembly today Tuesday 5th July 2016 a report of Sectoral Committee on Children, Early Childhood and Vocational Training on the fact finding and inspection of the purchased equipment for Kewancho Youth Polytechnic of Nairobi City County.

Hon. Member for Korogocho Ward (Mr. Maxwell Ochar): Thank you Mr. Speaker, pursuant to Standing Order 180(6) I beg to lay the following paper on the table of the Assembly today Tuesday 5th July 2016 a report of Sectoral Committee on Planning and Housing on the site visit of Maringo/Hamsa Ward to ascertain the status of land LR 209/4401/R held on 16th February 2016.

Hon. Speaker: Very well, Hon. Chair.

Hon. Member for Imara Daima (Jairo Atenya): Mr. Speaker, pursuant to Standing Order number 180(c) I beg to lay the following paper on the Table of the Assembly today, Tuesday 5th July, 2016. The

report of the Sectoral Committee on Planning & Housing on the consideration of the sessional paper number 2 of 2016 on the Nairobi Integrated Urban Development Master Plan. Thank you, I am done.

Hon. Member for Kayole South (Ms.Elizabeth Manyala): Thank you, Mr. Speaker. Pursuant to Standing Order number 180(6) I beg to lay the following paper on the Table of the Assembly today, Tuesday 5th July, 2016, the report of the Sectoral Committee on Labour and Social Welfare on Nairobi City County Public Service Board report on promotion of national values and principles of governance in public service for the year 2014. Thank you.

Hon. Speaker: Hon. Ogada.

Hon. Member for Embakasi Ward (Mr. Michael Ogada): Thank you, Mr. Speaker. Pursuant to Standing Order number 180(6)(1)(6) I beg to lay the following paper on the Table of the Assembly today, 5th July, 2016, the report of the Select Committee on Budget and Appropriation on the budget estimates for the Nairobi City County Government and the County Assembly for the financial year 2016/17. Thank you.

Hon. Speaker: Very well, Hon. Chairperson. Next.

NOTICES OF MOTION

Hon. Speaker: Hon. Ogada.

Hon. Member for Embakasi Ward (Mr. Michael Ogada): Thank you very much, Mr. Speaker sir. Hon. Speaker, I beg to give Notice of the following Motion; **THAT** this Assembly adopts the report of the Select Committee on Budget and Appropriation on the budget estimates for the Nairobi City Government and the Nairobi County Assembly for the financial year 2016/17 laid on the Table of this Assembly today, Tuesday 5th July, 2016. Thank you, Speaker.

Hon. Speaker: Hon. Chege.

Hon. Member for Kahawa West (Hon. Patrick Chege): Hon. Speaker, I beg to give Notice of the following Motion; **THAT** this Assembly adopts the report of the Sectoral Committee on Children, Early Childhood Education & Vocational Training on the fact finding and inspection of the purchased equipment for Kiwanja Youth Polytechnic of Nairobi City County laid on the Table of the Assembly today, 5th July, 2016. Thank you.

Hon. Speaker: Thank you, Hon. Chege.

STATEMENTS

Hon. Speaker: Hon. Tabitha Ndigiriri.

Hon. Member for Nairobi West (Ms. Tabitha Ndigiriri): Thank you, Mr. Speaker. Pursuant to Standing Order 42(c) I wish to request a statement from the Chairperson of the sectoral Committee on Planning and Housing regarding the illegal constructions of kiosks in Langata Sub-county. Mr. Speaker, there is also concern from the residents of South C that there are kiosks that have been constructed near the Ndwara/Ramgara Mosque. There is also a concern because of illegal kiosks along Muhoho Avenue in Nairobi West Ward. The outcry is as a result of... *(loud consultations)*

Hon. Speaker: Hon. Members, order. Continue, Hon. Ndigirigi.

Hon. Tabitha Ndigiriri: The outcry is a result of its closeness to the mosque which causes a public health concern and there is the danger that it can collapse in the case of a fire outbreak. Hon. Speaker, in the statement the Chairperson should enquire into and report on;

1. If the County Executive has licensed the construction of the kiosk as temporary structures.
2. Measures being taken by the County Executive to ensure that illegal kiosks or temporary structures are not constructed near public plots and religious places of worship all over the Nairobi area. Thank you.

Hon. Speaker: Hon. Chairperson, Planning.

Hon. Member for Lucky Summer (Mr. Kennedy Oduru): Thank you, Hon. Speaker. This Statement needs Solomonian wisdom because we have people who are elected in those Wards. However, Mr. Speaker, I would ask you to give us time so that we go for a site visit *(Laughter)* where we include roles of these Wards. Mr. Speaker, Hon. Members who sit in those Wards are the ones who have asked their electorates to erect those structures there and I cannot just order--- So, Mr. Speaker, I would request that you give us time so that we go for site visits where we will invite the Hon. Members representing those Wards to ascertain exactly what is happening.

Hon. Member for Dandora Area II (Mr. Stephen Kambi): *(Inaudible)*

Hon. Speaker: No, the Chairperson has already given an undertaking. Chairperson Planning, you must be specific on the date.

Hon. Kennedy Oduru: Mr. Speaker, it is the rise of the Assembly sitting which will determine because maybe by tomorrow the Assembly will be in recess. Mr. Speaker, it will be after the recess because we cannot do it overnight.

Hon. Speaker: The first week after the recess.

Hon. Kennedy Onduru: Thank you, sir.

Hon. Stephen Kambi: *(Inaudible)*

Hon. Speaker: Hon. Kambi, what is it?

Hon. Stephen Kambi: You know, I am a Member of the Physical Planning Committee.

Hon. Speaker: It does not matter whether you are a Member but you have a reason on what?

Hon. Stephen Kambi: It is a Point of Order of course, Mr. Speaker sir.

Hon. Speaker: Okay, Point of Order.

Hon. Stephen Kambi: Thank you, sir. Mr. Speaker, you cannot allow this Hon. House to be used for political witch-hunts. We know the owners of the Wards and I believe the statement by the Hon. Member was politically instigated and *(loud discussions)* It is a politically instigated statement and that is a witch hunt and people should use other avenues of campaigning. Thank you Mr. Speaker.

Hon. Speaker: Hon. Members, please try to be extremely careful--- Order Hon. Members! Hon. Ogeto.

Hon. Moses Ogeto: Hon. Members, this is a House of rules and procedures. I want to second---

Hon. Speaker: Order Hon. Hashim! Hon. Kambi!

Hon. Moses Ogeto: I want to second Hon. Kambi for saying the statements right. This is because we cannot bring political statements here. Mr. Speaker, there is a statement which was requested here by a colleague and it has taken time. This statement was requested from the Committee on implementation. On behalf of this Member, you requested that this statement be tabled before this House and I have not seen that in this House.

I would wish that the Chairperson for Implementation Committee to tell us the status of the Committee's resolution on the report of the Public Accounts Committee as highlighted previously. Reasons

as to why this officer adversely mentioned in the report--- the Chairman Committee himself to bring this statement today but we have not yet seen it.

Mr. Speaker, let us not gag this Assembly from this report because according to standing order 41 2(c), there is a statement from the Chairperson of Select Committee on Implementation regarding the implementation and resolution of the public accounts report and that of the Auditor General of audited financial statements of the County financial year 2012/13.

Hon. Speaker, PAC recommended the suspension and removal of officers including Jimmy Kiamba, Luke Gatimu, Lillian Ndegwa and Mr. Stephen Osiro. The report further of the County pharmacist technology Mr. Smitch Joseph, the County Fleet Manager Ms. Lucy Maita, Chief Mechanical Engineer Mr. Tom Ojwang were shown the door. However, all other officers including Mr. Osiro, Mrs. Lillian and Mr. Jimmy were subjected to investigations by the EACC but we have not seen this statement. We are therefore requesting for it.

Hon. Speaker: Order Hon. Member! Hon. Chairperson of Implementation Committee on the statement 9 on why the officers who were shown the door are still working?

Hon. Leader of Majority: Thank you Mr. Speaker. The young boy called Hon. Ogeto must know that I am not the author of the statements and as I respond, we sent a letter to the County Secretary---

Hon. Speaker: Order Hon. Member!

(Hon. Moses Ogeto on feet)

Hon. Speaker: I will answer that. Sit!

Hon. Leader of Majority: Mr. Speaker I will give the response tomorrow afternoon. Thank you.

Hon. Speaker: Hon. Members....

Hon. Elias Otieno: So Mr. Speaker on Thursday we are not going to have our sitting because we are invited by our brothers from the other side of Christianity. It is going to be a public holiday let us have a sitting tomorrow in the morning because on Thursday we are going to slaughter a lot of mbuzi, I therefore call upon..... because I am not going to call from this side because I can see their body language.

I therefore call Hon. Imwatoke to come and second this Procedural Motion because the Leader of Minority is fasting and he has not eaten since morning and he can collapse here that is the reason why I am not going to call him to come and second the Motion today because he is too weak. So Mr. Speaker I call upon Hon. Imwatoke to come and second the Motion.

Hon. Speaker: Hon. Imwatoke!

Hon. Member for Makongeni Ward (Mr. Peter Imwatok): Thank you Mr. Speaker and Majority Leader for giving me this honour on behalf of the Minority Leader to second this Motion. Indeed our able Minority Leader is on a very crucial time of his spiritual life and we must respect that and I thank you Minority Leader for that respect.

I therefore stand before you all to second this Motion that has been placed before this Assembly by my able Majority Leader that we limit the time since we have a sitting tomorrow morning and in the afternoon to expedite on what is happening on our table Mr. Speaker, I beg to second.

Hon. Speaker: Very well Hon. Members!

(Question Proposed)

Hon. Speaker: Hon. Deputy Speaker!

Hon. Deputy Speaker: Thank you Hon. Speaker, I rise in support of the Motion to extend the timing of the Assembly to start from 10.30 am tomorrow in the morning. Mr. Speaker, the House is very much aware and following keenly on the calendar of the Assembly.

This Assembly should be adjourning for a short recess on Thursday and it has just happen that on Thursday we will be falling on a public holiday. So we had already set before us the business of the Assembly which should be concluded on time before we proceed for the recess and for that reason Hon. Speaker I urge the Hon. Members to see the sense that we may sacrifice to find time tomorrow to dispense off the pending issues and especially the crucial ones. Hon. Speaker we should deal with this ideal budget once and for all. Thank you Hon. Speaker and am in support.

Hon. Speaker: The Hon. Leader of Minority Hon. Abdi Hassan.

Hon. Member for Matopeni/Spring Valley Ward (Mr. Abdi Hassan): Thank you Mr. Speaker, I heard the Majority Leader was saying that I am weak, I am not weak, am still very strong as usually and Mr. Speaker sir, I stand in support of the Motion and I ask Hon. Members tomorrow early in the morning when they come for this Motion because some of us will not be here they have to do some slight amendment so that issues which were raised by the Members should be captured in the budget.

Mr. Speaker sir, I would like to request the Chairman of the budget, who is in the House to make sure that tomorrow early in the morning before the commencement of the budget he should call the Budget Committee Meeting so that the issues which have been raised by the Members should be catered for. This is the last budget in Nairobi.

Mr. Speaker sir, the Executive has taken this House for a ride for the last four years and that is the truth.

(Loud Consultation)

Hon. Speaker: Order! Order Imwatak! Order please! Hon. Imwatak can you withdraw that word *umbwa* here. You come here and withdraw it. Keep it cool please.

Hon. Abdi Hassan: Mr. Speaker sir, I thought the 85 Members have the same interest. We have the Ward and we will be asked questions by the people who elected us when the time comes Mr. Speaker sir.

I want to remind Members that the Kiambu Assembly which is a TNA Assembly and the Governor is TNA they rejected the budget the other week as we are speaking because the interest of the people of Kiambu were not captured. What we are saying in Nairobi and come 2017 each and every individual Member of this House will go alone to his/her electorates. No one will speaker of anyone even the Governor will go to the people alone.

Mr. Speaker sir, what we are saying is that when this budget is being passed, it should be executed to the later.

Hon. Speaker: Yes, point of Order!

Hon. Abdi Hassan: On what Mr. Speaker sir!

Hon. Speaker: Just give him a Point of Order!

Hon. Elias Otieno: I just want to correct by friend, the reason as to why I said before it is because he was fasting maybe that is why he is not updated on what is going on right now. It is not that we are discussing the budget now, it is the Procedural Motion. So let tomorrow take its own course Mr. Speaker.

(Loud Consultation)

Hon. Speaker: Thank you! Order Hon. Members.

Hon. Abdi Hassan: Mr. Speaker sir in support of the Procedural Motion and on the same giving my views with the Standing Orders allowing. The budget will be discussed tomorrow of which I will not be here to give my views. I will be breaking my fasting and I will not be able to come tomorrow. So I have to give my views right now Mr. Speaker sir.

What I am saying is that for the last 3 consecutive budgets..... it is wrong, under which Standing Order?

Hon. Speaker: Go on Please!

Hon. Deputy Speaker: Mr. Speaker you should guide this House, this is an anticipated debate as we don't have a debate before the budget. The report of the budget has just been tabled and we don't know the content he has given the notice of the Motion tomorrow. Can we be given time to interrogate the report of the budget so that we can at least discuss it tomorrow.

Hon. Speaker: Okay! I am sure Hon. Abdi Hassan has understood it very well.

Hon. Abdi Hassan: I think Mr. Speaker sir, am petrified by the Deputy Speaker of this House. We are operating under the law and Standing Order. Which Standing Order is he quoting to tell me what I am doing is wrong Mr. Speaker sir?

Mr. Speaker sir, I am very sorry to say that the Deputy Speaker is still holding on the mentality of the defunct Nairobi City Council when the Mayor was not giving them a chance to Speak, this is an Assembly.

(Loud Consultations)

Hon. Speaker: Order Hon. Members!

(Loud Consultations)

Hon. Deputy Speaker: Mr. Speaker, I think the Minority Leader is a leader in this House and the only thing that I am picking it up with Minority Leader is that he is doing a good thing but at a wrong time. I don't have any differences apart from that what he is doing is a good but at a wrong time Mr. Speaker.

(Loud Consultations)

Hon. Abdi Hassan: Mr. Speaker sir, I thank my good friend Deputy Speaker for giving me this information but I think that I am entitled to my own views and if I may be allowed I can continue.

Hon. Speaker: Hon. Abdi Hassan with due respect you are in disrespecting the debate.

Hon. Abdi Hassan: Hon. I am not debating Mr. Speaker sir, at all if you may listen at me very well. I am not debating at all.

Hon. Speaker: Order Members! You have another two minutes to finish.

Hon. Leader of Minority (Mr. Abdi Hassan): Mr. Speaker sir, there is nothing to debate about. For the last 3 years, the Executive did not implement the Ward Development Fund Act which e passed in this House. As I understand no Nairobian has gone to court and petitioned the court to declare this Act as a nullity and unless that has happened no one, including the Comptroller of Budget who has no mandate at all to declare, to interpret the law and declare the law as unconstitutional, Mr. Speaker sir. The only institution which is mandated by the Constitution of Kenya to declare or interpret a law is the Judiciary of Kenya. I am perturbed as to why up to now for the last 3 years the Ward Development Fund Act has not been implemented.

As we are speaking the CDF which the Comptroller of Budget has been approving, authorizing the money for the MPs to use, the court declared it unconstitutional. The MPs went ahead and changed the law, they reframed it the National Constituency Fund and as we are speaking Mr. Speaker sir, the court

ruled that the MPs can use more than 25 billion shillings. I wonder why the Nairobi County has not implemented the Ward Development Fund, Mr. Speaker sir.

(Applause)

And why are they using the scapegoat of telling us oh the Comptroller of Budget, I want to know which law or which Constitution gives the Comptroller of Budget powers to declare an Act unconstitutionally. This time around, somebody must be held accountable and responsible for the act or omission in implementing what the Nairobi City County Assembly has passed. I have been hearing people say that, Oh Gatimu is in office. I want to know how many people are in office and the PAC report said that they have to go home. Who is supposed to implement it? Why only Gatimu Mr. Speaker sir?

Hon. Speaker: Order Hon. Abdi Hassan!

Hon. Leader of Minority: Why? Is it because he is coming from a certain community Mr. Speaker sir?

Hon. Speaker: Order!

(Loud consultations)

Hon. Speaker: Order Hon. Abdi Hassan!

Hon. Leader of Minority: Mr. Speaker sir, the other day a lady who was working with the Procurement was taken to court--

(Loud consultations)

Hon. Speaker: Order Hon. Abdi Hassan! Order Hon. Members! The standing Members, Order! Hon. Members I want to take you to Standing Order No. 81; anticipating debate. *"It shall be out of order to anticipate a debate of a Bill which has been published and such in the Kenya Gazette by discussion upon a substantive Motion of or an amendment"*. Therefore Hon. Members it shall be out of order to anticipate debate. It is written, I have not written this. Hon Members at this particular moment--- Order Hon. Members! Hon. Abdi Hassan as a senior Member of this Assembly and indeed as the Holy Ramadhan is just coming around the corner I would like to ask yourself as person that what you are now discussing should be slated for tomorrow.

I know tomorrow you said that you will not be in but I think the Members support what you want. It is on the minds of the 85 Members who actually own the Ward Development Fund and therefore with lot of respect at this particular time of the month, we have heard you and we thank you for your contribution. Your time was already up Hon. Abdi Hassan please. Hon. Member, the Speaker is on the floor. Kambi the Speaker is on the floor, why would you be standing?

Can we proceed please? You are done Hon. Abdi Hassan please. Why are the Members standing? I want you to sit down and be orderly. What is the problem? We are just discussing the Procedural Motion and I don't understand, we don't have to bring a debate on this please. Order Hon. Members! I don't want to use any language that will be unfavourable at this particular time. Thank you, Hon. Abdi Hassan for your contribution. Hon. Mauti and then Hon. Millicent.

Hon. Member of Kwa Reuben Ward (Mr. Elkana Mauti): Thank you Mr. Speaker sir.

Hon. Speaker: Hon. Kambi, what did you say?

Hon. Elkana Mauti: What did you say?

Hon. Speaker: No, I will not allow insults in the Assembly please. I will not. Continue Hon. Mauti.

Hon. Elkana Mauti: I think Hon. Kambi should apologize to me because I am not a simple person the way he thinks.

(Loud consultations)

Hon. Speaker: Proceed. Order Kambi sit down!

Hon. Elkana Mauti: Mr. Speaker---

(Loud consultations)

Hon. Elkana Mauti: Mr. Speaker I am here to support the Motion because we have so many issues to tackle and due to time limit we cannot do so. We are all friends. We know what we have undergone. But all in all we know where the blame lies. It is not in the Executive Mr. Speaker, let us be honest. Let me not even talk because we have seen how much money has been brought here for gratuity and has been used for different issues. Mr. Speaker, we will talk about that one tomorrow. We have documents we will table them and then we will see who is wrong. Mr. Speaker if we are the Assembly of Nairobi, we might not say that this is the last budget. Nobody knows because there are some interpretations ahead which are still in court.

Mr. Speaker, what we are supposed to do as Members is to behave as Members of the County Assembly who are the oversight of the Executive. Get my sense first.

(Laughter)

Hon. Elkana Mauti: Mr. Speaker what I mean is for further interpretations, we want to behave as Members who oversight the Executive. Not who join the Executive to ruin others or ruin development as we can say. Mr. Speaker we are very much aware that some of the works is on in our Wards. What we are lacking is, or what we will insist on is for the contractors to be paid.

Hon. Speaker: Order Hon. Member please!

Hon. Elkanah Mauti: That one, we will discuss tomorrow. Mr. Speaker, I think the addition of the morning session will make us clean ourselves first before we go to clean somebody's house. *Ahsante sana*.

Hon. Speaker: Hon. Members, I want to remind you that what you are discussing is Procedural Motion. We are not discussing development here; that is for tomorrow. Please, let us go to the procedural Motion.

Hon. Mark Ndungu (Nominated Member): Mr. Speaker sir, I rise to support the Motion and ask you to read the mood of the House and call the mover to reply.

(Loud consultations)

Hon. Speaker: Order, Hon. Members! Hon. Adow.

Hon. Member for Eastleigh North Ward (Mr. Osman Adow): Thank you, Mr. Speaker---

(Loud consultations)

Hon. Speaker: Order, Hon. Members!

Hon. Osman Adow: First, I would like to inform the House that today is the 30th day of Ramadhan, which means, tomorrow is the actual *Idd*. So, I think we Muslims will be having our *Idd* tomorrow but the Chief Kadhi erred by declaring Thursday as the public holiday. The House should know that tomorrow is the actual *Idd*. Having said that, I still support the procedural Motion. I would urge my fellow Muslims, first we go and pray early in the morning and we come and contribute to this burning issue of the Budget.

I would therefore like to support this Motion so that we have a sitting in the morning. Thank you.

Hon. Speaker: Thank you, I now call the mover of the Motion to reply.

Hon. Majority Leader: Each and every one must sit down when I am replying. I know the person who took a lot of time that is the reason I said clearly my brother has been fasting for the last 30 days. So, maybe he doesn't know many things. I am very much aware what you people are planning for tomorrow that is the reason why he was preempting what is going to come, which I don't know.

It is very unfortunate that those who have been sleeping in the same bed with the Executive are the same people who are right now making a lot of noise, while some are mentioning my name everywhere, like my brother behind me here. Thank you for those who supported the Motion. Thank you.

(Question put and agreed to)

(Hon. Speaker left the Chair; Hon. Deputy Speaker took the Chair)

Hon. Deputy Speaker: Order, Members! Clerk, we may proceed.

THE NAIROBI CITY COUNTY PLASTIC CONTROL BILL, 2016 (ASSEMBLY BILL NO. 1 OF 2016) AN ACT OF THE COUNTY ASSEMBLY OF NAIROBI CITY TO PROVIDE FOR THE CONTROL ON THE MANUFACTURE, USAGE AND DISPOSAL OF PLASTIC CARRY BAGS AND OTHER PLASTIC PRODUCTS SO AS TO RESTORE AND MAINTAIN A CLEAN ENVIRONMENT IN THE COUNTY OF NAIROBI CITY AND FOR CONNECTED PURPOSES

Second Reading

Hon. Member for Upper Savannah Ward (Mr. Benson Amutavi): Thank you. Hon. Speaker sir, I beg to move that the Nairobi City County Plastic Control Bill, 2016 (Assembly Bill No. 1 of 2016) be now read a second time.

Hon. Speaker sir, the Committee recognizes that part two of the Fourth Schedule of the Constitution devolves the role of controlling pollution and other public nuisance to the County Government. Plastic carry bags and other plastic products contribute immensely towards environment pollution in the County, and therefore, the Committee is in support of any legislative measures that intend to protect environmental pollution caused by plastic products.

Hon. Speaker sir, the Bill seeks to address the following amongst others:

1. The principal objective of the Bill is to control the manufacture, usage and disposal of plastic carry bags and other plastic products so as to conserve and maintain a clean environment and control pollution within Nairobi City County pursuant with part two of the Fourth Schedule of the Constitution.
2. It particularly prohibits the use of carry bags or containers from recycled plastics which may contain poisonous substances in the packaging of food products.
3. It deals with prohibition of the manufacture of plastic carry bags that do not conform to the Kenyan standards and particulars to be printed on carry bags.
4. It contains provisions relating to enforcement of the proposed law.
5. It outlines the functions of the relevant departments in the control and manufacture.
6. Use and disposal of plastic carry bags and empowers them to carry out public eradication campaigns aimed at achieving the objectives of the proposed Act.

Hon. Speaker sir, pursuant to Article 196 (b) of the Constitution of Kenya and Standing Orders 121 (3), the Committee placed an advert in the local dailies calling for any representation and amendments from the public on the Bill. Following the notice, the Committee received written memoranda from the following stakeholders.

1. Kenya Association of Manufactures (KAM),
2. Consumer Federation of Kenya (COFEK),
3. The Nairobi City County Executive, and
4. Kenya Alliance of Residents Association (KARA).

All the Stakeholders were agreeable in principle with the Bill, although they proposed amendments to certain Clauses.

Hon. Speaker sir, the Committee finds this Bill a bold step towards control, manufacture, and disposal of plastic in the County. It is the hope of the Committee that the Bill will not encounter the similar fate the 2014 version introduced by the Leader of the Minority.

Hon. Benson Amutavi: It is the hope of the Committee that the Bill will not encounter a similar fate as the 2014 version introduced by the Leader of the Minority. That would be a waste of public resources and a backward step towards environmental conservation. The Committee will propose amendments to the Bill in clause 2, 3, 5, 6, 11, 15, 16 and 30. Some of the amendments are editorial while others are aimed at making the Bill to be consistent with the Constitution and other existing national policies and legislations on plastic control, environment conservation and to also cater for the stakeholders.

Hon. Speaker sir, I beg to move and I call Hon. Zulfa to second, thank you.

Hon. Zulfa Hakim (Nominated member): Thank you Mr. Speaker, I want to take this opportunity to thank the Chairman for this particular Committee and also as the presenter of this Motion. I stand to second.

(Question proposed)

Hon. Deputy Speaker: Hon. Abuka.

Hon. William Abuka (Nominated member): Thank you very much Mr. Speaker for giving me the time to say a word on this Bill. I want to start by congratulating the Chairman and the Committee on Environment for the choice to go back, dig our roots and find this Bill whose opportunity we lost in 2014. This is a very important Bill for Nairobi County Government. I am saying this because Nairobi is the capital City of our good Country Kenya. It is a place where people benchmark from not only across the nation but even across East and Central Africa. Many Countries, many nations---

Hon. Member for Kayole North Ward (Ms. Elizabeth Manyala): Point of Order Mr. Speaker.

Hon. Deputy Speaker: Point of Order granted.

Hon. Elizabeth Manyala: Mr. Speaker this is a very important Bill and it needs a whole House to thrash it, understand, and conceptualize it so that we can contribute in a --- we need a full House and as you can see the Members of the other side are not there. There's lack of quorum.

Hon. Deputy Speaker: Order! Order Hon. Members! Are you raising a concern of quorum or?

Hon. Elizabeth Manyala: A concern of quorum. There is no quorum and this Bill is very important. It is affecting Nairobians---

Hon. Deputy Speaker: Can you withdraw the word “the Members of the other side”

Hon. Elizabeth Manyala: I withdraw Mr. Speaker, thank you.

(Loud consultations)

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

Hon. Deputy Speaker: Granted.

Hon. Karen Wanjiku: Mr. Speaker, is it in order for the Member to stand here without telling us the Standing Order in which she is using?

Hon. Deputy Speaker: She was still contributing.

Hon. Karen Wanjiku: Which Standing Order Mr. Speaker?

Hon. Deputy Speaker: Thank you Hon. Karen. Order Hon. Manyala!

Hon. William Abuka: Mr. Speaker, as I said this is a very important Bill for us. I believe Members who have travelled the world over have seen how clean other cities are. People from across the region come to benchmark in Nairobi. What catches your eye immediately you come is the huge garbage accelerated by plastics, dirt and---

Hon. Deputy Speaker: Order Hon. Member! I am giving him an opportunity to talk.

Hon. Member for Waithaka Ward (Mr. Anthony Karanja): Mr. Speaker, with due respect to Bishop Abuka, I want you to take the issue of quorum seriously. He has very valid points.

Hon. Deputy Speaker: Hon. Member you cannot raise the issue of quorum without terms of reference. Which Standing Order?

Hon. Anthony Karanja: Mr. Speaker, Standing Order number 32.

Hon. Deputy Speaker: Clerk.

Hon. Anthony Karanja: Mr. Speaker, as you are doing that I want you to ---

Hon. Deputy Speaker: Order Hon. Member! You have just raised the issue of lack of quorum in the House. You have no business contributing. Clerk can you confirm? Hon. Members it has been raised to my attention that there is lack of quorum in the Assembly.

(Loud consultations)

Hon. Deputy Speaker: Order bishop! Please don't proceed to the mic. What is it Karen?

Hon. Karen Wanjiku: Mr. Speaker sir, Standing Order 32 says "if any time the Chair is taken---

Hon. Deputy Speaker: Order Karen! Can you make the correction if you are in agreement that there is lack of quorum in the House?

Hon. Karen Wanjiku: This is not the start of the Assembly.

Hon. Deputy Speaker: Then can you quote the Standing Order?

Hon. Karen Wanjiku: It doesn't apply, 32 doesn't apply Mr. Speaker.

Hon. Deputy Speaker: Which one?

Hon. Karen Wanjiku: I am not rising on what he is saying. I am saying that he has used the wrong Standing Order.

Hon. Deputy Speaker: Can we proceed?

Hon. Karen Wanjiku: Yes, we can proceed with the order of the House Mr. Speaker sir.

Hon. Deputy Speaker: Thank you.

Hon. William Abuka: Mr. Speaker, as a result of the garbage that catches everybody's eyes when you come to Nairobi the County Government and by extension even the National Government is using a lot of resources in trying to clean the City. The people who manufacture these bags and distribute them don't care. They don't want to hear that they are supposed to supplement what the Governments are spending on garbage collection and cleaning the City. I really want to emphasize that this is a Bill that will make everybody know that the Members of the County Assembly are serious in cleaning the City and managing garbage and manufacture of paper bags, plastic bags etc. so that Nairobi does not have to be the headquarters of manufacturers of plastic bags from across the region. All the clean rivers today around here are no longer clean because of plastic bags. I think this Bill really is on time. Thank you Mr. Speaker.

Hon. Deputy Speaker: Thank you, Hon. K'Otieno.

Hon. Member for Sarang'ombe Ward (Mr. Pius Otieno): Well, thank you Mr. Speaker.

Hon. Member: Point of Order.

Hon. Deputy Speaker: Can you give Mr. K'Otieno time to maybe--- he has not even talked. Point of Order on what. Please K'Otieno proceed.

Hon. Pius Otieno: The Speaker has declined that Point of Order. I stand to support this Bill. I want to inform the House that plastic bags are choking the environment of this Country. They are non-biodegradable and cannot decompose easily. If you look at the menace around the City or even in the

suburbs where we stay it is filthy because over 90% of people living in Kenya are using plastic bags. There is no proper mechanism or a legislative framework or policy---

Hon. Deputy Speaker: Order Hon. K'Otieno! Sorry for interruption, it has been brought to my attention the owner of the Bill is not present before the House so we are left in a situation where as much as we may deliberate on the Bill who will reply? Hon. Members the Bill seems to be interrupted in a way and I so direct that it will appear in the Order Paper after the recess. Clerk proceed.

Order Hon. Kitavi! Are you upright? Can you sit. Hon. Members we have Motion number 10 which is supposed to be moved by Hon. Mberia who is not in the House and he has not delegated the same to any Member. For that reason the House stands adjourned to 10.30 tomorrow in the morning. There shall be a House Business Committee at the rise of the Assembly at the foyer. Thank you Hon. Members.

(The House rose at 4.10 p.m.)