



NAIROBI CITY COUNTY ASSEMBLY

OFFICIAL REPORT

Second County Assembly – Second Session

Wednesday 7th November, 2018

The House met at 2.30 p.m.

Hon. Acting Speaker (Mr. Chege Mwaura) in the Chair

PRAYER

Hon. Acting Speaker: Clerk, confirm if there is a quorum. Serjeant-at-Arm to ring the quorum bell for 10 minutes.

(Quorum bell was rung for 10 minutes)

Hon. Members we have attained quorum. Let's begin business.

COMMUNICATION FROM THE CHAIR

GUESTS FROM COUNTY ASSEMBLY OF KILIFI

Hon. Acting Speaker: Hon. Members, I have a communication to make and it is with regards to the guests that we are having in our Chamber, our colleagues from the County Assembly of Kilifi from the Committee on Delegated County Legislation. I am happy to introduce and welcome them to our Chamber.

1. Hon. Jana Tsuma Jana Chairperson,
2. Hon. Edward Kazungu Dele Member,
3. Hon. Emmanuel Kazungu Chai Member,
4. Hon. George Baya Member and
5. Hon. Yassin Mohammed Noordin Member.

The Secretariat that is with them, I recognize Ms. Getrude Mbuhe Shume- Committee Clerk, Mr. Felix Kapombe – Committee Clerk, Mr. Omar Chuphi – Serjeant-at-Arm and Ms. Peris Kache – Hansard Reporter.

On behalf of the County Assembly of Nairobi we are pleased to have you around and when you go back please take our greetings there. Thank you.

PAPERS

Hon. Acting Speaker: There is a report for the Chairpersons Panel. Hon. Otiso, you have a report to table.

Hon. Evans Otiso: Thank you Mr. Speaker. Pursuant to Standing Order 191(6) I beg to lay the following Paper on the Table of the Assembly, today Wednesday 7th November, 2018, The Report on the benchmarking training exercise to Kampala, Uganda by the Nairobi City County Assembly Chairpersons Panel from 10th to 14th September 2018. Thank you,

Hon. Acting Speaker: Thank you.

STATEMENTS

Hon. Acting Speaker: The Hon. Deputy Majority Whip, you have a statement request.

STATEMENT REQUEST REGARDING AN ALLEGED GRABBED LAND ON KAPITI ROAD BETWEEN HIGHWAY SEC SCHOOL AND ZANZIBAR ROAD

Hon. Esther Waithera: Thank you, Mr. Speaker. Hon. Speaker, pursuant to Standing Order number 45(2) (c) I wish to request from the Chairperson of Justice and Legal Affairs regarding an alleged grabbed land in Kapiti Road between Highway Secondary School and Zanzibar Road.

Hon. Speaker, an unnamed developer through Labala and Co. Advocates has made communication through a letter dated 22nd October 2018 - hereby attached in my documents - compelling the current owners of kiosks constructed under the supervision of the County Government and issued with stickers along Kapiti Rd in Nairobi South B Ward to vacate as he intends to begin construction on his premises by 3rd of December.

Hon. Speaker, the area in question is a road reserve making it Government property. The said kiosk owners acquired the kiosks from the County Government through the agreements that are attached overleaf including photos, bank receipt transactions regarding the same. Hon. Speaker, in the Statement the Chairperson should enquire into and report on;

1. Whether the County Executive is aware of the claim by the said private developer;
2. Whether the land in question in the above kiosk location is Government land or private property;
3. The legality of the developer to compel kiosk owners to vacate the premises; and
4. Measure taken by the County Government to curb such incidents in the County Government.

Thank you, Mr. Speaker.

Hon. Acting Speaker: Thank you. The Chair Justice and Legal Affairs, Hon. Jayendra.

Hon. Jayendra Malde: .Thank you Hon. Speaker. Can we have 12 days and we bring the report. Thank you.

Hon. Acting Speaker: Hon. Esther Waithera, are you comfortable with that?

Hon. Esther Waithera: Mr. Speaker sir, when you check on the dates on my Statement you will see that the developer intends to start construction on the 3rd of December and when you look at the official days, where the 12 days are falling, we will be having a conflict on the ground. I therefore request the Chairperson to at least make it less than 8 days so that these kiosk owners can be free and justice will be served.

Hon. Acting Speaker: Chair of Justice, are you comfortable trying to squeeze it into the time they are asking owing to the pressure?

Hon. Jayendra Malde: Hon. Speaker that is not enough time for us. We must get at least 10 days to investigate and to summon the Executive. Thank you.

Hon. Acting Speaker: Hon. Esther Waithera, is Tuesday a good day? Not this Tuesday, the other one. Today is 7th and in one week it will be the 14th. Can we agree on the 20th?

Hon. Esther Waithera: That is fine. Any date falling before 3rd is fine with me.

Hon. Acting Speaker: Chair, is 20th prudent for you? I will give you from tomorrow and the whole of next week, which will be around 10 days?

Hon. Jayendra Malde: Thank you, it is in order. Thank you Speaker.

Hon. Acting Speaker: The Hon. Doris Kanario.

STATEMENT REQUEST REGARDING THE ALLEGED OPERATION OF ILLEGAL CLINICS IN THE COUNTY

Hon. Doris Kanario: Thank you Mr. Speaker sir. Hon. Speaker, pursuant to Standing Order 45(2) (c) I wish to request a statement from the Chairperson of the sectoral Committee on Health services regarding the alleged operation of illegal clinics in the County, and more specifically the recent case of Dr. James Mugo Ndichu *alias* Mugo Wairimu. Mr. Speaker sir, it is amazing that a doctor has been operating illegal clinics across the City, specifically in Githurai 44 and in Kayole area causing a very big risk to unsuspecting patients.

Hon. Speaker, it is also alleged that the County officers went to inspect the clinics but were denied entry and they did nothing about it.

Honourable Speaker, it is worrying how a quack doctor could be operating many unlicensed clinics in the County despite the complaints from members of the public on the illegal dealings in the said clinics which include conducting abortions and rape amongst others. Hon. Speaker, in the statement the Chairperson should inquire into and report on –

1. Why the County Executive has allowed a quack doctor to operate a clinic in the first place?
2. A list of all licensed clinics in the County?
3. What measures has the County Executive put in place to ensure that no illegal clinics are operating in the County of Nairobi?

Thank you, Mr. Speaker.

Hon. Acting Speaker: Thank you Hon. Doris. Chairman Health, Hon. Warutere

Hon. Peter Warutere: Thank you Mr. Speaker. This is a very weighty matter and I am looking at traversing from Githurai to the slopes of Kayole and how it will require a lot of time. I seek your indulgence that we consider two weeks as bare minimum. The matter was in the papers today and has been extensively covered by the media

Hon. Acting Speaker: Yes. We will still be in session and I want to solve it before we go for the long recess. Hon. Kanario, are you comfortable with the two week timeframe?

Hon. Doris Kanario: Mr. Speaker, two weeks is a long time. This is because it is an extraordinary matter and I believe that the Chairman can take up the matter as urgent because if we postpone this then we are not headed anywhere. Thank you, Mr. Speaker.

Hon. Acting Speaker: The Honorable Chair?

Hon. Peter Warutere: I am sure---

Hon. Acting Speaker: On the same issue? The Minority Whip, are you on a Point of Order?

Hon. Peter Warutere: I don't want to be informed by the Minority Whip

Hon. Acting Speaker: Are you on a Point of Order?

Hon. Peter Imwatok: Yes. The statement that has been read on the quack clinic cannot wait to be discussed in the next two weeks because it is a weighty issue and the KMPD has confirmed that they do not know the said individual. I was hoping that the Chair would propose that this Assembly adjourns to discuss the state of our private clinics as a matter of importance to the County. I propose that the Chair takes this seriously and not let this story die and report back once Nairobian's have forgotten.

Hon. Acting Speaker: Chairman Health, this issue is weighty as stated by Hon. Kanario and the Minority Whip. I am also aware that you would want to visit the sites and I do not understand how realistic it is going to be if we gave you one week. Let me not hold brief for you

Hon. Peter Warutere: Thank you Honourable Speaker. It is not in good faith that my good friend the Minority Whip is trying to hold brief on a committee that he left a longtime ago. I believe that this matter is weighty and we need to indulge to get facts. As he is saying that we need to discuss this as a matter of County importance, we need to have facts to do that. So, I am looking at the normal timeframe of seeking indulgence with the County Executive which will take a total of 7 days. However we can shorten the period. Kayole, Mathare and Kayole are far apart and so I plead with Hon. Kanario and my Whip to take a bare minimum of 10 working days. In the event that we get to work within the framework of 7 days then we will be much obliged Mr. Speaker

Hon. Acting Speaker: The Chairman, today is 7th [December]. 21st is a fortnight from now, it would be a Wednesday. Would that be ok, two weeks?

Hon. Peter Warutere: We will work within that framework.

Hon. Acting Speaker: Hon. Kanario? You are on Point of Order Hon. Wanjiru Kariuki, what is your Point of Order?

Hon. Kariuki Wanjiru: Hon. Speaker thank you. I would like to ask if it is in order for this house to discuss a matter that is in court. I am seeking guidance from you.

Hon. Acting Speaker: Thank you. The court is a different jurisdiction and an arm of government the same way the Assembly which is the County legislature and is a different arm. The process that happened in the court of law and the process that happened in the legislature are different. So, I suppose

that the Committee will be looking at licenses which is the purview of the County. They will also look at the staffing and environs where these clinics are operating. The court will be looking at the facts as far as the legality is concerned. Furthermore all these members here are representatives of the people who are purportedly treated. I think it is squarely within our mandate to try and get to the depth of the matter from a legislative point of view. Hon. Kanario, two weeks from now! Are you ok?

Hon. Doris Kanario: Ten days is ok.

Hon. Acting Speaker: Thank you very much.

Hon. Peter Warutere: The issue we are internalizing is a different matter completely. We are looking at his clinics and what was before court is a case that this purported doctor had with a different person. I think we should be able to deal with the issue at this level.

Hon. Acting Speaker: Fair enough. Leader of Minority do you have something to say?
Order Whip! Minority Leader I saw your mic. Did you want to say something?

Hon. Peter Imwatok: He [Majority Leader] donated his mic to me, Speaker. Thank you. I want to inform my Hon. Chair that he is right that what was before court was an issue of rape and what perturbs us as leaders of Nairobi is that after incident the KMPDB [Kenya Medical Practitioners and Dentists Board] which is in charge of all doctors in Nairobi didn't say this guy was not their member. Now because he has been identified as practicing without a proper documentation he is not their member. Therefore that gives this Committee opportunity to go in-depth and call those in charge of nurses and doctors before the Committee. I will have amicus curie role that you have seen so that we are able to know what is happening in this County in terms of health services.

Mr. Speaker I believe also that the member that seconded, 'Dr'. Mbithi is capable enough as a professional and can handle you well in that Committee. So don't worry. Also Ogeto is there.

Hon. Acting Speaker: The Leader of Majority?

Hon. Abdi Hassan: Thank you Mr. Speaker sir I just want to add more views here. This is a grave matter. I want the Chairman to broaden the scope of investigation not only to the clinics of Kayole but we also want information on how many clinics we have in Nairobi. How many are registered. Do the professions who are working in those clinics registered with their respective professional bodies? We want in-depth investigation on this matter because what transpired in Kayole is a very serious matter and we should take the health of people of Nairobi very seriously, thank you.

Hon. Acting Speaker: Chairman of Health Committee we are willing to give you the resources required for you to be able to do a broader study of the clinics and the issues that are surrounding the matter so that another quack does not show up. I don't know if your good Committee is willing so that next week they burn the midnight oil roaming around Nairobi so as to give us the necessary answers and we have a proper debate the ensuing week as the Leader of Majority is requesting.

Hon. Peter Warutere: Hon. Speaker I believe I have competent membership however for the interest of time my results could a little bit different from the framework of ten days. We need to internalize this issue and look it in a broader perspective because I believe this is a very weighty issue and we will be calling upon very many people within the timeframe of ten days. I wish in your wisdom you could give us a small extension of time so that at least we can have the liberty to really re look into this issue. I remember even one of the members had an issue that his Facebook had been hacked by the same person and he was displaying the photos of a very beautiful member of my committee to sort of scare her. I think in your wisdom let us see if we can get extension.

Let us get all that is required in terms of facilitation so that at least we can unearth this. We will not be limited to only Mugo Wa Wairimu's clinics but we will relook into all other quack clinics within the City. Public Health is devolved, we want to see who are aiding them. Other than working on a short span of time and give half-baked reports, let's have a proper indulgence. I am sure it will not serve well for the Chairlady of Women Caucus that we take limited time and we don't dig deep and come up with proper report.

Hon. Acting Speaker: Chair, because we had ruled on that issue, I am willing to give you time to work on it but on the dates that we have agreed, we need a progress report so that once you come with it you will be seeking for an extension to be able to do more coverage of what you want to do. We are looking at a situation where may be you will look into even doing an advert that the residents of Nairobi to come up and report possible quack clinics so that the report is based on even the messages from the public out there. But on 21st November, 2018, we want a progress report so that from that and the basis of what you have been able to gather, we will give you an extension. Is that okay?

Hon. Peter Warutere: Much obliged, Mr. Speaker.

(Hon. Ndonji rose on a Point of Information)

Hon. Acting Speaker: You want to inform Hon. Warutere? Hon. Warutere, are you willing to be informed by Hon. Ndonji?

Hon. Peter Warutere: After we are done with the Assembly, not now.

Hon. Acting Speaker: Hon. Ndonji, the Member does not wish to be informed.

(Point of Order)

Hon. Acting Speaker: You are on Point of Order on the same issue? Proceed.

Hon. Joseph Ndonji: Mr. Speaker, there are relevant Government bodies that deal with this. This House does not have the capacity to do that. We have Pharmacy and Poisons Board and Kenya Medical and Dentists Board that deal with this. If you want to know the number of registered clinics, you will get from them. They are the ones who have the capacity and knowledge. We will be duplicating our duties.

Hon. Acting Speaker: Order! The Chairman of Health will be sufficiently be guided by our team of --- we even have our own Public Health department in the County. They will give them the parameters of what they can do. I don't think the Medical Practitioners Board register quacks, so they might not have knowledge of people who are operating as quacks. But again these are our citizens who are being raped and malpractices happening on them, from a political or legislative point of view, we have grounds. So I will allow the Committee to bring their report and then we will negotiate it when we get there.

Let us go to the next statement. Hon. Kiriba.

(Hon. Acting Speaker left the Chair)

(Hon. Temporary Deputy Speaker (Mr. Evans Otiso) took the Chair)

STATEMENT REQUEST REGARDING BUS PARK CONSTRUCTION IN RIRUTA WARD

Hon. James Kariuki: Mr. Speaker sir, pursuant to Standing Order 45 (2) (c), I wish to request for a statement from the Chairperson of the Sectoral Committee on Transport and Public Works regarding bus park in Riruta Ward.

Hon. Speaker, the bus park construction works in Riruta stalled because of reasons well known to a contractor who is alleged to have been paid but up to date he has not yet delivered substantive work. Hon. Speaker, on the completion of the works, the bus park will serve a large population in Riruta area as it will be the only major bus park in the area

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

- i. Steps the County Executive is taking to ensure that the contractor completes the project; and
- ii. Status of the bus park as per now

Mr. Speaker, this bus park has since been abandoned and has been left in a dilapidated state whereby it is not accessible. Motorists are forced to use the same road for parking which has become difficult for the area residents.

Hon. Temporary Deputy Speaker: Chairman of Transport.

Hon. James Wamboi: Thank you, Mr. Speaker, I request 12 working days

Hon. Temporary Deputy Speaker: Hon. Kiriba, are you okay with that?

Hon. James Kariuki: Mr. Speaker, I agree with the 12 working days so long as we get a substantive report on the same. Thank you.

Hon. Temporary Deputy Speaker: Thank you. Next Order.

MOTION

AUDIT OF ALL LAW FIRMS AND LAWYERS CONTRACTED BY THE EXECUTIVE

Hon. Temporary Deputy Speaker: Hon. Kiriba.

Hon. James Kiriba: Mr. Speaker, I once again request for deferment of the said Motion for further research before it is brought for deliberations. Thank you.

Hon. Temporary Deputy Speaker: Hon. Kiriba, you are fond of differing Motions. Just approach the Chair so that we know the problem. This is the 3rd Motion you are differing.

Hon. James Kiriba: Mr. Speaker, I didn't get you.

Hon. Temporary Deputy Speaker: Approach the Chair.

Hon. James Kiriba: Hon. Speaker, I request for deferment of the Motion for a period of two months. I want to avail the list of the specific lawyers whom the Motion is targeting so as to inform the House appropriately.

Hon. Temporary Deputy Speaker: You are not giving reasons why you are deferring this Motion. Otherwise, we will discard it completely.

Hon. James Kiriba: Hon. Speaker, this is a Motion that has a weight. After careful consideration, I will have to amend the Motion to annex the list of the lawyers and the cases they have handled.

Hon. Temporary Deputy Speaker: Okay. Thank you. Hon. Waithera?

Hon. Waithera Chege: Hon. Speaker, I am just wondering whether it is in order for House Business to pass through his Motion and then he comes on the floor to say that he wants to withdraw.

Hon. Temporary Deputy Speaker: Hon. Whip.

Hon. Peter Imwatok: Hon. Speaker, I think this is a House of rules and procedure. I remember the precedent set before this House that we cannot postpone an agenda the House Business Committee has slated for debates more than twice. Therefore, Speaker, it means the said Motion dies naturally until when

the House Business Committee advises whether the same will be reintroduced or tabled again. As far as I am concerned, with my little knowledge of the Standing Order, this agenda by Hon. Kiriba might have some ulterior motives. As a House, especially on this side, we cannot debate about it. Therefore, Speaker, we are looking forward to your ruling. Hon. Kiriba should know how the Standing Order operates and to operate in this Assembly. I beg to support Hon. Waithera Chege that we must find our grounds right. Hon. Kiriba, I am sorry.

Hon. Temporary Deputy Speaker: Thank you Hon. Whip. Hon. Kiriba, you have something to say?

Hon. James Kiriba: Mr. Speaker, thank you. As I wait for your guidance, I still believe that the Standing Orders will allow us to amend a Motion in future. We need to be guided well. Otherwise, there is no ulterior motive in the Motion. It is only for the good of Nairobians. We cannot have lawyers being paid taxpayers' money for doing no job.

Hon. Temporary Deputy Speaker: Thank you Hon. Kiriba. I therefore defer the Motion to the House Business Committee to reconsider it.

ADJOURNMENT

Hon. Temporary Deputy Speaker: The House stands adjourned until tomorrow, 2:30 p.m.

(The house rose at 3.20 p.m.)