



NAIROBI CITY COUNTY ASSEMBLY

OFFICIAL REPORT

Second County Assembly – Second Session

Wednesday 1st August, 2018

The House met at 2.30 p.m.

[Hon. Speaker (Ms. Beatrice Elachi) in the Chair]

PRAYERS

QUORUM

Hon. Speaker: Serjeant-at-Arms, ring the bell for ten minutes.

(Quorum bell was rang)

PAPERS

The following Paper was laid on the table of the Assembly:

The consideration of the Nairobi City County Outdoor Advertising and Signage Control Regulation Bill 2018.

(By the Chairperson for Planning and Housing)

Hon. Speaker: Chairperson Transport, do you have your report? Majority Leader, I want you to be the last one.

Hon. James Mwangi: One week Madam Speaker.

Hon. Speaker: Do you have the report?

Hon. James Mwangi: Yes.

Hon. Speaker: Has it been laid?

Hon. James Mwangi: I don't have it with me, Madam Speaker

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Hon. Speaker: Okay. Majority Leader.

The following Paper was laid on the table of the Assembly:

The Nairobi City County Budget Implementation Review for the financial year ended 30th June,
2018

(By the Majority Leader)

Hon. Speaker: Thank you. It shall proceed to the Budget Committee

NOTICE OF MOTION FOR ADJOURNMENT UNDER STANDING ORDER NO.34

Hon. Speaker: Hon. Peter.

DEMOLITION OF PROPERTIES IN VARIOUS PARTS OF THE COUNTY

Hon. Peter Imwatok: Madam Speaker, thank you. I have a Notice of Motion for Adjournment on definite matter of urgent County importance pursuant to Standing Order No. 34; demolition of properties in various parts of the County.

Hon. Speaker, THAT aware that Nairobi City County in conjunction with the National Government has embarked on massive programme for the regeneration of the City whose programs include plans for demolition of old estates; noting that part of the said programme inevitably has resulted in multiple own going activities including demolition of structures in various parts of the County; concerned that the demolitions have none the less been carried out in the most inhumane and unjust manner with residents receiving short notices and suffering losses consequently; further concerned that no adequate measures have been put in place to ensure compensation and alienation of suffering by the affected residents; observing that certain demolitions particularly on small scale business premises and housing done in areas like Kibera, Mutindwa, Kaloleni, Mbotela, Makongeni, Dandora and Kenyatta University area are raising the City's unemployment rate whose net result will be increased crime and jobless youths; this Assembly adjourns pursuant to Standing Order No.34 in order to discuss the ongoing demolitions across the City and inhumane and unjust manner in which this said demolitions are being carried out.

I beg Members to support by standing

(Several Hon. Members stood up)

(Loud consultations)

(Point of Order)

Hon. Speaker: Yes, Majority Leader.

Hon. Abdi Hassan: I am on my feet.

Hon. Peter Imwatok: Follow the procedure, Madam Speaker. As I can see the Majority is on his feet.

Hon. Abdi Hassan: It is okay. I can see you have reached 20 in number but I have some concerns.

(Loud consultations)

Hon. Speaker: While I agree you have the numbers, let me hear the Majority Leader's point of order.

Hon. Abdi Hassan: Thank you, Madam Speaker.

Hon. Speaker: I agree you have the numbers.

Hon. Abdi Hassan: I am on Standing Order No. 34 (2). Let me begin from Standing Order 34 (1) so that the Member can understand. It reads. 34 (1); "*any member at any time rise in his or her place and seek leave to move the adjournment of the County Assembly for the purpose of discussing a definite matter of urgent county importance.*"

34 (2); "*a member who wishes to seek leave to move the adjournment of the County Assembly shall, at least two hours before the commencement of the sitting.*"

Madam Speaker, this Motion was taken to the office of the Speaker around 2:20 p.m.

(Hon. Imwatok stood on a Point of Information)

Hon. Abdi Hassan: Let me finish. I do not need a Point of information from you. I am not interested in being informed

Hon. Speaker: Order! Let him finish because he is on a Point of Order!

(Loud consultations)

Hon. Speaker: Order! Order, Hon. Ogeto! Proceed.

Hon. Abdi Hassan: Madam Speaker, Standing Order No. 34 (2) says that "*a member who wishes to seek leave to move the adjournment of the County Assembly shall, at least two hours before the commencement of the sitting---*" Protect me from Hon. Ogeto

Hon. Speaker: Order, Hon. Ogeto!

Hon. Abdi Hassan: "*---written notification of the matter but the Speaker shall refuse to allow the claim, unless the Speaker is satisfied that the matter is definite, urgent and of County importance and may properly be raised on a Motion for adjournment of the County Assembly.*" This Motion was brought in the last hour to the office of the Clerk and thereafter forwarded to your office. So, nobody can claim that it was brought yesterday because I am privy to that. I need your indulgence because the Motion gives you as the Speaker powers to look at it and determine whether it is urgent and of definite importance to the people of Nairobi.

When I go through this Motion---

(Loud consultations)

Hon. Speaker: Order, Hon. Ogeto! Order, Imwatok! Hon. Members, I never signed the Motion and it never came to my office at 2:30p.m. I told the Clerk to proceed and inform the Member that time was over.

(Hon. Imwatok spoke off the record)

Hon. Speaker: Order! I don't have any other. I know I only have one in my office that I haven't signed.

Hon. Peter Imwatok: Madam Speaker, there are two Motions before you. This Motion was supposed to be moved yesterday, unfortunately, I came when the Order had passed. I was advised by the Clerk that I table this Motion today on the demolition of these illegal structures in Nairobi. The Motion which is suspended is the Motion on address of the state of the County which the Clerk has advised that the time you presented this Motion was overtime. So, I have two Motions, the first one which was supposed to be tabled yesterday on the demolition of these illegal structures and the second on the state of the County. I beg that these Hon. Members are allowed to discuss suffering of our people. In my own Ward---

Hon. Speaker: Order! You are now debating---

Hon. Peter Imwatok: Madam Speaker---

Hon. Speaker: Order, Minority Whip! I have made my ruling that I have not signed. It is on my table and I don't want to argue. It came at 2:30 p.m. While you agree that we have to follow procedures, I used the same procedure of the Standing Order that I cannot sign---

Hon. Peter Imwatok: Madam Speaker, yesterday when the Motion was before this House, was it wrongly---

Hon. Speaker: That one, I don't know. I want to answer what I have seen today. The best thing is to follow the procedure. Nobody has denied because it is the procedure. Can we proceed now on another matter?

(Point of Order)

Hon. Moses Ogeto: Hon. Speaker---

Hon. Speaker: But not on this matter because I have closed it.

Hon. Moses Ogeto: Hon. Speaker, I am on a Point of Order No.34 (1) which gives you explicit powers to--- we can't read Standing Order No. 34 (1) then we leave No.34 (2). If you have seen Members who are willing to help the residents of Nairobi---

Hon. Speaker: Order! Hon. Ogeto, the moment the Speaker makes a ruling, surely, you cannot come on a Point of Order on the ruling. I don't want us to argue, I have just said you follow the procedures. Let us proceed to the next Order.

(Loud consultations)

Hon. Speaker: I have made a ruling, respect your Standing Orders. Proceed, Clerk.

(Notice of Motion dropped)

STATEMENTS

REQUEST ON THE STATEMENT ON THE ILLEGAL OCCUPATION OF THE COUNTY GOVERNMENT PREMISES AT THE WARD LEVEL

Hon. Speaker: Hon. Waithera.

Hon. Waithera Chege: Thank you, Madam Speaker. Pursuant to Standing Order 45 (2) (c), I wish to request for a statement from the Chairperson of the Sectoral Committee on Justice and Legal Affairs regarding the illegal occupation of the County Government premises at the ward level.

Hon. Speaker, unknown persons have invaded County Government premises at the Wards to establish all kinds of businesses, making it impossible for members of the public to access such offices with ease, for instance, Nairobi South Ward. This invasion has resulted in disorder and increased opportunities for insecurity.

Hon. Speaker, Government office premises are reserved for offering Government services. As it is, several services are yet to be decentralized at the ward level as envisaged by the County Government Act allegedly due to lack of space and facilities.

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

- i. Who authorized unlawful use of County Government's premises meant for offices and service delivery for commercial purposes; and
- ii. The County Government's plan to remove the illegal businesses currently occupying its premises meant for administrative purposes in Nairobi South Ward.

Thank you.

Hon. Speaker: Chair Legal.

Hon. Jayedra Malde: Thank you, Madam Speaker. We request for two weeks.

Hon. Speaker: On the spirit of handshake, Order!

(Laughter)

(Hon. Ogeto spoke off the record)

Let us first finalize the statements. He is still standing, he hasn't answered. I will give you.

Hon. Jayedra Malde: Madam Speaker, we request for two weeks to investigate the matter.

Hon. Waithera Chege: Madam Speaker, I don't seem to agree with the Chair on Justice and Legal Affairs Committee because just the other day, we met the Director of Operations with him and we gave him two weeks which he was not able to sort. I want to humbly request the Chair to at least try by Monday. We are not able to serve the residents of Nairobi South because of the occupation. Kindly give instructions that the Chair gives an answer before Monday.

Hon. Speaker: Hon. Chair.

Hon. Jayedra Malde: Madam Speaker, Monday is a very short time. Please we need to weeks so as to investigate the matter thoroughly.

Hon. Speaker: Hon. Chair, it is a weighty matter.

Hon. Jayedra Malde: With your indulgence, give us one week.

(Hon. Member spoke off the record)

Hon. Speaker: Order! He has said one week. You want to assist him. Hon Chair it is a weighty matter, I want you to come together and agree.

Hon. Speaker: Order! He has said one week, you want to assist him on five days or what? Order Minority Whip! Minority Whip, you know I will throw you out. Order!

Hon. Waithera Chege: That is fine, Madam Speaker.

Hon. Speaker: Hon. Ogeto, proceed with your Order No. 41.

(Point of Order)

Hon. Moses Ogeto: Thank you, Hon. Speaker. Since I have seen all the leadership of Jubilee is in the House today, I don't know what has happened. Hon. Speaker, I am on a Point Of Order No. 41 and I am requesting for your directive again so that we can move to Motion No. 8---

(Applause)

Hon. Speaker this Motion talks about very serious issues about the Legal department which currently we don't have in Nairobi County.

Hon. Speaker: Order! Now you have anticipated debate already and you want to change--- Order!

MOTION

FRESH AUDIT OF ALL LAW FIRMS AND LAWYERS CONTRACTED BY THE COUNTY

Hon. James Kiriba: Madam Speaker, THAT aware that the payment of legal fees has for long been a cash cow for unscrupulous lawyers and their conspirators within the County Legal Services Sector; noting that last year the Deputy Registrar of the High Court slashed legal fees of Ksh.1.1 billion demanded by Momanyi & Associates Advocates, and which the previous County Government had agreed to settle, having initially paid Ksh.60 million as part payment, to just Ksh.1.3 million; deeply concerned that the foregoing merely demonstrates that the rot that has been brought by the unscrupulous lawyers and law firms launching spurious exaggerated claims of legal fees, which often times got settled by collusion from County employees; recognizing that the County still faces a huge debt bill owed to lawyers and law firms, which the Governor has now subjected to review to establish their veracity via the newly constituted Pending Bills Task Force; keeping in mind that if drastic action is not taken, and keeping in line with the country's overall the renewed spirit to face corruption and theft of public monies head on to weed the County off unscrupulous law firms and lawyers, the County will continue to hemorrhage ---

(Hon. Majiwa spoke of the record)

Hon. Speaker: Order, Hon. Majiwa! You know you are thinking--- This is a County Assembly!

Hon. James Kiriba: ---money at the hands of unscrupulous individuals in the legal profession; this Assembly resolves that the County Executive undertake a fresh audit of all law firms and lawyers it has contracted and contracts to date for purposes of weeding out unscrupulous lawyers and law firms that has consistently been mentioned in corrupt claims meant to steal public funds, whether in the Nairobi County or anywhere else in the republic.

Madam Speaker, I pray for this House to defend on some of these things because after requesting for this Motion, I have received phone calls and also threatening messages, I have been harassed. The aim

of this Motion is to save the County of Nairobi and also the tax payers monies lost through some deals. Therefore, I pray that the Assembly debates this and probably these lawyers found to have extorted monies--

(Loud consultations)

Hon. Speaker: Order! Let him finish reading the Motion. Proceed.

Hon. James Kiriba: Madam Speaker, I pray for this Motion to be pushed forward to another day please.

(Loud consultations)

Hon. Speaker: Order, Hon. Members! Hon. Kiriba, you can't move the Motion and in the middle--- Let me finish first.

(Loud consultations)

Hon. Chege Mwaura: Madam Speaker---

Hon. Speaker: Order, Hon. Members!

Hon. Chege Mwaura: Madam Speaker, the Hon. Member who is supposed to second the Motion has just left. So, Hon. Kiriba was requesting if he can get another member to second this Motion and that is why he felt that he should push it to a time when the seconder of the Motion will be here.

(Loud consultations)

Hon. Speaker: Now, this is my reading of our Standing Orders; you know the Motion is not even on the floor yet because it has not been read completely and it has not been seconded. If he has been withdrawn, we cannot say we push it to another day, it means we have collapsed that Motion. That is the reading of our Standing Orders. You can't proceed again because you are on *HANSARD*.

Hon. Chege Mwaura: Madam Speaker, the Hon. Member had requested that it be brought on another day and---

(Loud consultations)

Hon. Chege Mwaura: Can I finish?

Hon. Speaker: Order!

Hon. Chege Mwaura: He had requested through the Chair and the Chair has been able to advice the Member that you cannot do that unless you kill the Motion. He didn't know that, he is going to finish as he is supposed to do and once he does that he will get another seconder and then we proceed. It is not a problem.

Hon. Speaker: Hon. Whip, I want us to go to Motions in our Standing Orders. He started moving this Motion and in between before he calls in somebody to second, he prays for leave to withdraw for another

day. I wish he did the whole process, call in a seconder of the Motion and then said we stop from there because you have already put the Motion in the House. However, for now the Motion is collapsed.

I want to read the Standing Orders, I will read 54(1) (2) and (3) so that the Member understands. 'Where no Member moves a Motion at the time specified by or under this Standing Order such Motion shall not again be published in the Order Paper during the same session except with the leave of the Speaker'. So, first of all I need to tell him I cannot decide here. I have to go back to our House Business Committee and we agree on that because they are the ones who give us business. So, Whip---

(Loud consultations)

Hon. Chege Mwaura: Excuse me, Madam Speaker, you read the Motion as is normally done or as it is put in the Order Paper. Now, in between that if a Member does not read what is in the Motion and he had requested that it be put on another day---

Hon. Speaker: I want you to read me the Standing Order, Whip.

Hon. Chege Mwaura: What I am saying is that he was out of order, so, in your wisdom, what you should do is give him guidance about the Motion and if he is out of order then he will return to the Order. If he is not--- *(Loud consultations)* I am not challenging.

(Point of Order)

Hon. Speaker: Yes, Hon. Majority Leader.

Hon. Abdi Hassan: Madam Speaker, when you look at Standing Order No. 54(3) it says, 'Where no member moves a Motion...' and the member has moved the Motion and if you go to Standing Order 55(1) it says; "Withdrawal of a Motion--".

Hon. Mary Mwami: Point of Order, Madam Speaker.

Hon. Speaker: He is on a Point of Order, Mary. Proceed, Majority Leader.

Hon. Abdi Hassan: Madam Speaker, Standing Order 55(1) says; 'A notice of motion may be withdrawn by the member who gives the notice but the notice of the same motion may be given again either by the same member or by another member.' You go to two and it says; "despite paragraph 1 notice of a Special Motion may not be withdrawn except with the leave of the counties---" Can you define it for me, is it a Special Motion?

Hon. Speaker: No, there is a Special Motion Majority Leader.

(Loud consultations)

(Point of Order)

Hon. Speaker: Order, Members!

Hon. Geoffrey Majiwa: The ruling that you used, you should use the same one.

Hon. Speaker: I have used it and I have finished. Yes, Hon. Geoffrey Majiwa, why are you raising your hand, why are you standing?

Hon. Geoffrey Majiwa: Because you don't seem to see me.

Hon. Speaker: Yes, because I can't see you here on the mic screen. Kindly sit. It has to show me on the screen that Hon. Geoffrey Majiwa's mic is activated. I can't see you so I have nowhere to give you the mic.

Hon. Geoffrey Majiwa: Thank you, Madam Speaker.

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

Hon. Geoffrey Majiwa: I am on a Point of Order and mine is slightly different because I need to be informed personally. Madam Speaker if I read this Motion that we are arguing about here I look at it like more or less an administrative matter. I don't know whether these administration matters are what we call into a motion and bring to the Assembly.

Hon. Speaker: Do you want to be advised on that Hon. Geoffrey Majiwa?

Hon. Geoffrey Majiwa: Yes, if I can bring such things as Motions then we should all know that the following day I have something that administratively can be handled on the other side and I can come with it here as a Motion. This one I look at it like administrative work that can be handled on the other side.

Hon. Maurice Gari: *(inaudible)*

Hon. Speaker: Order Hon. Gari, withdraw that! There are no noisemakers in this Hon. House so withdraw that.

Hon. Maurice Gari: I withdraw, but Madam Speaker you had made the ruling and your ruling is final. Why are we making noise here, what are we debating? We need you to take us back to Naivasha, the whole House...

Hon. Speaker: Hon. Members, this is my ruling. I have withdrawn the Motion and it will go back to the Rules and Procedures and House Business Committees and they will know the day it will come back on the Order Paper.

(Motion withdrawn)

ADJOURNMENT

Hon. Members, there being no other business the House adjourns to tomorrow the 2nd of August, 2018.

(The House rose at 3:50 p.m)