



NAIROBI CITY COUNTY ASSEMBLY

OFFICIAL REPORT

Second County Assembly – Third Session

Tuesday 11th June, 2019

The House met at 2.30 p.m.

[Hon. Deputy Speaker (Mr. John Kamangu) in the Chair]

PRAYERS

QUORUM

Hon. Deputy Speaker: Serjeant-at-Arms, ring the bell for 10 minutes.

(Quorum bell was rang)

Hon. Ochola, please sit down and let us raise the quorum first! Clerk proceed, we have the quorum. Serjeant-at-Arms, make sure he does not go out.

PAPER

Hon. Deputy Speaker: Hon. Kados, on behalf of Majority Leader.

Hon. Paul Kados: Thank you, Deputy Speaker. I beg to lay the following paper on the Table of the Assembly, today Tuesday 11th June 2019: Outcome of the court case viz Beatrice Kadeveresia Elachi vs Nairobi City County Assembly Service Board and another (2018). Hon. Speaker, I beg to lay.

(The paper was laid on the Table)

Hon. Deputy Speaker: Thank you, Hon. Kados. I have a direction to make.

Hon. Members, Standing Order No. 2 provides as follows regarding Papers: *“Paper means any printed or electronic material laid on the Table of the County Assembly or a committee of the County Assembly pursuant to any law or these Standing Orders or any other material as the Speaker may determine.”*

Hon. Members, the Leader of the Majority Party has just laid before the House the outcome of the court case viz Beatrice Kadeveresia Elachi vs. Nairobi City County Assembly Service Board & Another (2018). Therefore, it is my prerogative to determine how we dispense with this Paper so that the House it is properly informed of the Court's Findings. I direct that the Paper be committed to the Select Committee on Assembly Business. The House expects to be advised on how it proceeds with the new development soonest possible. Thank you.

Clerk, Proceed.

NOTICES OF MOTIONS

Hon. Deputy Speaker: Hon. Mbugua Kabiro, you are not prepared. Hon. Doris, are you prepared.

Hon. Doris Kanario: Yes!

Hon. Deputy Speaker: Proceed!

A POLICY ON YOUTH, WOMEN AND PERSONS WITH DISABILITY EMPOWERMENT FUND

Hon. Doris Kanario: Thank you, Hon. Speaker, I beg to give notice of the following Motion:-

That , aware that Article 21(3) of the Constitution 2010 provides for all States Organs and public officers to address the needs if vulnerable groups within the society, including women, persons with disabilities, youth among others. Further, aware that Part II of the Fourth Schedule to the Constitution provides for the functions of the County Government, which is to support enterprises for women and youth in the County, by establishing and providing for the administration of youth and women empowerment fund, ensuring and coordinating. The participation of communities and locations in the governance at the local level and assisting communities and locations, to develop the administrative capacity for the effective exercise of the functions, powers and participation in the governance at the local level.

Acknowledging, that there has been a high number of youths and women who contribute greatly to the development of Nairobi City County through small and medium scale enterprises; Disturbed that most youths and women in the County cannot easily access credit facilities and lack of securities and guarantors. This Assembly urges the County Assembly to develop a policy to establish the County Youth, Women and Persons with Disability Empowerment Fund and set out provision relating to the procedures for application of loans and conditions for grant of loan to youth and women in the County. Thank you Hon. Speaker.

Hon. Deputy Speaker: Hon. Silas Matara!

DEVELOPMENT OF REGULATIONS AND POLICY FOR CIVIC EDUCATION PRIOR TO ANY PUBLIC PARTICIPATION

Hon. Silas Matara: Thank you Hon. Speaker for giving me this opportunity. I rise to give Notice of the following Motion:

Aware, that Article 35(1) (a) of the Constitution of Kenya 2010 provides that every citizen has the right of access to information held by the state. Further aware that section 7 (2) (d) &(e) of the Nairobi City County Public Participation Act, 2015 Provides that the County Government shall establish appropriate mechanism, process and procedures to enable the public participate in the affairs of the County and shall

provide for but not limited to consultative sessions with locally recognized communities, organizations and where necessary minorities and report back to the local community in a timely manner;

Appreciating that the County government of Nairobi City has been in the past been able to engage members of the general public on key decision making as the case with budget making process in the County as provided in section 125(2) of the Public Finance Management Act 2012.

Concerned that limited constitutional timelines often hinder the level of engagement with the public and dissemination of the required information to facilitate and inform feedback and contribution by the general public on the subject matter in this question;

Further concerned that with diverse academic backgrounds there is need for the public to be informed on the decision in question, its significance and effects of such decision in a civic education manner to make the public make an informed decision and add value to such process.

This Assembly urges the County Executive to urgently develop a policy and regulation that will govern conduct of civic education in line with Nairobi City County Public Participation Act 2012 and the County Government Act 2012. Thank you, Mr. Speaker.

Hon. Mbugua Kabiro: Thank you very much Mr. Speaker I beg to give notice of the following Motion: That aware that the Constitution of Kenya 2010 grants the citizens of this republic comprehensive rights and fundamental freedoms.

Further aware that all over the world governments are established by society in order to deliver public good, works and service and administer policy and laws that are necessary and beneficial to society. Where the government is required to provide one form or other public service in order for the rights and liberty contained in the Bill of Rights to be realized and to develop policies, laws and constitutional or undertake programs to provide, protect or fulfill these rights;

Concerned that recent years have witnessed increased cases of arbitrary arrests, harassment and extortion of traders and other members of the public by the City Inspectorate and revenue collection employees thus infringing on the rights and fundamental freedoms of residents;

Further concerned that some of the officers who engage in such heartless acts do not face the full face of the law and due to lack of effective complaint handling mechanisms in the County, noting that huge loss of revenue has been incurred by the County Government due to extortion by such employees at the expense of service delivery to residents of the county.

Acknowledging that effective complaint handling is a crucial part of quality service delivery in an institution as it helps in identifying weak areas and create motivation for continual improvement, provides opportunity for organizations to understand its customers and ensure that issues they raise are quickly resolved and improves the reputation of the institution and provide with information on how its staff treats customers thus promotion of accountability for both institutions and its staff.

This Assembly urges the County Executive to develop a policy that provides for the establishment of the Office of the County Ombudsman to receive and process complaints with a view to fostering a performance oriented culture that seeks to revamp the process through which the County Government operates in order to increase efficiency, effectiveness and to inculcate a culture of client oriented mission and quality enhanced management in the County.

Hon. Deputy Speaker: Thank you very much Hon. Kabiro. Continue!

Hon. Mbugua Kabiro: Thank you very much Mr. Speaker. My second notice of Motion is: That aware that Chapter Four of Constitution of Kenya 2010 provides for the Bill of Rights which is an integral part of Kenyans democratic state and it is the framework for social economic and cultural policies.

Further aware that the purpose of recognizing and protecting human rights is to preserve the dignity of individuals and communicates and to promote social justice and the realization of potential of all human beings.

Recognizing that several individuals and organizations have served the County at various levels with dedication and splendid work towards the betterment of Nairobi City County and its residents.

Concerned that such individuals and organizations have not been recognized for their outstanding performance in the public service in the County; Noting that individuals and organizations have upheld the rights of others serving communities above themselves and contributing to nation building through outstanding service and achievements.

This Assembly urges the County Executive to develop a policy on conferment of civic honours to provide for recognition and appreciation of the extraordinary acts of service made by individuals and organizations that performed tremendously in their work to the County and its residents.

Mr. Speaker can I proceed?

Hon. Deputy Speaker: Hon. Kabiro you can proceed with the third one.

Hon. Mbugua Kabiro: The third and the last.

Hon. Deputy Speaker: I hope it is the last one.

DEVELOPMENT OF A POLICY ON CONSERVATION AND MANAGEMENT OF COUNTY FORESTS

Hon. Mbugua Kabiro: That, aware that Article 42 of the Constitution of Kenya provides that every person has a right to a clean and healthy environment which includes the right to have the environment protected for the benefit of the present and future generations through legislation and other measures; further aware that Article 69 of the Constitution provides for the state to encourage public participation in management protection and conservation of environment and eliminate processes and activities that are likely to endanger the environment; acknowledging that the County government is empowered to implement specific National Government policies on natural resources and environmental conservation including forestry as provided in Part II of the Fourth Schedule of the Constitution of Kenya; Concerned that since independence, Kenyans from all walks of life have been demonstrating and picketing mostly using tree branches and twigs whenever there is a matter to be discussed by the relevant authorities such demonstrations and picketing ends with destruction of environment and most specifically to unscrupulously and indiscriminate destruction of indigenous and exotic trees which may cause flooding and erosion during rain seasons, global warming amongst other harmful effects to the environment; Noting that it is an offence for any person to fell or cut, take, burn, injure or remove any forest produce as provided for in Section 64 (a) of the Forest Conservation Management Act of 2016; this Assembly urges the County Executive to develop a policy on conservation and management of County forests to safeguard the city's green scenery from wanton destruction and spur development of a greener Nairobi City.

Thank you very much Mr. Speaker.

Hon. Deputy Speaker: Thank you Hon. Kabiro. Next order Clerk.

STATEMENTS

RATIONING OF WATER IN THE COUNTY

Hon. Jeremiah Themendu: Thank you Hon. Speaker. Pursuant to Standing order 45 (2) (c), I wish to request for statement from the Chairperson of the Sectoral Committee on Water and Sanitation regarding the water rationing in the County by the Nairobi City Water and Sewerage Company Limited and blocked water pipes in the County particularly Kayole Central.

Hon. Speaker, recent years have experienced inadequate water supply across the County which has forced the Nairobi City Water and Sewerage Company Limited to ration the distributing of this important commodity. The residents of Kayole Central Ward are undergoing undue suffering due to inadequate water supply despite the Nairobi City Water and Sewerage Limited developing a schedule on rationing of water across the County.

In addition, most water pipes in the area are blocked making it more difficult for the residents to access the limited water available. Hon. Speaker, in the statement, the Chairperson should inquire into and report on:

1. Reasons for not supplying adequate water to the residents of Kayole Central Ward despite having a schedule on the same;
2. Measures the County Executive is taking to ensure that the blocked water pipes are unblocked and when; and
3. Measures the County Executive is taking to ensure that the residents of Kayole Central and the County at large receive adequate water supply without delay.

Thank you, Hon. Speaker.

Hon. Deputy Speaker: Hon. Leah, Vice-chair Water and Sanitation, how many days?

Hon. Leah Supuko: Thank you Mr. Speaker, I think the Chair is in the House.

Hon. Deputy Speaker: I have not seen him today. Is the Chair Hon. Kados in? How many days? Proceed Hon. Kados.

Hon. Paul Kados: Let me request for nine days Hon. Speaker.

Hon. Deputy Speaker: Nine days. Hon. Themendu, are you comfortable?

Hon. Jeremiah Themendu: I am comfortable Hon. Speaker.

Hon. Deputy Speaker: Thank you. Clerk Next order! Chairman Transport?

Hon. Joyce Kamau: I wish to read the response on behalf of the Chairman

Hon. Deputy Speaker: Is Hon. Ngengi around? Were you invited by the committee?

Hon. David Ngengi: Yes Hon. Speaker. I was invited by the committee

Hon. Deputy Speaker: Proceed Chair

Hon. Joyce Kamau: Hon. Speaker, on 27th March 2019, Hon. David Ngengi rose on the floor of the Assembly pursuant to Standing Order 45 (2c) and requested the Chairperson of the Sectoral Committee on Transport and Public Works for a statement regarding harassment of bicycle riders in the Central Business District by County *askaris*. In the statement, the Member requested that the Chairperson should inquire into and report on;

1. Clarification on whether the ban includes bicycles and cyclists?
2. If not, why the county Government continues to allow the harassment of innocent cyclists despite massive outcry from the affected residents?

3. Measures put in place by the County Executive to safeguard the right of cyclists who often find themselves at the mercy of County askaris?
4. Number of arrests made and prosecutions undertaken on cyclists and action taken against officers perpetuating this illegality?

Hon. Speaker, the committee wrote to the County Executive Committee Member responsible for Public Works, Roads and Transport inviting him to a meeting of the committee that was held on the 24th April 2019 at the County Assembly pursuant to Standing Order 45 (2d). The purpose of the meeting was to enable the CEC Member to furnish the committee with a response to the statement by the member. Hon. Speaker, the committee also wrote to Hon. David Ngengi inviting him to attend the said meeting of the committee. The Member was present in the said meeting and in this regard Hon. Speaker, I wish to report to the Assembly as follows.

Hon. Speaker, the CEC member made reference to the provisions of the Nairobi City County Public Works and Traffic Management Bill 2018 that was withdrawn from the Assembly. Part 3 of the Bill has comprehensively made provisions of operations of PSV motorcycles in the County and that the Bill was withdrawn to have it redrafted to have it capture emerging issues including private motorcycles and carriers. Once passed, the Bill will help the sector adequately regulate PSV motorcycles, private motorcycles and carries.

The committee was further informed that the notice issued by the County in January 2018 banning motorcycles ferrying passengers to and from the Central Business District did not include the private riders and carrier services motorcycles. Therefore, the alleged harassment of private riders by officers of the Inspectorate Department of the County is in violation of the notice. Hon. Speaker, the matter therefore lies in the mandate of the Sectoral Committee on Justice and Legal affairs. However, the committee requested the CEC Member to write to their counterparts in the Inspectorate Department raising the concerns in view to have the *askaris* allow private riders and carriers motorcyclists operate without interference.

The committee further requested that the communication be shared with Hon. David Ngengi who will liaise and inform the association of private riders whose chairperson was invited and attended the meeting of the committee. Hon. Speaker, a copy of the detailed response has been given to Hon. David Ngengi who requested for the statement and a further copy is hereby attached to this report. The member was satisfied with the response. Hon. Speaker, I beg to lay this response. Thank you.

Hon. Deputy Speaker: Hon. Ngengi, are you comfortable with the response?

Hon. David Ngengi: Hon. Speaker. I am comfortable. However, there is a small issue where I was supposed to have received a report from the Justice and Legal Affairs Committee and I have not. Kindly request the committee to provide the necessary information. Thank you very much.

Hon. Deputy Speaker: Hon. Oyugi, proceed with your statement

Hon. Kennedy Oyugi: Ah---

Hon. Deputy Speaker: Did you want to add anything on your statement? Hon. Oyugi, just a minute, proceed.

Hon. Peter Imwatok: Hon. Speaker, may I say to the committee that has given a report to *Mheshmiwa* Ngengi that in as much as the member is satisfied with it, it is also the prerogative of the House to be satisfied. This issue of cyclists and *tuktuk* touches on most of us in the Wards.

These young men and women who are privileged to be in this business are there to earn income. As a House, it is not enough that we have a Bill that was withdrawn which was supposed to cure the issue of motorcyclists in the CBD.

Mr. Speaker, in the modern society, we cannot allow a county to degenerate into notice legislation. That a CEC Member wakes up in the morning and does legislation in a notice form and declare as an illegality. As it stands, there is no law that says *bodaboda* should not be in the CBD. Most of our young men in Eastlands went for loans to buy *bodaboda*.

I am happy that two weeks ago, the Governor released all the *bodabodas* which had been impounded. You can imagine how many of these young men have been listed in the Credit Reference Bureau (CRB). The Governor declared executive order that all *bodabodas* should be released but already these young men who took loans from banks have been listed in the CRB. The committee involved must fast-track and bring a proper Act before this House so that we can work in a legal manner. The County Government must understand that the same young men and women are voters in this County. As much as they are seen to be a menace, but it is a source of income for their children and their families.

Therefore, the County Government should develop a system on how these people continue to sustain their families and their lives. They should also designate routes to these motorcycle riders. It is high time the committee takes charge because the Executive side is joking.

As much as Hon. Ngengi is appreciating the statement, on the other side we believe Nairobians deserve equal chances to live and earn. We cannot demonize them. I ask this Committee to fasten the process of bringing back the Bill to this House so that we look at it. If possible, we can give the riders a day that they can come to CBD and do their business. Thank you.

Hon. Deputy Speaker: Noted. Hon. Oyugi.

Hon. Kennedy Oyugi: Thank you, Hon. Speaker. Pursuant to Standing Order No. 45 (2) (c), I wish to request for a statement from the Chairperson of the Select Committee on County Finance, Budget and Appropriations regarding the construction of stadia across the city over the preceding two financial years.

Hon. Speaker, this Assembly has over the last two financial years set aside funds for the construction of stadia across the City. So far, the County is constructing four stadia at different stages of completion. There are allegations that the said constructions have been marred with procurement irregularities with projects not implemented as budgeted for as evidenced by irregular variations in the budget.

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

1. The total sum set aside for the construction of the stadia over the last two financial years;
2. Status of the projects including the sums paid out and certified completion certificates;
3. Names of contractors and subcontractors working on the four projects;
4. Number of contracts signed and awarded in the financial year 2018/2019; and
5. Overall absorption rate in as far as development vote is concerned for the financial year 2018/2019.

Hon. Deputy Speaker: Hon. Chair of Budget and Finance, Hon. Mbatia? Any member who can stand on behalf of the committee?

Hon. Emily Oduor: Thank you, Hon. Speaker. Hon. Oyugi, we have noted your concern. After next week, we will give the response.

Hon. Deputy Speaker: Hon. Oyugi, are you comfortable?

Hon. Kennedy Oyugi: Hon. Speaker, I wonder whether you got what the member said. A week after next week?

Hon. Deputy Speaker: Two weeks. Are you comfortable with that?

Hon. Kennedy Oyugi: Hon. Speaker, I am not comfortable. The reason being, if you look at No.4 and No.5, we are talking of absorption rate, which I want to believe is too low and which is not expected of us as a county. We have been passing supplementary budget and yet the absorption rate in terms of development is so low. We want to know why. Moreover, we are nearing the end of the financial year. Therefore, two weeks will be too much. This is a matter of report.

Hon. Deputy Speaker: Give and take.

Hon. Emily Oduor: Hon. Oyugi, as we talk, we are actually working on the estimates and as a committee, we are also very concerned about the absorption rates and those are some of the things we are dealing with, we are working with the Executive and I believe we are going to bring a very comprehensive report on the absorption rate. As we work towards the 2019/20 budget, those are some of the concerns we have been dealing with. So, that is why I am asking for time so that we finish the estimates and we go into this so that we give you a good result. I think it is not only you, but all Members of the County Assembly would want to hear that and even the sectors.

Hon. Deputy Speaker: Hon. Anyule.

Hon. Peter Imwatok: Mr. Speaker, I think the member for Budget and Appropriation is not capturing the spirit of the question by Hon. Oyugi. The spirit of the question is that we have only two weeks before we get to the end of the financial year. And this question that Hon. Oyugi has asked is just information based. If it is the issue of the contract, give the information. Was it validly awarded? Yes or no. It is just basic information. The Hon. Governor while on Jeff Koinange Live, confirmed to Nairobians that by the end of this April, Nairobians will have 4 stadia. 4 modern stadia. And Oyugi is just asking the basic information. Whether the 4 stadia are ready and where they are. How much did it cost? When is it completed? Who was awarded the contract and at how much? Is he a Kenyan or a foreigner? Simple basic question. With all the intelligence you have, it takes only 24 hours.

Hon. Deputy Speaker: Hon. Emily, any other offer apart from two weeks?

Hon. Emily Oduor: I will consult and let me give you next week on Thursday because we can't sit this week because there are issues we are dealing with. So, next week Thursday. Is that okay with you?

Hon. Deputy Speaker: Thank you. Next order.

Hon. Kennedy Oyugi: Mr. Speaker, I agree with next week Thursday, and in line with the request by His Excellency the Governor, he had asked Members to help him in matter oversighting. So, Thursday will be quite in order.

Hon. Deputy Speaker: Thursday is okay. Thank you. Clerk.

(Hon. Rose stands on a Point of Order)

What is the point of order Hon. Rose?

Hon. Rose Ogonda: Mr. Speaker, we don't have a quorum.

Hon. Deputy Speaker: Which Standing Order number are you using? Order! Clerk, proceed.

THE NAIROBI CITY COUNTY CORPORATIONS BILL 2019

(FIRST READING)

(The Bill was read accordingly)

ADJOURNMENT

Hon. Deputy Speaker: Hon. Members, there being no other business, the House stands adjourned until tomorrow, 2:30 p.m. The House Business Committee to meet immediately after this. Thank you and God bless you.

(The House rose at 4:10 p.m.)