



NAIROBI CITY COUNTY ASSEMBLY

OFFICIAL REPORT

Second County Assembly – Third Session

Wednesday 12th June, 2019

The House met at 2:30 p.m.

(Hon. Deputy Speaker, John Kamangu, in the Chair)

PRAYERS

QUORUM

Hon. Deputy Speaker: Serjeant-at-Arms, please ring the bell. We don't have a quorum for now.

(Quorum bell was rung)

Clerk, proceed. We have a quorum now.

STATEMENTS

Hon. Deputy Speaker: Hon. Redson?

Hon. Redson Onyango: Hon. Speaker, pursuant to Standing Order 45 (2c), I wish to request for a statement from the Chairperson of the Sectoral Committee on Health Services regarding delayed completion of important projects in the County. Hon. Speaker, this Assembly is mandated to allocate and approve budgets for various County government development initiatives every financial year. The Assembly has without doubt played this role promptly over the years pursuant to Standing Orders and the Public Finance Management Act 2012. For instance, the construction of toilet facility of stage 46 in Ngei Ward was allocated funds in 2014/15. Even though the said facility is critical to the residents of the Ward, it has not been useful to the residents because it lacks the requisite waste management and sanitation system. In essence, it has been utilized since its construction hence there is no value for money.

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

1. The measures being put in place by the County Executive to have the toilet facility completed and opened for public use; and.
2. What steps the County Executive is taking to ensure that such facilities are adequate in the wards to enhance hygiene and sanitation.

Hon. Speaker, pursuant to Standing Order 45 (2c), I wish to request for a statement from the Chairperson of the Sectoral Committee on Health Services regarding provision of important supplies to health facilities in the County. Hon. Speaker, article 43 (1a) of the Constitution provides that every person has a right to the highest attainable standard of health which includes right to health care services including reproductive healthcare. Further, the 4th schedule of the Constitution gives the county government the mandate over the county health services.

Hon. Speaker, most health facilities in the county for instance Lions Health Clinic in Ngei Ward have been subject to imminent and insufficient supply of important materials for their day to day running and services provision to the residents. The said health facility's chronic shortages of drugs and pharmaceuticals, leaking roofs and poor structural fittings, inadequate water supply and sanitary facilities, staff shortages and need for facilities to offer maternity services.

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

1. Measures the County Executive has put in place to ensure that Lions Health Clinic receives adequate supplies for its operation;
2. Steps the County Executive is taking to provide adequate staffing to the health facility;
3. Measures the County Executive has put in place to introduce maternity and reproductive health services at the health facility; and
4. Steps the County Executive has taken to ensure that the facility is supplied with adequate water and that necessary repairs and maintenance is carried out for seamless service provision to the residents.

Thank you.

Hon. Deputy Speaker: Chair, Health? Hon. Warutere. Respond to the two statements. Do you want to give two weeks as usual?

Hon. Peter Warutere: Hon. Chair, I was on another matter that is a bit weighty, but I know we can work within a period of two weeks. If allowed, we will respond within two weeks.

Hon. Deputy Speaker: Two weeks. Hon. Redson, are you comfortable with two weeks?

Hon. Redson Onyango: It is okay.

Hon. Deputy Speaker: Thank you. Hon. Mwangi Njihia.

Hon. Abraham Njihia: Thank you Hon. Speaker. Pursuant to Standing Order 45 (2c), I wish to request for a statement from the Chairperson of the sectoral committee on Transport and Public Works regarding non-functioning streetlights in the county.

Hon. Speaker, street and public lights are an important component of the day to day operations of wards especially facilitation of conduct of business and movement of goods, people and services. The County is by policy moving towards 24 hour economy and the activities and principles that will drive this initiative successfully and partially dependent on proper street public lights specifically in Woodley Ward. The following areas have been in darkness and need urgent County intervention to ensure lighting is restored.

1. Harlequins Road
2. Wamagata
3. Fort Jesus
4. Crisco
5. Jamhuri Phase 1 and 2
6. Toi Primary School
7. Digo Road
8. Mangrove
9. Jamhuri Amani Court
10. Woodley Jamhuri Market

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

1. Measures being put in place by the county executive to have the street and public lights in the aforementioned areas restored; and
2. The steps the county executive is taking to ensure that street public lights is stalled by the county in the wards and across the county are in working conditions to carp cases of insecurity and promote businesses during night hours.

Thank you Hon. Speaker.

Hon. Deputy Speaker: Chair, Transport. Vice Chair. Any member? Hon. Kamau? Can you stand for the Chair? Say two weeks as usual.

(Hon. Member stands in agreement)

Are you comfortable with three weeks Hon. Njihia?

Hon. Abraham Njihia: Hon. Speaker, I don't know what to say.

Hon. Deputy Speaker: Are you comfortable? Yes or no?

Hon. Abraham Njihia: I am not comfortable.

Hon. Deputy Speaker: Leader of Majority?

Hon. Abdi Hassan: Chair, two weeks is okay.

Hon. Deputy Speaker: Are you comfortable with two weeks?

Hon. Abraham Njihia: Hon. Speaker, I have a pending statement here and it is now one year and two months, and I haven't received response. It is not just one or two or three. I am happy that the Leader of Majority is here. I think he will do something about those statements that have not been responded to, including this one. Because our roads are not passable. We have rains now. The problem is in all the 85 Wards. We have a problem with street lighting. And when you go to their offices, they tell you that bulbs were procured. But inspection is taking like three months. I don't think street lights should take more than two weeks because bulbs are in the stores. The street lights are okay. It is only a matter of fixing the bulbs.

Hon. Deputy Speaker: Hon. Leader of Majority.

Hon. Abdi Hassan: I understand the predicaments the member is facing, but I am urging him to give us two weeks. As the Leader of Majority, I will take it up and make sure that the response is given in two weeks' time.

Hon. Deputy Speaker: Thank you. Next order.

MOTION

A POLICY ON CONFERMENT OF CIVIC HONOURS

Hon. Deputy Speaker: Hon. Kabiro.

Hon. Mubuga Kabiro: Thank you Mr. Speaker. I beg to move the following Motion.

That, aware that Chapter Four of the Constitution 2010 provides for the Bill of Rights which is an integral part of Kenya's Democratic state and is the framework for social, economic and cultural policies; further aware that the purpose of recognizing and protecting human rights and fundamental freedoms is to preserve the dignity of individuals and communities and to promote social justice and the realization of the potentials 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 the community 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 recognition and appreciation of the extraordinary acts of service made by individuals and organizations who performed tremendously in their works to the County and its residents.

Mr. Speaker, this Motion is setting the wheels rolling for the formation of a conferment of civic honours to residents and people in this Nairobi who have done extraordinarily good and contributed to acts of service in this City. Mr. Speaker, these honours may be bestowed on someone who is living or has done an act of service and has already passed on.

Mr. Speaker, we have had several acts of kindness and service in this County and country at large. You may ask what forms of honours and awards can be given. I would like to just highlight 4 honours that may be given and has been given world over by council or civic entities. Mr. Speaker, these honours are given by the governor on behalf of the people of Nairobi. It has to be given by a person who has been vetted and one who is well deserving of this honour.

Mr. Speaker, one of the honours can be the Freedom of the City, which is a highly distinguished honours given to people who have done heroic acts. One that may be given to people like Manu Chandaria. He has done extra-ordinarily well in terms of good acts of service to this county and country.

Hon. Speaker, there are several places where he has setup institutions like Kenyatta University whereby he has sponsored innovation hub. Also there are hospitals that have wards which have been named under his good name.

Hon. Speaker, he should be invited to the County for him to sign a civic honour book for his acts of good labour to this City, the Alderman Award that is given to members of the County Assembly for their acts of good service to the people. I want to believe that these are places where our longest servings MCA from Mihango Ward, Hon. Paul Kaguathi Kados can be given such and award too.

Hon. Speaker, the Governor's medal is one of the other awards that can also be given by the Governor annually to recognize outstanding services to the people who have voluntarily contributed to betterment of Nairobi.

Hon. Speaker, I want to quote a woman that is called Dr. Margaret Atieno Ogola who said: *"the strength and support that is found in the African family is the most important part in our culture and should be preserved and natured at all cost"*. Dr. Ogola said it all by saying that we should preserve and honour those people who do good deeds and how best to do it than to give an award or an honour to these people.

Hon. Speaker, Dr. Margaret Ogola is one person that can be credited for writing a book that I want to believe many Members in this Assembly have gone through it which is called 'The River and the Source.' Today she is being recognized by Google Doodle with an award that is global. If you open Google Doodle today, her face is the one that is shown there. She has done tremendously well. She passed on few years ago but her legacy still lives on as she has written good and many other novels.

Hon. Speaker, when I think about these awards, I will be happy to see Grace Wambui Odongo the lady who is credited to have the heart of gold when she went and fed soldiers who were fighting during the terror attack in Dusit D2. Such a woman with a very good heart should be given an award and an honour.

Hon. Speaker, I think about someone like the late John Michuki former Environment Minister for his good acts of service in regenerating the Nairobi River. We have also John Allan Namu and his 'Africa Uncensored'. I think they deserve an award also for presenting to us Council Kingdom that has since formed a base over which many improvements are now happening.

Hon. Speaker, our very own Hon. Paul Kaguathi Kados deserves and honour for serving for more than 25 years and very ably. I want to believe the constituency trusts him and that he should be given an Alderman Award.

Hon. Speaker, I would like to rest my case and thank you very much for giving me this opportunity. I want to urge the Members to support this very good Motion and I would like to call upon my friend the Minority Whip Dr. Imwatok to second thank you.

Hon. Peter Imwatok: Hon. Speaker, you can confirm another name has clocked up Dr. Imwatok and soon it will be His Excellency Governor Imwatok.

(Laughter)

Thank you, Hon. Speaker and Hon. Kabiro. I usually call him the mind that sees beyond what some of us cannot see. As I stand to second this Motion, it was like a surprise as I had the same thinking after listening. As you are aware, I am the President of CASA in Kenya. This is the most important Motion for this County Assembly and this County Government of Nairobi. The awards granted to respective personalities all over the world are based on what best have you done to touch humanity.

Hon. Speaker, some of us who are privileged like Majority Leader, Minority Leader, Hon. Rose Oganda, Hon. Mberia, Hon. Palapala and the rest who are in this House are the first pioneers of this House.

They know where we brought the County Assembly of Nairobi from plastic chairs to chairs in black and now to chairs are red; from speaking from one microphone and now to individual microphone.

Hon. Speaker, in his own self it is an achievement but today if you take a showpiece of the lives of our former MCAs who were with us from that journey no one remembered. Who remembers the former Hon. Masiga or Hon. Peter Ishuha? They are men and women who shaped the County Assembly the way it is today in their small way. History must always be there for our kids and generations to read that in this Assembly, one Hon. Kamangu was the second Deputy Speaker of Nairobi City County Assembly. This can only be conferred by the Executive through their orders and conferred through the law by the County Governor of the Government of the County.

Hon. Speaker, I listened keenly to the former Speaker of Nairobi City County Assembly Hon. Ole Magelo, I usually meet him frequently but since he left this Assembly has he ever been invited just to give honour to him as the first Speaker of this County.

Hon. Speaker, Nairobi is a unique County and it is a County with a 120 plus Members of the County Assembly. As my brother said, there are members of the public who have done well like those who have believed in the course of justice for others and I am included as you can attest to that in the good Hansard. I believe that one day the Governor of this City will come and say I want to confer one Hon. Peter Imwatak before I become a Dr. Therefore, for being one of the men who could stand firm when time could not allow anyone to, that is what I am looking forward to. It cannot be done if this Assembly cannot resolve to pass this Motion. I will also be happy even if am given an award as the most controversial MCA for County of Nairobi. At least my children will say our father was in that County Assembly and did one, two and three. On the same, we cannot wait for only the County Government to do this even in our own jurisdiction we can begin by enumerating those who made this Assembly be what it is today.

Our first members of the County Assembly, Speaker, Clerk, Majority Leader, Minority Leader, Majority Whip and Minority Whip should be honoured because that is what gives us our history. God forbid one day when Hon. Mberia will get elected somewhere else in the country, he will be able to call his kinsmen to go to Nairobi where he was once elected and they will find out that his name is there in the script of Nairobi City County Assembly. That the first Majority Whip was called Hon. David Mberia, the first Majority Leader was called Elias Okumu Otieno, the first Minority Leader Guyo Abdi Hassan, the first Chair of PAC was called Hon. Mbatia, the first Chairman of the Appropriation Committee in the County Assembly of Nairobi was called Okumu. This will give us identity for the future to come and it will make others aspire to be.

I know that I might take long but it is boring if our aspiration is going back to the votes and there is nothing they will learn out of us. I believe this Motion is agreeable and I told my brother that he could follow it up with a Bill that we can enshrine in this House and become a model for other Assemblies to follow when they come. It also encourages the Hon. Members to do their part. Even we can put for Nairobians to suggest who the best MCA is to be recognized in terms of service delivery. Then we can be forwarded to the Governor to give an award or in terms of public participation.

Therefore, Hon. Speaker, I believe this is the most important motion of our age. Thank you, Hon. Kabiro for thinking wide. Thank you, Hon. Speaker.

Hon. Deputy Speaker: Thank you. Hon. Members before we go further, I would suggest we go back to order No. 5 and 6. Then we proceed from there thank you.

(Motion deferred)

PAPER

Hon. Peter Wanyoike: Thank you, Mr. Speaker. Pursuant to the provision of Standing Order 191 (6) I beg to lay the following paper on the Table of the Assembly today Wednesday 12th June 2019: The report of the Sectorial Committee on Labour and Social Welfare on the vetting of nominees to Nairobi City County Public Service Board. Hon. Speaker, I beg to lay.

(The paper was laid on the table)

NOTICES OF MOTION

VETTING OF THE NOMINEES OF THE NAIROBI CITY COUNTY PUBLIC SERVICE BOARD

Hon. Peter Wanyoike: Thank you, Mr. Speaker. I beg to give notice of the following Motion: THAT this Assembly adopts the report of Sectorial Committee on Labour and Social Welfare on the vetting of the nominee of the Nairobi city County Public Service Board laid on the table of the Assembly today Wednesday 12th June 2019. Thank you, Hon. Speaker.

MOTION

(Resumption of motion on policy on conferment of civic honours)

(Question proposed)

Hon. Deputy Speaker: Hon Matara?

Hon. Silas Matara: Thank you much Hon Speaker for this opportunity. First of all I would like to congratulate my colleague Hon Mbugua for the Motion. Secondly I would like to confirm to this House that there is a Bill in the pipeline, an amendment Bill of a cultural week and in it the elements or the import behind the Bill was taking recognition of the individuals, groups, county entities that have performed well since back them. The Bill is on the way and one of these fine days, God willing, it is going to be tabled in the House. Thank you Speaker.

Hon. Mary Ariviza: Asante sana Bwana Spika kwa fursa hii ambayo nataka kuchangia hii mswada ambao uko mbele yetu. Huu mswada ni mzuri sana na Mheshimiwa Kabiro amefanya vizuri sana kuleta mbele yetu. Ni vizuri tunawapatia heshima watu ambao wamefanya mambo maguu hapa jiji letu la Nairobi na huo mswada ni mzuri lakini ningependa kuwakosoa wenzangu ambao walikuwa hapo mbeleni ambao wanasema kwamba tuwashughulikie watu ambao wamekuwa kwa hii nyumba yetu ya Nairobi- bunge letu-na watu wakubwa.

Kuna watu wamefanya makuu katika huu mji ambao tutaweza kuwashughulikia na vikundi vya akina mama na vingine ambavyo vimefanya mambo makuu kwa kuwaletea watu kwa mfano mayatima, wajane na wale wanachunga wakongwe katika manyumba za wazee.

Ni mswada mzuri mno na naunga mkono lakini ningependa ya kwamba tusichukue mkondo ambao unaelekea kuonyesha ya kwamba watu mashuhuri, watu wakiasia na watu ambao wanajulikana katika televisheni ndio watakuwa wakipewa.

Kitu cha pili ningependa kusema ni kuwa lazima katika huu mswada tuweke himizo ya kwamba hatutakuwa tukitoa hiki kipawa kuwashughulikia wale ambao wameshughulikiwa na serikali ya kitaifa. Kwa mfano kwa mtu ambaye amepewa shujaa na serikali ya kitaifa si vizuri pia tukuje hapa Nairobi tu washughulikie. Pia ningependa kusema kwamba lazima tujue hawa watu wanashughulika katika mji wa Nairobi kwa njia gani. Kwa sababu viongezi wetu wengine ambao wanatoka sehemu mbali za nchi wanakaa hapa Nairobi. Unapata kwamba magavana wote wako na nyumba hapa Nairobi. Ma seneta na wote mabunge wako na nyumba zao hapa Nairobi.

Kwa hivyo itakuwa vigumu sisi kujua watu gani wa Nairobi. Kwa hivyo huo mswada, Mheshimiwa Kabiro, lazima uwe ambao unaonyesha kabisa tutakuwa na njia gani ya kuchambua wale watu ambao wanatoka Nairobi na wale watu wanatoka mbali kwa sababu hatutaki tuanze kupeana vipawa na kuwaonyesha mashujaa watu wale wanakaa tu hapa mji na wako na makao yao mengine pahali pengine. Kwa hivyo lazima tuseme kwa mfano hawa watu wamefanya kitu gani hapa Nairobi na wameishi Nairobi kwa mda gani na wamefanya kitu ambacho watu wa Nairobi wataelewa huyu mtu amafanya kitu ambacho kimetuendeleza. Asante sana Bwana Spika.

Hon. Leah Supuko: Thank you Mr. Speaker. I would like to join my colleague by supporting this Motion and also to impress Hon. Kabiro for bringing such a good Motion. It's a good thing to honour people because it is good to be honoured and feel that you are appreciated. I support this because as the Minority Whip has put it, it go down in history lane for people to remember people for what they have done especially in the county of Nairobi.

For example two months ago the Governor His Excellency Mike Mbuvi Sonko was honoured as an ambassador of good deeds and it feels good because he actually helps a lot of unfortunate people in the County of Nairobi and in other parts of the country and by recognizing somebody it keeps that person to continue doing the good deeds.

It will also go down the history lane as the Minority Whip has put it to remember things when people are honored. For example there is a young man who was honored for just eating *githeri* on the voting day and he was honored by His Excellency the President of this country. That will go down in history even if he was honored for eating *githeri* which I thought was not really a good thing but it was a good gesture and it has gone down the history lane. I beg to support the Motion.

Hon. Maurice Gari: Thank you Mr. Speaker. I rise to support this Motion. I want to congratulate Hon. Kabiro for thinking beyond as we seniors. We used to forget so quickly. If you look at how things go right now even our former colleagues cannot park vehicles around CBD because they lack the stickers, yet these are the pioneers of this House and we have never organized even a dinner for those guys who left us because

of election. We forget so quickly. We should revisit these things and see them as our colleagues. Today they are not here, tomorrow they might be back here and we are out there.

Before you go somewhere you must prepare the field very well so that your people may remember you well. I hope this Motion will bring to attention to the entire County including the Executive. We should evaluate what each member did in last Assembly through Motions, Bills and how they performed. There is one who used to write the minority report and we did the majority report. We should not forget about the history and if we do history will judge us harshly.

Today Mr. Speaker you are sitting there as Deputy Speaker whose name is in Kenya gazette, whose picture should be somewhere there besides the Speakers. That should be known in this House. These things should be placed somewhere in archives for future reference. Because right now it is only the photo of Elachi and former Speaker Magelo and if you go after election there is nothing these people will remember us of. We need an archive where all our photos, our Bills, Motions will be placed so that if anyone comes here in this Assembly he or she will see that chairman Warutere chaired Health from 2017 to 2022, Hon. Imwatoke was Whip in the Second Assembly.

If we don't do these things anybody can just come and won't recognize anything that happened in this Assembly. In good remembrance I urge this House that one day we invite all the pioneers of this Assembly one day for a dinner, we interact with them and see how things were done. Mr. Speaker I wish to call the mover to reply, thank you.

Hon. Mbugua Kabiro: I would like to thank every member who has contributed towards this Motion and I want to say this is something that will go down the memory lane. It will be referenced by people who come after us and people who have gone ahead of us. I want to thank you Mr. Speaker and I want to reply, thanks.

(Question put and agreed to)

COMMITTEE OF THE WHOLE HOUSE

(Mr. Deputy Speaker left the Chair)

IN THE COMMITTEE

(Mr. Chairman, Hon Silas Matara, took the Chair)

THE NAIROBI CITY COUNTY TOBACCO BILL

Hon. Chairman: Hon. Members we are in the Committee of the Whole House to consider the Nairobi City County Tobacco Bill 2018, Assembly Bill No 9 of 2018. We will start with the Bill from clause 3.

Clause 3

Hon. Peter Warutere: I move that clause 3 be amended as shown in the Order Paper

(Question that Clause 3 be amended as proposed put and agreed to)

Clause 4

Hon. Peter Warutere: Hon. Chair, I propose that Clause 4 be amended as follows:

- i) In sub clause (2) by deleting the word "subsection (1)" and substituting therefor the words "this Act"

- ii) In sub clause (2) (c) by deleting paragraph (c) in its entirety and substituting therefor the following; -
NEW PARAGRAPH 4 (2) (c) A “Consider and approve applications for the establishment of specially designated smoking areas”
- (iii) In sub clause (2) (g) by deleting the expression “of the Act” and substituting therefor the expression “on the implementation of this Act”

(Question proposed)

(Question put and agreed to)

Clause 5

Hon. Peter Warutere: Hon. Chair, I propose that Clause 5 be amended as follows:

- (i) In sub clause (2) (b) by deleting sub clause (b) in its entirety and substituting therefor the following: -
“The Director of Health Services who shall be the secretary to the Committee”
- (ii) In sub clause (2) (e) by deleting sub clause (e) in its entirety and substituting therefor the following:
NEW PARAGRAPH 5(2) (b) A “a representative of the business community to be nominated by the Kenya National Chamber of Commerce & Industry”
- (iii) In sub clause (2) (f) by deleting the expression “with the approval by the county executive committee” appearing immediately after the expression “member”
- (iv) In sub clause (2) (g) by deleting the expression “with the approval by the county executive committee” appearing immediately after the expression “member”
- (v) In sub clause (2) (h) by deleting the expression “with the approval by the county executive committee” appearing immediately after the expression “member”
- (vi) In sub clause (2) (i) by deleting the expression “with the approval by the county executive committee” appearing immediately after the expression “member”
- (vii) In sub clause (4) by deleting the words “and final” and substituting therefor the word “further”

(Question proposed)

(Question put and agreed to)

Clause 6

Hon. Peter Warutere: Hon. Chair, I propose that Clause 6 be amended as follows:

NEW PARAGRAPH 6 (d) A

- (i) In paragraph (d) by inserting a new paragraph immediately after paragraph (d) as follows:- “recommending to the county executive member and participating in the formulation of the regulations to be made under section 58;

(Question proposed)

(Question put and agreed to)

Clause 7

Hon. Peter Warutere: Hon. Chair, I propose that Clause 7 be amended as follows:

That, Clause 7 of the Bill be amended by deleting Clause 7 in its entirety.

(Question proposed)

(Question put and agreed to)

Clause 8

Hon. Peter Warutere: Hon. Chair, I propose that Clause 8 be amended as follows:

That, Clause 8 of the Bill be amended by deleting Clause 8 in its entirety.

(Question proposed)

(Question put and agreed to)

Clause 9

Hon. Peter Warutere: Hon. Chair, I propose that Clause 9 be amended as follows:

That, Clause 9 of the Bill be amended by deleting Clause 9 in its entirety.

(Question proposed)

(Question put and agreed to)

Clause 10

Hon. Peter Warutere: Hon. Chair, I propose that Clause 10 be amended as follows:

That, Clause 10 of the Bill be amended by deleting Clause 10 in its entirety.

(Question proposed)

(Question put and agreed to)

Clause 11

Hon. Peter Warutere: Hon. Chair, I move that Clause 11 be amended as follows:

That, Clause 11 of the Bill be amended by deleting Clause 11 in its entirety.

(Question proposed)

(Question put and agreed to)

Clause 12

Hon. Peter Warutere: Hon. Chair, I move that Clause 12 be amended as follows:

That, Clause 12 of the Bill be amended by deleting Clause 12 in its entirety.

(Question proposed)

(Question put and agreed to)

(Question that Clause 12 as amended be part of the Bill put and agreed to)

Clause 13

Hon. Peter Warutere: Hon. Chair, I move that Clause 13 be amended as follows:

That, Clause 13 of the Bill be amended by deleting Clause 13 in its entirety.

(Question proposed)

(Question put and agreed to)

(Question that Clause 13 as amended be part of the bill put and agreed to)

Clause 14

Hon. Peter Warutere: Hon. Chair, I move that Clause 14 be amended as follows:

That, Clause 14 of the Bill be amended by deleting Clause 14 in its entirety.

(Question proposed)

(Question put and agreed to)

(Question that Clause 14 as amended be part of the Bill put and agreed to)

Clause 15

Hon. Peter Warutere: Hon. Chair, I move that Clause 15 be amended as follows:

That, Clause 15 of the Bill be amended by deleting Clause 15 in its entirety.

(Question proposed)

(Question put and agreed to)

(Question that Clause 15 as amended be part of the Bill put and agreed to)

Clause 16

Hon. Peter Warutere: Hon. Chair, I move that Clause 16 be amended as follows:

That, Clause 16 of the Bill be amended by deleting Clause 16 in its entirety.

(Question proposed)

(Question put and agreed to)

(Question that Clause 16 as amended be part of the bill put and agreed to)

Clause 17

Hon. Peter Warutere: Hon. Chair, I move that Clause 17 be amended as follows:

That, Clause 17 of the Bill be amended by deleting Clause 17 in its entirety.

(Question proposed)

(Question put and agreed to)

(Question that Clause 17 as amended be part of the Bill put and agreed to)

Clause 18

Hon. Peter Warutere: Hon. Chair, I move that Clause 18 be amended as follows:

That, Clause 18 of the Bill be amended by deleting Clause 18 in its entirety.

(Question proposed)

(Question put and agreed to)

(Question that Clause 18 as amended be part of the Bill put and agreed to)

Clause 19

Hon. Peter Warutere: Hon. Chair, I move that Clause 19 be amended as follows:

- (i) In sub clause (1) by deleting the expression “person under the age of eighteen years” appearing immediately after the expression “to a” and substituting therefor the word “minor”
- (ii) In sub clause (2) by inserting the word “exceeding” immediately before the word “fifty”
- (iii) In sub clause (4) (c) by deleting the word “Minister” and substituting therefor the word “County Executive Member”

(Question proposed)


(Question put and agreed to)

(Question that Clause 19 as amended be part of the Bill put and agreed to)

Clause 20

Hon. Peter Warutere: Hon. Chair, I move that Clause 20 be amended as follows:

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- (i) In sub clause (1) by deleting the expression “person under the age of eighteen years” appearing immediately after the word “permit” and substituting therefor the word “minor”
- (ii) In sub clause (2) by deleting the expression “one month” appearing immediately after the word “exceeding” and substituting therefor the expression “six months, or to both such fine and imprisonment”

(Question proposed)

(Question put and agreed to)

(Question that Clause 20 as amended be part of the Bill put and agreed to)

Clause 21

Hon. Peter Warutere: Hon. Chair, I move that Clause 21 be amended as follows:

In sub clause (2) by inserting the expression “or to both such fine and imprisonment” immediately after the word “month”

(Question proposed)

(Question put and agreed to)

(Question that Clause 21 as amended be part of the Bill put and agreed to)

Clause 22

Hon. Peter Warutere: Hon. Chair, I move that Clause 22 be amended as follows:

In sub clause (2) by deleting the expression “three months” appearing immediately after the word “exceeding” and substituting therefor the expression “six months, or to both such fine and imprisonment”

(Question proposed)

(Question put and agreed to)

(Question that Clause 22 as amended be part of the Bill put and agreed to)

Clause 23

Hon. Peter Warutere: Hon. Chair, I move that Clause 23 be amended as follows:

- (i) In sub clause (1) paragraph (a) by deleting paragraph (a) in its entirety.
- (ii) In sub clause (2) by deleting the expression “one month” appearing immediately after the word “exceeding” and substituting therefor the expression “six months, or to both such fine and imprisonment”

(Question proposed)

(Question put and agreed to)

(Question that Clause 23 as amended be part of the Bill put and agreed to)

Clause 24

Hon. Peter Warutere: Hon. Chair, I move that Clause 24 be amended as follows:

- (i) In sub clause (4) by deleting the expression “one month” appearing immediately after the word “exceeding” and substituting therefor the expression “six months, or to both such fine and imprisonment”
- (ii) In sub clause (1) (b) by deleting the word “Second” and substituting therefor the word “First”

(Question proposed)

(Question put and agreed to)

(Question that Clause 24 as amended be part of the Bill put and agreed to)

Clause 25

Hon. Peter Warutere: Hon. Chair, I move that Clause 25 be amended as follows:

That, Clause 25 of the Bill be amended by deleting clause 25 in its entirety.

(Question proposed)

(Question put and agreed to)

(Question that Clause 25 as amended be part of the Bill put and agreed to)

Clause 26

Hon. Peter Warutere: Hon. Chair, I move that Clause 26 be amended as follows:

- (i) In sub clause (1) by deleting the expression “colour or a combination of colours,” appearing immediately after the word “premises”
- (ii) In sub clause (3) be deleting the words “colours or” appearing immediately after the word “promotion”

(Question proposed)

(Question put and agreed to)

(Question that Clause 26 as amended be part of the Bill put and agreed to)

Clause 27

Hon. Peter Warutere: Hon. Chair, I move that Clause 27 be amended as follows:

- (i) In sub clause (3) by deleting the expression “person under the age of eighteen years” appearing immediately after the word “guardianship” and substituting therefor the word “minor”
- (ii) In sub clause (4) by deleting the word “children” appearing after the word “where and substituting therefor the word “minors”

(Question proposed)

(Question put and agreed to)

(Question that Clause 27 as amended be part of the bill put and agreed to)

Clause 28

Hon. Peter Warutere: Hon. Chair, I move that Clause 28 be amended as follows:

- (i) In sub clause (2) by inserting the expression “, except in designated smoking areas” immediately before the word “smoke”
- (ii) In sub clause (3) by deleting sub clause (3) in its entirety.
- (iii) In sub clause (4) by deleting sub section (4) in its entirety.
- (iv) In sub clause (7) by deleting the expression “subsection (6)” and substituting therefor the expression “this Section” and inserting the expression “, or to both such fine and imprisonment” immediately after the word “months”

(Question proposed)

(Question put and agreed to)

(Question that Clause 28 as amended be part of the Bill put and agreed to)

Clause 29

Hon. Peter Warutere: Hon. Chair, I move that Clause 29 be amended as follows:

- (i) By deleting the expression “subsection 2” and substituting therefor the expression “the foregoing provisions of this Part,” and by deleting the expression “sub section (2) (d), (f), (g) (p) and (q)” and substituting therefor the expression “Section 28 (2) (a), (d), (f),(g), (o), (p) (q) and (r).”
- (ii) By inserting a new sub clause immediately after sub clause (1) as follows: -
NEW SUB CLAUSE 29 (1)A “29 (1) A
“A premise owner who wishes to provide a specially designated smoking area within the premises shall make an application in the prescribed form to the Committee and pay the requisite application fees”

(Question proposed)

(Question put and agreed to)

(Question that Clause 29 as amended be part of the Bill put and agreed to)

Clause 30

Hon. Peter Warutere: Hon. Chair, I move that Clause 30 be amended as follows:

In sub clause (3) by inserting the expression “or to both such fine and imprisonment” immediately after the word “months”

(Question proposed)

(Question put and agreed to)

(Question that Clause 30 as amended be part of the Bill put and agreed to)

Clause 31 to 40

Hon. Peter Warutere: Hon. Chair, I move that Clause 31 to 40 be amended as shown on the Order Paper.

(Question proposed)

(Question put and agreed to)

(Question that Clause 31 to 40 as amended be part of the Bill put and agreed to)

Clause 41

Hon. Peter Warutere: Hon. Chair, I move that Clause 41 be amended as follows:

That, Clause 41 of the Bill be amended by deleting Clause 41 in its entirety

(Question proposed)

(Question put and agreed to)

(Question that Clause 41 as amended be part of the bill put and agreed to)

Clause 42

Hon. Peter Warutere: Hon. Chair, I move that Clause 42 be amended as follows:

That, Clause 42 of the Bill be amended by deleting Clause 42 in its entirety

(Question proposed)

(Question put and agreed to)

(Question that Clause 42 as amended be part of the Bill put and agreed to)

Clause 43

Hon. Peter Warutere: Hon. Chair, I move that Clause 43 be amended as follows:

That, Clause 43 of the Bill be amended by deleting Clause 43 in its entirety

(Question proposed)

(Question put and agreed to)

(Question that Clause 43 as amended be part of the Bill put and agreed to)

Clause 44

Hon. Peter Warutere: Hon. Chair, I move that Clause 44 be amended as follows:

That, Clause 44 of the Bill be amended by deleting Clause 44 in its entirety

(Question proposed)

(Question put and agreed to)

(Question that Clause 44 as amended be part of the Bill put and agreed to)

Clause 45

Hon. Peter Warutere: Satisfaction

(Question proposed)

(Question put and agreed to)

(Question that Clause 45 as amended be part of the Bill put and agreed to)

Clause 46

Hon. Peter Warutere: Hon. Chair, I move that Clause 46 be amended as follows:

In sub clause (2) by deleting the numerical "26(2)" appearing immediately after the word "section" and substituting therefore the numerical "45(2)"

(Question proposed)

(Question put and agreed to)

(Question that Clause 46 as amended be part of the Bill put and agreed to)

Clause 47

Hon. Peter Warutere: Hon. Chair, I propose that Clause 47 be amended as follows:

In sub clause (1) by deleting the expression "pursuant to section 27" appearing immediately after the word "place".

(Question proposed)

(Question put and agreed to)

(Question that Clause 47 as amended be part of the Bill put and agreed to)

Clause 48-50

Hon. Chairman: Mover?

Hon. Peter Warutere: satisfaction

(Question that clause 48-50 be part of the Bill, proposed)

Hon. Chairman: Members?

(Question and agreed to)

Clause 51

(Question that clause 51 be part of the Bill proposed)

Hon. Peter Warutere: Hon. Chair, I move that clause 51 be amended as follows:

By deleting the numerical “31” appearing after the word “section” and substituting therefor the numerical “50”

(Question that clause 51 be amended, proposed)

Hon. Chairman: Members?

(Question of the amendment put and agreed to)

(Clause 51 as amended agreed to)

Clause 52, 53, and 54

(Question that clause 52,53 and 54 be part of the Bill, proposed)

Hon. Chairman: Members?

(Question put and agreed to)

Clause 55

(Question that clause 55 be part of the Bill proposed)

Hon. Peter Warutere: Hon. Chair, I move that clause 55 be amended as follows:

- In sub clause (4) by deleting the word “thirty” and substituting therefore the word “sixty”

(Question that clause 55 be amended, proposed)

Hon. Chairman: Members?

(Question of the amendment put and agreed to)

(Clause 55 as amended agreed to)

Clause 56

(Question that clause 56 be part of the bill proposed)

Hon. Peter Warutere: Satisfaction

(Question that clause 56 be part of the Bill, proposed)

Hon. Chairman: Members?

(Question put and agreed to)

Clause 57

(Question that clause 57 be part of the Bill proposed)

Hon. Peter Warutere: I move that clause 57 be amended as follows:

-By deleting the numerical "37" appearing immediately after the word "section" and substituting therefor the numerical "55(4)"

(Question that clause 57 be amended, proposed)

Hon. Chairman: Members?

(Question of the amendment put and agreed to)

(Clause 57 as amended agreed to)

Clause 58

Question that clause 58 be part of the Bill proposed)

Hon. Peter Warutere: Hon. Chair, I move that clause 58 be amended as follows:

(a) In sub clause 2 (a) by inserting the expression, "for a specially designated smoking zone" immediately after the word "licence"

(b) By inserting a new clause immediately after Clause 58 as follows: -

NEW CLAUSE 58A Transitional "58 A" Notwithstanding any other provision of this Act to the contrary, a person who, immediately before the commencement of this Act, was—

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(a) a wholesaler, distributor or retailer of any tobacco product; or

(b) the owner or manager of any premises contemplated under Part V of this Act, shall, within sixty (60) days of such commencement, comply with the requirements of this Act.

(Question that clause 57 be amended, proposed)

(Question of the amendment put and agreed to)

(Clause 57 as amended agreed to)

New paragraph 4 (2c,a)

(Question that new paragraph 4 (2ca) be part of the bill proposed)

Hon. Peter Warutere: Hon. Chair, I move that paragraph 6 (d,a) be read for a second time.

Hon. Chairman: Which paragraph Hon. Member?

Hon. Peter Warutere: 6 (d, a) should now be read for a second time.

Hon. Chairman: Is it possible that we reading from different scripts?

Hon. Peter Warutere: Sorry. It is new paragraph 4(2c, a) be read for the second time.

Hon. Chairman: Are we taking things in a hurry?

(Question that new paragraph 4(2c, a) be read a second time, proposed)

(Question put and agreed to)

New Paragraph 5 (2) (c) (a)

Hon. Peter Warutere: Hon. Chair, I move that the New Paragraph 5 (2) (c) (a) be read a second time.

(Question of the New Paragraph 5 (2) (c) (a) proposed)

(New paragraph 5 (2) (c) (a) read a second time)

(Question that the New paragraph 5 (2) (c) (a) be part of the Bill, put and agreed to)

New Paragraph 6 (d) (a)

Hon. Chairperson: Mover?

Hon. Peter Warutere: Hon. Chair, I move that the New Paragraph 6 (d) (a) be read a second time.

(Question of the New Paragraph 6 (d) (a) proposed)

(New Paragraph 6 (d) (a) read a second time)

(Question that the New Paragraph 6 (d) (a) be part of the Bill, put and agreed to)

New Sub Clause 29 (1) (a)

Hon. Peter Warutere: Hon. Chair, I beg to move that the new that the New Sub Clause 29 (1) (a) be read a second time.

(Question of the New Sub Clause 29 (1) (a) proposed)

(New Sub Clause 29 (1) (a) read a second time)

(Question that the New Sub Clause 29 (1) (a) be part of the Bill, put and agreed to)

New Sub Clause 58 (a)

Hon. Peter Warutere: Hon. Chair, I beg to move that the new that the New Sub Clause 58 (a) be read a second time.

(Question of the New Sub Clause 58 (a) proposed)

(New Sub Clause 58 (a) read a second time)

(Question that the New Sub Clause 58 (a) be part of the Bill, put and agreed to)

First Schedule

Hon. Chairperson: Mover?

Hon. Peter Warutere: Hon. Chair, I move:

THAT, the First Schedule be amended by deleting the First Schedule in its entirety

(Question of the amendment proposed)

(Question put and agreed to)

(Question that the First Schedule as amended be part of the Bill, put and agreed to)

Second Schedule

Hon. Chairperson: Mover?

Hon. Peter Warutere: Hon. Chair, I move that the second schedule be read for a second time.

(Question of the Second Schedule proposed)

(Second Schedule read a second time)

(Question that the Second Schedule be part of the Bill, put and agreed to)

Clause 2

Hon. Peter Warutere: Hon. Chair, I beg to move:

THAT, Clause 2 of the Bill be amended:

(i) By inserting the following new definitions in their proper alphabetical sequence:-

(a) "brand element" includes a brand name, manufacturer's name, trade mark, trade name, logo, graphic arrangement, design, colour, motto or slogan that is reasonably associated with, or that evokes a product, a service or a brand of product or service;

(b) "Manufacture" means the processing of a tobacco product and includes the packaging, labeling, distribution or importation of tobacco products.

(c) 'Manufacturer' includes any entity that is involved in the manufacture, including an entity that controls or is controlled by the manufacturer, or that is controlled by the same entity that controls the manufacturer.

(d) "Minor" a person under the age of eighteen (18) years

(e) "promotion" means a representation, including an advertisement, whether direct or indirect, including any communication of information about a product or service and its price and distribution, that is likely to influence and shape attitudes, beliefs and behavior about the product or service, or that is intended to or has the effect of inducing consumers to use tobacco products, underestimate the dangers of tobacco consumption, or create recognition of or goodwill for the tobacco manufacturer;

(Question of the amendment proposed)

(Question, that the words to be inserted be inserted, put and agreed to)

(Clause 2 as amended agreed to)

Title

Hon. Peter Warutere: THAT, the Title of the Bill be amended by deleting the numerical 2018 and substituting therefor the numerical 2019.

*(Question, that the words to be left out be left out,
put and agreed to)*

(Title as amended agreed to)

Clause 1

(Question that Clause 1 be part of the Bill)

(Question put and agreed to)

(The House resumed)

IN THE MAIN HOUSE

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

REPORT AND THIRD READING

NAIROBI CITY COUNTY TOBACCO CONTROL BILL (NO. 9 OF 2018)

Hon. Deputy Speaker: Hon. Chairman, report to the House.

Hon. Silas Matara: Thank you, Hon. Speaker. I wish to report to the Assembly that the Committee of the Whole Assembly has considered the Nairobi City County Tobacco Control Bill, 2018 (Assembly Bill. No.9 of 2018) and approve the same with amendments. Thank you.

Hon. Deputy Speaker: Mover?

Hon. Peter Warutere: Thank you, Hon. Speaker. I beg to move that the Assembly do agree with committee in the said report. Thank you.

(Question proposed)

(Question put and agreed to)

Hon. Peter Warutere: Mr. Speaker, allow me to thank the members who have graced this long journey. It has been indeed long. I believe that every second person you meet will have an implication of this Bill. We have our brothers, sisters and parents who are in one way engaged in this business. Therefore, the focus now shifts from the business as it has been happening to now the registration aspect whereby we now want to control the way this business is being run. I am honoured that we have served Nairobi Business Community. We called for stakeholders meeting about three months ago and the turnout was quite overwhelming. The interest in this Bill right from distributors, national carriers and everybody else has been overwhelming.

Hon. Speaker, I want to thank all the members who have been with us in this journey. I hope through the registration, we will be able to make right mechanisms that will ensure that this trade is done well. Going forward, the County will have something in terms of cess. Thank you, and I hope going forward, we will have a business that is going to be properly regulated

I now beg to move that Nairobi City County Nairobi City County Nairobi City County Tobacco Control Bill, 2018 (Assembly Bill. No.9 of 2018) be now read for a third time.

(The question is proposed)

(Question put and agreed to)

(The Bill was accordingly read the third time and passed)

ADJOURNMENT

Hon. deputy Speaker: Hon. members, there being no any other business, the House stands adjourned to tomorrow, Thursday 13th June 2019 at 2:30 p.m. thank you, and God bless you all.

(The House rose at 4:30 p.m.)