



NAIROBI CITY COUNTY ASSEMBLY

OFFICIAL REPORT

Second County Assembly – Third Session

Tuesday 12th March, 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. We don't have a quorum.

(Quorum bell was rung)

Hon. Mbithi, please respect the Chair. Thank you. You may sit down now. Serjeant-at-Arms please don't allow anyone to go out. You are allowing people to go out and we don't have a quorum, this is very unfortunate. We need seven people to start out business.

Clerk, I think we have a quorum, proceed.

COMMUNICATION FROM THE CHAIR

APOLOGIES TO THE HOUSE BY HON. MEMBERS

Hon. Deputy Speaker: Hon. Obuya take your position please. Thank you.

Hon. Members, I have the following communication to make: Apologies to the House.

Hon. Members, you will recall that on Wednesday 20th February 2019 the assembly via a resolution to adopt a motion on the report of the Select Committee on Powers and Privileges on the conduct of members on diverse dates in September 2018, endorsed sanctions as contained in the said report's recommendations, which sanctions included suspensions and issuance of apologies from the affected Hon. Members namely;

1. Hon. Laura Mwende (MCA),
2. Hon. Mary Njambi (MCA),
3. Hon. Hon. Nancy Muthami (MCA); and
4. Hon. Mary Ariviza (MCA).

Hon. Members, you are aware that the Hon. Laura Mwende (MCA), Hon. Mary Njambi (MCA) and Hon. Nancy Muthami (MCA) who were suspended for 10 calendar days have since served that suspension.

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Hon. Members, you will also further recall that the House ordered that upon completion of the suspension, at their first sitting, the said members issue formal apologies to the House for conducting themselves in a manner likely to reflect adversely on the dignity and integrity of the House.

Hon. Members, are Hon. Laura Mwende (MCA), Hon. Mary Njambi (MCA) and Hon. Hon. Nancy Muthami (MCA) in the House please? Please arise in your places if you are here. Thank you. Hon. Members you will now proceed in that order to the bar and issue your apology to the House, upon which you will formally be readmitted back to the House. It is so ordered.

(Hon. Mary Njambi and Hon. Nancy Muthami proceeded to the bar)

Proceed. We start with Hon. Laura Mwende. Could you please give them the microphone for record purposes? I think they are in the wrong seats; they should stand at the bar. Proceed Hon. Laura.

Hon. Laura Mwende: Thank you Mr. Speaker. I wish to apologize to the assembly for any part I may have played in the event that occurred on 10th September 2018 which may have in one way or the other reflected badly on the reputation and integrity of the County Assembly and office members.

I hope the House accepts my apology. Thank you.

Hon. Deputy Speaker: Proceed Hon. Njambi.

Hon. Mary Njuguna: *Mimi nataka ku-apologize sababu nilikosea, wakati nilipigwa na pilipili nilianza ku-shout kuuliza kwa nini nimepigwa badala ningeshukuru na niseme ni asante kwa kupigwa. Kwa hivyo next time sitafanya hivyo, nikipigwa nitasema asante. Mnisamehe.*

Hon. Deputy Speaker: Thank you very much. Now you are fully reinstated. You may take your seats. Clerk, proceed.

PAPERS

Hon. Deputy Speaker: Hon. Leader of Majority. Is Majority Leader around?

Hon. Elias Otieno: You are too much of Jubilee my friend.

Hon. Deputy Speaker: Proceed, Minority Leader.

Hon. Elias Otieno: You know you are one of the---

Hon. Deputy Speaker: Proceed.

Hon. Elias Otieno: You must be neutral.

Hon. Deputy Speaker: Minority Leader, please proceed.

Hon. Elias Otieno: Thank you, Mr. Speaker, but next time, don't do it again.

Pursuant to Section 166 (4) (a) of the Public Finance Management Act, 2012, I beg to lay the following paper on the table of the Assembly today, Tuesday, 12th March 2019: The First Quarter and Expenditure Report for the financial year 2018/2019. I beg to lay.

You can send someone to come and pick it.

(The paper was laid on the table)

Hon. Deputy Speaker: Thank you, proceed with the next one.

Hon. Elias Otieno: Pursuant to Section 123 of the Public Finance Management Act, 2012, I beg to lay the following paper on the table of the Assembly today, Tuesday, 12th March 2019: The Medium Term Debt Management Fiscal Strategy Paper for the financial year 2019/2020. I beg to lay.

(The paper was laid on the table)

I think my business with the House today is almost over, can you allow me to---

Hon. Deputy Speaker: It is not your prerogative, please, you may sit. Thank you.

Chairperson of Environment, proceed.

Hon. Samuel Kabiru: Thank you, Mr. Speaker. Pursuant to Standing Order 191 (6), I beg to lay the following paper on the table of the Assembly today, Tuesday, 12th March 2019: The report of the Sectoral Committee on Environment and Natural Resources on the Examination of Environment and Natural Resources sub-sector progress.

(The paper was laid on the table)

Hon. Deputy Speaker: Proceed, Clerk.

NOTICE OF MOTION

EXAMINATION OF ENVIRONMENT AND NATURAL RESOURCES SUB-SECTOR PROGRESS

Hon. Samuel Kabiru: Thank you, Mr. Speaker. I beg to give notice of the following Motion: THAT this Assembly adopts the report of the sectoral Committee on Environment and Natural Resources on the examination of Environment and Natural Resources sub-sector progress, laid on the table of the Assembly today, Tuesday, 12th March 2019.

Hon. Deputy Speaker: Proceed, Clerk.

STATEMENT

Hon. Deputy Speaker: Hon. Oyugi.

REQUEST FOR A STATEMENT REGARDING THE IMPLEMENTATION STATUS OF FUNDS FOR THE WARD DEVELOPMENT PROJECTS

Hon. Kennedy Oyugi: Thank you, Mr. Speaker. Pursuant to Standing Order 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 implementation status of the resolutions made following a meeting with select Committee on Ward Development Fund, the Controller of Budget and the Acting Chief Executive Officer of Ward Development Fund.

Hon. Speaker, the petition was done by the County Assembly as advised by the Controller of Budget and it was resolved that petition on regulation 197 (1) (e) to the Senate to accommodate Ward Fund Act, 2014 and to conform with Public Management Act, 2012, for the Controller of Budget to release funds for the ward development projects.

Hon. Speaker, in his meeting with the select Committee on Ward Development Fund, resolved that all the ward development projects for the financial year 2018/2019 be treated like any other County projects. Subsequently, the funds budgeted under Ward Development Fund be reallocated to Public Works Sector to facilitate the pending payments.

It was further resolved that in the next financial year 2019/2020 and onwards, the County to create a separate vote under ward based programs that will accommodate all wards.

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

1. If the resolutions have been implemented by the CEC Finance and Economic Planning, and if not, why; and
2. Whether the County Government has any plans of implementing the resolutions and measures taken by the County Government to ensure payment of the completed projects are done.

Thank you.

Hon. Deputy Speaker: Chairperson Finance and Budget!

Hon. Robert Mbatia: Thank you Mr. Chair, we commit to give...

Hon. Deputy Speaker: Please withdraw, I am not the Chair.

Hon. Robert Mbatia: Sorry and thank you, Mr. Speaker, you are on the Chair, so that was still appropriate.

Hon. Deputy Speaker: Proceed!

Hon. Robert Mbatia: Thank you, Mr. Speaker, we commit as a Committee to give an appropriate answer within 12 plenary days. The reason is that we are aware though we do not want to pre-empt, we know that there is a supplementary budget in preparation so by the time we are giving an answer we want to be very sure that is why we are asking for 12 plenary days. Thank you, Mr. Speaker.

Hon. Deputy Speaker: Hon. Oyugi, are you comfortable with three weeks?

Hon. Kennedy Oyugi: Mr. Speaker due to the competence of the Chair, I would agree but only that, he should bear in mind that before the supplementary is brought we, as Members are curious because we want to know the status of the Ward Projects. Therefore, it might not hinder the passage of the supplementary than 12 days will be okay.

Hon. Deputy Speaker: Three weeks thank you. Hon. Jagero

REQUEST FOR STATEMENT REGARDING DELAY IN PAYMENT OF CONTRACTORS CHARGED WITH RESPONSIBILITIES OF GARBAGE COLLECTION

Hon. Millicent Jagero: Thank you, Mr. Speaker, in pursuant to Standing order 45 (2) (c), I wish to request for a statement from the Chairperson of Sectoral Committee on Environment and Natural Resources, regarding delay in payment of contractors charged with the responsibilities of garbage collections, within the Nairobi City County.

Hon. Speaker, in various estates within Nairobi City County, there has been a delay in garbage collection by the contracted garbage contractors within the County. The contractors claim that they have not been paid their dues hence the cause of actions.

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

1. Details of the companies including the names of all the companies that have been paid for garbage collections for the last six months;
2. Evidence of payments including all the payment vouchers;
3. Reasons as to why there are delays in payments of the contractors; and
4. Measures put in place by the County Government to curb the delay in payments for the contractors to avoid future occurrence. Thank you.

Hon. Deputy Speaker: Chairperson Environment!

Hon. Samuel Kabiru: Thank you, Mr. Speaker; I would like the member to give us ten or three days.

Hon. Deputy Speaker: Hon. Jagero, are you comfortable with three days.

Hon. Millicent Jagero: Yes Mr. Speaker I am comfortable.

Hon. Deputy Speaker: Thank you. Clerk, proceed!

MOTION

ADOPTION OF THE REPORT ON THE STATUS OF EASTLEIGH SOCIAL HALL

Hon. Deputy Speaker: Chairperson Culture. Yes, Hon Gatune.

Hon. Antony Gatune: Thank you, Mr. Speaker, I beg to Move the following motion: THAT, this Assembly adopts the report on Sectoral Committee on Culture and Community Services on the inquiry into the status of Eastleigh Social Hall, Eastleigh North Ward laid on the table of the Assembly on Thursday 9th August 2018. I hence call my colleague Hon. Millicent Jarego to second. Thank you.

Hon. Deputy Speaker: Hon. Jagero.

Hon. Millicent Jarego: Thank you, Mr. Speaker; I rise to second the Motion. We had a site visit to Eastleigh Social Hall and the state that we found there was not good. The hall is in a dilapidated state and most social halls act as a resource centre and some act as creation facilities toward the people of that particular community.

In this regards, there are some findings that we had. The hall has been constructed on the 5th floor whereas it was supposed to be at the basement. There are no lams at the hall and the lifts have been closed posing danger to the people who are there.

The disabled cannot move up to where the hall is situated because there are no ramp that have been created. The washrooms are not in good conditions and generally the hall is not good. The money was allocated in the last financial year totalling to Kshs. 5 million and yet nothing was done.

I request the Members to this House to adopt the report. Thank you.

(Question proposed)

Hon. Deputy Speaker: Hon. Maurice Gari?

Hon. Maurice Gari: Mr. Speaker this gadget has switched on itself but I can say a word. Before I say a word I want to bring to your attention of last week press conference which didn't sound well to the public. I urge my fellow members from Jubilee coalition to tread carefully when they are doing some of the things. We are in handshake; we are not here to fight each other. Corruption is what president Uhuru Kenyatta wants to fight. Either you join us or we box you into the corruption ring.

Mr. Speaker I want to support this report because most social halls in this county are in pathetic situation. Even the county schools have been condemned. They should be brought down and new ones brought up.

Mr. Speaker It is high time as assembly, and as your seat has been confirmed by the court, that you take charge and walk around to see these things with your own eyes and come back with good recommendations now that you are a fully deputy Speaker. You can take charge in the absence of the Speaker. Thank you.

Hon. Patricia Musili: Mr. Speaker I support the issue regarding social halls. We all know as Nairobians that we like safe spaces where our youth and women can interact but they are all grabbed. In light to that I think this house needs a proper audit of how many social places have been grabbed. There is no way we can enter into a public/private partnership and all we get is mediocrity. We can't live in a society that doesn't even acknowledge people with disability.

As it is in the report we are all aware that even the social halls lack essential amenities and accessibility. I urge this house to take this matter with lot of seriousness and I support the report.

Hon. Deputy Speaker: Hon. Azangu?

Hon. Moses Ogeto: Hon. Speaker it is Hon Ogeto.

Hon. Deputy Speaker: But I can see Hon. Azangu here

Hon. Moses Ogeto: Hon Speaker he donated.

Hon. Herman Azangu: Hon Speaker he has no card that is why...

Hon. Deputy Speaker: Point noted. Ogeto proceed.

Hon. Moses Ogeto: Thank you Hon Speaker. As I was going through the report I support it but I find some recommendations which don't hold water. Recommendation one states that the county executive should implement resolutions of this assembly within the minimum time possible. Recommendation two states that Macharia limited renovates the social hall and gymnasium before handing over officially to the county government.

Hon Speaker I find the recommendations contradicting. Hon Millicent Jagero said this social hall was supposed to be constructed at the lower apex. In the Public Accounts committee there are some projects which stalled. They were audited. In that social hall that Hon Jagero has mentioned there is not even a lift. As we adopt this report we need to investigate the agreements involved in the social halls of Eastleigh. We need to get the value of our public/ private partnerships.

Hon. Speaker, if in the agreement, it was said that the social hall should be at the lower and not at the top, then this House needs its culture committee to bring up very good recommendations before this House so that it can be adopted, not two recommendations that do not hold water. Hon. Speaker, you heard them talk about a gym. I was there once and found a gym which is in a deplorable condition. Was it supposed to be on the 5th or 1st floor of this social hall?

So, as I support, I would request this committee to do further investigations and consultations so that they can give us a very credible information because it would be a flimsy allegation that the executive should implement resolutions of the committee when the committee has only given out only one solution for the gym to be renovated. It doesn't make sense. You don't see the lift coming in. You don't see other facilities which were supposed to be in the public private partnership. Hon. Speaker, I beg to support. Thank you.

Hon. Deputy Speaker: Hon. Benson Mwangi.

Hon. Benson Mwangi: Thank you Mr. Speaker. Because of the respect of the leadership of this House and the Minority Chief Whip is standing, let him speak and then I follow. Thank you.

Hon. Deputy Speaker: Hon. Mwangi, what did you say?

Hon. Benson Mwangi: Mr. Speaker, pardon my English, because I learnt from the great Shakespeare. I had said that because of the leadership position of this House, and since the Minority Chief Whip stood up before me, so I request that he speaks and then I follow.

Hon. Deputy Speaker: In short, you have nothing to say. Proceed.

Hon. Peter Imwatok: Mr. Speaker, I rise to support this report and to highlight a few issues that I believe the report has not come out clear on. As my able Deputy Minority Whip has said, some of us were

privileged to visit this facility and honestly if this is the way the County Government or any other administration will operate in terms of partnership, then we always get a raw deal.

Mr. Speaker, I have never seen in the history of the world where a social hall is on the 5th floor while shops and boutiques occupy 1st, 2nd and 3rd floors. It is a market and at the same time a social hall. But delving into it, even just to get the documentation for this agreement is becoming a problem.

I believe this was an issue which was also raised in Public Accounts Committee as part of projects which we deem unfinished in the county. It can either be projects financed by the county or projects emancipated through a public partnership. And as we go round the county currently, we are making sure that every facility that ought to be under the jurisdiction of the county government must be done as per the specification. The so called social hall is already in a dilapidated condition. Even just running water in that social hall is not there. The Ward administrator of that area sits in that social hall. This is a report that we either adopt or we require the investigative part of the assembly, which is PAC, which is now taking a center stage value for money, will really come up with a proper and understanding why this hall was built in such a state. Was it value for the county or it was just a project whereby people come to get money out and the county is deemed to have benefitted?

Mr. Speaker, I don't know whether the Chair received the partnership agreement, but as PAC committee, I believe the Chair was very categorical that out of those projects that are unfinished in this county and those projects that are not validated well, the PAC committee is going to request all the contracts, all the signed partnership to forwarded before the PAC so that when we bring another PAC report and value for money will be exhibited. Thank you, Mr. Speaker.

Hon. Deputy Speaker: Hon. Kabiro

Hon. Mbugua Kabiro: Thank you Mr. Speaker. I want to support this report and also find out if the Minority is interested in speaking before me. He is not and so I will continue.

Mr. Speaker the report is good specifically when you have the thought that you can have a social hall on the fifth floor with disabled people, youth and women to use that it. Businesses are usually on the first to fourth floor and it does not make any sense.

When a private developer comes and develops a facility, we should be the ones to benefit the most and not the developer who was been given land that belongs to Nairobi County. The thing that really worries me in this report is the partnerships as spoken about by the Minority Whip and the fact that Nairobi City Council agreements are still being considered. We had the transition period and I believe that it is the second term for devolution to change all the terms that do not align to the interest of Nairobians who are the majority shareholders in this land.

Mr. Speaker I support this report and hope that we interrogate all the PPP'S that has been taken up through the County Council or the County Government. Thank you.

Hon. Deputy Speaker: Hon. Kemunto.

Hon. Immapet Kemunto: Thank you Mr. Speaker. I rise to support this report and raise a concern. I am worried about the recommendations brought up by the committee. As much as they went and observed the place and reported what they saw, I am worried about the health hazards that are going to incur. As you can see, there are no sanitary equipment's and ceiling boards are falling and I don't know if the health

committee went to site and did a research? Is what the culture committee bringing to us true? In one of the recommendations they are recommending the company to improve the facility before handing it over and with that I am not satisfied. I beg to sit down and support

Hon. Deputy Speaker: Hon. Ngengi. Hon. Otieno

Hon. Elias Otieno: Hon. Speaker, I do not think that you have been fair to me today. As much as people are supporting this report, I wish to say that the recommendations are vague. Recommendation one reads that the County Executive to implement the resolution of this Assembly within the minimum time possible. This is a joke and I wish to call upon members of this House to reject this report in totality. Mr. Speaker this should not go unnoticed. There is no way the Chief Whip Minority can come here and say that the PAC committee should take responsibility for the stalled projects.

That is not the work of the PAC Committee, Mr. Speaker. I think the work of the PAC Committee which is the Public Accounts Committee is to scrutinize the Auditors Report... (*Consultations*) Is it among the Auditors Report? I think if it is maybe somebody might call it *kipindi*, but if it is *kipindi* then it is wrong for this House. So, Mr. Speaker, this recommendation is useless, let the Committee go and do this thorough work first then they can bring it back again Mr. Speaker. We should not just discuss these two paragraphs and then you say that it is recommendations. (*Loud consultations*)

Hon. Deputy Speaker: Hon. Milly please respect the Chair, you cannot just walk in here as if you are entering a toilet. Thank you. Hon. Kagero.

Hon. Millicent Jagero: Thank you, Mr. Speaker. It is a Point of Information and I concur with the Minority Leader Hon. Elias. When I was seconding this Motion...

Hon. Deputy Speaker: Hon. Jagero, is it a point of Order because you had already contributed? You need to sit down, pole.

Hon. Millicent Jagero: I withdraw.

Hon. Deputy Speaker: Hon. Benson Mwangi.

Hon. Benson Mwangi: Thank you, Mr. Speaker. Mr. Speaker, being a member of the Culture and Community Services Committee I know that it is my responsibility as a Committee member to support this Motion. However, in the spirit of integrity and the spirit of the people of Eastleigh Social Hall I beg for this House to give us more time, we go back to the community level and come up with our recommendations. So, I beg this House to allow us as a committee to withdraw this Motion.

Hon. Deputy Speaker: Hon. Okeyo.

Hon. Fredrick Okeyo: Thank you, Mr. Speaker. Hon. Mberia is on my neck here that you deliberately refused to see him but I want to advise him to stay calm as his time is coming. Mr. Speaker, indeed look at the observations. If you look at the observations from the committee, actually they are 1 to 7 observations and let me share with everyone number 1. "*Macharia Ltd to allocate first floor which it allocated to the Eastleigh Social Hall and officially hand over to the Nairobi City County Executive to enable the hall be used in a more meaningful manner and for the intended purposes i.e. for indoor games, meeting place for youth and women groups amongst others*". That is observation 1. Now if you go to the recommendations, "*the County Executive to implement the resolutions of this Assembly*": I am only quoting.

Now Mr. Speaker, in the recommendation from the Committee, it actually does not amount to be referred to as recommendations, these are not recommendations honestly. However beautiful the report could be, but a report without a recommendation! You cannot have 7 observations and then you come up with something to do with the recommendations. Therefore, I kindly urge the House to reject this report so that the committee can go back and come with the proper recommendations. Otherwise, *hii tunaita mchezo wa kalungulungu*. Thank you.

Hon. Deputy Speaker: The Mover.

Hon. Antony Gatune: Thank you to all members and you Mr. Speaker for accepting this report and thank you again Mr. Speaker for supporting me and thank you members for supporting the committee.

(Question put and negatived)

ADJOURNMENT

Hon. Deputy Speaker: The nays have it. Hon. Members, you have transacted the business for today and there being no other business Hon. Members, the House stands adjourned until tomorrow 2.30 p.m. The House Business Committee to meet immediately. Thank you.

The House rose at 3.30 p.m.