



NAIROBI CITY COUNTY ASSEMBLY

OFFICIAL REPORT

Second County Assembly – Third Session

Tuesday 18<sup>th</sup> June, 2019

The House met at 2:30 p.m.

(Hon. Temporary Deputy Speaker (Emily Oduor) in the Chair)

PRAYERS

QUORUM

Hon. Temporary Deputy Speaker: Serjeant-at-Arms, kindly ring the bell for ten minutes. *Mheshimiwa* Njambi, kindly take your seat. You cannot leave when the bell is ringing.

*(Quorum bell was rang for ten minutes)*

Hon. Temporary Deputy Speaker: *Mheshimiwa* Njambi, take your seat.

*(Hon. Njambi took her seat)*

Hon. Temporary Deputy Speaker: Serjeant-at-Arms, ring the bell for another five minutes.

*(Quorum bell was rang for five minutes)*

PAPER

Hon. Temporary Deputy Speaker: Is the Chairman for Planning in the House? Vice Chair? Do we have any member from the Planning Committee?

Hon. Daniel Ngengi: Good afternoon Hon. Speaker? Pursuant to Standing Order No.191 (6), I beg to lay the following paper on the Table of the Assembly today, Tuesday 18<sup>th</sup> June 2019; the report of the Nairobi City County Assembly sectoral committee on Planning and Housing on the petition by residents

of Kariobangi South Ward, KCC village, formalization project on the commercial plot number 6E and C66. Thank you, Hon. Speaker, I beg to lay.

*(The Paper was laid on the Table)*

#### NOTICES OF MOTION

Hon. Temporary Deputy Speaker: Hon. June Ndegwa?

*(Point of order)*

Yes, Minority Leader.

Hon. Elias Otieno: Madam Speaker, the Majority Leader did not bow while entering the House. He should not disrespect the House. So, kindly ask him to go and do the necessary.

Hon. Temporary Deputy Speaker: Majority Leader?

Hon. Abdi Hassan: I believe that my good friend did not see me bowing to the House. I respect the seat, Madam Speaker.

Hon. Temporary Deputy Speaker: Let us continue. Hon. June Ndegwa.

Hon. June Ndegwa: Thank you, Madam Speaker. I beg to give notice of the following motion; THAT aware of Article 26 of the Constitution of Kenya, 2010 that gives the citizens of this Country and resident of Nairobi City County a right to life; further aware that health services including County Health facilities and primary health care have been devolved to the County Governments pursuant to Paragraph 2, part two of the Fourth Schedule of the Constitution; acknowledging that autism is a development disorder of neurobiological origin that can have lifelong effect on social interaction, ability to communicate ideas and feelings, imagination and establishment of relationships; recognizing that autism is one of the categories of special education and is a serious lifelong disabling condition and without the right to proper support it, it can have a profound effect to individuals and families; concerned that many children with special needs **such as those with autism in the County early childhood center's drop out of school due to non-conducive environment occasioned by lack of equipment and facilities; observing that one of the functions of the County Persons with Disabilities Board is to provide to the maximum extent possible assistive devices, appliances and other equipment to persons with disabilities and access to available information and technical assistance to all institutions and organizations concerned with the welfare and rehabilitation of persons with disabilities; this Assembly urges the County Executive to:**

1. Establish, construct and equip specific classrooms for children with special needs in order to accommodate autistic learners;
2. Provide early and accurate diagnosis of autism;
3. Establish a committee to address noncompliance and violation with the primary objective being of mastering academic goals to ensure that the interventions are accessible and effective so as to guarantee the success of and include education for learners diagnosed with autism.

Thank you. Madam Speaker.

Hon. Temporary Deputy Speaker: Thank you, Hon. Ndegwa. Hon. Moseiya.

## DEVELOPMENT OF POLICY TO PROVIDE FOR OUTSOURCING OF LEGAL SERVICES

Hon. Hon. Silvy Moseiya: Madam Speaker, I beg to give notice of the following motion: THAT, aware that the County Assembly enacted the Nairobi City County Office of the County Assembly, which provides for the establishment of the office of the County Attorney to be staffed with competent legislative drafters, legal personnel and constitutional experts; further aware that the act provides for the functions of the office of the County Attorney, which include drafting of legislations emanating from the County Executive and publication of all legislations passed by the County Assembly; concerned that the County has lost many cases and resources due to lack of robust legal representation in cases involving the County Government; further concerned that the County Legal Department has failed to promote and guide the County resources in a manner to protect property of residents of Nairobi County due to lack of professionalism; noting that the County assembly has passed several acts which have not been published as required by the law; this Assembly urges the County Executive to develop an elaborate policy to provide for outsourcing of legal services to handle complex or time consuming projects and cases on a more affordable budget.

Thank you.

Hon. Temporary Deputy Speaker: Hon. Moseiya.

## STATEMENTS

Hon. Temporary Deputy Speaker: Hon. Anthony Karanja.

## REQUEST FOR A STATEMENT REGARDING THE IMPLEMENTATION OF THE REPORT ON APPOINTMENT OF THE EXECUTIVE COMMITTEE MEMBER FOR PUBLIC MANAGEMENT AND DEVOLUTION SECTOR

Hon. Anthony Karanja: Thank you, Madam Speaker. Pursuant to Standing Order No. 45 (2) (c), I wish to request for a statement from the Chairperson of the Select Committee on Implementation regarding the implementation of the report on appointment of the Executive Committee Member for Public Management and Devolution Sector, tabled before the Assembly on 19<sup>th</sup> March 2019.

**Hon. Speaker, Section 44 (3) (a) of the County Government Acts, 2012 stipulates that;** *“A county secretary shall be the head of the public service.”*

**Further, Section 2 of the County Governments Act, 2012, interprets that;** *“A county public service means the collectivity of all individuals performing functions within any department of the county government or its agency but does not include the governor, deputy governor, members of the county executive committee and members of the county assembly.”*

Hon. speaker, centering on the quoted sections of the County Governments Act 2012, the CECM for Public Service Management and Devolution Sector who was approved by this Assembly through a report tabled here on 19<sup>th</sup> March 2019, has continued to serve both as CECM and Acting County Secretary. As demonstrated above, this is in complete violation of the provisions of County Governments Act, 2012 and therefore means that Ms. Pauline Kahiga is playing the role of the Ag. County Secretary illegally.

Hon. Speaker, being the CECM for Public Service Management and Devolution Sector, Ms. Pauline Kahiga should be performing the duties of a CECM and not County Secretary. The risk therefore

posed by her appointment is that all the business/contracts she signed and decisions she has done as a the Ag. County Secretary may end up being challenged and nullified.

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

- i. Why the report of the County Assembly tabled on 19<sup>th</sup> March, 2019 has not been implemented by having Ms. Pauline Kahiga relinquish her role as the Ag. County Secretary and assuming her role as the CECM for Public Service Management and Devolution Sector;
- ii. Why after being appointed as a CECM on 19<sup>th</sup> March 2019, Ms. Pauline Kahiga has continued to perform the role of a County Secretary oblivious of the provisions of the County Government Act, 2012 on who should serve in that office.
- iii. All contracts and business she has signed or transacted on behalf of the County while acting as the County Secretary after her appointment as the CECM for Public Service Management and Devolution Sector;
- iv. Measures put in place to ensure that the Office of the County Secretary is filled by a person qualifying to hold the position.

Hon. Speaker, I believe the matter is weighty and may end up putting this county in jeopardy based on all the contracts, directives and commitments that are being done by that office. I request that the chairman of Implementation should deal with this matter as soon as it is possible. Thank you.

Hon. Temporary Deputy Speaker: Thank you, Hon. Kiragu. Chair of Implementation?

Hon. Elias Otieno: Thank you, Madam Speaker. Even before we start our investigation, it is already a breach of the law by the appointing authority because there is no way you can be a public officer and a state officer at the same time. I think it is fair we respond on Wednesday next week.

Hon. Temporary Deputy Speaker: Hon. Karanja? Wednesday next week?

Hon. Anthony Karanja: Hon. Speaker, that is very far. I think that in the last two weeks, the County Secretary has signed more than 100 contracts. It will be a bit late because we may not have enough time to recruit and to have the right person to sign. Noting that we have a Deputy County Secretary in this County who should actually be sitting in that office when the County Secretary is away. Today is Tuesday and I believe that with his capacity and power networks, he can be able to deliver this in two days.

Hon. Temporary Deputy Speaker: Chair of Implementation, do you have any counter offer?

Hon. Elias Otieno: Okay, we needed 7 days. That is why I said we will respond on Wednesday next week, but we can take off one day and respond on Tuesday next week.

Hon. Temporary Deputy Speaker: Hon. Karanja, I think we will take it on Tuesday because they have to go through the process of going to the Executive to get the information probably even getting some more information from the Governor which might not be available. Therefore, are you okay with that?

Hon. Anthony Karanja: I will take it, Hon. Speaker, however, I do not see the need to call the County Secretary to the committee because they just need to open the County Government Act and read Section 44 and 81 which is very clear who the County Secretary is supposed to be. Therefore, I will take it and hope that we will be able to move faster.

Hon. Temporary Deputy Speaker: But still they need to get information from the appointing authority not only the County Secretary but also they might not need to call the County Secretary but they need to talk to the appointing authority. That is why it will take that time. Yes, Minority Whip.

Hon. Moses Ogeto: Hon. Speaker, the Chairperson Planning knows very well the proceedings of this House usually take seven days. It is very lenient for the Chairperson of Implementation to reduce to a day. He should appreciate so that we do not violate some privileges which are in this House. As much as he wants to tell us about the sections of the County Government Act, he should wait since he has requested it until Tuesday so that he can be given the same statement.

Hon. Temporary Deputy Speaker: Hon. Whip, I think the Chairperson Planning had actually accepted the number of days so let us move on. Chairperson of Education, is she in the House? What about the Vice-Chairperson? Okay, do you have the response?

Hon. Samuel Mwangi: Yes I do.

Hon. Temporary Deputy Speaker: Is Hon. Njihia in the House

Hon. Samuel Mwangi He is in.

Hon. Temporary Deputy Speaker: Continue.

RESPONSE TO A STATEMENT REGARDING STATUS OF COLLAPSED SCHOOL WALL IN SHADRACK  
KIMALLEL PRIMARY SCHOOL

Hon. Samuel Mwangi: Hon. Speaker, on 10th April, 2019, Hon. Mwangi Njihia, MCA rose on the floor of Assembly pursuant to Standing Order 45 (2) (c) and requested for a Statement from the Chairperson the Sectoral Committee on Children, Early Childhood Education and Vocational Training regarding the status of schools in Nairobi County, specifically, a collapsed school wall in Shadrack Kimalel Primary School in Woodley Ward.

He further asked the Chairperson to inquire into and report on:

- i. Reasons the school perimeter wall has not been reconstructed since mid-last year;
- ii. What the County Executive is doing to ensure the facility and children are secure from vandalism and any possible threats; and
- iii. Measures put in place by the County Government to ensure such incidences are reported and mitigated in a timely manner.

Hon. Speaker, pursuant to Standing Orders 45 (2) (d) the Committee wrote to the County Executive Committee Member responsible for Education, Youth Affairs, Sports, Culture, Children and Social Services on 17<sup>th</sup> April, 2019 inviting her to a meeting of the Committee that was to be held on 24<sup>th</sup> April, 2019 to deliberate on the statements. Hon. Mwangi Njihia, MCA was also invited to the meeting pursuant to Standing Orders 45 (2).

In this regard, I wish to report to the assembly as follows:

Shadrack Kimalel Primary school in Woodley stands on 3.222 ha piece of land. The school has an ECDE center, a primary school section and a secondary school section. From the records found in the school, the Nairobi City Council put a perimeter wall for the school in the year 2010 through a construction company known as Loitec. Unfortunately during the heavy rain in March 2018 part of the school perimeter

wall collapsed due to the heavy flood waters that drained from Ngong road golf course through the school compound. An issue of concern worth noting is that there are kiosks around the school wall that have been built on top of storm water drainage system escalating flooding into the school. There are also matatus that park in front of the school gate blocking the entrance to the school. The collapsed wall incident was reported to the sub county administrator Kibra ward by the education officer in charge of Kibra Sub County. Currently the gap in the wall has been temporarily blocked using a mabati fence.

*1. Reason why the wall has not been constructed*

Both the principal Shadrack Kimalel secondary school and head teacher Shadrack Kimalel primary school stated lack of funds for construction of the collapsed wall.

Due to the fact that primary and secondary school are functions of the national government the county government did not budget for the construction of the collapsed wall.

*2. What the county executive is doing to ensure the facility and children are secure from vandalism and any possible threats*

The Nairobi City County Government contracted 4 guards for the school during the night and 2 for daytime from Magic security.

The issue was immediately raised by the sub county administrator Kibra who is in charge of county sector as well as issue of flood mitigation and other emerging issues.

The management of the primary school as temporarily measure covered the gap with a mabati fence.

The sector has written to building works requesting for BQ to enable plans for reconstruction of the wall either by the school or a well-wisher.

*3. Measures put in place by the county government to ensure such incidences are reported and mitigated in a timely manner.*

There are teams on the ground doing drainage and clogging works currently. Security and disaster management are in the process of removing kiosks along perimeter wall and those who built on top of storm water drainage systems.

On reporting all sub county administrators have been meeting every Monday of the week whereby all sectors are represented. Any urgent issue is addressed by these meetings before it is escalated to the headquarters.

Mr. Speaker a copy of the detailed response has been given to Hon Mwangi Njihia MCA who requested for the statement and was satisfied with the response.

Mr. Speaker, I beg to lay these response.

Hon. Temporary Deputy Speaker: Chair, Education we have Madam Speaker not Mr. Speaker. I hope that will not happen again.

Hon. Samwel Mwangi: I am sorry, Madam Speaker.

Hon. Temporary Deputy Speaker: Thank you. Hon. Njihia, are you satisfied with the answer?

Hon. Abraham Njihia: Thank you, Madam Speaker. It is true that I appeared in the Education Committee meeting and the response was given. I agreed with number 1, 2 but number 3 I am yet to get a

response. So he has brought an incomplete response maybe he should put in more effort and bring a comprehensive response. It is true that I appeared in the committee.

Hon. Temporary Deputy Speaker: Hon. Chair, I hope you have taken note of that. Probably Hon. Njihia you should go back to the committee for more clarification and we hope that the last bit that has not been responded to well can be done either in the House or in the committee.

## MOTION

### DEVELOPMENT OF A POLICY TO ESTABLISH THE COUNTY YOUTH, WOMEN AND PERSONS WITH DISABILITIES EMPOWERMENT FUND

Hon. Temporary Deputy Speaker: Hon. Doris.

Hon. Doris Kanario: Thank you, Madam Speaker. I beg to move the following motion. THAT, aware that Article 23 (1) of the Constitution 2010 provides for all state organs and public officers to address the needs of vulnerable groups within the society including women, persons with disability, youth among others; further aware that Part II of the 4<sup>th</sup> Schedule of the Constitution provides for the functions of the County Government which is to support women and youth enterprises in the County by establishing and providing for the administration for the Youth and Women Empowerment Fund ensuring and coordinating the participation of communities and locations in governance at the local level and assisting communities and locations to develop the administrative capacity for the effective exercise of the functions and powers and participation in governance at the local level; acknowledging that there has been 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 from the county cannot easily access credit facilities from financial institutions due to stringent procedures in accessing such facilities and lack of security and guarantors, this assembly urges the County Assembly to develop such a policy to establish the County Youth, Women and Persons with Disabilities Empowerment Fund set out provisions relating to procedures for application for loans and conditions for---

*(Point of order)*

Hon. Temporary Deputy Speaker: Yes, Hon. Oyugi?

Hon. Kennedy Oyugi: Madam Speaker, I am on point of order under Standing order No. 36. The Hon. Member is raising a very important motion and as you can see, we are less than ten members in the House. **I don't think it is fair for us to pass such an important motion like that when we don't have quorum.**

## QUORUM

Hon. Temporary Deputy Speaker: Serjeant-at-Arms, can you confirm that? Please ring the bell for another 10 minutes so that other Members can come in.

*(Quorum bell was rang)*

*(Motion deferred)*

## ADJOURNMENT

Hon. Temporary Deputy Speaker: Hon. **Members, we don't have quorum.** We adjourn the House until tomorrow, Wednesday 19<sup>th</sup> June 2019 at 2.30 p.m. The House Business Committee we meet immediately after this.

*The House rose at 3.16 p.m.*