



## NAIROBI CITY COUNTY ASSEMBLY

### OFFICIAL REPORT

#### Second County Assembly – Third Session

Thursday 19<sup>th</sup> September 2019

The House met at 2.30 p.m.

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

#### PRAYERS

#### QUORUM

**Hon. Temporary Deputy Speaker:** Hon. Members, we don't have a quorum. Serjeant-at-Arms, please ring the bell for 10 minutes.

*(Quorum bell rang for 10 minutes)*

We still do not have a quorum. Ring the bell for further 5 minutes. Make sure nobody walks out.

*(Quorum bell rang for 5 minutes)*

We now have a quorum. Clerk, proceed.

#### NOTICES OF MOTION

##### RENAMING OF KAPITI ROAD TO JOE KADENGE ROAD

**Hon. Temporary Deputy Speaker:** Hon. Waithera Chege.

**Hon. Waithera Chege:** Thank you Madam Speaker. I beg to give notice of the following Motion. That aware that article 186 (1) of the Constitution of Kenya 2010 and paragraph 5 of the 4<sup>th</sup> Schedule to the Constitution provides for the functions and powers of the county government on the county transport, including county roads, street lighting, public roads, transport trafficking and parking; further aware that the country has since independence named and renamed roads to honor heroes and heroines who have contributed immensely to the development of the republic; noting that the naming of roads and other public places after heroes bestows honor and shows gratitude to such people, concerned that there are heroes and

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heroines who have not had similar honors bestowed upon them despite their immense contribution to this country; recognizing that road names have been changed before to reflect names and places significant to Kenyans, e.g. Lord Delamere Avenue was renamed Kenyatta Avenue, Government Avenue was renamed Moi Avenue, Forest Road to Prof. Wangathi Mathai Road amongst others; this Assembly resolves that Nairobi City County Government renames Kapiti Crescent Road in Nairobi South Ward to Joe Kadenge Crescent Road in honor of the football icon who was a resident of Nairobi South area and was regarded as the finest footballer to ever grace the country's football scene as evident in his variant effort in guiding Harambee Starts to win the inaugural East and Central Africa challenge cup. I beg to give notice of the said Motion.

**Hon. Temporary Deputy Speaker:** Thank you. Next order.

**THE NAIROBI CITY COUNTY REVENUE ADMINISTRATION BILL 2019,  
ASSEMBLY BILL NO. 11 OF 2019  
(SECOND READING)**

**Hon. Temporary Deputy Speaker:** Chair, Budget.

**Hon. Robert Mbatia:** Thank you Madam Speaker. Madam Speaker, I beg to move that the Revenue Administration Bill 2019 be read as second time. Hon. Speaker, the need for counties to continually explore avenues on how revenues can be enhanced to effectively finance devolved functions cannot be over-emphasized. The spirit of the Constitution was not only that functions were to be devolved for execution by counties but that such functions assigned needed to come with commensurate amounts of resources to ensure they are efficiently executed at the second tier of governments.

Madam Speaker, from the foregoing it is noteworthy that for the County to deliver on the promises outlined in various planning documents there is need to revamp measures on the collection of internal revenues. The provisions of Article 209 of the Constitution of Kenya 2010 grants County Government powers to impose property rates, entertainment taxes as well as charges for the services they provide. The power so granted remains a pipe dream if counties cannot guarantee watertight mechanisms of ensuring that there is low-cost expenditure in revenue collection, verifiable accountability systems and clarity in fiscal reporting. The proposed Nairobi City County Revenue Administration Bill is therefore meant to provide a framework for effective collection, receipt, assessment, administration, and management of county revenue.

To achieve this Madam Speaker, the Bill proposes amongst others an establishment of a County Revenue Authority and providing for enabling procedures. By establishing the authority, the bill seeks to promote efficiency, effectiveness, and transparency.

Madam Speaker Clause 4 (1) of the Bill proposes to establish the Nairobi City County Revenue Authority which shall be a Board of Management whose functions are contained in clause 6 (1) and comprises of nine members as per the clause. The authority comprises of nine members headed by a non-executive chairperson appointed by the Governor with the approval of the County Assembly, the Chief Officer, four other persons appointed by the CEC Member for Finance, a County Revenue Administrator who shall be an ex-officio member and one other member from a special interest group.

The Committee shall hence be proposing amendments to charge the authority with the responsibility of providing the link between the County and such entities. Further, the committee wishes to ensure that the Board has no vacuum in the temporary absence of the chairperson by providing for the position of a vice-chairperson. In general, the proposed amendments also aim to kill the ambiguity on clause 12 and 13 of the Bill, which appear to give power to both the authority and the CEC Member for Finance on the employment of revenue officers.

Madam Speaker Clause 8 (1) of the Bill proposes to establish the office of the County Revenue Administrator who shall be competitively recruited and appointed by the County Public Service Board whose role is contained under clause 9 (1). The Bill proposes that there shall be a County Revenue Administrator who shall hold office for five years and shall be eligible for reappointment or a further and final term of five years.

The committee deliberated on the position and noted that there is need to protect the security of tenure for officeholders in addition to providing conducive terms of service. The committee shall hence be proposing to have a nonrenewable contract of six years for the officeholders. Clause 8 (4) (b) of the Bill refers to the removal County Revenue Administrator by the County Public Service Board upon recommendation by the CEC Member for Finance supported by the Executive Committee meeting.

The Committee shall be proposing amendments to make it clear that the Board has the final authority on the removal or otherwise of the County Revenue Administrator. This is meant to ensure that the person holding such a position is granted a fair hearing before the termination decisions are made. To guarantee the independence of the authority, the committee shall also be proposing amendments so that the County Revenue Administrator is appointed by the CEC Member for Finance upon the recommendations of the Board of the authority instead of the County Public Service Board. This is meant to ensure that the administrator has a considerable level of accountability to the authority through the Board.

Clause 14 of the Bill proposes that the authority shall register all revenue payers in the prescribed manner and each assigned a Revenue Identification Number. The Bill proposes for the preparation of records and information of revenue payers including their registration. The committee noted that clause 14 (3) allows any member of the public to assess data on revenue persons thereby going against basic principles of confidentiality on tax information. The committee shall be proposing amendments to provide guidelines for access to private data.

The committee was also not convinced of the rationale for the law requiring individual taxpayers to keep records of payments. Further, the committee believes that the Unique Identification Number given to every revenue payer should be included in returns and correspondences with the authority. The committee shall also be proposing to amend the proposed law to require a declaration to the authority by the revenue payer if they change their business name or address or place of business or the nature of the taxable activity.

Madam Speaker, clause 29 of the Bill provides that, all the revenue collected by the authority shall be paid into the County Revenue Fund. Clause 32 proposes that the authority shall cause to be prepared budget estimates for the authority for each financial year. On the financial provisions of the authority, the committee noted that the clause on funds of the authority is contradicting as to whether the funds are acquired from the revenue estimated or the actual revenue collected from the previous year.

Further, the law assigns the functions of preparing the estimates to the authority instead of the County Revenue Administrator who will then table the same in the Board of the authority for approval. Clause 32 has not provided whether the budget of the authority would be subject to the County Assembly's approval of whether the authority budget calendar should tally with the County budget.

Further, the provision indicates that the sum provided in the estimates be submitted to the County Executive Committee Member for inclusion in the County Fiscal Strategy Paper at least ninety days before the end of the financial year. The Committee notes that the provisions of Section 117 of the PFM Act 2012 require that the CFSP be adopted by the County Assembly not later than 15<sup>th</sup> March each year making this kind of additional time-barred. In this regard, the Committee resolved that the annual estimates may hence be amalgamated with the estimates for the Finance Sector and subjected to County Assembly approval and voting through the annual appropriations act. To address all these gaps, the Committee shall be proposing amendments on the same.

Clause 37 of the bill allows revenue payers who wish to dispute a County revenue decision to lodge an objection with the County Revenue Administrator. The Clause also provides the process in which an objection decision is made. The provision is a salutary initiative that allows an appeal in the case that one is aggrieved by a decision made by the Authority. However, the clause limits objections to be decided only by the County Revenue Administrator. The Committee holds the view that decision made could be biased, therefore the bill could establish a Committee to listen to the objections or offenses committed by any person or in any case allow any party not contented with the determination of the County Revenue Administrator to seek court's intervention.

The Committee has considered the amendments in addition to those that were submitted by the County Treasury, various stakeholders and members of the public and the same are part of the proposed amendments attached to the report.

I beg to move and request my Vice-Chair, Hon. Karani to second me. Thank you, Madam Speaker.

**Hon. Patrick Karani:** Thank you, Madam Speaker, I rise to second the Bill. I would like to state where the County is at the moment. It is very important for this House to support. We are at crossroads because, in the year 2014/2015, Nairobi County collected revenue of Kshs. 12 billion. Since then, we have been on a downward trend. It is only a fool or an insane person who keeps doing things the same way and expecting different results.

Where we are now, Nairobi County should embrace new techniques and methods of doing things. By this, Nairobi County Revenue Administration Bill is a complete total paradigm shift in terms of how we go on matters of revenue collection.

Madam Speaker, in the year 2017/2018, we collected Kshs. 10.1 billion. Last financial year, we did the same. Going forward, if we don't change, it means the County will not be able to achieve the revenue target. We had a deficit that the first year of the government of Kshs. 5 billion. The second year, the deficit was Kshs. 7 billion. We are on a downward trend. It is the time the County should embrace this and operationalize it.

What the bill is doing is restructuring the entire revenue department. That has been a problem because the director of revenue who is in charge is equivalent to the director of parking, licensing and all

other directors heading revenue streams. How can a director report to a director? Structurally, there is a problem. It is structured to steal money. This Bill will transform the entire organization. There will be a complete organogram whereby there will be a CEO and managers. It will be a corporate body to handle those problems.

Administratively, there are various challenges given the way the system is now, it is not designed in a way to assist us to meet our revenue targets. You will find that there are many administrative bottlenecks. Like, in terms of how we collect revenue in various sectors and how is it being reported.

One person who is the director of revenue reports it and he is not in charge of the sectors. How is it being accounted for, It is accounted for by sector accountant. How is it monitoring and enforcement done? Therefore, the entire system has disenfranchised and that why it cannot function.

Madam Speaker, as I second I would like to urge members to support this Bill and we move as fast as possible and make sure the organization is set in place so that we can address these challenges. Already the first quarter is gone, we are now left with three quarters, and we are doing very badly.

The current system we are using is worse than Jambo Pay and we are not able to meet the target that even the Jambo Pay met in January, July, and August. The System that we are using it is very inefficient and it is time we do away with those systems and we come up with our system that this Bill is set to establish. By so doing Madam Speaker, one it will save the County a lot of money if you calculate the cost Jambo pay used to collect 700million annually, which the County had to part with every year, even this one is not cheap.

Madam Speaker, when we establish the Bill we will bring that cost down because we are not going to hire new employees, within the county, there are those skills that are required and they will be recruited because no new employees are going to be employed. We will have employees in various sectors seconded there.

Madam Speaker, I do not want to take much time but it is good to finish by saying that when take a certain route and then realize you are not heading anywhere, you should go back where you lost the direction and take a different turn. I beg to support.

*(Question proposed)*

**Hon. Herman Azangu:** I stand to support the Bill and I would like to thank you for giving me this opportunity. This Bill is about the gaps, which are in revenue collection here in Nairobi, as you know we have some gaps whereby the corruption usually takes place and I know this Bill will fill those gaps because it is talking about the enhancement of transparency and accountability. It is also talking about promoting efficiency and effectiveness in revenue collection administration.

Therefore, as I support this Bill I would like to thank the Chairman and the Committee as a whole for bringing such a Bill in the House. Thank you and I support it.

**Hon. Temporary Deputy Speaker:** Hon. Kirangu, I cannot see your request but you can go ahead.

**Hon. Anthony Karanja:** Hon Speaker I thank you for this opportunity and maybe I can say this is a very important step forward. It is never easy to come up with such Bill that touches on tightening the noose on pilferage in the County.

I like the explanation and the contribution of my colleague who is a member of Utawala Hon Karani and I support everything he is saying, I have supported him all along until he said that the system we have is

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worse than JamboPay. There is no day JamboPay can be good. I wish to remind him that Lambo Pay provided an opportunity where the money would be collected and stolen by an individual. The current one has issues of collection; so the money remains with people of Nairobi in their pockets. There is no way I can support Jambo Pay; it was blatant theft of public resources but I like the spirit and the Bill and especially because it deals with the issue of corruption.

Pilferage and stealing of public money is a moral issue. Never a legal issue. However, I have seen the Bill proposes action against people who abet or participates in the loss of money. And it also defines structures that will make the management of revenue collection very clear. It is a good Bill and I support the thinking and spirit of the Bill. Thank you.

**Hon. Daniel Muturi:** Thank you very much, Hon. Speaker, I stand to support this Bill and first of all being a member of the committee I would like to congratulate my chairman for such wonderful Bill.

Madam Speaker they say to keep doing the same thing over and over again and expecting different results is insanity. I think we are at a point where we have been at a crossroad and this is the time where we take a different direction so that we can enhance the revenue and achieve the targets so that we give services to the residents of Nairobi whom we represent.

For very long time money has been spent at source and the fact now is that people are directly responsible for any mistake found in their departments. This goes a long way in improving the revenue collection.

We come here year after year and have a budget of which we cannot meet the obligation because of lack of revenue but with this Bill, I believe we are on the right track and definitely with the support of all the members and Nairobians we shall achieve our targets.

As I stand here to support the Bill it is very critical that we follow up on whatever it is that we are supporting here so that indeed we are just not here on rhetoric. Nairobi should get the necessary funding. Thank you Madam Speaker, I beg to support.

**Hon. Jeremiah Themendu:** Thank you Madam Speaker for this opportunity. I first thank the chairman and his vice for bringing this Bill in this Assembly. We have a big problem. First I support the establishment of the authority. It shall be called Nairobi City County Revenue Authority. We have a big problem with collecting revenue in our County. I am vice-chair of the Trade Committee and we have challenges. When we do oversight in our markets where they collect those funds you cannot see where it has gone. The other time we had Jambo Pay and we migrated to the other one but we don't see what they are doing. When this authority is in place and the process of collecting funds is administered, we shall have achieved but for now, we are stagnating without getting revenue to manage development in our county. I support the decision of establishing the authority to make sure monies collected are in safe hands. Thank you Madam Speaker.

**Hon. Temporary Deputy Speaker:** Thank you. I see that there have been extensive discussions on the Motion and I now call upon the mover to move the Motion.

**Hon. Robert Mbatia:** Thank you Madam Speaker. I want to thank the entire Assembly for the spirit that *Maeshima* Kiragu has alluded to, which is the spirit of supporting this Bill. It is very clear that we are all in the same boat. I also want to thank the Governor His Excellency Mike Mbuvi Sonko because initially, we

had a problem passing this Bill to the Executive. There was resistance against this for reasons we do not know but the Governor himself supported it and the game changed. I also want to thank the committee who sat endlessly to refine this Bill to what it is at this point. As has been said Madam Speaker, the County is in its second term and has not been doing well. We can remember when the County was still a city council, we used to receive latif funding which was barely two billion Kenya shillings yet the council would still offer services efficiently and pay salaries. Noting that national transfers translate to about 15 to 16 billion, this means that we are now getting more and the local collections that we survive on get lost. We do now need rocket science to know where it is going therefore with this restructuring; I believe that we will have some form of order. The County treasury has been formless as has been mentioned by my vice-chair.

Initially, the National Government was collecting fees, charges, and taxes in various ministries but at the inception of the Kenya Revenue Authority, all the taxes were put under one administrator KRA and through this, we have seen revenue grow. We can see progress from them and I believe that when we will have our own Nairobi City County Revenue authority then we shall have realizable targets and know where the backstops. I, therefore, thank the Speaker and the entire Assembly and with that, I propose that this Assembly be read a second time. Thank you Madam Speaker.

**Hon. Temporary Deputy Speaker:** Thank you Chair

*(Question put and agreed to)*

**THE NAIROBI CITY COUNTY REVENUE ADMINISTRATION BILL, 2019; ASSEMBLY BILL NUMBER 11 OF 2019. A BILL FOR AN ACT OF THE COUNTY ASSEMBLY TO PROVIDE A LEGISLATIVE FRAMEWORK FOR THE GENERAL ADMINISTRATION OF REVENUE RAISING LAWS, EFFECTIVE ADMINISTRATION OF REVENUE COLLECTED BY THE COUNTY GOVERNMENT, THE ASSESSMENT, COLLECTION, RECEIPT AND MANAGEMENT OF THE REVENUE, ESTABLISH THE COUNTY REVENUE BOARD AND FOR CONNECTED PURPOSES**

**Second reading**

**ADJOURNMENT**

**Hon. Temporary Deputy Speaker:** Thank you. Hon. Members, there being no other business, we stand to adjourn until 24<sup>th</sup> September 2019 at exactly 2:30 p.m. Thank you and have a pleasant weekend.

*(The House rose at 3:40 p.m.)*

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