



NAIROBI CITY COUNTY ASSEMBLY

OFFICIAL REPORT

Second County Assembly – Third Session

Tuesday 23rd July, 2019

The House met at 2.30 p.m.

(Hon. Acting Speaker (Chege Mwaura) in the Chair)

PRAYERS

QUORUM

Hon. Acting Speaker: Clerk, confirm quorum please. Serjeant-at-Arms ring the bell for 10 minutes as we gather quorum.

(Quorum bell rung)

I am being informed that we have sufficient quorum, Clerk proceed with the orders.

PETITION

RESIDENTS OF PUMWANI IN MAJENGO SETTLEMENT FORCED EVICTION

Hon. Acting Speaker: Hon. Members there is a public petition pursuant to Standing Order 208 by the residents of Pumwani in Majengo Settlement forced eviction in Nairobi City County and just to read for you the highlights; their prayers are that:

1. The County of Nairobi intervenes and ensures that all the illegal actions and irregularities done by the Nairobi County Administrators be revoked;
2. Those who are building commercial houses in Gikomba Market be stopped from replacing old residential houses; and
3. Pumwani natives who are part of colonial effects of detribalized communities in 1920-1939 (the cosmopolitans Swahilis) Pangani to Pumwani, the Nairobi Township lease of 1926 be respected i.e. a draft plan No.26612, Title No. L.R 4097/1, Land Ref. 209/2378/1, L.R No. 2942, L.R No.1439/4.

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I will commit this Petition to the Planning Committee to expedite action for the County Assembly, proceed.

NOTICES OF MOTION

RENAMING OF CITY STADIUM TO JOE KANDENGE STADIUM

Hon. Mbugua Kabiro: Thank you very much Mr. Speaker. I beg to give Notice of the following Motion. That, aware that Chapter 4 of the Constitution of Kenya 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 freedom is to preserve the dignity of individuals and communities and to promote social justice and the realization of the potential of all human beings; acknowledging the country has since independence named and renamed streets, roads among other public places to honor heroes and heroines who have contributed immensely to the development of the republic; noting that the naming of public places after heroes and heroines bestows honor and shows gratitude; deeply concerned that there are heroes and heroines who haven't had similar honor bestowed upon them despite their immense contribution to this country; this Assembly resolves that the Nairobi County Executive renames the Nairobi City Stadium to Joe Kandenge Stadium in honor of the football icon Mr. Joe Kandenge, who was regarded as the finest footballer to ever grace the country's football scene as evident in his valiant efforts to guiding the Harambee Stars to win the inaugural East and Central African Challenge Cup.

Thank you very much.

Hon. Acting Speaker: Thank you. It will be taken to House Business for setting of a date for us to debate. Hon. Silvia Museiya? Who is holding brief for her? Then it will be pushed to tomorrow so that we can deliberate. Next order.

STATEMENTS

Hon. Acting Speaker: There is a response for Hon. Kennedy Oyugi by Planning and Housing Committee. Are they ready with it? Chairman Planning, vice-chair, Hon. Ndumi do you have anything on behalf of your committee?

Hon. Ruth Maingi: I have nothing Mr. Speaker sir.

Hon. Acting Speaker: Is Hon. Kennedy Oyugi in? So he is not in? May be it should be brought tomorrow so that we can proceed. I gather also that you don't have a response for Hon. Pius Mbono, Hon. Peter Karani or Hon. Elijah Mputhia?

Hon. Ndumi I will request that because Hon. Oyugi is not in, you go ahead since Hon. Pius is here.

Hon. Ruth Maingi: Yes Hon. Pius Mbono is in the House.

Hon. Acting Speaker: If you have his response, you can proceed and read the highlights.

RESPONSE TO A STATEMENT ON THE ONGOING DEMOLITIONS IN THE COUNTY

Hon. Ruth Maingi: Response to a statement requested by Hon. Pius Mbono from the Chairperson of Planning and Housing Committee. On Tuesday 30th April 2019, Hon. Pius Mbono MCA, rose on the floor

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of the House pursuant to Standing Order 45 (2) (c), and requested for a statement from the Chairperson of the Planning and Housing Committee regarding the ongoing demolitions in the County especially in Zimmerman Ward.

According to the Member, demolitions of structures reportedly on residential structures in Zimmerman Ward are ongoing and is executed by a team called Multiagency Team, which is carrying out the exercise without consulting and notifying the area leadership hence demeaning their dignity in the face of the electorates.

The Member further sked the Chairperson to inquire into and report on:

1. Whether the County Executive is aware of the demolitions and who authorizes the exercise;
2. What is the justification of the demolitions and whether notices were issued to the affected persons and businesses; and
3. What measures has the County put in place to ensure that the exercise is executed only as per the law.

Hon. Speaker sir, the Committee wrote a letter to the County Executive Committee Member responsible for Lands, Urban Renewal and Housing on 5th June 2019 where the contents of the request were outlined. Further, the CECM for Lands, Planning and Housing delivered a written response to the committee on 9th May 2019 on the issues raised.

In this regard, Hon. Speaker sir, I wish to report to the Assembly that on whether the County Executive is aware of the demolitions and who authorized the exercise, the Nairobi County government was not responsible for the stated demolitions. The limited information they have is that the demolitions were spearheaded by the National government through Multi-Sectoral Agencies.

Hon. Speaker I wish to table this response. Thank you.

Hon. Acting Speaker: Thank you Hon. Ndumi. Hon. Pius, do you wish to say something on the statement?

Hon. Pius Mbono: Thank you Hon. Speaker. Although they have taken a while to lay the response before the House, I confirm that the report states that the County was not aware of the demolitions and that the Governor came to the grounds to stop the demolitions and so I am satisfied with the report.

Hon. Acting Speaker: Thank you. Hon. Ndumi, I cannot see Hon. Karani but Hon. Mputhia is around. Go ahead and respond to his request.

RESPONSE TO A STATEMENT ON DEMOLITION OF STRUCTURES IN NAIROBI COUNTY

Hon. Ruth Maingi: Thank you sir. Response to a statement requested by Hon. Elijah Mputhia MCA requested from the Chairperson of the Sectoral Committee on Planning and Housing. On Wednesday 10th April, 2019, Hon. Elijah Mputhia MCA rose on the floor of the Assembly pursuant to standing order 45 (2c) and requested the Chairperson Planning and Housing Committee for a statement regarding the demolition of structures in Nairobi County and specifically in Njiru Ward. According to the Member, residential properties erected as far as 45 meters away from the railway line were demolished on 13th March 2019 leaving families homeless and putting them at risks such as insecurity.

The Member further asked the Chairperson to inquire into and report on;-

- i. Reasons for demolition of the structures;

- ii. The distance to be left between a residential house and a railway line; and
- iii. Measures put in place by the County Executive to compensate the victims of such excesses by the County.

Hon. Speaker, the Committee wrote a letter to County Executive Committee Member responsible for Lands, Urban Renewal & Housing on 2nd May 2019 where the contents of the request were outlined. Further, the CECM for Lands, Planning & Housing delivered a written response to the Committee on 23rd April 2019 on the issues raised.

In this regard, Hon. Speaker, I wish to report to the Assembly that;-

1. Reasons for demolition of the structures
The Nairobi City County is neither privy to the reasons of the stated demolitions nor did it participate in the demolitions.
2. The distance to be left between a residential house and a railway line
The law stipulates that 30 meters shall be observed on either side of a railway line as Buffer Zone or Railway Line Reserve.
3. Measures put in place by the County Executive to compensate the victims of such excesses by the County
Nairobi City County cannot be held to account for actions by other parties.

Thank you Hon. Speaker, I beg to table this response.

Hon. Acting Speaker: Thank you Hon. Ndumi. Hon. Elijah, do you have something to say in regards to the statement?

Hon. Elijah Muthia: Yes Hon. Speaker. I confirm that I appeared before the committee and was satisfied with the explanation given to me.

RESPONSE TO A STATEMENT ON THE USE OF ASBESTOS IN ROOFING

Hon. Acting Speaker: Very well. Chair Environment? Any member representing the committee? Hon. Silas, can you hold brief on behalf of your committee?

Hon. Silas Matara: Thank you Hon. Speaker for this opportunity. This is a response to a statement requested by Hon. David Okello, MCA. Hon. Speaker, on Tuesday 19th March 2019, Hon. David Okello, MCA rose on the floor of the Assembly pursuant to Standing Order 45 (2) (c) and requested for a statement from the Chairperson of the Sectoral Committee on Environment and Natural Resources regarding the use of asbestos in roofing despite being banned.

In the statement, the member requested the Chairperson to inquire into and report on;

1. List of all county schools and County public buildings with asbestos roofing;
2. When does the County Government plan to safely remove and dispose hazardous roofing in schools and other County public buildings;
3. Measures put in place by the County Government to safeguard the health and well-being of children in schools such as Imara Daima with asbestos roofing.

Hon. Speaker, the committee wrote to the CECM Member responsible for Environment, Water, Energy and Natural Resources inviting her to a meeting of the committee that was held on the 10th April pursuant to Standing Order 45 (2) (d) to deliberate on the statement. Hon. David Okello attended the said meeting pursuant to Standing Order 45 (2) (e). Hon. Speaker, the committee deliberated on the response

and Hon. David Okello tasked the sector to provide him with a list of County Government schools and County public buildings with asbestos roofing. The said list was received on Tuesday 18th June 2019. The committee held a meeting with Hon. David Okello on Wednesday 19th June 2019 to deliberate on the response and he found the response to be satisfactory. In this regard, Hon. Speaker, I wish to report to the Assembly as follows;

1. List of all County Government schools and County public buildings with asbestos roofing
They are Waithaka Ward, Dagoreti Sub County and the state of the roof is intact and slightly damaged
2. When does the County Government plan to safely remove and dispose hazardous roofing in schools and other county public buildings?

Hon. Speaker, as soon as the comprehensive inventory will be complete, the public works sector shall be requested to prepare bill of quantities for all the asbestos roofing replacement works for the concerned buildings to enable the sector to budget for the works. In light of the need for utmost care in carrying out the works, a decision would then have to be made on the best arrangement for carrying out the exercise, taking consideration of the following:

- (a) The work is best done in phases considering its magnitude;
 - (b) With regard to schools' buildings, the works is best done during schools' holiday to save the pupils from risk of exposure ;
 - (c) Some special arrangement by respective sectors for temporary accommodations of users of the affected buildings may have to be done and specifically where the said buildings are used for rendering essential services like health services ; and
 - (d) Contracting out of the entire work to firms competent in roofing works and equally important, safe handling, transportation and disposal of the asbestos waste will also be considered to guarantee zero exposure.
3. Measures put in place by the County Government to safeguard the health and well-being of children in schools such as Imara Daima with asbestos roofing.

Hon. Speaker, avoidance of exposure to the asbestos materials and in particular asbestos dust is the most reasonable short-term protective measure. In this regard, interventions in the schools setting include:-

- a. Desisting from making any consumptive use of rain water harvested from asbestos roofs
- b. Ensure safe handling and disposal of any broken sheets
- c. Stoppage of any new roofing with asbestos. This is a compliance measure since use of asbestos for any new roofing works is already banned nationally.

Hon. Speaker, these measures have already been communicated to the education among other sectors for compliance. A copy of the detailed response was given to Hon. Okello and a further copy is hereby attached to this report. Hon. Speaker, I beg to lay this response.

Hon. Acting Speaker: Thank you. Hon. Clarence Munga, I give you the task of informing Hon. Okello that his response was tabled and if he has issues then he can raise it in the next sitting.

Hon. Clarence Munga: I will do that Hon. Speaker.

RESPONSE TO A STATEMENT ON MAINTENANCE OF STREET LIGHTS IN THE COUNTY

Hon. Acting Speaker: Thank you very much. Is Hon. Mangule in the House? Chairman Transport? I can see that you have a lot of responses to table. Let me give you time to work on them

Hon. James Mwangi: Thank you Mr. Speaker

Hon. Acting Speaker: How many responses do you have?

Hon. James Mwangi: They are five. For Hon. Cecilia Ayot, Hon. Elijah Mbutia, Hon. Mbono, Hon. Mwangi Njihia and Hon. Naftali Mathenge. They are five.

Hon. Acting Speaker: Okay. If you summarized, you can go on. Hon. Ayoi, can you hold brief for Hon. Ayot? Is she in the country?

Hon. James Mwangi: Hon. Speaker, we have combined all the responses.

(Clerk approached the Chair)

Hon. Acting Speaker: I am told that the responses have been combined since they are similar in nature. So, proceed, Chairman.

Hon. James Mwangi: Thank you Hon. Speaker sir. Hon. Speaker, on 25th April 2019, the Committee held a meeting with the County Executive Committee Member for Roads, Transport and Public Works to deliberate on the responses to the foregoing Statements as required by Standing Order 45 (2) (d).

At the said meeting, the CEC Member acknowledged that some street and public lights across the city are non-functional due to shortage of maintenance materials in the County electrical stores. However, the Committee was informed that part of the said materials had been procured and delivered and were waiting for inspection which is coordinated by the officer of the County Secretary.

Hon. Speaker, the Committee made several attempts to have the Ag. County Secretary, Ms. Pauline Kahiga, appear before it to respond to the reports or submit a report on the same without break through and that is why Hon. Speaker, the Chairperson wrote to your office requesting that summons be issued to the said officer for the stated purposes.

While waiting for communication from your office, Hon. Speaker, the Committee held a meeting with the Chief Officer for Roads, Transport and Public Works on 10th July 2019 to brief the Committee on the current status of the materials given the urgency and importance of the matter to this House.

At the meeting, the Committee was informed as follows:

- 1) That the delayed inspection of the materials has since been resolved partly with 400 watts, 250 watts and 150 watts bulbs having been inspected;
- 2) That 100-600 watts ignitors, 150 watts chokes and 45 microfarad capacitors are the ones yet to be inspected but hopefully, inspection would be done in due course;
- 3) That Officers from the Sector have since been dispatched to the ground across the County to have the lights restored and in 1 to 3 weeks, the impact of their effort would be felt across the board. This was corroborated by Hon. Mwangi Njihia who was in attendance and one of the Members who had requested for a Statement;

- 4) That the Sector was finalizing on a framework for street lighting procurement and in this arrangement, the Sector will only be required to raise requisition for LPOs at the required time to replenish the electrical stores to avert delays that have been experienced;
- 5) That the budget for the FY 2019/2020 having been passed by the Assembly, it is expected that funds will be available to procure additional maintenance materials that will be readily available for maintenance works in the Wards and that the suppliers for the remainder of the materials would be paid to deliver the necessary supplies; and
- 6) That the Chief Officer will ensure that the requisite equipment for the maintenance of the lights are made available and put in optimum operating condition to enable the maintenance teams act with minimal interruption.

Accordingly, Hon. Speaker, the Committee would like to let the House to note that with this response and undertakings, the Committee was convinced that non-functioning lights across the County will be restored in due course and Members of the affected Wards are urged to exercise patience given that the Sector is still having shortage of human resource.

Hon. Speaker, a copy of the detailed response has been given to the Members who requested for the Statements and a further copy is hereby attached to this report. Hon. Speaker, I beg to lay this Statement. Thank you

Hon. Acting Speaker: Thank you very much Chairman. Hon. Mputhia.

Hon. Elijah Mputhia: Thank you Mr. Speaker. I confirm that I was invited and I accept the response.

Hon. Acting Speaker: Thank you. Hon. Pius Mbono.

Hon. Pius Mbono: I can confirm that the engineers are already on the ground repairing those lights.

Hon. Acting Speaker: Hon. Mathenge?

Hon. Naftali Mathenge: Thank you. I also confirm that the work is going on, but the Chairman should update his report because this report is late by one month. He should give us the updated report. I am satisfied. I just wanted to remind the Chairman that this report---

Hon. Acting Speaker: Some are talking of six months. So you should be okay.

Hon. Naftali Mathenge: I am okay.

Hon. Acting Speaker: Chairman, Culture?

Hon. Mwangi Njihia: Thank you Hon. Speaker. The response I was given was satisfactory because those people are on site as we speak. However, I want to tell the Chairman that he can do better. The inspection they have done is too little. The materials we need are in the stores. We only need inspection and the whole of Nairobi will have lights. So, I would urge the Chairman to do better than that. Thank you.

Hon. Acting Speaker: I know that the committee is competent. They will apply pressure so that work is done faster than expected. Chairman, do you have something to add to that, or we proceed?

Hon. James Wambui: Hon. Speaker, we are much willing to support Nairobians and as you know, it is a hardworking committee and we are trying our best to make sure that the Members are fully supported in their wards.

Hon. Acting Speaker: Thank you. Good job. Next order.

SECOND READING**The Nairobi City County Corporations Bill 2019 (Bill no. 3 of 2019)**

Hon. Acting Speaker: The Hon. Michael Ogada.

Hon. Michael Ogada: Thank you Hon. Speaker. I stand in for my Chairman, Hon. Mbatia. He is not feeling well today. As a committee, we would like to request for a deferment of the same. As a committee, we were able to look at the bill. We did discuss it and subsequently, we invited the legal department to brief us and as a result of the meeting we had with the legal department, there were raft of proposals that they were to go and incorporate so that the Bill could be good enough. Unfortunately, when they were bringing the better document to us, they received a communication from the County Attorney making some further suggestions and as a committee we have not been able to sit down and look at the suggestions from the executive. So, we are requesting that you give us a week or so, so that we can look at the new proposals that have come from the County Attorney. Thank you.

Hon. Acting Speaker: Thank you. I do not think there is any query so I think by next Tuesday; you should have a comprehensive game plan on how to execute the said Bill. I think the Chairman will be here and you will have consulted with the Executive whatever that you want. Hon. Samuel Nganga, I can see you are on the intervention.

Hon. Samuel Nganga: Thank you, Mr. Speaker, pursuant to Standing Order 45 (2) (c) I requested for a statement from the Chairperson of Sectorial Committee of Water and Sanitation on 14th November 2018 and up to now I have not been given any response.

Hon. Acting Speaker: There was a time we said that they give you the schedule of all the statements and requests was it on the list.

Hon. Samuel Nganga: I am not aware, Hon. Speaker but I tried following that with the Clerk of the committee.

Hon. Acting Speaker: The Vice-Chair I can see he is here, do you have anything to say?

Hon. Leah Supuko: Hon. Speaker sir, we have not seen his statement because the last that was online, I read it last week, which was with the Clerk.

Hon. Acting Speaker: Hon. Samuel, get in touch with the Table Office so that they can give you the true picture or if you have a copy, you can follow it. However, the Table Office should be able to tell us the status. If you are not satisfied tomorrow raise it up again then we execute it from there.

MOTION**A POLICY ON OUTSOURCING LEGAL SERVICES**

Hon. Acting Speaker: We had a discussion with Hon. Museiya, to see if we can defer this to the next sitting. Are we in concurrent that we defer it to tomorrow?

Hon. Silvia Museiya: Yes Hon. Speaker.

Hon. Acting Speaker: The Hon. Deputy Minority Whip

Hon. Moses Ogeto: Hon. Speaker, last week on Thursday, the Speaker gave out some procedures, which were not followed and there were some ruling that was supposed to be made today about the report

on Public Account Report. We had requested for three months but I have consulted with the secretariat and they are saying that the response should be submitted at your table.

Therefore, Hon. Speaker, I am requesting you to make a determination of the same so that we are not caught in a lacuna when we are dealing with this report. I believe that the secretariat lead by Ms. Adah should advise before you adjourn the House. We needed an extension of three months but the Clerk suggested that it should be two months and I would wish to advice on the same. Thank you, Hon. Speaker.

Hon. Acting Speaker: Very well, because I do not want to contradict the Chair who was sitting on that day and you have raised it up. Therefore, I do not think it will hurt if we have a discussion between now and tomorrow sitting then we can make a determination afterwards so that we do not get ourselves confused on what was raised and what was agreed. Then tomorrow we can come up with a determination because it was not brought up in my table.

Hon. Moses Ogeto: Hon. Speaker that is why I am saying that the problem is not the Committee or the Chair who sat there. The problem is that he pronounced that he will give a determination and the ruling today. Unless Hon. Speaker, you will extend the same ruling to tomorrow so that you can be convinced by what was brought so that the same ruling will be done tomorrow because when we leave it hanging will be in lacuna.

Hon. Acting Speaker: Agreed, that is why I am saying that you let me consult so that we may pronounce ourselves officially tomorrow so that we do not have issues looking as if it is hanging or the Table Office has not appropriately informed the Chair. I think that is sufficient. Minority Whip who is also leading the delegation I know you will also agree on that direction.

Hon. Peter Imwatok: Hon. Speaker, I was wondering the Public Accounts Committee is an oversight Committee that encompasses its duties to protect the Public interest. The prosecutors, magistrates and judges in these Committees are the Members, who forwarded a request to supreme House of this County who is the County Assembly of Nairobi saying that the magnitude of the work requires at least three months. I wonder under which Parliamentary practices and precedence that the secretariat has to determine that two months are enough.

This is because the same Speaker, the secretariat is under is scrutinized by the same committee. It cannot aggregate its powers to determine the limited time this committee can operate. That is why Chair as much you are giving a direction tomorrow let these instructions be also guided because they are also culprits and suspects before this committee. Therefore, they cannot aggregate their duties to determine which term and ...

Hon. Acting Speaker: Order, Hon. Whip are you intimidating the secretariat on the same thing?

Hon. Peter Imwatok: Chair, I am just putting a law into perspectives. That there is nowhere a suspect can also determine when to appear in court.

Hon. Acting Speaker: Order! What the committee requested is an extension, which means that the committee is telling us that they would not have executed the work within the speculated time. Therefore, they are asking and they are at the mercy of the Assembly requesting for extra time. I wish I was there, on that day we would have finished it on the same day.

Nevertheless, I was not privy to the facts that is why am requesting for an extra day so that I may formalize with the request of PAC on that day and we shall finish it tomorrow. It is not a big deal. Do you want an extension?

Hon. Peter Imwatok: Hon. Speaker, I do not have a problem with your ruling whatsoever, whether you make a determination tomorrow or the day after tomorrow this is a house of rules of procedures. My point of contention is after specific position the secretariat takes an angle, the committee request then as secretariat you are advising after two months that is my question.

Hon. Acting Speaker: The Secretariat cannot make a determination for us but it can guide the Chair. If you are requesting for three months and they want to give two months then it will be brought here and if you feel that two months is not enough then you raise. If the other Members feel that it is not enough time the House will be able to determine it. The Chair is here to guide the debate.

Hon. Peter Imwatok: Let us share this Motion that the secretariat determines how the committee operates in terms of timelines because we are the ones, who sit in these committees.

Hon. Acting Speaker: Unless anyone wants to be misguided, that is why it was brought to the floor of the House. Thank you.

ADJOURNMENT

Hon. Acting Speaker: There being no other business, the House adjourns to tomorrow Wednesday 24th July 2019 at 2.30 p.m. and the House Business will be called on notice. Thank you.

(The House rose at 3.25 p.m.)