



NAIROBI CITY COUNTY ASSEMBLY

OFFICIAL REPORT

Second County Assembly – Third Session

Tuesday 24th September 2019

The House met at 2.30 p.m.

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

PRAYERS

QUORUM

Hon. Deputy Speaker: We do not have quorum. Sergeant- at- Arms, kindly ring the bell for ten minutes and do not let anyone to go out.

(Quorum bell was rung)

Hon. Deputy Speaker: Please ring the bell for another five minutes. We lack five members. I am glad to see Hon. Mutheu, to mean that we are less four members to start the session.

(Quorum bell was rung for five minutes)

Hon. Deputy Speaker: We now have quorum. Clerk proceed.

PAPERS LAID

Hon. Deputy Speaker: Hon. Mbatia? Hon. Vice Chair? Proceed Hon. Mbatia

Hon. Robert Mbatia: Mr. Speaker, pursuant to Standing Order 131 (4), I beg to lay the following paper on the table of the Assembly today Tuesday 24th September 2019, this being the report of the select committee on County Finance, Budget and Appropriations on the consideration of the Nairobi City County Finance Bill. I beg to lay. Thank you

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

NOTICES OF MOTION

Hon. Leah Supuko: Thank you Mr. Speaker sir. I would like to give notice of motion on development of variant policy and regulation: That aware that section 154 (2) of the Public Finance Management Act 2012 provides for an accounting officer for a County Government entity to reallocate funds between programmes or between sub votes in the budget for a financial year. Only if provisions made in the budget of a programme or sub vote are available and are unlikely to be used. A request for the reallocation has been made to the County Treasury explaining the reasons the reallocation and they have approved the request. The total of all the reallocations made to or from a programme or a sub vote does not exceed 10% of the total expenditure approved for that programme or sub vote for that year.

Further aware that section 154 (3) of the Act provides for development of regulations to be approved by the County Assembly, prescribing requirements of the reallocation of funds within sub votes or programmes; concerned that the County has not developed regulations to allow for accountability in transfer and reallocation of funds within sub votes of programmes which has led to loss of unaccountable funds in various sectors of the County Executive.

Noting that section 154 (1) prohibits an accounting officer from authorizing the transfer of an amount that is appropriated to another County Government entity or person for capital expenditure except to defray other capital expenditures or for wages to none wage expenditure.

This Assembly urges the County Treasury to develop vehement policy and regulations pursuant to section 154(3) of the Public Finance Management act 2012 to provide for mechanism and accountability in transfer of funds within sub votes or programmes. Thank you Mr. Speaker.

Hon. Deputy Speaker: Thank you Hon. Leah. Hon. Matara, proceed.

Hon. Silas Matara: Thank you Hon. Speaker. I beg to give notice of motion on prohibition of agricultural activities along riverbanks in the County. Hon. Speaker, that aware that the Constitution of Kenya under Article 42 provides that every person has the right to clean and healthy environment including the right to have the environment protected for the benefit of present and future generations through legislative and other measures. Further aware that paragraph 10 of part 2 of the Fourth Schedule of the Constitution provides for the implementation of specific national government policies on natural resources and environmental conservation including soil and water conservation as a function of the County Government.

Concerned that most small-scale farming activities in the city are done along riverbanks of Nairobi river, Mathare, Mbagathi and Ngong river across the County. Such farming activities are done using dangerous chemical fertilizers that are washed into the rivers whose contaminated water is used to wash farm products such as vegetables. Noting that in the long-term, people living downstream accumulate dangerous metals such as lead, which may cause anemia, kidney and brain damage and even death.

Acknowledging that section 6 of the Environmental Management and Coordination Water Quality Regulations 2006 prohibits any person from cultivating or undertaking any development activity within a minimum of six meters and a maximum of 30 meters from the highest ever recorded flood level on either side of the river.

This assembly urges the County Executive to prohibit farming activities along rivers to reduce pollution of rivers and use of polluted river water to irrigate crops along riverbanks in the County. Thank you Hon. Speaker.

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

STATEMENTS

REQUEST FOR A STATEMENT REGARDING EXECUTION OF CONTRACTS FOR GRAVELLING OF ROADS IN THE COUNTY

Hon. Deputy Speaker: Hon. Kiriba

Hon. James Kiriba: Thank you Mr. Speaker. I wish to request for a statement from the Chairperson of Transport and Public Works regarding execution of contracts for gravelling of roads in the county during Financial Year 2016/17 and 2017/18. Hon. Speaker, it is of great concern to know that some of the contracts for gravelling of roads that were awarded during the said period either did not commence or the contractors abandoned sites immediately despite the county having appropriate resources to undertake the same. For instance, works for gravelling of Ngina Road Riruta Satellite ward did not commence. The contractor made an appearance on site and disappeared sighting non-payment by the county.

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

- i. Status of contracts for the gravelling of roads across the city in the financial year 2015/16, 2017/18
- ii. Sums paid to contractors with pending gravelling projects to date and the outstanding sums owed
- iii. Measures put in place to ensure contractors perform the obligation as far as the contracts signed in the county
- iv. Steps taken to discipline county officers who allegedly collude with contractors to verify incomplete and shoddily executed jobs

Thank you.

Hon. Deputy Speaker: Thank you. Hon. Chairman for Transport? Hon. Wamboi. What is your timeline?

Hon. James Wambui: Thank you Chair. Two weeks will be okay.

Hon. Deputy Speaker: Mind you, we are going for sports. We will not be around next week. Give specific time.

Hon. James Wambui: Three weeks then.

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

Hon. James Kiriba: Three weeks is okay.

Hon. Deputy Speaker: Thank you. Hon. Speakers, I want to suspend all the responses today and statements because we need to discuss the Finance Bill. You know, we are lagging behind. We cannot do anything. Standing Order no. 41 (2) says that businesses shall be disposed of in sequences in which it appears in the Order Paper or in such order as the Speaker may for the convenience of the County Assembly

directs. So, I direct that we go order no. 8. Order no. 7 shall be deferred to tomorrow. Thank you. Clerk, proceed.

BILLS

Second Reading

THE NAIROBI CITY COUNTY FINANCE BILL 2019, ASSEMBLY NO. 6 OF 2019

Hon. Deputy Speaker: Hon. Mbatia.

Hon. Robert Mbatia: Thank you Mr. Speaker. I beg to move that the Nairobi City County Finance Bill be read a Second Time.

Mr. Speaker, in consideration of the Finance Bills by the County Assembly, an annual activity during which the committee confirms that the budget passed by the County Assembly has been fully funded but most importantly that budget financing does not limit the county's attractiveness as an investment destination, does not complicate ease of doing business and make Nairobi's forego their basic needs to pay for county dues.

Mr. Speaker, the CECM for Finance and Economic Planning on the 25th of June 2019 delivered the budget speech in which he pronounced new and enhanced revenue raising measures meant to seal leakages in the revenue chain and provide support to the contemporary systems of revenue collection. On the same date, he submitted the draft Finance Bill 2019 which was subsequently drafted in proper formal and read for the first time in the County Assembly on the 3rd of July 2019 containing the taxation measures announced in the speech.

The Bill illustrates the County Government priorities which includes increasing revenue mobilization and improving service delivery by amending various fees, rates charges and other revenue raising measures by the county government. The key highlights of the Bill are that the Bill proposes a charge of a minimum of KSh. 4000 for fire inspection that would be charged per visit per household. The Bill also introduces new charges for fire certificate at Kshs. 2000 per household per year and for professional bodies, Ksh. 6000 and KSh. 20000 for medium and large professional bodies respectively.

Small scale gas sellers would expect a hike of 566% for fire certificate per year whereas fire certificates charged to petrol stations will experience a decrease of Kshs. 100,000 in all categories to Kshs. 50,000 shillings, Kshs. 25,000 shillings and Kshs. 12000 for small, medium and large petrol stations respectively.

Mr. Speaker, it was in the committee's view that whereas the county's own sourced revenue has been declining for several years in succession, it would not be imperative that small scale gas sellers experience an increase of more than 500% as it would oppress small scale business people. These sentiments were supported by the Kenya Association of Manufacturers [KAM] who observed that would increase the cost implication of doing business. On their part, the women's small scale traders from Korogocho and Kawangware noted that the levies were punitive in that charges would have a negative impact to the common *mwananchi* as the cost would be passed on to *Wanjiku*.

In regards to charges for annual Fire Certificate for households at Kshs 2,000, the Kenya Alliance Residents Association (KARA) recommended that provisions ought to be amended as the County Government cannot guarantee it any service that will accrue to the household as a result of paying the charges.

Additionally, they submitted that the County Government is currently unable to carry out inspections on existing business hence it may therefore ineffectual in implementing inspections at the household level. These sentiments were commended by the National Tax Payers Association who noted that Part II of the 4th Schedule of the Constitution of Kenya 2010 No. 12 obligates that the Nairobi City County Government to offer firefighting and disaster management services. Hence charging households would be abdicating their constitutional duty.

To address the concerns, raised by the public, the committee shall be proposing amendments to the proposed fees and charges for the Fire Certificate to make them responsive to the prevailing realities. Mr. Speaker, the Bill proposes to charge both the license to operate a plant nursery and a tree cutting business license at Kshs. 10,000 per annum. The Nairobi City County Assembly highlighted that the license to operate a plant nursery should be reduced to combat climate change and tree cutting license to be increased to promote environmental protection.

The committee agrees with the stakeholders that the county must encourage residents to complement government efforts aims at combatting climate change. In this regard, the committee shall be proposing amendments to increase the charges for tree cutting within the city. Mr. Speaker, in its scrutiny of the Finance Bill 2019, the committee highlighted that the increasing tipping charges for domestic waste from Kshs.200 to Kshs. 300 per tonne, may lead to illegal dumping, double taxation for residents and lack of business for the private service providers.

Moreover, the youth groups engaged in solid waste management at Kayole Social hall observed that majority of households in the city pay private collectors to manage their waste employing over 500 youths all over the county who will be rendered jobless once the charges are effected. The committee has taken notice of these concerns and propose that the charges for CBO solid waste management and transportation be reduced to zero and those for religious bodies also be retained at zero.

Schedule 9.2 on trader's informal spaces provided charges for Kshs.200 per week or an alternative of a daily charge of Kshs.50. The committee welcomes this provision as it incorporates affordability of charges to the small scale traders. On the contrary, the women domestic workers and small scale traders from Korogocho proposed that the charges ought to be deleted since there is no value addition to the informal spaces as they operate under harsh weather elements such as rain and sun shine.

Schedule 6.1 titled Transportation Unit is proposed to amend the parking fees by increasing seasonal tickets for private vehicles by approximately 35% Mr. Speaker, for a month, three months, six months and 12 months' seasonal tickets. The current charges for on-street parking of saloon cars are at Kshs.200/- categorized into CBD and other areas outside the CBD. The Bill intends to revise these charges and categorize to zone 1 at Kshs.400, zone 2 at Kshs. 300, zone 3 at Kshs.200 and zone 4 at Kshs.100 and maintain on-street parking fees of lorries at Kshs. 1,000 trailers at Kshs. 3,000 per day respectively.

The committee commends the County Government revenue raising measures but not the parking fees adjustments should be modest to minimize corruption at the collection level. In addition, the Kenya Tax Cab Association observed that the private vehicles are charged a comparative higher rate compared to other transport sector vehicles like matatus. They further noted that, the proposed parking fee increment would adversely affect their business as they are also required to undertake motor vehicle inspection pay single

business permits and advance tax thereby significantly raising operations cost and substantially diminishing the profit margins.

The committee has considered the submissions and has made proposed amendments to ensure that the fees collected are optimal within tenets of promoting ease of doing business and supporting the county development agenda. 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 this report Mr. Speaker.

The adjustments to the Bill have been done after taking into account the views of the County Treasury also. Mr. Speaker, I submit this and I beg to move and request Hon. Emily Oduor to second me. Thank you, Mr. Speaker.

Hon. Emily Oduor: Thank you Mr. Speaker. I hereby stand as a member of the committee to support this Bill. As you can see I know there is going to be a very big outcry because of the increment in parking charges but we all have to understand that of late the congestion in the city center must be reduced. The only way to reduce this is to increase the parking fees and it will also serve as a way of enabling us to collect more revenue.

I hope you people will understand especially the people whose constituents are going to complain about the increase in parking fees. Secondly, if you have seen this Bill, we went ahead and listened to our counterparts especially our *shemejis*. The proposal was that, we charge people who are coming to the city with chicken, that was not going to be very wise especially for some of us who depend on this food and our *shemejis* who bring them to the city for food and also for business. This has been removed from the Bill and I think on that, the chairman and the team need a pat for doing a good job.

Mr. Speaker, can you please protect me from *Mheshimiwa* Rose Kula?

Hon. Deputy Speaker: Hon. Kula please don't distract Hon. Emily Oduor. Let it serve as a warning please. Proceed.

Hon. Emily Oduor: She has apologized. I am appealing to all members to please make sure that this Bill passes through. I stand to second.

Hon. Deputy Speaker: Thank you Hon. Emily Oduor.

(Question proposed)

Hon. Deputy Speaker: Hon. Members please debate. Any request? Hon. Okumu?

Hon. Elias Otieno: Mr. Speaker, I being a member of the Budget Committee, I want to tell my friend, Mr. Nice that he should understand that as much as he has increased the parking fee, what has he done to eliminate cartels at the parking bay? Otherwise, you will be increasing money for them. Unless we change our attitudes, we are not going to change anything. It is not bad to increase, but did you consider whether the parking revenue collectors have changed their attitudes? That is my concern. Thank you, Mr. Speaker you.

Hon. Mbugua Kabiro: Thank you, Mr. Speaker. I have consulted with the Minority Leader and he has requested me not to oppose. Though the parking issue is thorny and I think every member will get their canes for passing it, but in future I wish we get hourly ratings for these parking because some of us come to town for a very short period. You pay Kshs. 400 yet you would have paid Kshs.100 or Kshs.50 at a private

parking for the same. In the future, let us consider something like hourly ratings for parking so that we can spread it in a way that would allow businessmen to do business without being drained by parking fees.

I would loud the Budget Chair and the Committee for coming up with this, but let us be considerate to those who are low in society, especially those in the middle income who have just bought their news cars and wish to come with them to the city and display for the whole world to see. I support. Thank you.

Hon. Deputy Speaker: Thank you, Hon. Kabiro. Hon. Warutere?

Hon. Peter Warutere: Thank you, Hon. Speaker for catching my eye. I rise in support of the Bill. I want to commend the great work done by the Chair, Hon. Mbatia and his members. Long time ago when growing up in this Nairobi, we had meters put in strategic points. I believe we need to move from--- As it is, the rates are not very bad. I want to concur with what Hon. Kabiro said, if we had meters at strategic points and the charges levied at a span of time that one is going to take, then it would be much easier. That is an issue the Budget Committee and the Executive can sit down and make it a little bit attractive to Nairobians. This is a service that we are selling and it must be attractive so that when we are doing enforcement, we will get value for money.

I would like to concur with the committee. They have done a good job. Let us now move from what it has been done here to the enforcement. We need to look at the wastages and many other streams that have issues. Once they are addressed, then we will bring the glory of Nairobi to where it was long time ago. Thank you, I stand to support.

Hon. Deputy Speaker: Hon. Adow Ibrahim?

Hon. Osman Adow: Thank you, Mr. Speaker. I also rise to support the Bill. I would like to inform Hon. Kabiro and Hon. Warutere to support the Public Transport Bill that will come soon that will address the hourly parking charges. It is in the Bill. I hope they will be supporting it. Those who will stay for short time will pay less and vice versa. That will be logical thing to do.

On parking, there were two things that were considered. One was raising revenue and the other one was decongesting the city. So, we are trying to kill two birds with one stone. I would urge to everyone support this Bill because it makes sense. *Ahsante sana*.

Hon. Deputy Speaker: Thank you, Hon. Ibrahim. Hon. Michael Ogada?

Hon. Michael Ogada: Thank you, Mr. Speaker. I stand to support the document as it has been presented with several reasons. Many members have talked about parking, it has been an issue within the county. It is for killing several birds with one stone, as *Mheshimiwa* Adow has put it. I think to make life a little bit easier for our people, previously you realized that the county started the habit of even charging parking fees in the residential areas. As a committee, we are cognizant to that. We were able to streamline that and that is why the committee decided to come up with three zones. The last zone falls within residential areas. It is going to be centered at shopping centers within that area. They will be charged Kshs.100 only. I thought that was going to help the residents so that the county does not go into the residential estates to start charging parking fee as previously witnessed in some estates.

Mr. Speaker sir, also there is an issue of fire inspectors, which was brought in its original document whereby, they were proposing that the fire inspectors will be visiting Houses to inspect if you have installed

the fire extinguisher, you are going to part with Kshs 4,500 in every visit. Whereby, we thought a stranger could visit your house more than 10 times in a year and you will pay like Kshs 45,000 for their visit.

As Committee, we decided to put it to be one visit per year, so that we can caution the residents not to be conned by people who are not good enough. There is also an instance in the document whereby, the County proposed that every house within the County to be paying 2,000 (two thousand shillings) every year for a fire certificate. As a committee, we sat and thought about it and we thought for example, currently the business that is supposed to be having the fire certificate, our county is not able to go around all the business to ensure that each business premises has a fire certificate.

Therefore, how are they going to be able to visit each house within the County to collect this money? I think this was an avenue for extorting money from the residents and as a Committee, we thought that was not, necessary and we decided to say that household are not supposed to be licensed. This is because the work of ensuring that Houses are protected and are safe for occupation is the work of the County.

Therefore, we thought that was not right and as a committee we decided that was not going to be right. When it comes to licensing the people who sell the plant seedlings along the highway, it was said that every seller of those seedlings is going to pay Kshs.10, 000 every year for license. Which was a good move to control them but we are looking at it differently, in terms of deforestation in our Country. Even the government is offering seedlings free to the people in order to mitigate climate change.

Therefore, as a committee we also thought it was not necessary for us to charge the nursery seedling operators who sell along the roads. Like the way our chairperson has said, it was decided that instead of charging the people who give us seedlings then we had better charge the person who is going to fall the trees. The people who are going to fall the trees within the City, are the people who are going to pay that money instead. There will be an outcry but we thought as a committee for the sake of our country and the wellbeing of our citizens then it was necessary for us to do it in that way.

Another thing that caught our eyes as a committee we realized that major petrol stations used to pay for the fire fee because for the danger that is always around the petrol stations. They used to pay like Kshs. 100,000 per year for license, but we realized in the Bill it was reduced to Kshs 20,000 to Kshs 25,000. The small-scale trader who sells gas, which helps our people, was imposed to Kshs 50,000 and as committee we thought that was not a wise move because how can you charge a whole petrol station just Kshs 20,000 and you charge a person who is selling some few containers of gas around Kshs 50,000. We thought it was not wise.

As a Committee, we thought the petrol stations need to continue paying their Kshs 100,000 and the small-scale trader can pay less than Kshs 20,000. Hon. Speaker, we really looked at this document consultatively, with the leadership of the House and the Executive. Therefore, we have presented the document in this House is really a document that is worth passing because it is really going to protect our business people and the small scale traders as it also helps the County to enhance its revenue collection. Thank you very much, Hon. Speaker for giving me the time.

Hon. Millicent Jagero: Thank you, Mr. Speaker, I rise to support this and more so on the parking issue. We realized that part of it will decongest the city and again we as motorist want to feel the value of

our money. 400 shillings is not little and not much, but on the issue of security and value of money, we really want to feel it.

If we visit places like Jeevanjee gardens there is a lot of insecurity for motorists. They park their vehicles and the side mirrors and wipers are stolen. If they can put the traffic marshals around that area to ensure that security is there so that even when someone pays for that money, he/she will feel the value of the money. Thank you.

Hon. Deputy Speaker: Thank you, Hon. Jagero! Hon. Leah, I will give you one minute to contribute because we have other business to contract.

Hon. Leah Supuko: Thank you, Mr. Speaker Sir, I rise to support the motion and compliment to budget Committee, which has done a good job. I would like to just wish that in future, they can raise the charges for the bars higher than the religious bodies. Therefore, I beg to support.

Hon. Deputy Speaker: Thank you Leah, finally Hon. Mark Mugambi Macharia Kevin.

Hon. Mark Mugambi: Thank you, Mr. Speaker, I rise to support the motion and I defer on what my counterpart Hon. Warutere was suggesting because the reason as to why we were raising the fees for parking is in the spirit of decongesting this city that is one and two, is on revenue collection. Therefore, in regardless because we cannot quantify the time that this cars or vehicles will have parked, within the CBD not unless we install the token machines but most of the time they pay in advance using the JijiPay.

Therefore, whatever we are suggesting will not work. I would also like to compliment the budget Committee ...as they are pushing so that we can raise revenue for this great city. As vice chair of Transport and Public Works committee I'd like if they can channel or add allocations so that we provide parking spaces to those areas they are going to collect revenue like Kasarani business center.

It is absurd that we are clamping vehicles within the business centers like Kasarani when they are parked on roadsides. We don't have parking spaces there. It is completely absurd.

If we can give *mwananchi* value for what they pay it will make a lot of sense and go a long way in making this city a great place and the city under the sun. Thank you and I support this motion.

Hon. Deputy Speaker: Thank you Hon. Kevin. Let me close with Hon. Kennedy Oyugi, *karibu*.

Hon. Kennedy Oyugi: Thank you Mr. Speaker for the opportunity. I rise to support the Bill but with some concerns particularly on two areas. Mr. Speaker if you look on page four which deals with food items for example retail vendor shop. The retail vendor shop is going to be charged Kshs. 2000 per month, that is the lower side. I would have urged the Budget committee to relook into that. If you go to areas like Highrise where I represent, Laini Saba and other slum areas, charging a shop retailer Kshs. 2,000 per month is like telling the shopkeeper to close the shop. I would have really appealed to the chairman to relook into this.

Finally, on same page is the day primary school and day cares for one to three hundred pupils. Assume one is running a day care of one to thirty or thirty children do you really expect this person to pay Kshs 6000 a month? Those are the areas I would urge the Budget committee to relook into other wise I am also in need of the money for Nairobi for service flow, thank you.

Hon. Deputy Speaker: The mover Hon Mbatia?

Hon. Robert Mbatia: Thank you Mr. Speaker. I want to thank the entire assembly for supporting that the Bill be read a second time and I want first to apologize to Minority Leader for not catching his eye because

as member of my committee he would have supported me. Actually he was the one to second me, so I want to apologize before we get out there.

Mr. Speaker as I reply I want to notify Hon Oyugi that the charges are for solid waste collection and they are optional. They are only charged when the county collects the garbage for you. This is in the spirit of encouraging that people go to CBOs who charge less and even the county itself don't have the capacity to collect [garbage] in every business or from every doorstep. That is why we thought that they just retain this fees because they don't have that capacity to collect.

I also want to highlight about the parking. We are estimating to raise Kshs. 17.3 billion on own source revenue. That is why we thought that we allow, this time around, parking to be charged at Kshs. 400 but on condition that we improve the services in terms of security and they make it electronic such that they can monitor the revenue collection and charges while in office.

They promised they plan to put in place several mechanisms to improve the revenue collection. The other condition we put to them is that for us to decongest the city we need to give people an alternative. The same department has to provide an effective public transport, because if I plan to park outside the CBD which is charged higher then I must be given an alternative way to get to CBD.

They are in process of putting up an effective management of the public transport very soon. I also want to insist to members of the executive who are not here but obviously they will get the information that raising Kshs 17.3 billion is not very easy especially with the system that is in place. It has been a challenge. They have been burying their heads in the sand but we are making losses.

Whatever we had collected in the first quarter in the previous years this year is the lowest. We urge them to make sure they improve. As much as we shall be passing the fees and charges and taxation that are in the Finance Bill with a failing system that is a pipe dream. They need to improve on the system of collection for them to realize what is in place. Without much ado I reply and thank you Mr. Speaker.

(Question put and agreed to)

(The Bill was read a Second Time)

ADJOURNMENT

Hon. Deputy Speaker: Hon Members, having transacted today's business the House stands adjourned till tomorrow 2.30 p.m. All members of the House Business committee to meet immediately after this. Thank you and God bless you all.

The House rose at 3.34 p.m.