



NAIROBI CITY COUNTY ASSEMBLY

OFFICIAL REPORT

Second County Assembly – Third Session

Tuesday 26th March, 2019

The House met at 2.30 p.m.

[Hon. Acting Speaker (Mr. Chege Mwaura) in the chair]

PRAYERS

QUORUM

Hon. Acting Speaker: Serjeant-at-Arms, organize for quorum. Ring the bell for 10 minutes.

(Quorum bell rung)

I have been informed that we have attained quorum, so Clerk proceed.

PAPERS

REPORT ON THE CONSIDERATION OF THE ANNUAL DEVELOPMENT PLAN FOR THE FINANCIAL 2019-2020

Hon. Acting Speaker: Chairman Budget, you have a paper to lay?

Hon. Robert Mbatia: Thank you Mr. Speaker. Pursuant to Standing Order 191 (6) I beg to lay the following paper on the Table of the Assembly today Tuesday 26th March 2019; this being the 11th Report of the Select Committee on the County Finance, Budget and Appropriation on the consideration of the Annual Development Plan for the financial 2019-2020. Thank you, Mr. Speaker.

(Paper laid)

Hon. Acting Speaker: Thank you. Proceed so that it can be processed. There is another paper to be laid.

Hon. Moses Ogeto: Thank you Hon. Speaker. All protocols observed that the Leader of the Minority Whip I don't know why he is delegating this work to me since he is in the House and I can see the Majority Whip is also in the House. But now that it has been assigned to me, Hon. Speaker I can see her and I don't know whether she is sleeping on her job.

Hon. Acting Speaker: No. She was not there when--- and I don't think she is-- Majority Whip, are you okay with the Deputy Minority Whip holding your position?

Hon. Moses Ogeto: Hon. Speaker I am seeing as if the Majority and the Minority Whips are trying to assume their roles but is okay. I can go ahead though I am seeing them and I don't know why they are avoiding this one, I don't know whether it is a hot potato. But I can proceed and---

Hon. Acting Speaker: I don't know why they would have a problem because they are all in the mortgage and Mortgage and Loans Committee both of them, and you are a member of PAC. It would be substantial for members of that committee to – Hold in brief because I can't see the Leader of Majority and the Leader of Minority.

Hon. Peter Imwatak: The Hon. Deputy Minority Whip is my junior and I have authority to express and delegate any duty to him. I have delegated that duty to him as a matter of hierarchy and power vested on me. Kindly exercise the duty I have given to you to do.

Hon. Acting Speaker: The Deputy Minority Whip had not said that you have delegated to him but was saying that you were running away from your job description which is to deputize on issues that are coming on the floor of the House.

Hon. Moses Ogeto: Hon. Speaker, now that he is on the mic, and he has said that he has delegated. However I want to remind him that we have one serious professor who has a 91 page from the University of Nairobi who appeared before a parliamentary committee and said that he never delegates his duties.

THE REPORT ON THE MORTGAGE SCHEME FUND FOR THE YEAR ENDED 30TH JUNE 2018

Hon. Moses Ogeto: Hon. Speaker I want to lay the following paper pursuant to Standing Order 229 (7) of the Constitution; I beg to lay the following paper on the Table of the Assembly today Tuesday 26th March 2019; Report of the Auditor General on Financial Statements on County Assembly City Mortgage Scheme Fund for the Year ended 30th June 2018. I beg to lay.

Hon. Acting Speaker: Very well. It is going to be processed and taken to the relevant committee. Next order! because I don't see any other paper to be laid.

NOTICES OF MOTION

Hon. Acting Speaker: Chair Budget!

Hon. Robert Mbatia: Thank you Mr. Speaker. I beg to give the following Notice of Motion. THAT, this Assembly adopts the 11th Report of the Select Committee on the Select Committee on the County

Finance and Budget Appropriation on the consideration of the Annual Development Plan (ADP) for the financial year 2019-2020 laid on the Table of the Assembly today Tuesday 26th March 2019. Thank you, Mr. Speaker.

Hon. Acting Speaker: Thank you. It will be taken to the relevant committee for onward processing. Next order!

STATEMENTS

THE HARASSMENT OF TAXI DRIVERS IN NAIROBI COUNTY ESPECIALLY IN THE CENTRAL BUSINESS DISTRICT

Hon. Daniel Muturi: Thank you Hon. Speaker. Pursuant to Standing Order 45 (2) (c), I wish to request for a statement from the Chairperson of the Sectoral Committee on Justice and Legal Affairs regarding the harassment of taxi drivers in Nairobi County especially in the Central Business District around Tom Mboya Street.

Hon. Speaker, taxi and tuktuk drivers despite being charged for the parking fees still undergo harassment and their vehicles being towed away from the parking lots as early as 7 a.m. Hon. Speaker, all the Revenue Collection Officers aided by the County Inspectorate are charging more than what is provided for in the Finance Act 2018. The charges been Ksh. 2500/- instead of Kshs.1,000/- for towing.

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

1. The continued harassment of the taxi and tuktuk drivers despite their compliance with the County laws and other requirements;
2. Which by laws or regulations is the Inspectorate asking for considering the bylaws are no longer in existence;
3. Are the spaces meant for taxi and tuktuk drivers parking given to matatus illegally; and
4. What is the County Executive doing to curb the harassment of the taxi and tuktuk drivers concerning the parking going forward?

Hon. Speaker if you can indulge me just a bit, it is very perturbing when taxis who have paid for the parking space get their cars towed as early as 7 a.m. in the morning. Furthermore Hon. Speaker, the tuktuks which have paid for their space also on the Tom Mboya Street are towed from the parking lot and when they pay their fines and put their tuktuks back, again they are towed in form of harassment.

Hon. Speaker, this is a weighty issue and especially because these are the businessmen we look forward to take us to our homes. Thank you Hon. Speaker.

Hon. Acting Speaker: Hon. Ngengi has raised issues which are cutting across also but I can see the Chair of Justice and Legal Affairs. But there is also an element of Transport Committee because of the parking, right? I know they are the ones who issue parking spaces.

I will allow the Justice Chairman to respond in terms of how long he needs, but also want an input from the Chair of Transport Committee or the Vice Chair or a member of that committee to weigh in the matter before we conclude it.

Hon. Jayendra Malde: Thank you Mr. Speaker. Can we have 10 days to respond?

Hon. Acting Speaker: Ten days? That is okay.

Hon. Daniel Muturi: Hon. Speaker it is acceptable. Thank you.

Hon. Acting Speaker: Do we have a member of Transport? I can't see the Chair Transport or the Vice chair Transport Committee. Any member who want to--- Hon. Kamau?

Hon. John Muthiga: Yes I am a member.

Hon. Acting Speaker: What we want you to do is to liaise with the Justice and Legal Affairs Committee while they are summoning the response to these questions because there is an element of Inspectorate and also an element of the parking allocation which is on your department. So that now that question should not come back half answered or the Inspectorate saying it is not their role.

Find a way where you will collaborate so that when you are asking the Executive people to appear, they will appear so that we have a comprehensive answer. Is that okay? Can you do an undertaking on behalf of your committee?

Hon. John Muthiga: It is okay.

Hon. Acting Speaker: Hon. Ngengi, are you okay with that direction?

Daniel Muturi: Yes I am okay Hon. Speaker. Thank you.

Hon. Acting Speaker: So we can wrap it up within 10 days? Thank you. Hon. Majiwa, you are on a statement request?

Hon. Geophrey Majiwa: Sorry?

Hon. Acting Speaker: Hon. Majiwa, do you have---

Hon. Geophrey Majiwa: I was not notified.

Hon. Acting Speaker: There is a statement request that has been signed by you on the 26th of March 2019 that I approved.

Hon. Geophrey Majiwa: They have not notified me that it is coming today. May be I bring it tomorrow.

Hon. Acting Speaker: Alright, we drop it for tomorrow. Next order! I have been informed that there are some responses on our end. The Hon. Chair Budget, there is a response requested by Hon. Oyugi. It is ready, proceed.

THE IMPLEMENTATION STATUS OF THE RESOLUTIONS MADE FOLLOWING A CONSULTATIVE MEETING

Hon. Robert Mbatia: Thank you Mr. Speaker. On Tuesday 12th March 2019, Hon. Kennedy Oyugi MCA, rose on the floor of the Assembly pursuant to Standing Order 45 (2) (c) and requested the Chairperson of the Committee on Finance, Budget and Appropriation for a response on a statement regarding the implementation status of the resolutions made following a meeting with the Select Committee on Ward Development Fund, the Comptroller of Budget and the Acting CEO Ward Development Fund.

In the request Hon. Oyugi reminded the Chamber that following a consultative meeting with the Select Committee on Ward Development Fund, the Controller of Budget, the Acting CEO Ward Development Fund and the County Treasury representative, it was resolved that;

1. In line with the advisory from the Controller of Budget, it was resolved that a petition to the Senate be done as per Regulation 197 (1) to accommodate WDF Act 2014, and to conform with the PFM Act 2012 for the Controller of Budget to be able to release funds for the WDF projects.
2. All the WDF projects for the financial year 2018-2019, be treated like any other County projects.
3. The funds budgeted under the WDF be reallocated to Public Works Sector to facilitate the release of WDF pending payments; and

4. In the next financial year 2019-2020 onwards, the County to create a separate vote under Ward Based programmes that will accommodate all Wards.

In the Statement, the Member requested that the Chairperson should inquire into and report on:

- i) If the resolutions have been implemented by the CEC Finance and Economic Planning and if not, why;
- ii) Whether the County Government has any plans of implementing the resolutions; and
- iii) Measures taken by the County Government to ensure payment of the completed projects are done.

Hon Speaker, the Committee wrote to the County Treasury to seek for answers on the issues raised and the following were responses received. The Committee has reviewed the submissions and wishes to report to the County Assembly as follows;

- a) That the petition was done by the County Assembly as advised by the Controller of Budget, but to date no response has been received which has continued to hinder the release of funds for the payment of WDF projects.
- b) That Following the advice by the Controller of Budget, the County were in the process of creating a separate Vote namely Ward Based Program effective from the next FY 2019/20 onwards;
- c) That the implementation process has commenced following a consultative discussion with the Controller of Budget and County Treasury representative on the above resolutions; and
- d) The County Treasury has submitted the Second Supplementary Budget for the FY 2019-20 and once passed the WDF projects will be paid for without delay.

Hon Speaker, the Members has provided a more comprehensive response as received from the County Executive. I beg to lay this response.

I also inform this Assembly that we met Hon. Oyugi and he has his take on the response. Thank you, Mr. Speaker.

Hon. Acting Speaker: Thank you, Chairman.

Hon. Kennedy Oyugi: Thank you, Mr. Speaker. Indeed the Chairman is right. I was contented with the response.

Hon. Acting Speaker: Thank you. Chairman of Transport, there is a response and I am told the member is okay with you proceeding without her being here. Proceed.

RESPONSE TO A STATEMENT REGARDING HANDCARTS PULLED ON THE WRONG SIDE OF ROADS

Hon. Joyce Kamau: Hon. Speaker, on 13th March, 2019, Hon. Laura Mwende, rose on the floor of the Assembly pursuant to Standing Order 45 (2) (c) and requested the Chairperson of the Sectoral Committee on Transport and Public Works for a Statement regarding Handcarts/trolleys pulled on the wrong side of roads within CBD and along Jogoo Road.

In the Statement, the Member requested that the Chairperson should inquire into and report on:

- 1) What measures the County Government is putting in place to ensure that this menace is cured and that the handcart and trolley pushers are regulated so as to comply with all laws regarding usage of roads within and outside the CBD.

Hon. Speaker, the Committee wrote to the County Executive Committee Member responsible for Public Works, Roads and Transport inviting him to a meeting of the Committee that was held on 14th March 2018 at the County Assembly pursuant to Standing Order 45 (2) (d). The purpose of the meeting was, amongst others, to enable the CEC Member to furnish the Committee with the response to the Statement requested by the Member.

The CEC Member, while responding to other issues in the Committee, provided an oral response to the Committee. The Committee requested that the CEC Member thereafter forwards a written response for Committee's perusal and sharing with Hon. Laura Mwendu.

In this regard, Hon. Speaker, I wish to report to the Assembly as follows:

1. Measures the County Government is putting in place to ensure that this menace is cured and that the handcart and trolley pushers are regulated so as to comply with all laws regarding usage of roads within and outside the CBD.

Hon. Speaker, the Committee received the response form the Sector indicating that the Hamali Carts pushers who do so use opposite side of the road offends the County by-laws and that the Department on Enforcement is the one tasked to ensure compliance with the laws. However, the Committee noted that with the promulgation of the Constitution of Kenya 2010, and the subsequent enactment of the County Governments Act 2012, which repealed CAP 265 and all the bylaws used by the then Local Authorities, there is need to transform the by-laws into Acts of the Assembly.

Hon. Speaker, in view of the above, the Sectoral Committee is currently processing the Nairobi City County Public Transport and Traffic Management Bill, 2018 sponsored by Hon. Osman Adow. In this Bill, the Committee proposes that the operation of handcarts and trolleys in the Central Business District be an offence under clause 58 of the Bill.

Hon. Speaker, in regards to this menace occurring outside the CBD, the Committee urges the Department on Enforcement to liaise with the Kenya Traffic Police and make use of the National Government traffic legislation in order to enforce compliance by the pushers.

Hon. Speaker, the Committee has shared this response with Hon. Laura Mwendu and the Member was satisfied. I beg to lay this Statement. Thank you

Hon. Acting Speaker: Thank you, good job. Since Hon. Laura is not around, is there any member who wants to put any input? No query. Let us proceed to the next response by Chair of Planning.

Hon. Antony Karanja: Hon Speaker, on Wednesday, 15th August 2018, Hon. David Mbithi, MCA, rose on the floor of the Assembly pursuant to Standing Order 45 (2) (c) and requested the Chairperson Planning & Housing Committee for a Statement regarding Mukuru Special Planning Area Program.

Hon Speaker, according to the Member, Mukuru area was earmarked for an urban renewal facelift by the previous County Government Administration under the auspices of the then administration and other stakeholders who committed to bankroll the program. However to date, nothing significant has been done on the ground.

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

- i. The current status of Mukuru Special Planning Area Program which affects Viwandani informal settlements in Viwandani Ward;

- ii. Program implementing entities other than the Nairobi City County Government and their respective interests;
- iii. Whether or not a public participation drive was undertaken to gather views of people likely to be affected; and
- iv. Provide the Assembly with the following reports touching on the program:
 - a) Project Concept Note;
 - b) Cost Benefit Analysis Report;
 - c) Social Impact Report; and
 - d) Environmental Impact Assessment Report.

Hon. Speaker, the Committee wrote a letter to County Executive Committee Member responsible for Lands, Urban Renewal & Housing on 22nd August 2018 where the contents of the request were outlined. Further, the CECM for Lands, Planning & Housing delivered a written response to the Committee on 10th September 2018 on the issues raised.

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

On the current status of Mukuru Special Planning Area Programme which affects Viwandani informal settlements in Viwandani Ward the following amongst others have been done;

- a) Eight thematic consortia were formed comprising of staff from Nairobi County sectors and other professionals from the various disciplines drawn from the partners to look into Mukuru Complex challenges.
- b) The settlements have been divided into clusters for ease of public participation
- c) Over 30 community Barazas have been formed each Baraza comprising of ten cells
- d) 250 community mobilizers have been trained on representation skills, mapping, and numbering and data collection at household level.
- e) All structures in the planning area have been mapped and numbered.
- f) Several participatory meetings have been held to introduce the SPA to residents and agree on planning processes.

On Program implementing entities other than the Nairobi City County Government and their respective interests, a total of 41 entities have partnered with the County in different thematic groups as detailed in the document herewith attached.

On whether or not a public participation drive was undertaken to gather views of people likely to be affected, I wish to report that the eight thematic consortia have conducted by several stakeholders and public participation forums in the Project Planning Area covering 24 villages. Attached herewith are the documents in support of this.

Hon. Speaker, as the Statement requested, I beg to table with this response with the following attachments:-

- a) Project Concept Note;
- b) Cost Benefit Analysis Report;
- c) Social Impact Report; and
- d) The Environmental Impact Assessment Report.

Hon Speaker, I beg to table the response.

Hon. Acting Speaker: Thank you. Hon. Nancy, is there a problem?

(Hon. Nancy spoke off the record)

Okay. Have a seat, I will give you a chance. Hon. David Mbithi? He is not in the House. Chairman of Planning, did you have a discussion with the Hon. Member?

Hon. Antony Karanja: Hon. Speaker, we are facing a very big challenge just like what you are seeing today. I had informed him that I will be reading the response today, but as you can see, he is not in the House. We have called him twice to our committee but on both occasions he did not show up. I believe the reason he has not showed up is because he has 100% faith in the Planning Committee to give a full acceptable and a detailed report.

Hon. Acting Speaker: Alright, thank you. Whip, you had requested?

Hon. Peter imwatok: Thank you, Chair of Planning. On behalf of my member, I believe the House has a procedure. On this side, *Mheshimiwa* Mbithi is one of the most loyal members of the County Assembly. Whenever he is absent in the House, I am notified. There is no way on earth *Mheshimiwa* Mbithi can miss to come and hear the response of the statement that he requested. For the Chair to assume that he is avoiding the answers he asked for is not correct. Therefore, I want to make an undertaking that the Chair repeats the response when the member is in the House. The first question would have been to ascertain whether the member who asked the question was in the House. After reading the statement, you find the member is not there. It is not right.

Hon. Acting Speaker: Whip, I am the one who was asking the Chair of Planning if he had contacted. However, it is the business of the Hon. Member for Viwandani to be here from 2:30 p.m. If he was not here for whatever reason, he would have made that known to you, but he didn't. If he is late somewhere, he must be doing some representational role in his Ward. So, the directions we are going to take---- I hear the Planning Chair wants to get a rejoinder and Hon. Oyugi in one minute.

Hon. Acting Speaker: Order! Chair; let me hear what he has written then we can respond to it.

Hon. Kennedy Oyugi: Thank you, Mr. Speaker, on this one Hon. Chair Planning is not been sincere to the House.

Hon. Acting Speaker: Order!

Hon. Kennedy Oyugi: Just two minutes ago he was entering they were having pleasantries with Hon. Mbithi like two minutes and now he is misleading the House that Hon, Mbithi has not seen or heard from him yet they were having pleasantries here.

Hon. Acting Speaker: Therefore, Hon. Mbithi was actually in the House.

Hon. Kennedy Oyugi: Actually, they were having pleasantries with Chair planning, when he was walking outside and the Chair was coming inside the House.

Hon. Acting Speaker: Either he never consulted about the order paper because his statement was there.

Hon. Kennedy Oyugi: What am saying is that Chair planning should not mislead the House that Hon. Mbithi is an absentee and he is not.

Hon. Acting Speaker: Noted! Hon. Chair Planning.

Hon. Antony Kiragu: Hon. Speaker, I think I am very clear that Hon. Mbithi has 100% faith in the Planning Committee. As I was coming in the House, he knew that I was coming to read this statement and I showed him, and he assured me without mincing his words that he supports, agrees and he knows that this report is here. That is why he chose not to be here.

Hon. Acting Speaker: Fair enough Hon. Ayot you want to weigh in something.

Hon. Cecilia Ayot: Thank you, Mr. Speaker, I am following the discussion we can all confirm that those are the words for the Chair and we can only believe that after we have given Hon. Mbithi an opportunity. It is not fair to discuss a Hon. Member in his absence.

I have known him to be a very committed and diligent Member of this County Assembly. Therefore, I want to advise the Chair, to further follow him up so that we can have a substantial report that can lead this House. Thank you, Mr. Speaker.

Hon. Acting Speaker: The office of the Clerk will inform the Member that his response was made and we are not going back to it again, unless he has further clarification if he needs so because he should have been here by 2.30 p.m.

Hon. Peter Imwatok: Hon. Speaker, you will be doing injustice on the Minority side to get the correct answers required by the Members. This is because the Majority side through the Government has given their take, they could have allowed the Member to have an opportunity to scrutinize on the same for the best interest of the County.

Hon. Speaker, if you see what was being asked it is something that is very pertinent and cutting across. Therefore, there is no way the Chair can dictate to this House and say the Member is not ready to listen to the answers.

Hon. Acting Speaker: Order! Have your sit, Hon. Whip so that you will have to listen to what I have to say. Hon. Mbithi was in the Chamber at some point they were exchanging pleasantries with the Hon. Chair of Planning and that came from Hon. Oyugi who is also your Member.

Then again, I was requesting that we should not go to it if the Member was happy with the question but he is not anywhere to be seen so we are not going to that matter if he has a problem with the response there is a channel to follow.

He can write to the Clerk then follow it up from there but we cannot hold brief for somebody who has not given you the chance to hold brief for him. We have closed that matter. You are not on record.

Hon. Peter Imwatok: *(Inaudible)*...as a Whip I have given a stand why my Member is unable to be in the House, despite the pleasantries and the information I have about Hon. Mbithi is that he could not be available in the House but he never hinted to me that there is a statement about me.

Therefore, Hon. Speaker, you cannot crucify a Member.....

Hon. Acting Speaker: We have not crucified the Member. He will be notified from the Office of the Clerk informing him that his response was made and if he has further issues then he can always come back and raise them. Before we go to the next Motion the Hon. Nancy, you wanted to say something.

Hon. Members, you will recall the events of 10th September, 2018 and subsequent action by the Assembly against certain Members. The said action was sanctioned against amongst others Hon. Nancy Muthamia MCA.

The Hon. Member by practice you are expected to apologize the House before readmission has been resolved. The procedure is that the said Member to proceed at the bar and apologies before readmission. Hon. Nancy!

(Hon. Nancy proceeding to the Bar)

Hon. Nancy Muthami: *House poleni!*

Hon. Acting Speaker: Order! Hon. Member, have you said anything?

Hon. Nancy Muthami: *House poleni!*

Hon. Acting Speaker: Hon. Deputy Minority Whip you want to raise something.

Hon. Moses Ogeto: Hon. Speaker, with facts and with the representation of this House, the Member who wants to apologize before this House is not well dressed. Hon. Speaker, I do not know when you allowed this House to start receiving Members bear footed. *(Laughter)*

Hon. Speaker, as much as you want to readmit the Hon. Member who is a stranger in this House let her dress properly and be happy to join this House in a representative way. Therefore, Hon. Speaker with due respect let her dress properly or you can inform the House that you have changed the rules of the House so that Members can be coming in the House bear footed.

Hon. Acting Speaker: Hon. Member, I think the Member for her personal comfort had removed her shoes and I can see she has her shoes back. Therefore, Hon. Nancy make it very first because we do not want it to be a subject in the Newspapers tomorrow so that you can proceed with a formal apology to the House then I allow you to sit we proceed.

Hon. Nancy: I apologize, to House for what happened on 10th September, 2018.

Hon. Acting Speaker: Apology has been accepted you can join the Members. Proceed with the order of the day. The leader of the Minority!

Hon. Elias Otieno: I do not know if it is a coincidence on the Jubilee side because they are always not smart in this House. *(Laughter)* This is because last Wednesday there was another Member who came with rubber shoes in the House and the Speaker who was there did not notice, whether he was properly dressed.

Whip you should not call this side the Government again because we can take over this Government because I do not know how I can describe them.

(Laughter)

Point of Order

Hon. Elias Otieno: No, a point of order for what. You were not talking before why are you talking right now. You people are not smart. You can look at them.

(Laughter)

Hon. Acting Speaker: Leader of Majority you have to respond on behalf of your Members.

Hon. Abdi Hassan: It is not right Mr. Speaker sir, to allow the Minority Leader to be speaking the way he is speaking to my Members. My Members are well dressed as you can see and they are smart as you can see them. We do not want the Leader of Minority and his side to go around with misdemeanor in the House and how they are failing in this House by using the smartness of this House. Thank you.

Hon. Elias Otieno: I think the purported misdemeanor which he is talking about I do not know where he got it from but as you can see on my side my Members are very smart and our weakness is smartness. I think these Members are doing a lot of business in Kiamaiko and Marigiti that is why they are not smart. *(Laughter)* You can see this side and when you go to any contest, you will pick this side rather than taking the other side. *(Loud Consultation)* Chief Whip I do not have any apologies to make and if you come and oppose what I am saying then we should go for a contest somewhere both of us. *(Loud Consultation)*

Hon. Acting Speaker: Leader of Majority!

Hon. Abdi Hassan: I do not understand what kind of contest he is inviting me to, but I understand when we were elected the only contest which we were allowed to undergo is debating in this House. Any other contest outside this House is not for parliamentary. Hon. Speaker sir, I can see they are wearing suits but some of them, which I am seeing here, are very cheap so he should not brag to us about their smartness. Thank you.

(Laughter)

Hon. Acting Speaker: Hon. Members, it is very clear if a member is in properly dressed, it is the business of any other Member to bring it to the attention of the Chair so that he can make a ruling on that particular Member. On the issue of generalities then I cannot make a ruling on whether it is on this side or the other side. It has to be on a particular Member or anyone who does not look presentable in an Honourable manner.

Therefore, I will let that matter rest at that point because if it is general I am not going to take but I will take it if it is an individual Member who looks like they are not properly dressed.

MOTION

ADOPTION OF COMMITTEE'S REPORT

Hon. Acting Speaker: Chairperson of Environment, your Motion is next.

Hon. John Kamau: Thank you Mr. Speaker. I refute the statement of the Member saying we are not smart. We are the ones who buy our own clothes.

Hon. Acting Speaker: Hon. Member, we have ruled on that matter.

Hon. John Kamau: As you can see, we are very smart. We may not be smart in clothing, but we are smart in mind. Thank you.

Hon. Speaker, the committee's mandate pursuant to provision of Standing Order no. 203---

Hon. Acting Speaker: Are you moving the Motion?

Hon. John Kamau: Yes.

Hon. Acting Speaker: When you are moving a Motion, you have to start by saying that you beg to move...but when you start sideshows, you forget.

[Laughter]

Hon. John Kamau: This is the adoption of the report, but that other side is misleading us.

Hon. Acting Speaker: Move your Motion. You will need the support of the whole House for the Motion to pass. So, proceed.

Hon. John Kamau: Hon. Speaker, I beg to move the following Motion. Will you let me talk or they talk?

Hon. Acting Speaker: Chairman, you are on the floor and you are on *HANSARD*. All these other issues are not being captured. So proceed.

Hon. John Kamau: Mr. Speaker, the committee's mandate, pursuant to Standing Order 203---

Hon. Acting Speaker: Chairman, start by the proper procedure of moving a Motion.

Hon. John Kamau: That is exactly what I am doing.

Hon. Acting Speaker: Then start with the right procedure.

Hon. John Kamau: Mr. Speaker, I beg to move that, this Assembly adopts the Report of the Sectoral Committee on Environment and Natural Resources on the examination of the progress of the environment and natural resources sub-sector, laid on the Table of the Assembly on Tuesday, 12th March, 2019.

Mr. Speaker, the committee's mandate, pursuant to provisions of Standing Order no. 203, third schedule is among others to investigate, enquire and report on all matters relating to implementation of specific national government policies on natural resources, environmental conservation including water conservation and forestry and control of air pollution, noise pollution and public nuisance and refuse removal, refuse dumps and solid waste disposals.

The committee exercises its oversight mandate on environment and natural resources subsector in the County Executive.

Hon. Speaker, the committee in its 3rd quarter, set out part of its program to conduct effective oversight on environment and natural resources---

(Hon. Moses Ogeto stands on a Point of Order)

Hon. Acting Speaker: Order Chairman! There is a Point of Order.

Hon. Moses Ogeto: Hon. Speaker, with due respect, I am perplexed by the Chair who wants to read for us the background of his committee. He had abused us by saying we are not mentally smart, but he should tell us the content of this report and the recommendations. He should not tell us what his committee oversights. This committee oversights the Executive, not him alone. This is a committee's report.

Hon. Acting Speaker: So, what is your Point of Order Hon. Ogeto?

Hon. Moses Ogeto: I am informing the Member that he is reading for us the composition of members of the Environment Committee. If you look at the report, it has a part where he is addressing the Speaker of Nairobi City County. But he is reading for us what they do in the committee, the achievements of the committee. We want to see what they did, what they observed etc.

Hon. Acting Speaker: Okay. Chairman, Environment, I agree with the Member's Point of Order. Because Standing Order no. 85 (1) says that a Member shall not read a speech, but may read short extracts from written printed papers in support of an argument and may refresh memory by references. So, what I allow you to do is to refer to your report and then you move accordingly. Proceed.

Hon. John Muthiga: Thank you Hon. Speaker. I was reading that for the benefit of Members who actually don't understand what Environment Committee entails. Thank you, Mr. Speaker.

Hon. Speaker, upon examination and deliberation on Environment and Natural Resources subsector progress against passed budget, the committee made the following observations;

Under solid waste that;

1. Despite potential campaign on solid waste management, illegal dumping remains a major challenge faced by the sector
2. Delayed payment to contractors leading to withdrawal of trucks and heavy machineries
3. Ongoing court cases challenging franchising system of waste management

On environmental monitoring compliance and enforcement, widespread noise pollution, lack of sufficient transport, inadequate personnel, delayed procurement processes and interference.

On solid waste management, the County Executive to ensure timely maintenance and repair of refuse trucks by ensuring that there is effective operational maintenance unit.

On environmental monitoring, compliance and enforcement, the sector to develop framework and forward proposed legislation that will address noise pollution to be used on a basis of finding non-compliance and the sector to engage the public in environmental responsibility.

I now call upon Hon. Matara to second the Motion. Thank you.

Hon. Acting Speaker: Hon. Silas Matara.

Hon. Silas Matara: Thank you Hon. Speaker for this opportunity. As a Member of the Environment Committee, I can confirm that all the members of the committee plus the relevant facilitators and the Clerks were in Mombasa and we engaged fully in that particular workshop. After the workshop, members were well-versed with the procedures of budget-making and which will come in handy with the current ongoing budget making process.

The Members also learnt matters to do with analysis of the CIDP, ADP and CFSP which are important documents for this House and for the members. While we were discussing the same, members understood the legal underpinnings of the budget making process and we also formulated strategies and we analyzed from last quarter and put other timeframes in place for this remaining quarter. We also looked at the achievements that we have been able to undertake.

Let me also thank the members of the committee who are here. I can confirm that members of the Environment Committee were in full attendance and arrived on time from commencement to closure of the said workshop. With that, I beg to second.

Hon. Acting Speaker: Thank you, Hon. Matara.

(Question proposed)

Hon. Members, the floor is open for debate. Hon. Michael Okumu.

Hon. Michael Okumu: Thank you Mr. Speaker. I am glad that we have such a document before us. It is a good document, well-researched and well-thought of. As I support this document, I will support it with some insights. I will first of all say that the Chairman did not include everything that they discussed. Though I was not in that meeting, I can just see that he missed some points based on the document.

Point number one is a recommendation to take action against officers in Environment Department. Mr. Speaker, why do I say so? When you look at their observations, you know, the County is almost about Environment and Works departments. When Environment fails, and Works fails, then the entire County has failed. And when you look at the recommendations and the observations they made, number one, I will start with where he talked about solid waste management, where he talks about unsatisfactory state of repairs at Dandora dumpsite. This is a story that has been spoken year in year out and the contractor is supposedly on the ground. He has worked on the same road for over 4 years now. So, what we would expect from them in this report is to be told why the completion of that road it is taking that long. We cannot allow our County not to be clean simply because somebody is sleeping on their job. The issue of Dandora Road is something that has been spoken about for so long and basically if the Executive is interested, they would have sorted that problem.

The other issue is about delayed payments. When you talk about delayed payments, you basically align to us. Why do I say so? Number one, contractors work, garbage is being collected. When I look at our budget recently, and Mr. Speaker you bear me witness that we are almost doing the 3rd Supplementary Budget. The Supplementary Budgets that are being brought to this House are basically and purely for environment department.

Hon. Micheal Ogada: As we speak today, the total budget that was set aside for the sector in terms of garbage collection was around Ksh. 700 million for the whole year but as we speak today, the Ksh. 700 million was spent within four months. A supplementary Budget was brought for Ksh. 500 million and I know that is gone and another supplementary is coming. So if you spend about 1.4 billion to pay garbage collectors and still tell us that you do not have money to pay them then what does that tell us? Where do you take these monies? We thought that they are paying garbage collectors so basically what you are telling us is not true.

Mr. Speaker, the other issue that I have is on the dismal collection of revenue in terms of selling seedlings. I know that you are aware that we buy seedlings for ourselves but what I wasn't aware of is that we sell them. That is an issue and that is why I say that this report is good but I am not sure that it was well researched. Mr. Speaker, we also have inadequate personnel in the environment sector. You are privy to the information that auditing and capacity of staff was done like two or three years ago and the ideal staff position for staff of the County is 8,000. We are not supposed to go to more than 9,000 staff and as we speak today we have 14000 staff and yet they tell us that they have inadequate staff. This is an issue. Mr. Speaker, when we talk about interference with the court systems as one of the problems that makes the city dirty then what are they telling us. Courts are independent institutions that should not be interfered with by outsiders be they MCAs, MPs and even the business community and when an officer informs the committee that our magistrate's and judges in the city courts are saying that there is undue interference then that is far-fetched.

Mr. Speaker, as we talk about the County Executive having issues with repairs, frequent breakdown and shortage of the garbage trucks, we need to appreciate that we have over 47 supported by private contractors and so the issue of having few garbage trucks should not arise. They have enough and I can say that they are incompetent. They buy trucks today and after a week, it has been vandalized and broken down. This is a calculated move so that we do not have our own trucks and opt to hire. These breakdown repairs come from operation expenses in the budget but while going through the document, I realized that they have so far used 97% of the amounts allocated for the operations and still tell us that they are not able to repair trucks. What did they use the money meant for repairing trucks? I will therefore support this but with a lot of reservations because the officers in that department are either sleeping on their jobs or have issues. Otherwise I beg to support.

Hon. Acting Speaker: Thank you. I hope that the Chairman is taking notes on this so as to address them during the reply. Hon. Benson Macharia

Hon. Benson Macharia: Thank you Mr. Speaker. I rise in support of this report while holding my reservations to the recommendations in that different sectors face certain challenges but they have not been captured here. For example, in Mowlem Ward, there is a very big and nice biogas plant that has been constructed and I have not seen it being mentioned in the recommendations because its main function was to recycle solid waste materials and produce gas. Let them consider putting it under use because it is underutilized and instead of moving garbage from Buruburu, Kayole and Utawala then it can be recycled in my Ward. We support this report but with recommendations and if you go to my Ward then I believe that you will be able to factor it in. thank you Mr. Speaker

Hon. Acting Speaker: Thank you. I can see Hon. Matara and the seconder working on this. Hon. Juliet Ndegwa

Hon. June Ndegwa: Thank you Mr. Speaker. I would like to support but with a lot of reservations. Also Mr. Speaker, I would like you to give guidance when somebody thinks that the document is half-baked but they are in support but with reservations. I have observed a few things that I would have loved for the Environment Committee to do. I believe that as a County we have concentrated so much on the solid waste and have not looked at the liquid waste in our rivers and gaseous substances in the atmosphere.

I remember Hon. Chege Waithera complained about some form of gas being deposited by some factory near her Ward. I believe that the atmosphere is part of the environment and I would have loved to see them talk more on the liquid wastes in our rivers. Mr. Speaker, I would also have loved to see them bring in the use of technology and future projections because I have seen waste management in other countries such as France use technology and I wonder if we still want to rely on the old ways of doing things or are we projecting a time when Nairobi will appreciate the use for the same. I also don't understand what they mean when they say that the sector is yet to develop a noise pollution policy yet each and every other day we hear DJs being arrested. Does it mean that they are being arrested illegally since we do not have a policy to that effect?

Mr. Speaker, on the 97% absorption rate of the budget, it would have been prudent for them to show us how they have used the money, if they want more and if the remaining 3% is enough to take them through the rest of the financial year. I also do not appreciate the photos that have been used because you cannot

tell what they mean and hoped to get a better presentation from them. As I support, I would have loved to see this committee do much more in this report. Thank you.

Hon. Acting Speaker: Hon. Moses Ogeto

Hon. Moses Ogeto: Thank you Hon. Speaker. I stand here to oppose this report on principle. Looking at the speakers starting from Hon. Ogada, to Hon. Macharia and lastly Hon. June Ndegwa, I don't understand who it is that they fear if they oppose this report. I remember when we were being sworn in and carried the Bible, they swore to serve the people of Nairobi without fear or favour from anyone including the President of this Republic. I wish to go the report's recommendations---

Hon. Acting Speaker: She is rising on a Point of Information

Hon. Moses Ogeto: I can be informed Hon. Speaker. I have no problem with that

Hon. Acting Speaker: Proceed Hon. Juliet

Hon. June Ndegwa: Thank you Mr. Speaker. When I stood to support this Motion, I asked for guidance from the speaker on how to go about a half-baked report. I understand that they have done a good job but there are a number of things that they have also not done. So, it is possible to support and oppose at the same time.

Hon. Acting Speaker: Alright

Hon. Moses Ogeto: I believe that---

Hon. Acting Speaker: Order Hon. Moses! Hon. June, the Motion is properly laid before the House and this is the time to hammer it so it either go through or not. I cannot short-circuit the process as at now. Proceed.

Hon. Moses Ogeto: Thank you Hon. Speaker. This is why I always want the Chair for environment to withdraw using the word this side because he knows the procedures of the House and when to speak and at what time. When you look at the recommendations of this Committee on Environment then you notice that it is a half a page out of findings that are about ten pages. In their findings they are very clear that the County doesn't have a policy for noise pollution and that it also has a seedling plant that has not yet been decentralized.

Hon. Moses Ogeto: In their findings they talk about court cases. The Chairman should have named one of the cases. In their findings they say they have inadequate personnel. However this County has subcontracted people to collect garbage in the CBD at Ksh. 273 million. How can a county contract garbage at such money and same time complain of inadequate personnel? It does not make sense. We rather employ more officers to clean the City than engaging contractors. In the findings they say they have trucks but they break down. Why do we need contractors?

As I oppose the report let the findings be aligned to the recommendations. Let us not do *kipindi*.

(Point of order)

Hon. Silas Matara: I want to understand what he means by *kipindi*

Hon. Acting Speaker: Hon. Ogeto there is a word that Hon Silas Matara wants you to expound as you proceed.

Hon. Moses Ogeto: Hon Speaker this word is a Kiswahili word. It is usually used by the Governor of this County. I understand *kipindi*...

Hon. Silas Matara: Hon Ogeto is a senior member of this House and whatever he is trying to insinuate on the Environment Committee and the able Governor about *kipindi* are words that this House is not aware of, that is why I sought explanation and clarity on the same word. Inform us what you meant and the aspersions you meant to cast on the County.

Hon. Moses Ogeto: Hon Speaker I believe the word *kipindi* is a Kiswahili word...

Hon. Acting Speaker: Hon Ogeto, explain the word *kipindi* in the context of what you wanted to use and proceed so that everyone is on the same page of what exactly you meant.

Hon. Moses Ogeto: It is a jungle word, it is like movie...

Hon. Acting Speaker: Expound the word if you don't have a better way of expounding it.

(Loud consultations)

Order, order. Proceed Hon. Ogeto.

Hon. Moses Ogeto: Hon Speaker I replace it with a word 'movie', so as to be precise. This report is like a movie. This is because the Committee findings and observations are very clear but when you go to recommendations they are contradicting themselves. Members are supporting it with reservations. I wish the Chairman is not taking us in circles. In fact there is no quorum. I have just realized.

(Laughter)

Hon. Acting Speaker: The Deputy Whip is out of order. You cannot present issues of Standing Order 31 as you debate. It is unfair after having given you a chance to express yourself then you want to close the gate immediately. You are out of order. Hon. Millicent Jagero.

Hon. Millicent Jagero: Thank you Mr. Speaker. I had already withdrawn because most of the observation I wanted to make had already been mentioned, thank you.

Hon. Emily Waitthaka: Thank you Mr. Speaker. This is a good document. The recommendations are good but it is good to listen to other members and what they can add. Note it down and do it. Otherwise it is a good document and I support.

Hon. Mbugua Kabiro: Thank you very much Mr. Speaker. I stand to support this report. I do not see why this report is being opposed so badly by people who have not read it. I have taken time to read it, word for word, and I think the context in which they are addressing their issues is not what should be brought up in this report.

The report in itself is looking at the subsector progress and that is what they are presenting to the House. I do not see why the Hon June, Ogeto and rest of other members who are undecided on whether they are supporting or opposing the report are talking about.

The report is very clear and it is on three sections – solid waste management, beautification and environmental component on monitoring. This report has come in good time when we are considering the CFSB and I think when we look at this report we are going to ask the Chair to make sure that all concerns raised are captured in the CFSB and other documents that support that support the enactment of proper environmental policies. I support the report.

Hon. Acting Speaker: I call the mover to reply because I can see the Hon. Jeremiah, Hon Rose, Hon. Matara and Hon Joyce who are requesting to speak are members of this Committee. I will allow those views to be captured by the Chair as he replies.

Hon. John Muthiga: Thank you Mr. Speaker. There are some members who fear some people but you only fear God. You don't fear anybody here, thank you.

There is a road that links Dandora and dumpsite, I have had a member pointing to that. There is still the issue of Mowlem. All these are issues that our members have pointed out. I am very thankful to all those members that have contributed and whatever they have said, if we have not captured in this report, then they will be captured in our work plan.

Mr. Speaker all those issues will be captured in our next report because we know there are many things ailing Nairobi County. Members, I know what you talked about concerns of Nairobians and for that matter we are going to make sure we implement and not just speak about it again. Since we started the process of CFSB the recommendations the Executive will submit will be implemented so that members are satisfied and everything goes on well.

Hon Speaker as you can see, Environment department cuts across almost all committees. There is always an aspect of environment touching on almost all departments. I beg to reply, thank you.

(Question put and agreed to)

ADJOURNMENT

Hon. Acting Speaker: Thank you Hon. Members for keeping yourselves in tune till this time that we are able to conclude the business of the day. I therefore wish to adjourn the House until tomorrow 2.30 p.m. The House Business committee will meet at the rise of the house.

(The House rose at 4.06. p.m.)