



## NAIROBI CITY COUNTY ASSEMBLY

### OFFICIAL REPORT

#### Second County Assembly – Fourth Session

Tuesday 23<sup>rd</sup> June 2020

The House met at 2.30 p.m.

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

#### PRAYER

#### PETITION

##### DEMOLITION AND FORCEFUL EVICTION OF TRADERS FROM STALLS AT EASTLEIGH MARKET

**Hon. David Mberia:** Thank you, Mr. Speaker, pursuant to the provisions of Standing Order 208 and 213 I wish to present a public petition on behalf of the Eastleigh market traders regarding demolition and forceful eviction from the stalls at Eastleigh city council market, Eastleigh North Ward, Nairobi County.

Hon. Speaker Article 185 of the Constitution of Kenya 2010 vests the legislative authority and oversight of the county government in the county assembly.

Aware that the Constitution of Kenya under Article 37 and Section 15 and 88 and the County Government Act 2012 provides the rights for citizens to petition their authorities of the county government on any matter;

Hon. Speaker aware that whereas Article 62 of the Constitution mandates the county government to hold in trust public land on behalf of the county residents. That the Eastleigh market traders consisting of a group of 403 Kenyans who owned stalls at Eastleigh city council market LR36/7/1037 that has been in existence from 1960s until its demolition on 10<sup>th</sup> January 2009 after it was allegedly sold to a private developer under the guise of a public/ private initiative.

That the county government has let the petitioners down by failing to handle the issue of demolition and forced eviction as owners of the stalls in the market were never consulted on the initiative and their

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proposal to develop a multi-storeyed market that has been forwarded was never answered nor were they offered alternative site despite claims by the City County to have done so.

Mr. Speaker, that as a result of the eviction over 3000 Kenyans who depended on the traders were reduced to poor displaced Kenyans resulting in loss of livelihoods and untold suffering for both the traders and their dependents.

That the petitioners had been paying their monthly land rates to the City County through the County revenue office, Eastlands at Makadara.

That whereas the petitioners confirm that efforts have been made to have the matter addressed by the National Lands Commission during the visit to the market in October 2016 whereby the Commission revoked the allocation of the grant issued to private developers through a gazette notice Vol 1X976862 of 17<sup>th</sup> July 2017.

That subsequently a communication on the same was done via a letter dated 25<sup>th</sup> January 2018 Ref NLC/GEN/ADM/VOL5/17 to revert the land to the County Government for use as a public market which recommendations the County Government has failed to implement.

That all the matters in respect of which the petition has raised is not pending before any court of law or constitutional body.

The said petitioners humbly pray that the County Assembly of Nairobi intervenes and ensure that:

- a) The market that was grabbed by private developers be reverted to Eastleigh market traders and,
- b) Issuance of title deeds and ownership documents to the market traders who had been issued with original allotment letters to the market.

I beg to lay the petition. Thank you.

**Hon. Deputy Speaker:** Thank you Hon Mberia. The petition is committed to the committee of Legal, thank you. Proceed.

## COMMITTEE OF THE WHOLE ASSEMBLY

*[Hon Deputy Speaker left the Chair]*

IN THE COMMITTEE

*[Mr. Chairman, Mr. Anthony Gathumbi, took the Chair]*

NAIROBI CITY COUNTY TRANSPORT BILL 2019, ASSEMBLY BILL 10 OF 2019

Clause 3

*(Question proposed)*

**Hon. Joyce Kamau:** Hon. Chair, I beg to move that Clause 3 be amended by adding the word 'accessible' as to read 'provide for adequate, accessible, safe and efficient public transport facilities'.

*(Question that Clause 3 be amended as proposed)*

*(Question that Clause 3 be amended as proposed is put and agreed to)*

*(Question that Clause 3 as amended be part of the Bill is put and agreed to)*

Clauses 4 and 5

*(Question proposed)*

*(Question that Clauses 4 and 5 be part of the Bill put and agreed to)*

Clause 6

*(Question proposed)*

**Hon. Joyce Kamau:** Hon. Chair, I beg to move that Clause 6 be amended in sub clause (1) by adding the words "the National Council for Persons with Disabilities as one of the agencies to be consulted on".

*(Question that Clause 6 be amended as proposed)*

*(Question that Clause 6 be amended as proposed put and agreed to)*

*(Question that Clause 6 as amended be part of the Bill put and agreed to)*

Clause 7

*(Question proposed)*

**Hon. Joyce Kamau:** Hon. Chair, I beg to move that Clause 7 be amended as follows;

- a) By inserting the following words in sub clause (1) to read - (1) The Plan shall be in timing and content with the County Integrated Development Plan (CIDP), County Spatial Plan and National Transport Policy.
- b) By adding new sub clause (k) immediately after (j) - (1) Proposals of Trade Unions and other stakeholders in addressing the unique transport challenges faced by the capital city.

*(Question that Clause 7 be amended as proposed)*

*(Question that Clause 7 be amended as proposed put and agreed to)*

*(Question that Clause 7 as amended be part of the Bill put and agreed to)*

## Clause 8

*(Question proposed)*

**Hon. Joyce Kamau:** Hon. Chair, I beg to move that Clause 8 be amended as follows;

- a) By adding sub clause 1(c) and (d) immediately after sub clause 1 (b)

(1) An Officer from the Planning Department in the position not below Director from Planning

*(Question that Clause 8 be amended as proposed)*

*(Question that Clause 8 be amended as proposed put and agreed to)*

*(Question that Clause 8 as amended be part of the Bill put and agreed to)*

## Clause 9

*(Question proposed)*

**Hon. Joyce Kamau:** Hon. Chair I beg to move that Clause 9 be amended as follows:

- a) Deleting the word “professor” in sub clause 9(2)(j)
- b) Removing the phrase ‘The Matatu Owners Association and Matatu Welfare Association and replace with ‘A representative of Public Transport Services Operators’ sub clause 9(2)(k)
- c) The CEO of the various road authorities and the Director General of NTSA should have the power to appoint an alternate or a person nominated by them
- d) By adding a new sub clause (m) immediately after (o) to include a representative from the National Council for Persons with disabilities or a person with demonstrated expertise in the disability sector.

*(Question that Clause 9 be amended as proposed)*

*(Question that Clause 9 be amended as proposed put and agreed to)*

*(Question that Clause 9 as amended be part of the Bill put and agreed to)*

## Clauses 10,11,12,13 and 14

*(Question proposed)*

*(Question that Clauses 10,11,12,13 and 14 as amended be part of the Bill put and agreed to)*

## Clause 15

*(Question proposed)*

**Hon. Joyce Kamau:** Hon. Chair, I beg to move that Clause 15 be amended by inserting the following;

New sub clause (d) immediately after sub clause (c) –

(1) Contain a specific Non-Motorized Transport Plan that will be used to develop walking and cycling infrastructure, bicycle parking, car, free days and other emerging trends in non-motorized transport.

*(Question that Clause 15 be amended as proposed)*

*(Question that Clause 15 be amended as proposed put and agreed to)*

*(Question that Clause 15 as amended be part of the Bill put and agreed to)*

Clauses 16,17,18,19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29 and 30

*(Question proposed)*

*(Question that Clauses 16,17,18,19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29 and 30 be part of the Bill put and agreed to)*

## Clause 31

*(Question proposed)*

**Hon. Joyce Kamau:** Hon. Chair, I beg to move that clause 31 of the Bill be amended– a) the clause title to read “Seats for persons with disabilities or with limited mobility”. b) by adding a pictorial to be annexed in the Bill.

*(Question of the amendment proposed)*

*(Question put and agreed to)*

## Clause 32

*(Question proposed)*

*(Question put and agreed to)*

## Clause 33

*(Question proposed)*

**Hon. Joyce Kamau:** Hon. Chair, I beg to move that clause 33 of the Bill be amended by inserting (e) to read, “not reaching its final destination as indicated on its road Service License RSL’

*(Question of the amendment proposed)*

*(Question put and agreed to)*

Clause 34

*(Question proposed)*

*(Question put and agreed to)*

Clause 35

*(Question proposed)*

**Hon. Joyce Kamau:** Hon. Chair, I beg to move that clause 35 of the Bill be amended by inserting a new sub-clause as follows, that provides for the penalty of operating without a designated uniform and lack of proper identification.

*(Question of the amendment proposed)*

*(Question put and agreed to)*

Clause 36

*(Question proposed)*

**Hon. Joyce Kamau:** Hon. Chair, I beg to move that clause 36 of the Bill be amended in sub-clause (1) by inserting the words “the use of wheelchairs by persons with physical disabilities and for cycle lane markings and no motor vehicles be allowed on such lanes.”

*(Question of the amendment proposed)*

*(Question put and agreed to)*

Clause 37

*(Question proposed)*

**Hon. Joyce Kamau:** Hon. Chair, I beg to move that clause 37 of the Bill be amended in sub-clause (3) by deleting the words “eleven (11) days of having been received in the pound may either be sold, given

away painlessly, destroyed” and substituting therefor the words “fourteen (14) days of having been received in the pound may either be sold, given away or destroyed painlessly”.

*(Question of the amendment proposed)*

*(Question put and agreed to)*

Clause 38, 39,40, 41, 42, 43, 44,45,46,47 and 48

*(Question proposed)*

*(Question put and agreed to)*

Clause 49

*(Question proposed)*

**Hon. Joyce Kamau:** Hon. Chair, I beg to move that clause 49 of the Bill be amended by- a) inserting the words sub-clause (1) “and for persons with disabilities.” b) Inserting a new sub-clause (5) to read- “The County Executive Committee Member shall provide clear marked designated parking slots for persons with disabilities”.

*(Question of the amendment proposed)*

*(Question put and agreed to)*

Clause 50, 51 and 52

*(Question proposed)*

*(Question put and agreed to)*

Clause 53

*(Question proposed)*

**Hon. Joyce Kamau:** Hon. Chair, I beg to move that clause 53 of the Bill be amended adding new sub-clause (3) immediately after sub-clause (2) to read, - (a) A vehicle can only be towed for purposes of this clause by tow trucks or tow pickups that are property of the Nairobi City County which are clearly marked and labeled in County colours and vehicle registration. The occupants of the tow-vehicle must be in official County uniform.

*(Question of the amendment proposed)*

*(Question put and agreed to)*

Clause 54 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67 and 68

*(Question proposed)*

*(Question put and agreed to)*

New Clause 61(a)

*(New Clause 61 A read a second time)*

*(Question that the New Clause 61 A be part of the Bill)*

*(Question put and agreed to)*

First Schedule

*(Question that the First Schedule be part of the Bill)*

*(Question put and agreed to)*

Clause 2

**Hon. Joyce Kamau:** Hon. Chair, I beg to move that Clause 2 be amended:

(a) in the definition of 'heavy commercial vehicle' to read 'a commercial vehicle whose tyre weight exceeds six thousand seven hundred and twenty pounds'

(b) In the definition of:

'Disability' includes any physical, sensory, mental, psychological or other impairment, condition or illness that has or is perceived by significant sectors of the community to have a substantial or long-term effect on an individual's ability to carry out ordinary day-to-day activities.

'Persons with disabilities' in line with Art 1 CRPD to read as: Persons with disabilities include those who have long term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.

'People with limited mobility' means people who have transport difficulties but might not regard themselves as being disabled. These include for example the frail elderly, expectant women, parents with young ones, passengers with luggage, visitors or tourists and people with temporary impairment such as people with broken legs

(c) Include in the interpretations 'persons in vulnerable situations, which include persons with disabilities, older members of society, sick persons, children of tender age, and nursing and expectant mothers.

*(Question of the amendment proposed)*

*(Question, that the words to be inserted be inserted, put and agreed to)*

*(Clause 2 as amended agreed to)*



*Long Title*

**Hon. Joyce Kamau:** Hon. Chair, I beg to move:

THAT, the Long Title of the Bill be amended by deleting the numerical “2019” and substituting thereof the numerical “2020”.

*(Question of the amendment proposed)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

*(The Long Title as amended agreed to)*

*Clause 1*

*(Question that Clause 1 part of the Bill)*

*(Question put and agreed to)*

**Hon. Joyce Kamau:** Mr. Chairman, I beg to move that the Committee do report to the Assembly on its consideration of the Nairobi City County Transport Bill, 2019 (Assembly Bill No 10 of 2019) and its approval thereof with amendments.

*(Question proposed)*

*(Question put and agreed to)*

*(The House resumed)*

*[Hon. Deputy Speaker (Hon. John Kamangu) in the Chair]*

**REPORTS AND THIRD READINGS**

## NAIROBI CITY COUNTY TRANSPORT BILL, 2019 (ASSEMBLY BILL NO 10 OF 2019)

**Hon. Anthony Gathumbi:** Mr. Speaker, Sir I beg to report that the Committee of the Whole Assembly has considered the Nairobi City County Transport Bill, 2019 (Assembly Bill No 10 of 2019) and approved the same with amendments.

**Hon. Joyce Kamau:** Mr. Speaker, I beg to move that the Assembly do agree with the Committee in the said report.

*(Question proposed)*

*(Question put and agreed to)*

**Hon. Deputy Speaker:** Mover? Where is your card? Use the mic next to Hon. Adow.

**Hon. Joyce Kamau:** Thank you, Mr. Speaker. I beg to move that the Nairobi City County Transport Bill, 2019 (Assembly Bill No 10 of 2019) be now read a third time.

*(Question proposed)*

*(Question put and agreed to)*

*(The Bill was accordingly read the Third Time and passed)*

**Hon. Deputy Speaker:** Thank you very much, Hon. Members. Let me give Hon. Adow, the mover of the Bill two minutes to say something.

**Hon. Osman Adow:** Thank you, Mr. Speaker, I would like to thank the House for passing this Bill. I would also like to thank the office of the Clerk which was very instrumental in making it successful, and also the office of the Speaker. I also thank Mr. Shawn and Mr. Wilhen who were experts from the European Union, they helped us draft and put expertise in this. I think it is a good Bill that will move Nairobi forward. I thank the whole House for supporting me in this. I am grateful, thank you very much

#### **ADJOURNMENT**

**Hon. Deputy Speaker:** Hon. Members, having transacted today's business, the House stands adjourned until Thursday 25<sup>th</sup> June 2020 at 2.30 p.m. Thank you and God bless you all.

*(The House rose at 3.42 p.m.)*