



NAIROBI CITY COUNTY ASSEMBLY

OFFICIAL REPORT

Second County Assembly – Fourth Session

Tuesday 24th November 2020

The House met at 2.30 p.m.

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

QUORUM

Hon. Deputy Temporary Speaker: Clerk, can you confirm whether we have the quorum.

(Hon. Temporary Deputy Speaker consulted the Clerk-at-The Table)

We have the quorum, proceed!

PAPERS

Hon. James Mwangi: Thank you Hon. Speaker. Pursuant to the Standing Order 191, I beg to lay the following paper on the Table of the Assembly today Tuesday 24th November 2020: The report of Sectoral Committee on Transport and Public Works on Investigation into alleged unconventional construction of a bridge along Pokomo Lane in Industrial Area.

(The Paper was laid)

Hon. Deputy Temporary Speaker: Thank you very much, Hon. Mwangi wa Wambui. Leader of Majority? The Paper is deferred. Clerk proceed.

Hon. Mwangi wa Wambui can you stand on behalf of Leader of Majority? You laid the Paper.

Hon. James Mwangi: Thank you Mr. Speaker once again. Pursuant to article 185(4) of the constitution of Kenya, I beg to lay the following Paper on the table of the Assembly today Tuesday 24th November 2020: The Session Paper No. 2 of 2020 of Nairobi City County Air Quality Policy, for the Leader of the Majority Party)

(The Paper was laid)

Hon. Deputy Temporary Speaker: Thank you very much. The Paper is committed to the Sectoral Committee on Environment and Natural Resources.

NOTICE OF MOTION

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Hon. James Mwangi: Thank you once again, Mr. Speaker. I beg to give notice on the following Motion: That this Assembly adopts the report of the Sectoral Committee on Transport and Public Works on Investigation into alleged unconventional construction of a bridge along Pokomo Lane in Industrial Area, laid on the table on Tuesday 24th November 2020.

Hon. Deputy Temporary Speaker: Thank you Hon. Mwangi wa Wambui. Clerk, proceed!

MOTION

DEVELOPMENT OF COUNTY REGULATIONS

Hon. Jeremiah Themendu: Thank you Hon. Speaker. Aware that Article 185(1) of the Constitution of Kenya 2010, provides that the legislative authority of a County is vested in, and exercised by its County Assembly.

Further aware that with regards to County delegated legislation, the County Executive Committee Member is required by various County Acts to develop Regulations for effective operationalization of certain County Acts and in line with the Statutory Instrument Act, 2013. Acknowledging that Section 5 of the Nairobi City County Early Childhood Education Act, 2017, Section 26 (1) of the Nairobi City County Public Participation Act, 2015, Section 29 of the Nairobi City County Persons with Disabilities Act 2015, Section 38 (1) of the Nairobi City County Solid Waste Management Act, 2015 and Section 18 of the Nairobi City County Regularization of Developments Act, 2015 requires all the respective County Executive Committee Members to make regulations for better carrying into effect of the provisions of the said Acts. Concerned that in absence of the said regulations, operationalization of the County Acts remains a challenge, this Assembly resolves that the County Executive, and in particular, the County Executive Committee Members required by the County Acts to develop the County Regulations to promptly initiate development of such regulations and submit the same to the Assembly within 90 days, from the day of the approval of the Motion.

(Point of Order)

Hon. Deputy Temporary Speaker: What is the point of order Mwangi?

Hon. James Mwangi: I wish to separate the two Members who are sitting so close and there is Covid-19, at this time of Covid-19.

Hon. Deputy Temporary Speaker: Maybe they are from the same family I think that you cannot separate them. Proceed. But if they decide to separate themselves that is okay.

Hon. Jeremiah Themendu: Hon. Mwangi Wambui is trying to interrupt me, but I can proceed Hon. Speaker.

Hon. Speaker, reasons and justifications for this Motion is as follows:-

1. Regulations enable Acts passed by the Assembly to be implemented effectively.
2. Hon. Speaker the Assembly has powers to pass rules and the Executive has powers to develop policies and regulations.
3. With the 10 CEC Members in the county, Hon. Speaker some are yet to submit any policy for the last three years for approval by the Assembly.
4. Such regulations and policies are and should be the measure for any performing CECM.

I urge Members to support this Motion for us to ensure the legislative authority of the Assembly does not go in vain

For us Hon. Speaker, to develop Nairobi, we need those regulations because we shall be effective if the Acts are combined with regulations for the operations of the same to be driven well by our officer. I now call upon Hon. Mwangi Wambui to second this Motion. I beg to move.

Hon. James Mwangi: Thank you Mr. Speaker. I wish to second this noble and well thought Motion by Hon. Themendu, MCA. As I do that Hon. Speaker, let me remind this Assembly of the following Acts.

1. The Nairobi City County Inspectorate Act, 2017
2. The Nairobi City County Children Care Facility Act, 2017
3. The Nairobi City County Sports Management Act, 2017
4. The Nairobi City County Heritage Act, 2017
5. The Nairobi City County Office of the County Attorney Act, 2017
6. The Nairobi City County Early Childhood Education Act, 2017
7. The Nairobi City County Community & Neighbourhood Association Engagement, 2016
8. The Nairobi City County Public Participation Act, 2016
9. The Nairobi City County Persons with Disability Act, 2015
10. The Nairobi City County Dog Control and Welfare Act, 2015
11. The Nairobi City County Finance Management Act, 2015
12. The Nairobi City County Solid Water Waste Management Act 2015
13. The Nairobi City County Disaster and Emergency Management Act 2015
14. The Nairobi City County Regulation of Developments Act, 2015
15. The Nairobi City County Betting, Lotteries and Gaming Act, 2014
16. The Nairobi City County Alcohol, Drinks Control and Licensing Act, 2014
17. The Nairobi City County Ward Development Amendment Act, 2014
18. The Nairobi City County Ward Development Fund Act, 2014; and
19. The Nairobi City County Tax Waiver Administrative Act 2013

Hon. Speaker, I wish to invite Members to soul search and appreciate their presence here by asking themselves, how many of the above Acts have been implemented? This is why we have such Motions; it is of great importance. This is why every committee should be encouraged to follow up their respective sector legislative agenda with the Hon. Speaker. Mr. Speaker, I beg to second.

Temporary Deputy Speaker: Thank you Hon. Wambui.

(Question proposed)

Temporary Deputy Speaker: If you want to contribute, please raise your hand for those on Zoom.

Hon. Mary Mwami: Thank you Mr. Speaker sir. This is a very good Motion and I am so happy about it, Hon. Themendu, congratulations. I stand here because of a particular Motion which is among those you have mentioned: the People Living with Disability Act, 2015. This Act which was passed by one of us in the last assembly is a very comprehensive act that covers people living with disability which up to now nothing has been done or effected.

In that Act there is supposed to be a board or a desk that receives complaints and things that are connected with people living with disability, it has not been effected. We have many other Motions that I am interested in like the Education Act 2017. We keep passing things and the Executive is implementing nothing. I think we need to call to order especially our Implementation Committee. Hon. Themendu has brought such a Motion because our Implementation committee is asleep. I don't know whether they know their mandate and what they are supposed to do. They are supposed to follow up when and whether these things are done.

There is Transport and Infrastructure Bill that was passed this year and I contributed. We are supposed to have every public vehicle within Nairobi having a sign that the seat near the door is for people living with disability, the elderly, lactating mothers and those that are pregnant. But none of this has been effected.

We keep passing very important Bills, Motions and Acts in this House and it is not taken seriously. I do not know what is wrong with the Executive side of our government but they had better wake up. History will judge them very harshly because on our side we have tried though we are not perfect to pass some Bills and some Motions but nothing is being effected including the Paper that was laid on the floor the other day on Early Childhood Education Centres.

We even told the CEC of Education that she should make sure that the education sector does not get taken over. But the latest that I have heard is that the secondary school has repainted and removed the name Early Childhood Centre and taking complete ownership.

There is a lot of ignorance on the other side and sometimes you wonder whether people there really know what they are supposed to do. Thank you very much Hon. Themendu. I think this is a reinforcement on the Implementation Committee and we hope that this will give them the momentum to follow up on what they are supposed to do. Thank you very much Hon. Speaker.

Hon. Temporary Deputy Speaker: Thank you Hon. Mary Ariviza. Hon. Mwangi you had a chance, you cannot get twice. Anybody else who want to contribute? Please raise your hand. Hon. Lawi, proceed.

Hon. Lawrence Odhiambo: Thank you Mr. Speaker sir. I rise to support the Motion. The fact remains that the Committee of Implementation is not doing its work. We have been passing Bills and Motions but so far we do not know how many have been passed or been implemented. It will be upon the Implementation Committee to tell us how many Bills or Motions have been implemented so that we know. For that, I support the Motion. Thank you.

Hon. Temporary Deputy Speaker: Thank you very much Hon. Lawi.

Hon. Laura Mwende: Thank you Hon. Speaker.

Hon. Temporary Deputy Speaker: Hon. Mwende, please proceed. Anything that you want to say in regards to this Motion?

Hon. Laura Mwende: Thank you Hon. Speaker. Mine is to say; no Sonko no peace.

Hon. Temporary Deputy Speaker: Thank you very much Hon. Laura. We have heard you. Anybody else who want to contribute?

Hon. Cecilia Ayot: I want to support the Motion and emphasize on the issues raised by Hon. Mary Ariviza. The trend in the Nairobi City County Assembly is really demoralizing because people work hard and bring very comprehensive debates and Motions but nothing gets implemented. It is like we are doing things for formality. It is high time that the Implementation Committee as Hon. Mary Ariviza has put to understand

their roles and responsibilities and push harder. The Motion will give them strength in terms of realizing all that has been passed because it is of no use to keep on debating and passing things that are not going to be implemented. I stand to support.

Hon. Temporary Deputy Speaker: Thank you, Hon. Cecilia Ayot. Hon. Obuya.

Hon. Kennedy Obuya: Thank you, Mr. Speaker. I rise to support and congratulate Hon. Jeremiah Themendu aka Mofire. It is a concern of a culture of impunity that we have witnessed for the past three years since the inception of the Second Assembly. However, I would pray that Hon. Themendu would do this with amendments to capture our engagement as Assembly with a serious latest service provider, that is the Nairobi Metropolitan Services (NMS). I would appreciate if he would do an amendment on this good Motion to capture our responses from the NMS because this is specifically targeting the Nairobi Executive. I beg to support with amendments.

Hon. Mbugua Kabiro: Thank you very much, Mr. Speaker. I would also want to raise my voice to support this noble Motion by the Hon. Jeremiah Themendu. I would like to say that this Motion is raising issues that we have been speaking about in the Assembly from the first day, that implementation or certain resolutions that have been made in this Assembly are not adhered to. It is good we are raising it at this point because we have, as the Hon. Kiragu says, 500 days until we exit this Assembly. It will be said that we did not help Nairobi in any way with regard to the implementation of these laws and regulations that we are supposed to do. Our core mandate is purely legislation. If we are not legislating, then we are failing. If the Executive is not taking care of the legislations that are being passed, we are failing.

As the vice chair of the Implementation Committee, I have listened to the Hon. Mary Ariviza. With the leadership of our able Chair, Hon. David Mberia, we are going to look into the issues and jot down all the things that are supposed to be jotted down. These are things that we have discussed in the Implementation Committee and we are going to unravel them one by one, Motion by Motion, and Bill by Bill that have been passed. For once with the leadership, we are going to have the resolutions of this House being respected. Thank you very much, Mr. Speaker Sir.

Hon. Temporary Deputy Speaker: Thank you. Anybody else who wants to contribute? Please, raise your hand. It seems there is no one. The mover, Hon. Themendu, please reply.

Hon. Jeremiah Themendu: Thank you, Mr. Speaker. Let me take this opportunity to thank Hon. Mwangi Wamboi, Hon. Mary Ariviza, Hon. Lawi, Hon. Ayot, Hon. Obuya, and lastly Hon. Kabiro. The issue here is about CECMs of our County – they are ten – delaying to bring regulations to this Assembly. We are not going to involve the NMS in this issue because all the acts were within the County Executive. We are urging CECMs of this County to bring regulations so that the Acts are in order. It would not be implemented how it should be if the regulations were there. There are some from the years 2014, 2015, 2016 and 2017.

Hon. Speaker, I urge the Hon. Members that it is the high time to hold the Executive into account on legislative agenda and policy direction. This should be put in place for prosperity and for future generations so that Nairobians can enjoy the services from the Executive side.

As I conclude, I ask Members to support me in this Motion. I beg to reply.

Hon. Temporary Deputy Speaker: Clerk, can you confirm whether there is quorum before I put the question.

(The Clerk-at-the Table confirmed there was quorum)

(Question put and agreed to)

ADJOURNMENT

Hon. Temporary Deputy Speaker: Hon Members, there being no any other business, the House Stands adjourned till Thursday 26th November 2020 at 2.30 p.m. May God bless you all.

The House rose at 3.30 p.m.

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