



NAIROBI CITY COUNTY ASSEMBLY

OFFICIAL REPORT

Second Assembly – Fourth Session

Friday 15th January, 2021

SPECIAL SITTING

The House met at 11.00 a.m.

(Hon. Deputy Speaker (Mr. Geophrey Majiwa) in the Chair)

PRAYERS

COMMUNICATION FROM THE CHAIR

Hon. Deputy Speaker: Hon. Members, I have the following communication to convey, but before I do. Allow me to welcome you from the festive season to wish you all a happy new year and feel most welcomed.

Honorable Members, as you may all be aware, the Nairobi City County Assembly special sitting for today was published in the Kenya Gazette on 15th January 2021 under gazette notice number 96 and pursuant to the provisions of the Standing Orders number 30, with the purpose of considering the report of the select committee on appointment on the vetting of the Deputy Governor nominee Ms. Anne Kananu Mwendwa.

For avoidance of doubt, Standing Order number 30 (4) provides that *“whenever the Assembly meets for a special sitting, the Speaker shall specify the business to be transacted on the day or days appointed and the business so specified shall be the only business before the County Assembly during the special sitting following which the County Assembly shall stand adjourned until the day appointed in the Assembly calendar.* Honorable Members, you are so guided. Thank you.

PAPERS

Hon. Deputy Speaker: Majority Leader!

Hon. Abdi Hassan: I beg to lay the following the report laid today Friday 15th January 2021. Submission of Eastlands Urban Renewal Plan and Nairobi Railway City Land Use Development Plan. Thank you Mr. Speaker sir.

(The Paper was laid on the Table of the Assembly)

Mr. Speaker sir, I beg to lay the following Paper on the table of the Assembly today 15th January 2021: SP number 1 for the 2021 of the new draft valuation roll.

(The Paper was laid on the Table of the Assembly)

Pursuant to the Standing Order 191, I beg to lay the following Paper on the table of the Assembly today January 15th 2021; The report of the select committee Appointment on vetting of the nominee Ms. Anne Kananu Mwendwa for the position of the Deputy Governor Nairobi City County. Thank you Mr. Speaker sir.

(The Paper was laid on the Table of the Assembly)

NOTICES OF MOTION

Hon. Abdi Hassan: Thank you Mr. Speaker sir. That this Assembly adopts the report of the select committee on Appointment of the nominee position of the Deputy Governor, Ms. Anne Kananu Mwenda. I beg to move the Notice of Motion. Thank you Mr. Speaker sir.

MOTION

ADOPTION OF THE REPORT OF THE SELECT COMMITTEE ON APPOINTMENT

Hon. Deputy Speaker: Majority Leader.

Hon. Abdi Hassan: Thank you Mr. Speaker sir. The select committee on Appointments is established under Standing Order number 196 and its mandate amongst others as outlined under Standing Order 196 (4) includes to consider for approval by the County Assembly appointment under Article 179 (2,2) which states members of the County executive committee.

Mr. Speaker sir, the committee on Appointments consists of the following Members;

1. Hon. Benson Mutura – Speaker and Chairperson
2. Hon. Abdi Hassan MCA – Leader of Majority
3. Hon. Micheal Ogada Okumu MCA – Leader of Minority
4. Hon. Paul Kados MCA
5. Hon. Peter Imwatok MCA
6. Hon. Elias Otieno MCA
7. Hon. Paul Ndungu MCA
8. Hon. Waithera Chege MCA
9. Hon. Emily Oduor MCA

Mr. Speaker sir, vide a letter dated 6th January 2020, His Excellency the Governor, Hon. Mike Mbuvi Sonko forwarded to the Speaker of the Nairobi City County Assembly the name of Ms. Anne Kananu Mwenda for vetting by the select committee on Appointments and consideration for approval by the County Assembly for appointment for the position of the deputy Governor. In forwarding the name, his Excellency

the Governor was guided by the Supreme Court of Kenya advisory opinion ref number 1 of 2015 delivered on the 9th day of March 2019.

The position of the Deputy Governor had fallen vacant following the resignation of the Hon. Polycarp Igathe. Hon. Speaker, pursuant to Standing Order 131, the Honorable Speaker in a special sitting informed the Assembly on January 2020 that she had received notification of the nomination.

She did not commit the name to the Assembly noting that a Supreme Court advisory had been sought on whether the Governor, who by then had been barred from accessing his office, could nominate a candidate. However, at a subsequent special sitting of the Assembly held on the January 22nd 2020, the name of the nominee was eventually committed to the committee for vetting and reporting pursuant to provisions of section 7(5) of the Public Appointments (County Assemblies) Approval Act, 2017.

The Committee held its first sitting on 4th February 2020 in order to commence the vetting process. However, on 17th February 2020, before the Committee concluded the vetting process Mr. Speaker Sir, the High Court issued conservatory orders in *Peter Odhiambo Agoro Vs Ann Kananu Mwenda & Another, County Assembly of Nairobi & another* (Interested Parties), the effect of which was to prevent the Committee from proceeding with the vetting process.

On 7th January 2021, the court allowed the application for the withdrawal of the said petition, thereby vacating the conservatory orders referenced hereinabove. Consequently, vide a memo dated 8th January 2021, the Speaker recalled the Committee from recess and directed the Committee to proceed and conclude the vetting of the nominee and table its report.

Further, during the pendency of the aforementioned orders, the Governor of Nairobi City County, Mike Mbuvi Kioko Sonko was removed from office by impeachment. However, the impeachment did not have any legal effect on his choice of a Deputy Governor since the same had been done way before his removal from office as such, could not be reversed save for the fact that the vetting had been suspended by the High Court, which suspension was vacated.

In addition, on Thursday 14th January 2021, the nominee moved to High court seeking orders to stop any election for the position of Governor in Nairobi City County since proceeding with the elections would be prejudicial to her rights as her vetting by the County Assembly was on course. Consequently, the courts suspended the gazette notice that called for the elections thus paving way for the approval hearing and the entire vetting and appointment process.

The Clerk of the County Assembly placed an advertisement in the local dailies, specifically the Daily Nation Newspaper and the Star Newspaper on Friday 8th January 2021 inviting the public to submit memoranda by the way of written statements on oath (sworn affidavits) on the suitability or otherwise of the nominee in conformity with section 7(10) of the Public Appointments (County Assemblies Approval) Act, 2017.

Hon. Speaker, the nominee appeared before the Committee on Friday 15th January 2021 and was vetted in accordance with the provisions of the Constitution, Public Appointments (County Assemblies Approval) Act and the County Assembly Standing Orders on her suitability for appointment to the position of the Deputy Governor. In total, the Committee held three sittings to consider this matter.

Mr. Speaker Sir, may I take this opportunity to thank Members of the Committee for their input and valuable contributions during the deliberations and vetting exercise. The Committee also takes this opportunity to thank the offices of the Speaker and of the Clerk of the County Assembly for the logistical support accorded to it during the vetting exercise. The Committee is grateful to the staff of the County Assembly attached to the Committee for their services rendered to the Committee. The Committee is also grateful to the media for their coverage of the proceedings of the Committee, thus enhancing accountability and transparency of the vetting exercise.

Finally, on behalf of the Select Committee on Appointments, it is my pleasure and duty to present to the Assembly the Committee's Report on vetting of Ms. Ann Kananu Mwenda, nominee for appointment to the position of Deputy Governor to the Assembly for adoption, pursuant to Standing Orders of the County Assembly and other enabling provisions of the law.

Mr. Speaker Sir, because of time I cannot go through the report, I will just touch sections of the report for Members to grasp what the Committee went through.

The Committee in compliance with the provisions of Chapter 6 of the Constitution, asked the nominee to bring her Kenya Revenue Authority Certificate, Criminal Investigations, Higher Education Loans Board, Credit Reference Bureau, Ethics and Anti-Corruption Commission and IEBC nomination form which shows that they have cleared her. The Committee also went through Ms. Ann Kananu's educational background and they saw that she fits the bill of becoming the Deputy Governor of this County.

On her experience, the Committee noted that Ann Kananu had more than ten years' experience in public service starting from working for the Kenya Airways Mr. Speaker Sir. The Committee observes that the nominee has been cleared by the Ethics and Anti-Corruption Commission, she has not been charged in the court of law and she satisfied the constitution and statutory qualifications attendant to that office.

Mr. Speaker Sir, the nomination and vetting process of the nominee is in conformity with the Supreme Court of Kenya Advisory Opinion Ref. No. 1 of 2015.

Mr. Speaker sir, the committee also noted that Peter Agoro withdrew his case. Today the committee also noted that at the Constitutional High Court Division Ruling, that the Judge dismissed all cases against the vetting of Anne Kananu. Therefore, pursuant to the Supreme Court Opinion Advisory Ref. No. 1 of 2015 Paragraph 32 (d) of the County Government Act 2020 and Section 9 of the Public Appointment Act 2017, the Committee recommends that this assembly approves the nomination of Ms. Anne Kananu Mwenda for the appointment to the position of the Deputy Governor of Nairobi. I ask my counterpart, the Minority Leader to second the Motion. Thank you Mr. Speaker sir.

Hon. Michael Ogada: Thank you Mr. Speaker sir for giving me the opportunity to second this Motion. As the Leader of Opposition in this House, my business is very simple because the nominee has been presented by the Jubilee party. Our work as the opposition is to look at the procedure, the qualifications and everything else. To start with, the nominee who has been presented was appointed by the then Governor, as the opposition we have no problem with that.

The other thing according to the law, is that the only requirement that is needed for one to be appointed as a Deputy Governor, is having a degree. Our business was to check whether the lady had a degree or not, and we found out that she had a degree. We have no problem with that.

The other thing that we had to look at, is whether she is a good citizen in the Republic of Kenya. But the assembly having no jurisdiction to investigate people, we relied on information from the investigative authorities. With us here we have got clearance from Kenya Revenue Authority, the lady has complied with paying her taxes. She has been paying her taxes promptly so we have got no problem there.

The Criminal Investigation Department was supposed to look at her past criminal records. And according to their report she is a good citizen. Higher Education Loans Board were to confirm whether she refunded back all the monies she was given during her college education. They are saying she repaid everything. Credit Reference Bureau was to investigate whether the lady is in debt and borrows any-howly. They are saying she borrowed and has repaid everything.

The Ethics and Anti-Corruption Authority was to check whether she is of good standing in the republic of Kenya. They are saying that she is good. As an Opposition Leader in this House, I have no objection. And if I have no objection, none of my Members is going to have any objection. I therefore, second Mr. Speaker.

(Applause)

(Question proposed)

Hon. Moses Ogeto: Thank you Mr. Speaker sir. First, I want to thank the Appointment Committee for the job well done in ensuring that the nominee gets the opportunity. This report is going to set a precedence all over the world that this assembly has vetted and approved Anne Mwenda Kananu as the Deputy Governor.

I believe that as a Kenyan citizen, she is going to ensure that the performance of the transferred functions see the light of the day. On her credibility, Mr. Speaker, as my leader has said, I agree and support. I believe that she is up to the task and ensure that Nairobians get the services that they deserve. As I conclude, I want to congratulate the Committee on Appointment for ensuring that what they have done will set a precedence all over the world.

Thank you Hon. Speaker. I beg to support this Motion.

Hon. Emily Oduor: Thankyou Mr. Speaker and Happy New year to all the Members of the County Assembly. Being a Member of the Committee, I would like to let the Members to know that we did a vetting on Ann. She is very good, and she managed to answer all the questions and cleared the doubt we had. And even you as Members of the County Assembly, Ann has been a CEC for disaster and you had known what she has done.

Severally, she has been called by Members of this Assembly in the middle of the night especially the MCAs who are in the informal settlements where we have fire breaking out and we have disasters during the floods, she would always response. She has been responsible since she has been responding and therefore, I support her nomination because I know she will continue with that quick response whenever there is a calamity or something happening in Nairobi that needs her attention. With those few words Mr. Speaker sir, I support the Motion.

Hon. Jeremiah Themendu: Thank you Hon. Speaker, I stand to support and adopt the Motion because as an elected Member of Nairobi, I am a very proud man to vote for our new Governor Hon. Ann Kananu because...

Hon. Deputy Speaker: We have not reached there, Hon. Themendu. Let set the records straight.

Hon. Jeremiah Themendu: Although she has not been approved but I think, we are heading there. Hon. Speaker what I would like to say here today is that I am a very proud man, an elected Member of County Assembly from Kayole Central Ward. The reason why I am very happy is because in Nairobi we shall not experience some shenanigans. Now, job will be done and Nairobians will be happy and proud of us because we are ones who you advise them accordingly. Therefore, I support Hon. Kananu and I know she will do what it is supposed to be done in Nairobi. Thank you Hon. Speaker.

Hon. Abdi Hassan: Thank you Mr. Speaker sir. I want to take this opportunity to thank the Appointment Committee and the House at large. I would also want to thank Hon. Themendu and to correct him that we are not voting for one Kananu, Mr. Speaker sir.

Anne Kananu was nominated and she was not elected by anyone. I would like to take this opportunity and thank the former Governor for his wise deed by nominating one Ann Mwendwa Kananu. With that stroke of Appointment Mr. Speaker sir, we have saved Nairobians Kshs 2 billion in terms of holding a by-election.

Mr. Speaker sir, I think the former Governor was very wise and he foresaw that in few months to come Nairobians would be in quagmire in pertaining matters of by-elections and he saved us from that. With this now behind us, those people who wanted by-elections in Nairobi should focus on matters of development. Nairobians have no time for elections Mr. Speaker sir, we just have one year and four months to hold the elections of 2022.

Mr. Speaker sir those who think they can serve Nairobians better, should wait for that time and sell their manifestos to the people of Nairobi. Mr. Speaker with those many remarks I beg to reply thank you.

(Question put and agreed to)

Hon. Deputy Speaker: I now want to declare Ann Kananu Mwenda, as per the report of Select Committee on Appointment, validly nominated to the position of the Deputy Governor of Nairobi City [County].

ADJOURNMENT

Hon. Deputy Speaker: Hon. Members there been no other business Assembly stands adjourn to 9th February 2021. Thank you.

The House rose at 12.20 p.m.