



NAIROBI CITY COUNTY ASSEMBLY

OFFICIAL REPORT

Second County Assembly – Fifth Session

Tuesday 28th September 2021

The House met at 2.30 a.m.

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

PRAYER

QUORUM

Hon. Deputy Speaker: Serjeant-at-Arms, kindly ring the bell for ten minutes.

(Quorum bell was rung for ten minutes)

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

We now have quorum, Clerk proceed.

PAPERS LAID

Hon. Jeremiah Themendu: Thank you Hon. Speaker. Pursuant to Standing Order No. 191 (6), I beg to lay the following Paper on the Table of the Assembly today Tuesday 28th September 2021:

The report of the Select Committee on Delegated County Legislation on consideration of the Kenya Gazette Supplement No. of 2021 (The Public Finance Management - Nairobi City County Bursary and Scholarship Fund Regulations 2021). Thank you Hon. Speaker, I beg to lay.

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

Hon. Peter Warutere: Hon. Speaker, pursuant to Standing Order No. 191 (6), I beg to lay the following Paper on the Table of the Assembly today Tuesday 30th September 2021:

The report of the Sectoral Committee on Health Services on a workshop for Members that was held on 19th -22nd August 2021 at the Continental Hotel, Mombasa. I beg to lay.

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

NOTICES OF MOTION

Hon. Deputy Speaker: Is Hon. James Kiriba online?

Hon. James Kiriba: Thank you Mr. Speaker. I beg to give Notice of the following Motion: That aware that on the 25th February 2020 the then Governor of Nairobi County H.E Mike Mbuvi Sonko and the Devolution Cabinet Secretary Hon. Eugene Wamalwa with the concurrence of the President of the Republic

of Kenya signed an agreement to transfer four functions from the County Government to the National Government pursuant to Article 87 of the Constitution of Kenya 2010; further aware that Article Five of the Deed of Transfer provided for an equivocal transfer of the following functions to the National Government:

1. Community Health Services;
2. County Transport Services;
3. County Public Works utilities and auxiliary services; and
4. County Government Planning and development.

Noting that Article Five (1) of the Deed of Transfer of functions provides that the financing of the transferred functions shall be drawn from either or both the Consolidated Fund and the County Revenue Fund; further noting that Article Five (1) of the Deed of Transfer of functions provided that the Nairobi City County Government appoints the Kenya Revenue Authority (KRA) as the principal agent for the overall collection of revenue in the county; acknowledging that the said agreement was effected via Gazette Notice 1605 dated 25th February 2020 that would see the National Government execute the said functions for an initial renewable period of 24 months from the date of execution; further acknowledging that from the date of execution being 17th March 2020 agreement unless otherwise terminated shall be in force until March 2022; realizing the need of the County Government to commence transition engagements to reversal of all the transferred functions in anticipation of the end of the Deed of transfer. Therefore, this assembly resolves to establish a Transition Oversight Committee for the reversal of the transferred functions with its membership consisting of the following:

1. The Majority Leader
2. The Leader of the Minority Party
3. The Majority Whip
4. The Minority Whip
5. Six Chairpersons on behalf of the committees overseeing the transferred functions being:
 - (a) Sectoral Committee on Water and Sanitation;
 - (b) Sectoral Committee on Health Services;
 - (c) Sectoral Committee on Environment and Natural Resources;
 - (d) Sectoral Committee on Transport and public Works;
 - (e) Sectoral Committee on Planning and Housing;
 - (f) Sectoral Committee on ICT and Energy; and
 - (g) In addition, three members representing the youth, women and persons living with disabilities amongst Members of the County Assembly.

Mr. Speaker, the Transition Oversight Committee on the reversal of the transferred functions, will be guided by the following terms of reference:

1. Examine the measures put in place by the sectors in the Executive whose functions were transferred in anticipation of the transferred functions;
2. Assessment of the fitness by the Executive for reversal of the transferred functions
3. Examine all the assets and liabilities under the national government from each sector and plans put in place for handing over;
4. Oversight on the modalities and procedures that will guide towards the reversal of the transferred functions to the county government including pending developments and report to the county

assembly with a comprehensive report within four months from the date of the establishment of the committee on the preparedness modalities assets and liabilities from the Nairobi Metropolitan Services (NMS) being the donor, and the Nairobi City County Government being the recipient entity.

Hon. Speaker, signed today by myself your office has the original copy, I beg to move.

Hon. Deputy Speaker: Thank you. Is the Chairman Delegated Legislation around? Is Hon. Wahinya online? You are holding his brief? Go ahead. Can you give Hon. Themendu the mic?

Hon. Jeremiah Themendu: Hon. Speaker, I beg to give Notice of the following Motion; ---

Hon. Moses Ogeto: Hon. Speaker, I think we are setting a very bad precedence in this House. The Standing Orders are very clear that it is only the author of the Motion who can be able to move this Motion. When Members start holding briefs for other Members, then we will lose the direction of this House.

With due respect Hon. Speaker, precedence has been set unless it is a committee issue. It is always good for the office of the Clerk to guide the Hon. Members on the procedures and precedents set in this House. Like today in the morning Hon. Macharia was not around and was not also in Zoom. He has missed two consecutive chances of moving a Motion.

Hon. Speaker, it is like Hon. Themendu is going to move this Motion and then he will move the same Motion next time. In the real sense it is Hon. Wahinya who---

Hon. Deputy Speaker: Are you referring to Notice or Motion because we----

Hon. Moses Ogeto: He is moving a Notice of Motion Hon. Speaker, which he is moving on behalf of Hon. Wahinya.

Hon. Deputy Speaker: Is he a Member of that committee?

Hon. Jeremiah Themendu: Yes.

Hon. Deputy Speaker: If it is a committee report, I think a Member can be given a leeway to move.

Hon. Moses Ogeto: Hon. Speaker, that is why we are saying that if the committee has a Chairman, in his absence there is a vice-chair of the same. The precedence we are setting in this House will haunt us one time. Hon. Speaker when the Speaker is not around, you are Deputy Speaker who is in charge of this House and that is why we have the Speakers' Panel.

Hon. Speaker, moving a Motion is a very serious issue. What if the Chairman will denounce the same before this House that he did not move the Motion?

Hon. Deputy Speaker: Thank you Deputy Minority Whip. I think it being a Notice of Motion and not the Motion itself; we have had occasions where we have seen Members of the committee take up responsibilities of their chair and their vice- chairs when they are not in. As much as we would like to look at it as an irregular practice but for tabling of reports for a committee, a Member can do it. We are going to allow Hon. Themendu to continue. Thank you Hon. Themendu.

Hon. Jeremiah Themendu: Thank you Hon. Speaker for your intervention. I think Hon. Deputy Minority Whip should understand that I am not exceptional because I am a Member of the said committee. He knows very well what the Standings Orders say---

Hon. Deputy Speaker: Please respect the Chair.

Hon. Jeremiah Themendu: Hon. Speaker, let me repeat again. Hon. Speaker, I be to give Notice of the following Motion: That this assembly adopts the report of the select Committee on Delegated County

Legislation on consideration of the Kenya Gazette Supplement No. of 2021; the Public Finance Management (Nairobi City County Bursary and Scholarship Fund Regulations 2021) tabled in the assembly on Tuesday 28th September 2021. Thank you Hon. Speaker.

Hon. Deputy Speaker: Hon. Benson, who do you want to inform? Please use the mic.

Hon. Benson Mwangi: Hon. Speaker, can I be protected from the oldest Member in this assembly? Hon. Speaker, Hon. Themendu being a Member of the Delegated Legislation Committee, was supposed to reply on the Motion that Hon. Kiriba has just read. It is supposed to be submitted to the Committee. Other than what he has done, he has read a different report.

Hon. Deputy Speaker: Thank you.

(Loud consultations)

Hon. Benson, I have not given you the mic. The other one was a substantive and this is a committee report, that is the difference. Clerk.

STATEMENTS

REQUEST FOR A STATEMENT REGARDING COMPLAINTS OF ILLEGALITY IN CARRYING OUT OF PROMOTIONS

Hon. Peter Wanyoike: Thank you, Mr. Speaker. I wish to request for a Statement. Pursuant to Standing Order No. 45 (2) (c), I wish to request for a Statement from the Chairperson of the Sectoral Committee on Justice and Legal Affairs regarding complaints of illegality arising from breaches of the law and Constitution, unfairness and discrimination in the administration of the County Assembly, particularly the carrying out of promotions and other administrative acts thereto.

Hon. Speaker, serious complaints of unethical practices and illegalities have been raised across board with respect to the administration of staff affairs, including promotions and other privileges, which critical complaints have not been adequately addressed and continue to heavily impact the operations of the County Assembly. These allegations raise serious issues of ethics, integrity, corruption and human rights which require urgent intervention by the House.

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

1. A comprehensive inquiry on the promotion of staff in the County Assembly undertaken on or about September 2019;
2. List containing all promotions advertised, list of the applicants for each position, the promotion subsequently undertaken per position and across cadres, detailing the ranks of all officers, old and new after promotion, and indicating how many ranks up each officer moved, as well as the number of recommended officers at each rank based on optimum establishment per the consultant's report, the number of vacancies advertised for each said rank, and the number eventually filled, and including all the qualifications of the said officers as of date of appointment and as marked against a statutory list of qualifications for indicated ranks and cadres;
3. All minutes of the Board approving the engagement of Deloitte to review the organization structure and approving the final report of Deloitte;
4. Register of all applicants, long listing reports, short listing reports and interview reports for all appointments with effect from September 2019; and

5. Individual interview score sheets for all the interviewees who responded to the advert, showing how each panelist scored each candidate in the various cadres, including hotel attendance list of the panelists and the interview report signed by all the panelists.

Thank you, Hon. Speaker.

Hon. Deputy Speaker: Is the Chairperson Legal around? Any Member of Legal who is around? Yes, Hon. Ogeto.

Hon. Moses Ogeto: Hon. Speaker, give us two weeks.

Hon. Deputy Speaker: Leader, is that okay with you?

Hon. Peter Wanyoike: Yes, it is okay.

Hon. Deputy Speaker: Thank you. Next!

Hon. Peter Wanyoike: Thank you, Mr. Speaker. I wish to request for a Statement. Pursuant to Standing Order 45 (2) (c)---

Hon. Deputy Speaker: Excuse me, Hon. Member. Just take your seat.

(Hon. Speaker consulted the Clerk-at-the-Table)

I am looking for Hon. David Okello. Is Hon. Okello online?

Hon. David Okello: Hon. Speaker, are you getting me?

Hon. Deputy Speaker: Yes, go ahead.

REQUEST FOR A STATEMENT REGARDING UNAPPROVED CONSTRUCTIONS IN MUTURA STREET
IN EASTLEIGH WARD

Hon. David Okello: I wish to request for a Statement. Pursuant to Standing Order No.45 (2) (c), I wish to request for a Statement from the Chairperson of the Sectoral Committee on Planning and Housing regarding unapproved constructions in the County by private developers, especially in Mutura Street in Eastleigh Ward.

Hon. Speaker, the law requires developers to acquire the requisite approval of both County Government and national agencies, for instance, building plan approval, National Construction (NCA) approval, and National Environmental Authority (NEMA) approval in ensuring that constructions are properly vetted to avert any possible disaster, especially when buildings collapse.

However, Hon. Speaker, it is of great concern that the constructions are allegedly taking place in the County without requisite approval, for instance, the ongoing construction on plot LR No. 36/1140 Nairobi.

Hon. Speaker, it is also alleged that the developer in the said area has encroached on a service lane that is vital for residents in case of fire breakout or normal operation.

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

1. Present information and documentation on the ownership approval and current search with regard to development in the said piece of land; and
2. Steps that the County Executive and the NMS are putting in place to ensure that the construction in the County adhere to the requirement laws regarding the approval.

Hon. Deputy Speaker: Chairperson of Planning? Give Hon. Benson Mwangi the mic.

Hon. Benson Mwangi: Hon. Speaker, we request for three days.

Hon. Deputy Speaker: Hon. Okello, are you okay with that?

Hon. David Okello: Hon. Speaker, I am very much okay with the three days.

Hon. Deputy Speaker: Thank you. Hon. Mwangi, you have a statement.

REQUEST FOR A STATEMENT REGARDING THE MANAGEMENT OF THE COUNTY EXECUTIVE
GOVERNOR'S SCHOLARSHIP

Hon. Benson Mwangi: Hon. Speaker, pursuant to Standing Order 45 (2) (c), I wish to request for a Statement from the Chairperson of the Sectoral Committee on Children, Early Childhood Education and Vocational Training regarding the management of the County Executive Governor's scholarship.

Hon. Speaker, the County Government establishes the Executive scholarships to benefit the bright and needy students across the County. Since the County Government to date, the County Government is sponsoring such students to pursue their secondary education. In the current financial year, the County Government has budgeted for the same and forms dispersed to such needy students to apply.

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

1. The exact amount allocated for the County Executive scholarships for this financial year 2021/2022;
2. Criteria used in distribution of the County Executive scholarships forms;
3. List of beneficiaries of the scholarships per ward, including the schools and amount per the beneficiary;
4. Whether the scholarships are for one or four years to be budgeted each financial year; and
5. Measures that the County Executive is taking to ensure that all the beneficiaries are accounted for after the four years, regardless of the administration of the day.

Hon. Deputy Speaker: Chair, Early Childhood? Yes, Hon. Mugambi.

Hon. Mark Mugambi: Hon. Speaker, we request for two weeks.

Hon. Deputy Speaker: Hon. Mwangi, are you okay with that?

Hon. Benson Mwangi: Yes, Hon. Speaker.

Hon. Deputy Speaker: Fourth Statement, Hon. Peter Wanyoike. Leader, you can now proceed.

REQUEST FOR A STATEMENT REGARDING DROPPING AND PARKING GARBAGE COLLECTION
TRUCKS IN DANDORA AREA

Hon. Peter Wanyoike: Thank you, Mr. Speaker. But there is a precedence set in this House that when a leader has anything to execute, as the Chair, you have to give him or her priority.

All the same, pursuant to Standing Order No.45 (2) (c), I wish to request for a Statement from the Chairperson of the Sectoral Committee on Environment and Natural Resources regarding dropping and parking garbage collection trucks along Komarock Road and Muigai Kenyatta Road in Dandora Area.

Hon. Speaker, Article 42 of the Constitution 2010 provides that every person has the right to a clean and healthy environment including the right to have the environment protected for the benefit of the present and future generations, through legislative and other measures.

Additionally, a section of the Nairobi City County Solid Waste Management Act 2015 provides that every person within the county is entitled to a clean and healthy environment and has to safeguard and enhance the quality of the environment.

Hon. Speaker, in recent weeks, have witnessed garbage collection trucks dropping waste along Komarock and Muigai Kenyatta road on the way to the dumpsite. Further, the said trucks are always parked recklessly along the roads making it hard for the road users to navigate their way.

Hon. Speaker in the statement the chairperson should inquire into the report on:

1. Measures the County Executive and the Nairobi Metropolitan are taking to ensure that garbage collection trucks do not drop waste along the Komarock and Muigai Kenyatta road making the environment unhealthy for the residents.
2. Measures the County Executive and the Nairobi Metropolitan is taking to ensure garbage collection trucks are parked in an orderly manner to easy transport along Komarock and Muigai road along the entrance and along the entrance of dumpsite in Dandora.

Thank you, Mr. Speaker.

Hon. Deputy Speaker: Chair Environment! Is he online or any Member of the Environment Committee?

Hon. Peter Wanyoike: Thank you, Mr. Speaker, I will liaise with the Chairman of Environment and request him whether he can take the undertaking and report within two weeks.

Hon. Deputy Speaker: It all lies in your hands as the question comes to you and the answer depends on your effort thank you Mr. Chairman.

MOTION

ACQUISITION AND STRATEGIC PLACEMENT OF TOWING EQUIPMENT ON ROADS IN NAIROBI COUNTY

Hon. Mark Mugambi: Thank you very much, Hon. Speaker, I beg to give the following Motion: That, aware that Part 2 of the Second Schedule to the Constitution of Kenya 2010 bestows the traffic and parking function on County Governments; further aware that the National Transport and Safety Authority Act Regulations mandate the authority to tow away stalled commercial vehicles on the road; cognizant that the Kenya National Bureau of Statistics economic survey of 2020 pointed to an increased number of accidents of up to 10.8% between 2019 and 2020; noting that stalled vehicles account for a significant percentage of the accidents; deeply concerned that delayed towing away of stalled vehicles or vehicles involved in accidents leading to tailback of traffic jam on the affected roads and congestion on other roads compounding the existing challenge of loss of productive time in traffic jams; observing that for unknown reasons, private players in the towing sub-sector take longer time to intervene in towing away vehicles involved in accidents or stalled vehicles on roads; a combination of the foregoing factors give the public an impression of a government that is reluctant to address or mitigate existing challenges in the transport sector, particularly, traffic management. This Assembly urges the County Executive in conjunction with the Nairobi Metropolitan Services (NMS) to:

1. Formulate policy to regulate private operators in the towing industry; and
2. Acquire government-owned towing equipment and strategically locate them on roads in the County for timely intervention in cases of accidents or stalled vehicles.

Hon. Speaker, thank you for the time to move this Motion. Hon. Speaker, I beg to give some insights on this Motion.

Hon. Speaker you will find that you have witnessed in the new mainstream media the number of accidents that affects Nairobians and largely all Kenyans because this is a national disaster. You will find

that most of these stalled vehicles along our roads cause accidents and most of them are fatal and we end up losing most people through the road carnage and it is mostly caused by stalled vehicles.

Hon. Speaker, if we as Nairobi County can be an example to the rest of the Country by having these county breakdowns strategically placed within our busy roads so that we also avert the traffic jams that we witness along these roads like along Jogoo road or Thika road you can stay in a traffic jam for two to three hours only to find that there was a vehicle that had broken down on the road and had we invested heavily on these breakdowns we would avert the same.

Hon. Speaker, towing is coupling two or more objects so that they may be pulled by a designated power source or sources. The towing source may be a motorized land vehicle, a vessel, animal or human and the load being that anything that can be pulled. This may be joined by a chain, a rope, bar, hitch, three-point, fifth wheel, carpooling dropper, integrated platform or other means of keeping objects together. It can also be defined as an act of a car being officially removed from a place where it has been illegally left. For many drivers, no one wakes up in the morning expecting their cars to be towed.

Therefore, this is why it is important for towed vehicles or vehicles involved in accidents to be towed to curb a tailback of traffic jams on the affected roads and congestion on other roads. Hon. Speaker, drivers who park illegally on the roads should normally be fined. In addition, be required to pay a vehicle release fee for the towed vehicle.

However, for unknown reasons private players in the towing subsector take longer to intervene in towing away vehicles involved in accidents or stalled vehicles on roads and this has led to a total disregard in laws governing the roads in the County of Nairobi bringing confusion and stalemate of operations.

Hon. Speaker, I, therefore, request this Assembly to pass this Motion to compel the Executive in conjunction with NMS to formulate policy to regulate the towing industry and to acquire privately Government-owned towing equipment and locate them on these roads.

Hon. Speaker, once we have done this, I believe it will go a long way in saving Nairobians time. For this reason, they will get productive time which can be used in building this nation. Hon. Speaker, I call upon Hon. Wanyoike to second the Motion. Thank you Hon. Speaker.

Hon. Deputy Speaker: Kindly give Hon. Wanyoike the mic.

(Hon. Peter Wanyoike bowed to second)

(Question proposed)

Hon. Peter Wanyoike: Thank you Mr. Speaker sir. Let me rise to support this Motion and congratulate Member for Umoja I for coming up with this Motion. Mr. Speaker, earlier on I had requested for a statement requesting the county to do something about grounded vehicles within the Komarock Road and within all Nairobi estates. Up to date nothing has been done. This Motion will help if at all the county can come up with a policy or guidelines to help in curing this problem.

Mr. Speaker, we have a challenge where the county does not have machinery to tow the recklessly parked and grounded vehicles in our estates. I support that the Executive formulate a policy and come up with machines for towing these grounded vehicles. With that, I beg to support.

Hon. Deputy Speaker: Is there any Member online?

Hon. Mary Ariviza: Thank you Mr. Speaker sir. I stand to support this Motion by Hon. Mugambi. Citizens of Nairobi have been suffering a great deal because of the disorder in this department. You find that private owners of these breakdowns play around with Nairobians. You park your vehicle and you find that a

person has put a hold on which will force you to look for them. There is a towing fee that you are supposed to pay and also pay a fine.

While the regulations are there to help us to live orderly as citizens of Nairobi, this should not be a disadvantage to Nairobians who are our key stakeholders; this city is theirs. It is wrong for private owners of these breakdowns and unfortunately they collude with our traffic marshals so that they can get the towing money and the fines that are unnecessary. There was a time that I had to intervene so that a person is not mistreated.

It is important that we have regulations and at the end of the day such a move should not be done by private owners. This is something that should be owned by the County Government and regulated by the county marshals who should not misuse their powers but serve the people of Nairobi. We must do away with the private owners because they misuse and mishandle the people of Nairobi. I stand to support this Motion that we need regularization of breakdowns. Steadily but surely, we need to move in the direction where we have our own breakdowns as a city because having people who have intentions owning the breakdowns is leading to colluding and mishandling Nairobians which is not good for our county.

I support the Motion, this is very good and welcome.

Hon. Deputy Speaker: Any other Member online? Mover?

Hon. Mark Mugambi: Thank you once more Hon. Speaker. Thanks Hon. Deputy Majority Leader Hon. Wanyoike, thanks to the 'limping general' Hon. Ariviza for your great insights and additions to this Motion. Hon. Speaker, from what Hon. Mary has alluded, we have a system which is not working in Nairobi especially with the breakdowns. You find that they clamp the vehicles even when there is no mistake done because they want money.

Through this Motion, we will be able to regularize their operations. If the county cannot be able to purchase the breakdowns, we can lease some. This will go a long way in creation of employment to our youths who are jobless. There are so many youths in Ruaraka, Kilimani, Dandora, Umoja who can get employment.

As hon Members we need to be creative in our legislation through such Motions to reduce the unemployment rate in this county. Therefore Hon. Speaker, I beg to reply. Thank you.

(Question put and agreed to)

ADJOURNMENT

Hon. Deputy Speaker: Hon. Members, there being no other business, the Assembly stands adjourned till Thursday 30th September at 2.30 p.m.

The House rose at 3.50 p.m.