



NAIROBI CITY COUNTY ASSEMBLY

OFFICIAL REPORT

Second County Assembly – Fifth Session

Thursday 2nd December 2021

The House met at 2.30 p.m.

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

PRAYERS

QUORUM

Hon. Temporary Deputy Speaker: Clerk, confirm if we have the quorum.

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

It's confirmed we have the quorum. Clerk, proceed.

COMMUNICATION FROM THE CHAIR

ADJOURNMENT OF THE ASSEMBLY FOR THE LONG RECESS

Hon. Temporary Deputy Speaker: Hon. Members, I have the following Communication to convey;

Hon. Members, as you are all aware, today marks the end on the Fifth Session of the Second Assembly of Nairobi City County, pursuant to provision of Standing Order No. 29, which guides on the end of Session to be today, Thursday 2nd December 2021.

Hon. Members, as the Assembly anticipates its adjournment, the Office of the Speaker wishes to note with appreciation your contribution during this Fifth Session, as the Assembly has been able to consider the following key legislations;

1. The Nairobi City County Cultural Heritage (Amendment) Bill, 2021 by Hon. Silas Matara Ongwae, MCA - Member for Dandora II Ward;
2. The Nairobi City County Polytechnics and Home Craft Centers Bill, 2021 by Hon. Samuel Ng'ang'a Mwangi, MCA - Member for Kayole North Ward;

3. The Nairobi City County Public Open Spaces Use and Maintenance Bill, 2021 by Hon. Millicent Okatch, MCA - Nominated;
4. The Nairobi City County Early Childhood Development and Education Bill, 2021 by Hon. Jayendra Malde, MCA - Member for Parklands/Highridge Ward;
5. The Nairobi City County Plastic Control (Amendment) Bill, 2021 by Hon. Charles Thuo Wakarindi, MCA - Member for Dandora III Ward;
6. The Nairobi City County Civic Education Bill, 2021 by Hon. Silas Matara Ongwae, MCA - Member for Dandora II Ward;
7. The Nairobi City County Appropriation Bill, 2021 by the Budget and Appropriations Committee;
8. The Nairobi City County Betting, Lotteries and Gaming (Amendment) Bill 2021 by Hon. Waithera Chege, Member for Nairobi South Ward;
9. The Nairobi City County Public Nuisance Bill 2021 by Hon. James Kiriba, Member for Riruta Ward;
And two more scheduled for introduction this afternoon, being;
10. The Nairobi City County Air Quality Bill 2021 by Hon. Waithera Chege, Member for Nairobi South Ward; and
11. The Nairobi City County Prevention of Violent Extremism Bill 2021 by Hon. Waithera Chege, Member for Nairobi South Ward;

ON MOTIONS

Additionally, Hon. Members, during the Fifth Session, a total of 63 Motions both substantive, procedural Motions and Committee Reports were considered.

Equally, Hon. Members, the Office of the Speaker wishes to acknowledge the greatest contributors of Motions and Bills in the Assembly. These being; Hon. Hassan Abdi Guyo –Leader of the Majority Party, Hon. Peter Imwatoke – Member for Makongeni Ward, Hon. Daniel Ngengi - Member for Nairobi Central, Hon. James Kiriba - Member for Riruta Ward, Hon. Kabiro Mbugua -Special Elect, Hon. Silas Matara - Member for Dandora Area II Ward, Hon. Millicent Jagero - Special Elect, Hon. Paul Kados - Member for Mihango Ward, Hon. Mark Mugambi – Member for Umoja 1 Ward, Hon. Patrick Musili – Member for Hospital Ward, Hon. Waithera Chege – Member for Nairobi South Ward, Hon. Mary Ariviza – Special Elect, Hon. Peter Wanyoike – Member for Dandora 1 Ward. Thumbs up, Hon. Members.

Hongera also to you all, for without you, Hon. Members, debate and subsequent approval of the Motions wouldn't be possible.

ON DECLARATION OF INCOME, ASSETS AND LIABILITIES

Hon. Members, you will recall the earlier communication requiring officers and Members to fill the Declaration of Income, Asset and Liabilities. Section 27 of the same, Public Officer Ethics Act, 2017 provides that declaration of income, assets and liabilities shall be submitted in December of every second year, and that persons joining public service is required to make initial declaration within 30 days of

becoming state officers and final declarations within 30 days of ceasing to hold state or public office. Hence Hon. Members, kindly note that the deadline for final submission is 31st December 2021.

ON LONG RECESS

Hon. Members, upon execution of business contained in the Order Paper, the Assembly will proceed for the recess until Tuesday, 8th February 2022. It is also worth noting that the Assembly may call for a Special Sitting, pursuant to provision of Standing Order No. 30, should the need arise.

Further, Hon. Members, Committees will resume their sittings on Monday, 17th January 2022.

In addition, Hon. Members, the Assembly has planned a retreat for all the Members of the Assembly and the same shall be communicated in due course.

FESTIVE SEASON

Hon. Members, allow me also to take this humble opportunity to wish you, with your families and constituents happy holidays and a blessed 2022. I thank you, Hon. Members.

Clerk, proceed.

(Loud consultations)

Hon. Member, please sit down when the Speaker is standing!

(The Hon. Member sat down)

Thank you for honoring the seat.

PETITIONS

CONVERSION OF PUBLIC LAND LR NO. 336/397 TO PRIVATE LAND IN BABA DOGO WARD

Hon. Temporary Deputy Speaker: Hon. Members, the Office of the Speaker has received public Petition, pursuant to Standing Order No.208 by residents of Baba Dogo Ward in Nairobi City County regarding conversion of public land LR NO. 336/397 to private land.

WE THE UNDERSIGNED citizens of Kenya who are residents of Baba Dogo Ward in Nairobi County; DRAW the attention of the County Assembly of Nairobi to the following:

AWARE THAT, Article 185 of the Constitution vests the legislative authority and oversight of the county governments in the county assembly:

THAT, Article 62 of the Constitution mandates the county government to hold in trust public land on behalf of county residents;

THAT, the Kenya National Land Use Policy, 2017 recognizes the need for social development that takes cognizance for provision of basic infrastructure and services:

THAT WHEREAS, Section 116 of the County Governments Act, 2012 imposes an obligation on the county government and its agencies to deliver services within its designated area of jurisdiction, and Section 117 (1) (a) provides that the county government shall give priority to basic needs of the public to ensure that all members of the public have access to basic services;

THAT WHEREAS, pursuant to a surrender registered in the Government Land Title Registry at Nairobi in volume N 9 folio 406/24, the parcel of land registered as L.R No. 336/397 and measuring 0.0452 hectare was granted to Mr. Peter Gakami J Thinguri of Nairobi under certain conditions:

THAT, the land was on lease hold for a period of 99 years of which the grantee was supposed to be paying the annual rent every first day of January every year:

THAT, the granted public land is currently alleged to have a private developer who is constructing a building

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

HEREFORE, your humble Petitioners PRAY that the County Assembly of Nairobi County intervenes and ensure that; -

1. The above mentioned land be reverted back to the County Government for the purposes of use as public land; and
2. The reverted land be used for the construction of a social amenity such as public school, health facility, a playground, and or building of a social hall.

And your Petitioners will forever pray.

Hon. Members, I commit this petition to the Committee on Planning.

SAFETY OF FOOD IN THE COUNTY

I have another one.

Public petition pursuant to Standing Order 208 by concerned residents of Nairobi, representative of Consumer Grassroots Association (CGA), regarding the safety of food in the County.

I, THE UNDERSIGNED resident of Nairobi, representative of Consumer Grassroots Association (CGA)

DRAW the attention of the County Assembly to the following:

AWARE THAT, Article 185 of the Constitution vests the legislative authority and oversight of the County governments in the county assembly:

THAT, in a survey conducted by Consumer Grassroots Association, launched in January 2021 in three counties namely; Nairobi, Kirinyaga and Kajiado, which involved 9,592 Kenyans, 88% of the respondents were worried about the safety of their food;

THAT, that the major food safety concerns include high pesticides use/ misuse, lack of proper sanitation in markets, contamination during transportation and during preparation;

THAT WHEREAS, the County does not have a clear policy on food safety in the County;

THAT WHEREAS, the County does not have elaborate legal framework for food safety that provide clear roles and responsibilities for the different levels of government, departments, and institutions as well as other stakeholders;

THAT, the County lacks mechanisms through which consumers can raise concerns on food safety and share information about food safety issues in the County;

THAT, there is limited public engagement and awareness on issues of food safety in the County;

THAT, the 89% of the respondents felt that the County is not doing enough to address food safety issues;

THAT, there is sufficient evidence to show reasons to worry about the safety of food in the County;

AND THAT, matters raised in respect of which this petition is raised are not pending before any court of law, constitutional or legal body;

NOW THEREFORE, your humble Petitioners PRAY that the County Assembly:

1. Recommends further assessment of the situation of food safety in the County, including a detailed evaluation of the structures, institutions, legal and policy frameworks for food safety;
2. Cause the County Executive to ensure that issues of food safety are adequately incorporated in County Food Security Policies;
3. Recommends that all food markets be assessed for compliance with food safety standards and a clear report for the assessment issues to the public, including measures to address existing gaps;
4. Initiates a bill to address the legal framework gaps on food safety: and
5. Makes any other order that it deems fit in the circumstances of this petition.

And your Petitioners will forever pray

I commit this petition to the Committee on Health.

LACK OF PUBLIC UTILITIES/ AMENITIES IN LUCKY SUMMER WARD

I have a third petition.

Public Petition Pursuant to Standing Order 208 by residents of Lucky Summer Ward in Nairobi City County, regarding lack of public utilities/ amenities in the Ward.

WE, THE UNDERSIGNED citizens of Kenya, who are residents of Lucky Summer Ward, Ruaraka Constituency in Nairobi County.

Before I read, I request Hon. Themendu to respect the Chair and be silent or I throw you out of the House.

DRAW the attention of the County Assembly of Nairobi to the following:

AWARE THAT, Article 185 of the Constitution vests the legislative authority and oversight of the county governments in the county assembly:

THAT, Article 62 of the constitution mandates the county government to hold in trust public land on behalf of county residents;

THAT, the Kenya National Land Use Policy, 2017 recognizes the need for social development that takes cognizance for provision of basic infrastructure and services;

THAT WHEREAS, Section 116 of the County Governments Act, 2012 imposes an obligation on the County Government and its agencies to deliver services within its designated area of jurisdiction and Section 117 (1) (a) provides that the county government shall give priority to basic needs of the public to ensure that all members of the public have access to basic services;

THAT WHEREAS, Lucky Summer Ward lacks public utilities such as public primary schools. public secondary schools, public playground, public health facility and a social hall;

THAT, Lucky Summer Ward residents are deprived of the basic rights as enshrined in our Constitution under Article 43, to quality and affordable education, health care, social hall facility and recreational facility;

THAT Lucky Summer Ward residents seek your intervention to allocate land for public utilities i.e. public primary school(s), secondary school(s), public health facility playground and social hall (s);

THAT, it is disheartening that a whole ward that is represented in Nairobi County Assembly, lacks the aforementioned social amenities to the detriment of Lucky Summer Ward residents;

THAT Lucky Summer Ward resident do not have public land to put up the above public amenities;

AND THAT, all the matters in respect of which the petition is raised is not pending before any court of law or constitutional body;

THEREFORE, your humble Petitioners PRAY that the County Assembly of Nairobi County intervenes and ensure that the County Executive:

1. Allocate land for construction and building of two public secondary schools;
2. Allocate land for construction and building of two public primary schools;
3. Allocate land for construction and building of two level 4 health facilities;
4. Allocates land for erection and construction of a playground; and
5. Allocate land for construction and building of a social hall.

And your Petitioners will forever pray.

I commit this petition again to the Committee on Planning.

Hon. Temporary Deputy Speaker: Hon. Warutere, you had something to say?

(Point of Order)

Hon. Peter Warutere: Hon. Speaker, I want this to go on record that I am following the petitioner who had asked on the legislation framework on food safety. The facts of the matter are that we have a Bill, which is Food Safety and Fortification Bill, 2021 that has even undergone public participation. So, I would direct that the petitioner probably finds time to engage my Committee because almost everything that the petitioner has asked in that Petition is covered in the Food Safety and Fortification Bill, 2021.

So, as you direct that we work on this, a Bill is underway and it has undergone public participation. It is a matter of time it goes full cycle. Everything that the petitioner is asking about is covered in that Bill.

Hon. Temporary Deputy Speaker: Well noted, Hon. Warutere. Thank you. Clerk, proceed.

NOTICE OF MOTION

Hon. Temporary Deputy Speaker: Hon. Kamau? Are you on Zoom? Can he be located? If he is not, I will defer this Motion back to the House Business for reallocation.

(Notice of Motion dropped)

STATEMENTS

Hon. Temporary Deputy Speaker: Hon. Waithera Chege.

REQUEST FOR A STATEMENT REGARDING ENGAGEMENT OF FREELANCE WASTE PICKERS IN THE COUNTY

Hon. Waithera Chege: Thank you, Mr. Speaker. Pursuant to Standing Order 45 (2) (c), I wish to request for a Statement from the Chairperson of the Sectoral Committee on Environment and Natural Resources regarding the engagement of freelance waste pickers in the County.

Hon. Speaker, Article 42 of the Constitution of Kenya 2010 entitles every person to a clean and healthy environment. This function is apportioned to the County Government pursuant to part 2 of the Fourth Schedule of the constitution of Kenya 2010.

Over the years Mr. Speaker, the Nairobi County Government has been grappling with a collection of overwhelming 2,400 tons of garbage generated across the County. This situation has been compounded by either unscrupulous contractors or a shortage of human resources in the County to ensure that the garbage reaches the designated collection point.

Hon. Speaker, section 16 of the Nairobi City County Solid Waste Act 2015 acknowledges that government efforts towards a clean environment may not be sufficient, hence the need for structured engagement with organized non-state actors to bring in additional efforts. It is projected that with such efforts on board, achievement of the government constitution obligation for the clean and healthy environment will be realized.

Hon. Speaker, with the existing habit of waste disposal along the street by passengers, freelance waste pickers contribute immensely to the foregoing obligation of the Government. Further, in the prevailing circumstances where the Government has not fully complied with the requirements of section 18 (1) that requires for it to provide containers for waste disposal, the freelance waste pickers play a critical role in consolidating waste to common collection points.

Therefore, Mr. Speaker in the statement the chairperson should inquire into and report on:

1. The steps the NMS has put in place to engage on non-state actors towards the achievements of a clean and healthy environment and,
2. Structures and plans that the NMS is putting in place to have a non-mainstream waste pickers recognized and facilitated to augment the Government effort for a clean and healthy environment.

Thank you, Mr. Speaker.

Hon. Temporary Deputy Speaker: Thank you, Hon. Waithera. The Chairman, Environment Committee Hon. Kamau? Who is acting on behalf of the Chairman? Are you a Member of Environment, Hon. Themendu!

Hon. Jeremiah Themendu: Thank you, Mr. Speaker, I think the response shall be in this Assembly after the recess. Thank you.

Hon. Temporary Deputy Speaker: Are you comfortable Hon. Waithera? How many days after the recess, Hon. Themendu? Kindly give Hon. Waithera a clear answer. Be specific about the dates!

Hon. Jeremiah Themendu: Hon. Speaker, I have heard that you said in January we should start deliberating [in Committees].

Hon. Temporary Deputy Speaker: Can you respond the first day after we open the session?

Hon. Jeremiah Themendu: In two weeks after we resume.

Hon. Temporary Deputy Speaker: Hon. Themendu, please sit down, as I would like to guide you. Our communication is very clear that the committee will resume by 17th of January 2022 so before we open we will have like three good weeks. I should presume that if you are serious in the committee the answer should come the first week of the opening of that session.

Hon. Themendu give us a date; if it is the first day on Tuesday morning or afternoon and latest should be on Thursday that week. Commit yourself and the committee.

Hon. Jeremiah Themendu: Hon. Speaker, I think on the first day.

Hon. Temporary Deputy Speaker: The first day in the morning or afternoon.

Hon. Jeremiah Themendu: In the afternoon.

Hon. Temporary Deputy Speaker: Are you comfortable with Tuesday the 8th February in the afternoon, Hon. Waithera?

Hon. Waithera Chege: Thank you Mr. Speaker and thank you for coming to my aid because the questions are very basic and I think they can be able to work on them on the first day of 17th of January 2022. So thank you very much and I am comfortable.

Hon. Temporary Deputy Speaker: Thank you and Karibu. We have a response from the chairperson of the Committee on Health Services Hon. Murithii Warutere Peter.

Hon. Peter Warutere: Thank you, Hon. Speaker, allow me to read the response on a statement that had been requested by two Members. One is our senior Member or Majority Whip Hon. Kados, MCA Mihango and the other similar question was requested by Hon. Mark Mugambi MCA Umoja 1 Ward. It was in regards to delay in medical supplies to county facilities. I will handle both responses within one statement.

RESPONSE TO STATEMENT REGARDING DELAYED MEDICAL SUPPLY TO COUNTY HEALTH FACILITIES AND STATUS OF ONGOING CONSTRUCTIONS OF NEW HOSPITALS WITHIN THE COUNTY

Hon. Peter Warutere: Hon. Speaker, on 14th September 2021 and 28th September 2021 Hon. Mark Mugambi MCA and Hon. Peter Wanyoike MCA on behalf of Hon. Paul Kados MCA respectively, rose on the floor of this House pursuant to Standing Order 45 (2) (C) and requested the Chairperson of Sectoral Committee on Health Services for a Statement regarding the delayed medical supply to county health facilities and status of the ongoing construction of new hospitals within the county.

In the statement, the Members requested the Chairperson should inquire into and report on the following:

1. Reasons the county centers and dispensaries are unable to get medical supplies.
2. How the county has planned its ordering procedures including any necessary adjustments made to ensure that adequate stock of essential drugs is supplied or outsourced by Kenya Medical Supplies Authority (KEMSA) and other agencies respectfully as stipulated by relevant policy frameworks.
3. Timelines in which medical supply shall be available in all county health centers and dispensaries to cater for the increased demand and effort been initiated by NMS and County Executive to ensure that we have harmonized and sustained synergies within KEMSA and agencies to manage current and future bottlenecks that affect the provision of quality health care services within the county.
4. Measures that the NMS and county executive is putting in place to ensure that county health facilities operate 24 hours to respond with cases of medical emergencies.
5. Status of incomplete new hospital currently under construction if any and plans to outsource them upon completion.

Hon. Speaker, the committee wrote to the NMS seeking response on the statement requested by the Hon. Members. The committee was furnished with the response and issues raised by the said

Members and upon completion and its virtual meeting held on Thursday 25th October 2021 and Thursday 11th October 2021 it found them satisfactory.

Subsequently, the committee invited Hon. Mark Mugambi MCA and Majority Whip Hon. Paul Kados MCA to attend a virtual meeting on Thursday 28th October 2021 and Thursday 18th November 2021 respectively, pursuant to Standing Order 45 2 (C) to gather views of Hon. Members regarding the said statements which was expressed satisfactorily though they were few submissions that we agreed to address with the said Members.

However, it unanimously agreed that the Chairman of the committee and the Majority Whip Hon. Paul Kados MCA to further make the follow-up with the directorate responsible for health services to ensure that the medical supplies were availed in record time within all our county facilities.

Hon. Speaker, I wish therefore to report as follows:

Delayed medical supply to the county health facilities are the reasons the county health centers and dispensaries are unable to get medical supply are and not limited to the following:

There are some requisitions of medical supply that have been appropriately made and approved at the beginning of the fourth quarter of the financial year 2020/2021 and the beginning of the first quarter of the financial year 2021/2022. However, a pending KEMSA debt of approximately Kshs 3.82 million was inherited from Nairobi City County that has as resulted in a lack of supply of medical supply commodities. The payment of the debt will unlock the stalemate with KEMSA

How the county has planned its ordering procedures including necessary adjustments made to ensure that adequate stock of essential drugs are supplied or sourced by KEMSA and other agencies respectively as stipulated by the irrevocable policy.

A procedural medical supply is done quarterly in line with treasury guidelines for implementation of budget and financial year 2021/2022 and KEMSA is already holding a local purchase order, which was issued by NMS on 15 September 2021 and is committed to supplying once the pending bill is fully or partially paid. NMS has since processed and approved payment of a 196million, which is a part for KEMSA bills.

Timeline in which the medical supply shall be availed within the county health centres and dispensaries to cater for the increasing demand and effort being initiated by NMS and the County Executive to ensure harmonious is curtailed synergies within KEMSA and other agencies to manage current and future bottlenecks that affect the provision of health care services in the county. KEMSA is expected to replenish the medical supply for three months within the period of October 2021.

Measures the NMS and the County Executive is putting in place to ensure that County Health facilities are operating 24 hours to respond to cases of medical emergencies:

- a. NMS through a concerted effort in partners has established and launched an emergency dispatched centre (UODC) a central coordination emergency with a toll free number 1508 thus making it easy for the public to access help at all times. Staff are deployed at UODC and it operates for 24hours
- b. NMS has launched an emergency care and referral strategic plan and standard operative procedures to support the operation of UODC

- c. NMS procedures procured eight advanced life support ambulances and five basic life support ambulances, which have greatly improved emergency referrals. Ambulances are stationed statically for easy access within the entry communities.
- d. Inadequate supply of emergencies commodities such as examination group cropped bandages, cotton, masks and emergency drugs among others that make it difficult to respond effectively within emergencies especially at an emergency department and ambulances services.

Status of the incomplete hospital under construction if any and plans to sort them when completed:

So far we have 13 hospitals, health centres and those have been completed and commissioned by His Excellency Uhuru Kenyatta and they are now in operation. That will form his legacy when he leaves office next year. The remaining seven are being constructed and currently are at different stages and they will be completed within the next financial year.

Hon. Speaker, in few of the aforementioned the Hon. Mark Mugambi MCA and Hon. Paul Kados MCA were satisfied with the reservation we have indicated and the response we have provided. Therefore, equally the chairperson of the committee agreed together with the committee that they would look together with Hon. Paul Kados, Majority Whip further and make a follow-up with the director of health services NMS to ensure medical committees are supplied in a timely manner to save lives and respond to high demand.

Hon. Speaker, a copy of the detailed response has been given to the Hon. Members and a further copy are attached to this report. I beg to lay this response thank you.

Hon. Temporary Deputy Speaker: You have done the two of them. Hon. Kados are you comfortable with the response to a statement that Hon. Warutere has presented.

Hon. Paul Kados: I am satisfied, Hon. Speaker.

Hon. Temporary Deputy Speaker: Thank you, Hon. Kados. Hon. Mark Mugambi is he on Zoom; I think you are comfortable. Thank you, Hon. Warutere it is done.

RESPONSE TO STATEMENT REGARDING THE CONSTRUCTION OF A ROAD IN THE COUNTY SPECIFICALLY ACADEMIC ROAD IN KAREN WARD

Hon. Peter Wanyoike: Thank you Mr. Speaker and I stand on behalf of my Chair Hon. Wambui Mwangi to give a response.

Hon. Speaker, on 21st September 2021 the Hon. Mberia MCA rose on the floor of the Assembly pursuant to Standing Order 45 (2) (C) and requested the Chairperson of Sectoral Committee on Transport and Public Works for a statement regarding the construction of a road in the county specifically Academic road in Karen ward.

In the statement, the Member requested that the chairpersons should inquire and report on:

1. Steps taken by the NMS to have the said road completed and,
2. Measures that NMS have put in place to revive all other projects that are stalled due to non-payments.

Hon. Speaker, the committee wrote to the Director-General of the NMS on 23rd September 2021 requesting him to furnish the committee with the written response on issues raised by the Members through director, roads, transport and public works in view of the foregoing.

The Director forwarded the said report via a letter dated 7 October 2021. In this regard, Hon. Speaker, I wish to report to the Assembly as follows:

Hon. Speaker, regarding the steps that are being taken by NMS to have the said road completed: The committee was informed that the NMS had commenced the process to have the road works undertaken by the signing of the deeds for the roads construction.

In addition, the residents' engineer had already been assigned and the requisite letters to the contractors to demolish had already been issued.

With regards to the measures that NMS has put in place to review all other projects that stalled due to non-payment. The committee was informed that the projects whose deed of novation had been signed would be handled under the NMS and any other pending payment would be dealt with accordingly to enable the continuation of work.

Further, the committee was informed that the signing of the deed of novation of 60 projects has been processed to beat the 30th June 2021 deadline. However, the committee was informed of 25 projects whose deeds of novation had not been signed because they were late for the 30th June deadline hence their budget was not factored for the NMS. They have since been returned to the county for further guidance on the way forward.

Hon. Speaker, a copy of the detailed response has been shared with the Hon. David Mberia who requested the statement and a further copy is hereby attached to this report. Hon. Speaker, I beg to lay this statement.

Hon. Temporary Deputy Speaker: Hon. Mberia are you there! I think you are comfortable with the response. Thank you.

RESPONSE TO STATEMENT REGARDING THE STATUS OF RENOVATION OF VARIOUS ROADS ACROSS THE CITY PARTICULARLY SERVICE ROADS SUCH AS KIRICHTWA LANE IN ADAMS ARCADE AND MBARUK ROAD

Hon. Peter Wanyoike: Thank you, Mr. Speaker; I have the second response, which was requested by Hon. Mwangi Njehia who rose on the floor of the Assembly on 7th September 2021 requesting the Chairperson of Committee of Transport and Public Works regarding the status of renovation works on various roads across the city, particularly service roads such as Kirichwa lane in Adams Arcade and Mbaruk road.

In this statement, the Member requested the chairperson should inquire into and report on:

1. When will the work commence on pending services road across the city such as Kirichwa lane and Mbaruk road?
2. Status for the finances allocated for the repair of these roads if any and plans to deploy the funds to the said renovation works
3. Measures put in place by the county to ensure that all roads due for repairs are timely and duly repaired to ease the suffering of residents of Nairobi.

Hon. Speaker, the committee wrote to the Director-General NMS on 7th September 2021 requesting him to furnish the committee with the written response on the issues raised by the Member through the director of roads and transport and public works.

In view of the foregoing the director forwarded the said report via a letter dated 7th October 2021.

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

Regarding when the repair works will commence on pending services roads across the city such as Kirichwa lane and Mbaruk road, the committee was informed that the NMS is currently putting efforts to complete maintenance work within the central business district and thereafter maintenance works involving filling the potholes along Kirichwa and Mbaruk road will follow thereafter.

With regards to the status of finance allocated to the repair of these roads if any and plans to deploy the funds to the said renovation works, the committee was informed that the proposed maintenance budget for the financial year 2022/2023 was Kshs 600 million for material and small equipment, Kshs 100 million for supervision of vehicles for engineering and technical staff and Kshs 530 million for hire of the casual worker.

In addition, the agency will loan out the work for Kshs 1 billion from Kenya Roads Boards for the financial year 2020/2021 and further Kshs 1.5 billion from Kenya Roads Board upon submission of a requisite work plan.

Regarding measures put in place by the County to ensure all roads due for repairs are timely and duly repaired to ease the suffering of residents of Nairobi, the committee was informed that the NMS intends to roll out maintenance programme in time given that the agency has deployed in-house teams and acquired equipment including asphalt plant stationed at Kangundo road, wheel loader, steam roller and 20 number of tonnage trucks.

Hon. Speaker, the NMS has in addition engaged casual workers to enhance the capacity of the in house team who work in shifts day and night. The NMS also outsources by contracting some of the department workers. The committee was informed that the combination of these approaches optimizes the NMS capacity to undertake infrastructure development work at an expedited rate.

Hon. Speaker, a copy of the detailed response has been shared with the Hon. Mwangi Njehia MCA who requested for the statement and further a copy is hereby attached to this report. I beg to lay

Hon. Temporary Deputy Speaker: Thank you Hon. Wanyoike. Mwangi Njehia, are you comfortable with the response? He has accepted it. Hon. Waithera, proceed.

Hon. Waithera Chege: Thank you Speaker. Allow me to use point of order number 44 to seek your indulgence on a topic of concern on the ongoing demolitions within Nairobi County. This morning at 4 am, police officers from the quick response unit were used to demolish houses within Fuata Nyayo slums in Nairobi South area. The Constitution of Kenya 2010 and to be specific article 40 (4) states that the State shall not deprive any person the right to own property. Therefore, we are not going to allow land grabbers to use police to threaten, intimidate and be used to demolish houses at night as we are the representatives of the people. Mr. Speaker, Article 28 of the same Constitution gives Kenyans an inherent dignity that must be respected at all times. If indeed they have the rightful legal documents then let them come during the day and tell the people why they are demolishing their houses.

The same Constitution is clear on issues public participation and there has not been a court order or public participation. It was raining heavily and you can only imagine what these families have gone through. I was brought up in the same area and will not sit down and watch police officers being used to bring us down. My request is that we sit with the Governor before it is too late. We want to promote peace

but if they continue like this then we will not have an option. We will follow the law and take them to court. Thank you Mr. Speaker.

Hon. Temporary Deputy Speaker: Thank you Hon. Waithera. Hon. Majiwa, do you have something to say?

Hon. Geoffrey Majiwa: Thank you Mr. Speaker. I share in the sentiments of Hon. Waithera on the trend of demolition that has been going on in the city is worrying. Our 2010 Constitution has a whole chapter on human rights and the police in cahort with government officials who work within the County Government of Nairobi have conspired to ignore this chapter.

It is very sad to wake up in the morning while raining to find your houses being demolished. People who live on slums are considered poor, live from hand to mouth, and do not have an alternative when thrown out. It is inhuman but nobody is talking about. When we ask the NMS they say that they have no idea yet on the ground you find that the equipment and vehicles that ferry they police are marked NMS'. It is important that we get to hear from the Governor of this city who has the responsibility to ensure that Nairobi citizens are living in harmony.

Hon. Speaker, it is important as an Assembly that we come up with a solution to this problem and question people like the Director NMS on who is in charge of the equipment used to demolish houses within the city so that we get to put this matter to rest. Thank you.

Hon. Temporary Deputy Speaker: Thank you Hon. Majiwa. It is sad that this is happening and I do not want any other Member to raise this issue because we have a lot of business to transact. I have heard what Hon. Waithera has said and there have been complaints in various wards such as Njiru, Wilson and Mukuru Kwa Njenga and Baba Dogo. Let there be communication that we demand an urgent response from our Governor on the officers conducting these practices and to stop the illegal demolitions with immediate effect. We also demand a roundtable discussion with members so as to know why this is happening. Let us wait for their response and push from there. Clerk, proceed.

PROCEDURAL MOTIONS

REDUCTION OF PUBLICATION PERIOD OF AIR QUALITY BILL

Hon. Temporary Deputy Speaker: Leader of Majority

Hon. Peter Wanyoike: Thank you Mr. Speaker. I beg to move that notwithstanding the provisions of Standing Order number 127, this Assembly resolve to reduce the publication period of the Nairobi City County Air Quality Bill 2021; Assembly bill number 12 of 2021 from 14 days to two days. I beg to move and all upon Hon. Waithera to second

Hon. Temporary Deputy Speaker: Proceed Hon. Waithera

Hon. Waithera Chege: Thank you Hon. Speaker. I beg to second the procedural Motion. As you are aware, we are going for recess today and it is only fair that the committees have some work to do during the month of January and conduct public participation.

Hon. Temporary Deputy Speaker: Thank you Hon. Waithera
(Question put)

Hon. Temporary Deputy Speaker: Members debate? Mover?

Hon. Peter Wanyoike: Thank you Mr. Speaker. I beg to reply

(Question put and agreed to)

Hon. Temporary Deputy Speaker: Proceed, Clerk!

REDUCTION OF PUBLICATION PERIOD OF PREVENTION OF VIOLENT EXTREMISM BILL

Hon. Temporary Deputy Speaker: Leader of Majority

Hon. Peter Wanyoike: I beg to move that notwithstanding the provisions of Standing Order 127, this Assembly resolves to reduce the publication period of the Nairobi City County Prevention of Violent Extremism Bill, Bill 2021 Assembly Bill number 13 of 2021 from 14 days to two days. I call upon Hon. Warutere to second

Hon. Temporary Deputy Speaker: Hon. Warutere

Hon. Peter Warutere: I second

(Question proposed)

Hon. Temporary Deputy Speaker: Members debate? No hand. Mover?

Hon. Peter Wanyoike: Thank you Mr. Speaker. I beg to reply

(Question put and agreed to)

Hon. Temporary Deputy Speaker: Proceed, Clerk!

BILLS

First Readings

THE NAIROBI CITY COUNTY AIR QUALITY BILL 2021, ASSEMBLY BILL NUMBER 12 OF 2021

(A Bill for an Act of Nairobi City County Assembly to Provide a Legislative Framework on Air Quality in Order to Protect the Right to a Clean and Healthy Environment by Providing Reasonable Measures for the Prevention of Air Pollution and for Connected Purposes)

Hon. Temporary Deputy Speaker: I commit this to Environment committee. Clerk, proceed.

THE NAIROBI CITY COUNTY PREVENTION OF VIOLENT EXTERMISM BILL 2021, ASSEMBLY BILL NUMBER 13 OF 2021

(A Bill for an Act of the Nairobi City County Assembly to Provide Measures for the Prevention of Radicalization, Recruitment into Violent Extremism and Enhance the Participation of Communities in the Prevention of Radicalization and Recruitment into Violent Extremism in Nairobi City County and for Connected Purposes)

Hon. Temporary Deputy Speaker: I commit the Bill to Justice Committee. What is the point of order Hon. Waithera?

Hon. Waithera Chege: Mr. Speaker, I think that the Bill has been committed to the wrong sector.

Hon. Temporary Deputy Speaker: Which one?

Hon. Waithera Chege: The Bill on Violent Extremism should be committed to the Education committee.

Hon. Temporary Deputy Speaker: Are you sure?

Hon. Waithera Chege: Hundred percent, Mr. Speaker.

Hon. Temporary Deputy Speaker: It is cross cutting therefore we can commit it to the Justice and Education committees as per your request

Hon. Waithera Chege: Most obliged.

MOTION

REMOVAL OF BARRIERS ERECTED ON PUBLIC ROADS WITHIN RESIDENTIAL ESTATES

Hon. Paul Kados: Thank you Hon. Speaker. I beg to move the following Motion: THAT aware the Constitution of Kenya 2010 under part 2 of the Fourth Schedule provides that roads as a function of the County Government whose purview primarily deals with County roads under the enabling legislation. Noting that the Nairobi Metropolitan Services (NMS) and the County Government as well as the National Government have provided support, which has seen various roads across the country tarmacked or brought to motorable standards to the great benefit of the residents. Deeply concerned that in some estates across the city, resident associations have instead blocked off access and easement on the newly paved roads under the pretext of security measures effectively inconveniencing other users. Recognizing that some of the resident associations are demanding gate passes or even charging for road use and erecting various barriers preventing vehicles and pedestrian traffic from accessing the same public roads. Aware that this Assembly in 2014 passed a resolution requiring all barriers erected on public roads within residential areas be removed without conditions and the same open to public use. Realizing that while the County took action to implement the resolution, seven years have since lapsed and resident associations seem to have gone back to business as usual with every estate with public access now blocked or barriers erected and passage only through gate passes. This Assembly resolves that the County Executive in conjunction with the Nairobi Metropolitan services take immediate action to remove any barriers erected on public roads within the residential estates with a view to restoring such roads to public use and to ensure no such barriers are erected in future on public roads without the County's authority.

Hon. Speaker, it is alarming to see that large numbers of gated estates in the city wrongly view the roads within the estates as private roads and are managing them accordingly. Many roads frequently happen that traffic flows within the estates are generally not complied with nor adequately enforced because of the misconception by drivers that estate roads are wrongly deemed as estate roads. This misapplication of the law by estates is primarily in relation to driving of unlicensed vehicles and drivers. Traffic control within the estate is generally viewed only as internal conduct issue that is normally regulated by resident association through security service providers which is illegal.

Hon. Speaker, most if not all roads within the gated estates are not private roads but they are in fact public roads in terms of law and that the provisions of the road traffic regulations regulate them.

Hon. Speaker, I request Hon. Akama to second the Motion.

Hon. Jared Ondieki: Thank you very much Hon. Speaker. I rise to second this important Motion. First, I want to acknowledge the good work going on in Mihang'o Ward. I was there the other day and the roads are very improved and that is something to be proud of. I also want to bring to the attention of the Member that there is somebody taking credit for the good work he is doing, let him do his research and counter that.

Having said that Mr. Speaker, I support this Motion basically because – first let me inform the House that a public road is also guided in law in the sense that you can't do anything on it without the authorization – what the residents associations are doing, is basically illegal and I think this is something they need to be informed.

A public road is a public road and therefore no one is supposed to distort the meaning of a public road. Having said that, I second this motion.

Hon. Temporary Deputy Speaker: Thank you Hon. Akama.

(Question proposed)

Hon. Temporary Deputy Speaker: Members, debate. I can see no hand. You want to say something? Hon. Warutere, proceed.

Hon. Peter Warutere: Hon. Speaker, I thought you have asked us to debate on this very critical Motion.

Hon. Temporary Deputy Speaker: I have not seen any hand that is why I am asking.

Hon. Peter Warutere: Sorry, I had already--

Hon. Temporary Deputy Speaker: I have given you permission, proceed.

Hon. Peter Warutere: Thank you. Hon. Speaker, as I rise to support this very critical Motion. I remember like it is yesterday seven years ago when the Hon. Member who was representing the people of Runda, Karura Ward, Hon. Kamau Thuo came up with this very important Motion. This is a neighbouring ward and by then we had issues with the Runda residents who felt that they were putting barriers to stop unwanted people, those people on the lower side of Runda probably we did not have rights to go through roads that have done been done using taxes.

We debated and agreed that it was an illegality and the residents must agree to co-exist because nobody can live in isolation. Seven years later, we find that so much has been done in terms of massive infrastructures by the County Government and NMS, then the old bad habits have resurfaced again. I have seen the same in my ward, in Muthaiga, Thome and in the neighboring Karura Ward, the barriers are widespread.

I believe the essence of constructing public roads or infrastructure is to ease congestion from the busy roads. I strongly believe we have been doing this and we will continue doing it to decongest the busy roads. I feel that whatever has been done using tax payers' money, must be respected as such. On the issue of insecurity, it is not good enough to allow people particularly the residents associations be it Karen, Runda or any other to block other road users in the pretext that they are enhancing security.

I think what Hon. Kados has done is right, there must be a mechanism of ensuring that even if for some reasons that there would be a need for a barrier, there must be a legal way where public participation is done. I know there are areas that because of the structure of the road, people would have a reason not to allow heavy trucks within roads that cannot handle such loads. But there must be a way of engaging the engineers or the sub-county to give a leeway on this. The resident's' associations seem to be taking matters in their own hands and becoming like small kingdoms using impunity and even cartels to allow a certain group of people to use the road and deny others the road services. I think it is illegal and we must condemn this and come up with proper policies as Hon. Kados has done.

At the end of the day, all people are equal before the law. Let every road user use it as is required because everybody has a right to use the road as it has been built using the tax payers' money. For that, I rise to support this motion. Let us put mechanisms so that we can protect *Wanjiku* at whatever level. Thank you Hon. Speaker.

Hon. Temporary Deputy Speaker: Thank you Hon. Warutere. Anybody else? The mover please. Hon. Waithera, I had not seen you, *pole*.

Hon. Waithera Chege: I am sure you are growing old in wisdom. Thank you Mr. Speaker for allowing me to add one or two things about this motion. To begin with, let me congratulate Hon. Paul Kados for coming up with this Motion.

It is true that most estates in Nairobi have resulted to closing these access roads because of various reasons. But Mr. Speaker, any public road that has been built using tax payers' money definitely must be accessible to everybody. One of the things that I would like to request our County Government to do, is to do civic education on road users because there must be a reason why resident's associations have decided to close these roads.

One of the reasons of course is the issue of security. But I would like to say that by closing these roads, we are encouraging corruption. I can give an example of when Mombasa Road Express Way started, people were using access roads from some estate roads but the security officers on the gates were asking for money for people to use these estate roads. Therefore, I think the motion has come at the right time not forgetting there was an earlier motion but we are failing in the implementation of all these things.

Even as we do this Mr. Speaker, and even as we go for recess during this Christmas holidays, I would like to ask the office of Madam Lydia Kwamboka to move with speed because currently we have over 30 motions which have never been implemented. We cannot be bringing motions, bills and all issues here, and they are not working on them. The County Attorney's Office must move with speed and implement some of these things that we have raised on the floor of the House.

Mr. Speaker, I beg to support this motion.

Hon. Temporary Deputy Speaker: Thank you Hon. Waithera Chege. Anyone else who would like to contribute? There being no other member to contribute, the mover?

Hon. Paul Kados: Thank you Hon. Speaker. I wish to thank members of this House for the support they have given this Motion. I believe the County Executive and NMS will move with speed to implement this Motion by enforcing stringent measures punishable by law to any unlawful residents' association that close any road illegally in the estates as well as undertake legal action to anybody who will be closing these roads. Thank you Mr. Speaker, I beg to reply.

Hon. Temporary Deputy Speaker: Thank you Hon. Kados.

(Question put and agreed to)

Hon. Temporary Deputy Speaker: Clerk, proceed.

BILL

Second Reading

THE NAIROBI CITY COUNTY PLASTIC CONTROL (AMENDMENT) BILL, 2021 (ASSEMBLY BILL NO. 6 OF 2021)

Hon. Temporary Deputy Speaker: Is the mover, Hon. Charles Thuo around? This Bill is referred back to the House Business Committee for re-allocation, next year.

(Bill dropped)

MOTION

ADJOURNMENT OF THE COUNTY ASSEMBLY REGULAR SESSIONS

Hon. Peter Wanyoike: Thank you Mr. Speaker. I know why you are not able to read; you have lent your specs to Hon.----

Hon. Temporary Deputy Speaker: The screen is very clear.

Hon. Peter Wanyoike: Thank you Hon. Speaker. I beg to move that pursuant to the provision of Standing Order No. 28 and 29 (3), this assembly adjourns until Tuesday 8th February 2022 in accordance with the calendar of the county assembly regulations.

I call upon my prayer partner Hon. Akama former Chair Water Committee, to second.

Hon. Jared Ondieki: Hon. Chair, let me first acknowledge that today you are very first. I think it is because you have changed the colour of your hair to become a youth. The problem of the youths because of their blood is the tendency to move very fast.

Hon. Temporary Deputy Speaker: Thank you for noting.

Hon. Jared Ondieki: Having said that Mr. Speaker on a serious note, I rise to second this Motion. I also want to clarify that I am not the former Chair because once a Chair, always a Chair. You never become a former Chair.

Hon. Temporary Deputy Speaker: I agree with you, proceed.

Hon. Jared Ondieki: Mr. Speaker, I support this Motion. From where I sit, I take this opportunity as I second, to wish Hon. Members the very best during this festive season. When they go to celebrate with their constituents, I urge them to take precaution even as they enjoy.

Mr. Speaker, with that I second. Thank you.

Hon. Temporary Deputy Speaker: Thank you very much.

(Question proposed)

Hon. Temporary Deputy Speaker: Hon. Members, we have come to the end of this Fifth Session. Let me take this opportunity to thank you for your attendance, it has been very good this year. On behalf of my family and myself, I wish you well. Enjoy your Christmas and the New Year 2022.

May the good God provide for all your provisions to you and your family. Thank you and may God bless you all.

ADJOURNMENT

Hon. Temporary Deputy Speaker: The House stands adjourned till Tuesday 8th February 2022. Thank you and may God bless you all.

The House rose at 4:15 p.m.