



NAIROBI CITY COUNTY ASSEMBLY

OFFICIAL REPORT

Second County Assembly – Fifth Session

Tuesday 30th November 2021

The House met at 2.30 p.m.

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

PRAYER

NOTICE OF MOTION

Hon. Joseph Komu: Thank you, Hon. Speaker; I intend to give Notice of Motion on behalf of one Hon. Paul Kados. That aware that many parcels of land within Nairobi County do not have titles deeds or other final ownership documents; deeply concerned that owners only have letters of allotment, certificate of ownership, share certificates and other similar official documents; noting that many pieces of land have ownership disputes, some pending in the court and other dispute resolution tribunals and institutions, which take years to be resolved; recognizing that many of such parcels of land have already been developed with owners of such land willing to pay lease and indeed the law requires the rate to be paid by whoever is claiming ownership of such property; appreciating that the county through the Deed of Transfer of functions engaged the services of Kenya Revenue Authority to collect taxes by which the KRA requires ownership and identity documents and KRA PIN certificate before permitting payment of rates; regretting that the demand for this document has many landholders remain unable to provide the documents required by KRA hence are barred from paying the rents even though these parties remain, willing to pay rates. Notably, during the penalty waiver arrangement, realized that the county is losing revenue running into hundreds of millions of shillings, due to the aforesaid failure to pay rates owing to the demands by KRA. Now, therefore, this Assembly urges the County Executive and NMS to put in place measures to ensure rates are collected from all landowners including where the only provision of ownership of documents are available

including where ownership disputes are pending in court or rather tribunal or institutions. Thank you, Hon. Speaker.

MOTION

INQUIRY INTO ALL PENDING BILLS ARISING FROM CASES HANDLED BY ALL THE PREQUALIFIED FIRMS THAT HAVE FINANCIAL IMPLICATIONS ON THE COUNTY SINCE 2017 TO DATE

Hon. Joseph Komu: Thank you, Hon. Speaker, I do not have the Motion schedule but never the less I beg to move the issue of adopting the pending bills which in itself it is not fully exhaustive. Hon. Speaker, I want to say that from the onset but for the purposes of the documentation, we have and I intend to move that we had several statements, which we consolidated into an inquiry and therefore I beg to move.

Hon. Speaker, on 27th June 2018, one Hon. Peter Warutere MCA of Roysabu Ward rose on the floor of the Assembly, pursuant to Standing Order 45 (2) (C) and requested for a statement from the chairperson for Justice and Legal Affairs regarding the number of cases the county government have had and sums paid to external legal counsels over the last six years.

Hon. Deputy Speaker: Member, you were supposed to move the Motion first and you have not done so. Move the Motion first.

Hon. Joseph Komu: Sorry. Thank you, Hon. Speaker, I beg that this Assembly adopts the report of the Sectoral Committee on Justice and Legal Affairs on the inquiry into all pending bills arising from cases handled by all the prequalified firms that have financial implications on the County since 2017 to date, laid on the table of the assembly on Thursday, 18th November 2021. Thank you.

Hon. Deputy Speaker: Seconder.

Hon. Joseph Komu: Thank you, Hon. Speaker, I request Hon. Millicent Okatch to second.

Hon. Millicent Okatch: Thank you, Hon. Speaker, I rise to second. The issue of pending bills is one which has been challenging this County for a long time. It will be recalled that there are several statements requested by Members since 2013 on pending legal bills. These bills have gone into billions and if you add the accumulative total, you will realize that the county is spending so much on external legal counsels. Therefore Hon. Speaker the committee on Justice and Legal Affairs have decided that the question be settled once and for all.

The Committee embarked on an inquiry due to rising many statements requested around this area as the chair well noted. I think this report comprehensively addresses the issues and the House should debate and adopt its very progressive recommendations. Hon. Speaker, I beg to second.

(Question proposed)

Hon. Millicent Jagero: Thank you Mr. Speaker. I support this report and the recommendations that we came up with such as that the County Executive take appropriate measures to urgently recruit and capacitate the County Attorney's office with legal counsel. This was after seeing the heap of non-payments that have not been done to the legal fraternity and they are causing havoc to the County.

We also recommended that the county executive take measures to gradually cut off outsourcing of legal services from external law firms with greater reliance on internal counsel.

Lastly Mr. Speaker, we made the recommendation that the County Executive continue to settle all verified pending bills owed to all the law firms that provided legal services to the County Government between 2017 and 2020. The report went to the Senate where Hon. Omanga made a request for the same statement. I support this report. Thank you Mr. Speaker.

Hon. Deputy Speaker: Yes Hon. Akama

Hon. Jared Akama: I want to take this opportunity to thank the honorable committee for considering lawyers who have done work for the county and have not been paid. Pending bills has been a thorny issue in this County and we even did a report on the same a while back touching on contractors and to date they have not been paid.

Through your wisdom Mr. Speaker, I am surprised that many law firms have been left out of the report and I was seeking your guidance that the report be amended before adoption because we want justice and it should cut across all. My sister Jagero has said that this matter is to be rested once and for all so that all law firms are captured here. Thank you.

Hon. Deputy Speaker: Hon. Benson

Hon. Benson Mwangi: Thank you Mr. Speaker. I would like to inform the House that in 2017 we had a pending bills committee chaired by Prof. PLO which verified all the law firms and suppliers who actually did genuine work and that is what the justice committee has done. I commend the committee for doing a great work on the report. Mr. Speaker, the amount of money being paid as legal fees in the County is unsustainable and the recommendation on equipping the office of the Attorney General with staff will help cut down on costs. I believe that the same should be extended to the Assembly so that the legal team help cut down on court cases costs. Therefore, I want to thank Hon. Komu and the committee and I hope that the effect of this will result in the budget being taken t development projects in the respective wards. Thank you Mr. Speaker.

Hon. Deputy Speaker: Yes Leader

Hon. Peter Wanyoike: Thank you Hon. Speaker. I want to join the Members in supporting this report bearing in mind the people who did work in supplying things for the County and have not been paid their dues. I want to thank the Justice committee for coming up with the report and support Hon. Akama in saying that some companies and suppliers have been left out. I recommend that the County form another committee to look into this so that all suppliers and contractors can be paid. Thank you.

Hon. Deputy Speaker: In response to the concerns raised by Hon. Akama and the Deputy Majority Leader, it is clear that this report has to capture everyone for it to be credible. Therefore Hon. Akama you have a window to bring a question to the House so that those left out can be considered and we have one final report. Mover.

Hon. John Komu: Thank you Mr. Speaker. I should have put it in the onset that this report is not exhaustive but a continuing process. I would also with to thank the Members of the Legal committee, the entire House and the secretariat for their candid efforts they put in compiling this report.

The main purpose of this report, Hon. Speaker, is to put this question of lawyers that represent the Nairobi County Government. We have to put it clear that they are not criminals; they were engaged by the county. They have worked for the county and therefore deserve to be paid. The lawyers representing

Nairobi County *si watu wanalipwa hewa*, they have worked for it and we have verified that. This is largely based on the Advocates Remuneration Order in Schedule five, six and seven which guides the county as to what is to be paid to the respective advocates in terms of the work done, volume of the documents, value of the items of the properties involved and the importance of items or issues involved. Thus, in the given circumstances, the county was obligated to pay the legal fees involved to avoid the above moving to the deputy registrar to tax subject matter suit against the county.

Another critical aspect, Hon. Speaker, is that we had several warrants of arrest for the Nairobi staff and this has emanated to the fact that the county has failed to honor or to pay. But every time you hear the Fourth estate saying that Nairobi is paying *hewa* in legal fees. We have decretal amounts that have been taxed; they have gone through the court process and therefore, this is an obligation on the part of the county. I would like to implore the Controller of Budget including the Budget Committee to factor this as pending bills for legal because recently we had a case that the county secretary could not go to the office because of the harassment.

Note that the county has been involved in suits and some of them have been passed from one regime to another. Some of them the decree holders have warrants of arrests, orders against offices of the county government and most of them were not being enforced by courts but by police officers. Hence constituting courts legalized harassments whereby officers entered an office and found that the warrant office has been served and the police were out to arrest him where the county was obligated to pay.

Hon. Speaker, it is incumbent upon this House and all the Members to categorically look at the whole issue and see that we have these pending bills and as I have said, they continue to engage. We have even cases where after every payment is made, the next thing we hear – I don't want to use that term – but concerned citizens running to EACC.

I want also to put it categorically that it is in order for the files and legal matters to be interrogated by EACC, but most of them have passed through the process. It is also important to note that most of these cases are ongoing. It is important to note that the lawyers are not paid on whether they won or lost the cases. But the point is, was there representation, did they follow the law, did they operate under the Remuneration Act? If that is the case, and that is what the committee has come up with including absorbing the report from the Auditor General. The PLO Lumumba task force is also contained here.

I want to sum up and say; we have legitimate pending bills as at now amounting to close to Kshs. 6.9 billion for Nairobi County. As Hon. Akama rightly indicated, we have others who are not included here because we were verifying individual documentation. It is incumbent that all lawyers from Nairobi County whose bills have not been captured here to forward the same to the Justice Committee for verification and future guidance. Thank you very much, I beg to reply.

(Question put and agreed to)

(Point of Order)

Hon. Francis Ngesa: Hon. Speaker, I rise under Standing Order No.34 on matters of County importance to seek leave to move a Motion for discussion on definite matter of County importance. This regards persistent delays in disbursement of county bursaries by the County Executive. I accordingly and humbly request you to allocate time for this Motion. Thank you.

MOTION

Hon. Deputy Speaker: Hon. Members, on Hon. Otieno's request under Standing Order No. 34, it says, "34. (1) Any Member may at any time rise in his or her place and seek leave to move the adjournment of the County Assembly for the purpose of discussing a definite matter of urgent county importance."

On this matter, we are going to allow Hon. Otieno Ngesa to Move his motion and have Members weigh in. So, Hon. Otieno, you are on leave to move the Motion. Please, proceed.

DELAYS IN DISBURSEMENT OF BURSARIES

Hon. Francis Ngesa: Thank you very much, Mr. Speaker. Pursuant to Standing Order 34, I beg to move a motion:

THAT, this Assembly adjourns to discuss the matter of persistent delays in disbursement of bursaries.

Hon. Speaker, Article 43 bestows the right to education to every citizen in the country. Unfortunately, the cost of education in the country is high for a segment of the population who are vulnerable to the effects of poverty and other economic circumstances.

Hon. Speaker, in order to increase admission to schools, the National Government has deployed the subsidized education approach and the advancement of HELB loan to needy students. In addition, NG-CDF has reduced the interruption in learning due to lack of school fees.

At the Nairobi County, the bursary advancement was a noble idea that has over time assisted many students to access education and training. However, the inconsistency in the disbursement has affected many students who depend on it to stay in school.

I therefore call upon the Hon Members to discuss and ventilate on this matter in view of influencing the County Executive to take action and take bursaries in time, currently and going forward. Thank you.

(Question, that the Assembly adjourns to discuss a definite matter of urgent County importance, put and agreed to)

Hon. Deputy Speaker: Hon. Members, you may now discuss the matter. Hon. Akama.

Hon. Jared Ondieki: Hon. Speaker, thank you for giving me this opportunity again. I want to thank Hon. Otieno for coming up with this crucial Motion. Mr. Speaker, I want to remind your Chair that we rose on this House to seek for a statement over the same, but apparently we never get responses. I want to bring to the attention of this House that bursary issue is a very crucial issue for this County based on the what the parents are going through during this hard economic times of the pandemic. Many students, as we speak, have been sent home. We have many of our constituents who have been sent home. We thought that this matter would be given urgency it deserves.

Mr. Speaker, it is a matter of ensuring that there is seriousness on this matter once and for all from the sector concerned. We have been seeking for answers but not getting them. It seems that no one is in a hurry to address this matter. Therefore, this Hon. House must rise to the occasion. We are people in this House who believe that the only gift we can give our children is education. We take that issue of education seriously. We must demand for answers. Who is trying to sabotage the issues of bursary of the children of Nairobi County?

We urge the House to move with speed to ensure we get these answers so that our children can go back to school. So, it is a matter of urgency. Through your wisdom, Mr. Speaker, we want to know through the relevant sectors, who are these holding back money for our students? Thank you.

Hon. Millicent Jagero: Thank you, Mr. Speaker. Education is the key to success. Many children are out of school currently due to lack of school fees. Many parents, especially those that come from informal settlements, depend on these bursaries. It has taken way too long. Two terms have already lapsed without them seeing any cash. Hon. Ngesa has brought this motion on time. The vouchers or cheques need to be given to those parents before the schools close on 23rd of December. I support. Thank you.

Hon. Peter Wanyoike: Thank you, Mr. Speaker for the opportunity. Let me also join the House to support this Motion brought by Hon. Ngesa about bursaries. Some of us have been in these offices pursuing these bursaries. I know the Education Committee has done their work. Where we have the problem is the Treasury Department. From where you are sitting, we are going on well on this issue of bursaries. You remember that we changed rules from vouchers to cheques. We have done that, but our constituents are suffering out there, knowing that we have come from very hard times of COVID 19. Most of them don't have jobs.

I support this Motion, and we join hands so that these bursaries can be given out to help our people. I support. Thanks.

Hon. Deputy Speaker: Thank you, Hon. Member. We have had several issue to do with bursaries in the past. It is a problem that has been there. Given the concerns that have been raised by Members, I want to direct that the Clerk to write and convene a meeting in the Office of the Speaker tomorrow by midday. The CEC Education, and CEC Finance and the Chief Officer should be invited so that the Chairman of Education Committee can report to this House on Thursday 2nd December 2021 in the afternoon.

ADJOURNMENT

Hon. Deputy Speaker: There being no any other business, the House stands adjourned to Thursday 2nd December 2021 at 2:30 p.m. Thank you.

The House rose at 3:35 p.m.