



NAIROBI CITY COUNTY ASSEMBLY

OFFICIAL REPORT

Second County Assembly – Sixth Session

Tuesday 5th April, 2022

The House met at 9.30 a.m.

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

PRAYERS

Hon. Temporary Deputy Speaker: Clerk, confirm whether we have a quorum?

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

We have the quorum. Okay Clerk proceed.

PAPERS

Hon. Temporary Deputy Speaker: Let me first take this opportunity to congratulate our Clerk on the Court ruling and welcome you back. Thank you. Hon. Mbugua proceed

Hon. Mbugua Kabiro: Thank you very much Mr. Speaker and I beg to lay the following Paper on the floor of this Assembly: The report of the sectoral Committee on Early Childhood Education and vocationally Training on the consideration of Nairobi City County Polytechnics and Home Crafts Centers Bill 2021, Assembly Bill No.3 of 2021. I beg to lay.

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

NOTICES OF MOTION

Hon. Mbugua Kabiro: Thank you, Hon. Speaker, I also wish to congratulate the Clerk for coming back, we had missed you and we hope that now the Assembly will be settled under your guidance.

Hon. Speaker, I beg to give notice of the following Motion:

THAT, aware that Article 55 of the Constitution provides for the State to take measures, including affirmative action programmes to ensure that the youth have opportunities to associate, be represented and participate in political, social, economic and other spheres of life, access employment and are protected from harmful cultural practices and exploitation; cognizant that Part Two of the Fourth Schedule to the Constitution provides for the functions of the County Government which include ensuring and coordinating the participation of communities and locations in governance at the local level and assisting communities and

Disclaimer: *The electronic version of the Official Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor.*

locations to develop the administrative capacity for the effective exercise of the functions and powers and participation in governance at the local level; concerned that the quality, quantity and nature of public participation conducted by the County Government on the County development programmes especially youth related programmes are still low and should be improved not just to realize the minimum standards required; acknowledging that the County Assembly enacted the Nairobi City County Public Participation Act, 2015 which provides for a comprehensive involvement of residents of the County to participate in the County Governance, this Assembly urges the County Executive to: - 1. develop youth related programmes and strategies that will ensure meaningful youth participation in decision making processes in the County; and 2. Increase scope of public participation from just planning but also implementation, monitoring and evaluation of youth development agenda.

I beg to give notice, Hon. Speaker.

Hon. Mbugua Kabiro: Thank you, Hon. Speaker once again. I beg to give notice of the following Motion:

AWARE that Article 43 (1) of the Constitution of Kenya 2010, provides inter alias that; Every person has the right to the highest attainable standard of health, which includes the right to health care services, including reproductive health care; FURTHER AWARE that Paragraph 2 of Part 2 of the Fourth Schedule of the same Constitution, provides for County Health Services including but not limited to, promotion of primary health care as devolved functions for execution by the County; NOTING that recent years have witnessed major advances in medical technologies that have been responsible for earlier and more accurate diagnoses, more effective treatments, and the ability of people to live longer, healthier lives; CONCERNED that the management of the County medical devices have remained sub-optimal resulting to under-utilization of huge-investment medical devices, wastage of resources as a result of investing in medical devices that do not meet priority health needs of a given section of the populace, investment in medical devices which are incompatible with existing infrastructure, sometimes low quality, or do not function properly; ACKNOWLEDGING that medical devices and equipment are critical components of healthcare system and play a critical role to ensure delivery of quality health services in line with the Constitution, this Assembly urges the County Executive in conjunction with the Nairobi Metropolitan Services to develop a policy on management and standardization of County hospital equipment including valuation, servicing and replacement.

Hon. Speaker, I beg to give notice, thank you.

STATEMENT

STATEMENT OF PRIVILEGE PURSUANT TO STANDING ORDER 56(H)

Hon. Temporary Deputy Speaker: Hon. Imwatok do you have a personal statement or an official? Proceed.

Hon. Peter Imwatok: Hon. Speaker, I want to stand on statement 56(h) which is a statement of privilege. This country has faced a lot of challenges during the Covid- 19 and I am happy that we are back to attending physical sittings in the Assembly.

Hon. Speaker, you are aware that we have less than one month to close the Assembly and it will be important to give Members an opportunity to give their last submissions. I wish to congratulate the Clerk for

Disclaimer: *The electronic version of the Official Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor.*

resuming office. I am aware that it has not been an easy journey and for that congratulations and welcome back to the County Assembly.

I would also wish to urge Members of the County Assembly across the political divides that this House has had issues and fights and in God's wisdom, we are to abide by one Edwin Gichana. I am privileged to announce that on behalf of the ODM party, we will accord him utmost support and respect and urge the Jubilee side led by the Majority leader that the House needs sanity as we exit on the 9th June.

The staff of this County Assembly have issues and I urge the Clerk to be a bigger person and bring sanity. As I was walking in, I heard lots of rumors and I would not wish to drag the Majority Leader in this. I am also aware that the Judiciary is on trial on the issue of the Clerk so we will wait for them as I believe that it is only the Supreme Court that can overturn the decision of the Court of Appeal. So let any staff mentioning the names of the Leader of Majority and Minority to desist from it or else I will personally do a write up to the Board and to the Powers and Privileges committee. Thank you Mr. Speaker for steering this Assembly and let us leave this Assembly peaceful. Thank you

Hon. Temporary Deputy Speaker: Thank you very much Whip. Well noted

MOTION

Hon. Temporary Deputy Speaker: Hon. Kados? Are you [Hon. Peter Wanyoike] moving it on behalf of the Member?

Hon. Peter Wanyoike: Yes.

Hon. Temporary Deputy Speaker: Proceed!

MECHANISMS TO FACILITATE PAYMENT OF RATES FOR DISPUTED LANDS

Hon. Peter Wanyoike: Mr. Speaker, on behalf of Hon. Kados, I wish to move a Motion: that aware that many parcels of land within Nairobi County do not have titles or other final ownership documents; deeply concerned that many landowners only have letters of allotment, certificates of ownership, share certificates, other similar provisional documents; noting that many pieces of land have ownership disputes, some pending in the courts 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 the owners of such land willing to pay land rates and indeed the law requires rates to be paid by whoever is claiming ownership of any such property; appreciating that the County through the Deed of Transfer of Functions engaged the services of the Kenya Revenue Authority (KRA) to collect rates, by which the KRA has required ownership and identity documents and KRA Pin Certificates before permitting payment of rates; regretting that the demand for these documents has seen many land holders remain unable to provide the documents required by KRA hence are barred from paying rates, even though these parties remain willing to pay rates, notably during the penalty waiver arrangements; realizing 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 the NMS to put in place measures to ensure rates are collected from all land holders including where only provisional ownership documents are available, including where there are ownership disputes pending in court or other tribunal/institutions.

Mr. Speaker, I wish to inform the House that land rates is one of the top sources of revenue in this County accounting to almost 25% and it is the responsibility of the county to ensure that land rates are paid

and that all landowners are involved in this process. It will be good if the county comes up with mechanisms to ensure that all land owners are included while collecting revenue.

Mr. Speaker, in Nairobi many landowners are willing to pay rates. However, their lands have disputes and are in court that may take time to resolve. Therefore, they should be allowed to exercise their rights as citizens of this country and their obligation in paying taxes.

Hon. Speaker, I call upon Hon. Kabiro to second the Motion. Thank you.

Hon. Mbugua Kabiro: Thank you Mr. Speaker sir. I would like to second this Motion by the Hon. Majority Whip, Hon. Paul Kados as presented by Hon. Peter Wanyoike, the Deputy Majority Leader who is now the Acting Majority Leader.

Revenue is revenue, as long it is collected and it is due, it does not matter who is paying. For as long as it is due, let it be collected by the organ that is mandated by the county government to do so. What this Motion is clearly asking for is for the County Executive and the NMS to come up with a mechanism – when there is a dispute it is difficult to determine who pays the rates – and that rate is not paid either way.

Whether it is by getting the person who is disputing the ownership of the land together with the person who is challenging the ownership of that land, each should pay half of the rates. Because these are documents that can find themselves in court, whereby a person can claim the ownership by saying that he has been paying the rates for the piece of land. The County Executive, NMS and KRA should find a mechanism where the two parties who are disputing the ownership of that land to pay the rates equally and they both get receipts for that so that it clearly shows that there is some dispute. In the other instant, if one party is not paying, may be to accumulate these rates and the case has been decided to ramp it up on the person who has won the case for him or her to pay all the rates that are due for that land.

This is a clear Motion but when you look at it on face value, it looks very impractical. But when you think about the amount we are losing in terms of rates, as a County Government we have to make sure that they pay. If it is due, let somebody pay. However, if it is in dispute, let both of them pay. Mr. Speaker, that is the spirit of this Motion and I second it and urge the House to support it. Thank you very much.

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

(Question proposed)

Hon. Temporary Deputy Speaker: Hon. Members, debate if any. Please raise your hands.

Hon. Peter Imwatok: Hon. Speaker as we gear towards retirement of this assembly, I rise to support this Motion with many reservations unto it. It is a predicament that is facing the revenue collection system in our county, as you are aware land rates is one of the major mainstream for tax collection in the County Government.

Hon. Speaker, I think the Majority Whip who has moved this Motion is a leader who is representing a place with many people who own land but have never been given title deeds. The President of the Republic of Kenya, Uhuru Kenyatta, two years ago started a very good programme that was issuing title deeds to all landowners. It is unfortunate that his special programme was invaded by corrupt cartels in the name of lawyers and surveyors, who we know.

Hon. Speaker, even the aspect of passing the valuation roll in this assembly has become a mountain. As the NMS gears towards the end of the Deed of Transfer, if there is a legacy that they are going to leave

behind, they must fast track the issue of bringing the valuation roll before this House. More importantly, making sure that all land owners who have presented their documents to surveyors and lawyers to work on the title deeds, are issued with title deeds. It is unfortunate that the predicament of landowners was taken over by lawyers who mint a lot of money.

I am aware that here at City Hall Annex, there are thousands of title deeds which are not signed, but the County Government is lacking revenue and the KRA cannot collect revenue just because of two individuals. It is uncalled for. How I wish one day I became the Governor of this city. This county has to change. No one is talking about the landowners in this city. If you go to city courts, it is application after application. If you go to lands' court in Milimani, there are many applications. All these, the respondent is the County Government of Nairobi. The County Government can either side with the person who is stealing somebody's land or just go mum on it. We must have a County that can stand with the land owners. It is affecting the revenue streams.

Therefore, Hon. Speaker, I beg to support. The NMS should stand up and make sure it puts proper mechanisms that we are able to collect taxes from these people, and more importantly, give these land owners title deeds as envisioned by the President of the Republic. Thank you, Hon. Speaker.

Hon. Temporary Deputy Speaker: Thank you, Hon. Whip. Hon. Mwami.

Hon. Mary Mwami: Thank you, Mr. Speaker Sir. I would like to first congratulate the Clerk. Welcome back, we are hoping that you will bring both sides together. Let their spirit of reconciliation and people recognize that you are the Clerk.

On the issue of land in Nairobi, if two people pay rates for the same land, it will complicate things in the court of law. I think that is not possible. The one who had been paying rates before is the one that will continue to pay until the dispute is resolved. You cannot have two people pay rates for the same land which they are having disputes. It will bring complications at the end. I don't think that is legally right. I stand to be corrected by the lawyers. Whoever has the letter that says they had it earlier, they can bring back and pay the person who has been there in case it is resolved otherwise. I am of the opinion that this is important because there are many disputes, as my Minority Whip has said, which makes us not get revenue.

I have a friend of mine who has a piece of land in Kariobangi South. Someone went and built on the land. All the accounts in the City Hall say that it is in their name, but on the ground, the land had a building with two floors. The NMS should be courageous. Where the land belongs to a certain person and another has built, they have to sort it out because if they don't, the original owner cannot be able to pay land rates where someone else is already earning rent. They should have mutual agreement where he buys and pays the original owner or the building is pulled down. If we do that, people will not keep picking people's land and making development on them. We are losing a lot of revenue.

I also think when the KRA took over, we have not been collecting much money as before. When we came in, we were collecting up to Kshs.14 billion. I am wondering what has gone wrong? They have to pull up their socks. If there are loopholes, they have to make sure they are sealed so that we collect more money in this city. This city is rich in revenue. So, we must make sure people are not getting kickbacks and avoid paying rates. Thank you, Mr. Speaker.

Hon. Temporary Deputy Speaker: Thank you, Hon. Mwami. Anyone else? Hon. Jeremiah Themendu, I can see your hand.

Hon. Jeremiah Themendu: Thank you, Mr. Speaker. I rise to support the motion and congratulate the Majority Whip for the motion. I want to concur with Hon. Mwami by congratulating our Clerk. I think the wrangles that were there will come to an end and sanity will prevail in the Assembly.

On the issue of land in Nairobi, I think the problem starts with the Planning Department. When choosing those that shall handle those dockets like for chief officers, directors and the CEC Lands, it should be done with caution. For example, now, we have a chief officer who has never solved any dispute concerning lands in Nairobi. I don't know if he is not able to do so or ignorant. We have matters concerning Eastlands. There, landowners lack title deeds. We should embrace the gesture that was shown by our head of state, His Excellency the President, who came and intervened and asked the NMS and the County to issue the landowners with title deeds for free.

I once asked a statement on the floor of the Assembly but nothing was done. The people in the planning department are not willing to do services to Nairobians. What they are willing to do is only to go and ask for bribes from those land owners, buildings and whatever. That is where the problem lies

Before we do anything else, we must ensure that cartels in the planning department, and wherever it is concerned like the land office in Kilimani, are taken care of and are handled by people who have dignity, integrity and who have Nairobians at heart. However, those who are there right now cannot resolve any dispute concerning land. I would also like to beg those who collect revenue to make sure they are doing so, ensuring every landowner is paying rates. For now, even the money that is being collected in regards to the same is very little. There are losses in that department that occur because of officers who are not willing, or others who are ignoring the work they are supposed to do. Mr. Speaker, I support the Motion. Thank you.

Hon. Temporary Deputy Speaker: Thank you, Hon. Themendu. Is there anyone else who would like to contribute? There is nobody else. Mover, please reply

Hon. Peter Wanyoike: Thank you, Mr. Speaker. Let me take this opportunity to thank the House for the support. My seconder, Hon. Mbugua Kabiro, Minority Whip Hon. Imwatok, Hon. Arivisa and Hon. Jeremiah Themendu for the support. Mr. Speaker, it is my wish that the County and NMS will move with speed to come up with mechanisms so that we have no more loss of revenue in our County. This was the spirit when our President was making great strides to make sure that every property or land has titles in Nairobi so that the property owners can be paying the revenue. For that Mr. Speaker, I thank you and I beg to reply.

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

(Question put and agreed to)

ADJOURNMENT

Hon. Temporary Deputy Speaker: There being no other the house stands adjourned till today Tuesday 5th April 2022, at 2.30 p.m. Thank you.

The House rose at 10.40 a.m.