



NAIROBI CITY COUNTY ASSEMBLY

OFFICIAL REPORT

Third County Assembly – Second Session

Wednesday, 15th March 2023

The House met at 2.30 p.m.

(Hon. Speaker (Mr. Kennedy Ng'ondi) in the Chair)

PRAYER

Hon. Speaker: Hon. Members, you may be seated. Clerk you may proceed.

COMMUNICATION FROM THE CHAIR

REINTRODUCTION OF BUSINESS IN THE ASSEMBLY

Hon. Speaker: Hon. Members, I have the following communication to make; this is in regards to reintroduction of business in the Assembly.

Hon. Members, I wish to bring to the attention of the House that going by the established parliamentary practices and our Standing Orders, all business that was not concluded at the end of the last assembly such as Bills, Motions, Petitions and Session Papers lapsed. In particular Standing Order No. 148 (4) on reintroduction of Bills provides---

(Several Members stood at the entrance awaiting to be allowed into the House)

Hon. Member, you may proceed and sit. Allow me to start afresh. In particular Standing Order No. 148 (4) on reintroduction of Bills provides; "A bill the consideration of which has not been concluded at the end of the term of the County Assembly shall lapse". However, Hon. Members, a review of our records show that we have a number of Bills and Sessional Papers of significant importance to the county that lapsed at the various stages following the end of the lapsed assembly.

Fortunately, several Hon. Members and committees have expressed their desire to proceed with some of the lapsed business. Therefore, Hon. Members, in keeping with parliamentary practice and Standing Orders, I wish to guide the House as follows:

That, all businesses that lapsed at the end of the last assembly and which committees of the Assembly and Hon. Members may have interest must be reintroduced formerly in accordance with our rules and procedures if such business has to be considered during the term of this Third Session.

That, with regards to the Bills and borrowing from the procedures adapted by the National Assembly, all Bills which had passed the Second Reading but lapsed, will be exempted from pre-publication scrutiny upon reintroduction. In light of the forgoing, Hon. Members, any committee or Hon. Member who is interested in reintroducing any business that has lapsed is encouraged to write my office seeking my approval to reintroduce a specific business. Members are encouraged to enquire from the Tables and Journals office on the status of such business.

With regards to Bills, I wish to inform the House that for Bills that were sponsored by former Members and any Member is at liberty to take them up and have them reintroduced. However, it is expected that those who are elected Members or nominated back to this House would naturally take up their respective business forward. Accordingly, Hon. Members, any committee that may currently be considering any business which lapsed without the same having been formerly been reintroduced in the House, is hereby directed to discontinue the consideration of the same forthwith until compliance with directions and directives issued herein.

Hon. Members, I further direct the Assembly Select Committee on Rules and Procedures to closely relook at this matter with a view of proposing amendments to our Standing Orders in order to remove any lacuna that may exist. The House stands guided. Thank you.

PETITIONS

SETTLEMENT ON PUBLIC LAND L.R NO. 18170 BY RESIDENTS OF MATHARE 4A IN UTALII WARD

Hon. Speaker: Hon. Members, I received a Petition and I wish to relay the message as it is contained in the undersigned document by the Petitioner on behalf of the assembly:

Public Petition pursuant to Standing Order No. 208 by residents of Mathare 4A in Utalii Ward on settlement to public land L.R No. 18170 within Nairobi City County.

(Several Members stood at the entrance awaiting to be allowed into the House)

Hon. Members, you may proceed and take your seats.

We the undersigned citizens of Kenya who are residents of Utalii Ward Ruaraka Sub-county 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 Government 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 Lands Use Policy 2017 recognizes the need for social development that takes cognizance of provision of basic infrastructure and services;

That, whereas, Section 5 (e) of the National Land Commission Act 2012 requires the Commission to initiate investigations into present or historic injustices and recommend appropriate redress;

That Whereas, Section 116 of the County Governments Act 2012 imposes an obligation 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 public have access to basic services;

That Whereas, Mathare 4A squatters were gifted L.R No. 209/12010 by Karsan Du Fathom Murjii, the said parcel of land was formerly a quarry in which our fathers used to work under the aforementioned Karsan Murjii who later on decommissioned it and gifted it to us;

That Whereas, the City Council of Nairobi attempted to evict us without offering alternative land. Consequently, we filed a case HHC No. 1702 of 1989 and obtained orders restraining the then City Council of Nairobi from demolishing houses and requiring them to compensate and settle us;

That Whereas, in 2005 the government of Kenya entered into bilateral partnership with the German government for slum upgrading and Mathare 4A Primary School was the plot on L.R No.209/12010, the government agreed to relocate us to an alternative land availed by the then City Council of Nairobi at Ruai resettlement scheme and grant of Kshs. 500 million Euro was given;

That Whereas, we entered into an out of court settlement with the then City Council of Nairobi, the Council assured us that they would offer an alternative land in Ruai. Consequently, in 2006, the then City Council of Nairobi issued a letter of allotment to us for L.R No. 12979/1 part. However, for some reasons, we did not occupy the said parcel of land;

That Whereas, in 2016 the Nairobi City County Government wrote to the national Land Commission proposing to settle us on part of L.R No. 11344, we have established that the said plot was formerly L.R No. 11361 was subdivided by the City Council of Nairobi into two parcels i.e. L.R No. 181619 (844 ha) occupied by the Kenya Defense Forces, Embakasi Barracks and L.R No. 18170 (405.1 ha) belonging to the Nairobi City County Government and whose deed plan is in their custody(Deed plan No. 172261 issued for L.R No.18170 on 23rd April 1993 and released by Surveyor k. Mugenyu for the County Government.

That Whereas, from the above, it is evident that the parcel of land meant to resettle us is L.R No.18170. We have established that there is a covenant between Nairobi City County and the Kenya Defense Forces, Embakasi Barracks to withdraw ELC Suit No. 282 of 2012;

That Whereas, we appreciate that the resolutions offered in this petition are not exhaustive to totally take care of the situation in the area, in our humble opinion there are the immediate measures that the county needs to start with;

That Whereas, we confirm that efforts have been made to have the matter addressed by the relevant body, it failed to give a satisfactory response therein;

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 ensures that:

- a) The Nairobi City County Executive and/or the Nairobi Metropolitan Services furnishes the National Lands Commission with the Deed Plan for L.R No. 18170 to facilitate the resettlement;
- b) We are protected from any further resettlement by the Nairobi City County Executive and/or Nairobi Metropolitan Services;

- c) The Nairobi City County Executive fulfills the consent it entered into with the Kenya Defense Forces, Embakasi Barracks in ELC Suit No. 282 of 2012 to enable the resettlement; and
- d) The parcel of land L.R. No. 18170 is secured from potential land grabbers.

And we will forever pray.

Hon. Speaker, on behalf of the Residents of Mathare 4A in Utalii Ward

Hon. Speaker: Hon. Members, I commit the petition to the Planning and Housing Committee.

PAPERS LAID

Hon. Speaker The report of the Select Committee on Appointment on Induction workshop held from 29th January to 3rd February 2023. Who is supposed to table the report on behalf of the Chairperson who happens to be the Presiding Speaker?

(Technical hitch)

Hon. Speaker: Kindly assist the Majority Leader please. Majority Leader, you may proceed.

Hon. Peter Imwatok: Hon. Speaker, protect me from Hon. Palapala please.

Hon. Speaker: You are protected!

Hon. Peter Imwatok: Pursuant to Standing Order No. 196, I beg to lay the following Paper on the Table of this Assembly today Wednesday 15th March 2023: The report of the Select Committee on Appointment on Induction Workshop held from 29th January to 3rd February 2023 at Flamingo Beach Hotel, Mombasa County. I beg to lay the report.

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

Hon. Speaker Kindly facilitate the Member.

Hon. Allan Gathuku: Hon. Speaker, pursuant to Standing Order No. 196, I beg to lay the following Paper on the table of this Assembly today Wednesday 15th March 2023: the report of the Sectoral Committee on Labour and Social Welfare on Induction Workshop held from 24th to 27th November 2022 at Travelers Hotel, Mombasa County. I beg to lay the report.

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

Hon. Speaker Thank you.

Hon. Member: Hon. Speaker, pursuant to Standing Order No. 196, I beg to lay the following Paper on the Table of this Assembly today Wednesday 15th March 2023: the report of the Select Committee on Procedure and Rules on Induction Workshop held from 15th to 18th December 2022 at Travelers Hotel, Mombasa County. I beg to lay the report.

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

Hon. Peter Imwatok: Hon. Speaker, pursuant to Section 44 (2) (b) of the County Government Act 2012, Section 3 and 9 of the Public Appointments, County Assembly Approvals Act 2017 and Standing Order No. 48 (4), I beg to lay the following Paper on the Table of this assembly today Wednesday 15th March 2023: the report of the Select Committee on Appointment on vetting of the nominee for the position of County Secretary. I beg to lay.

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

(Technical hitch)

Hon. Speaker Serjeant-at-Arms, it seems that the system is not in favour of the Hon. Members.

Hon. Maurice Ochieng: Thank you Mr. Speaker. Pursuant to Standing Order No. 196, I beg to lay the following Paper on the Table of this Assembly today Wednesday 15th March 2023: the report of the Sectoral Committee on Health Services on Induction Workshop held from 17th to 20th November 2022 at Travelers Hotel, Mombasa County. I beg to lay the report.

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

NOTICES OF MOTION

Hon. Peter Imwatok: Hon. Speaker, I beg to give notice of the following Motion: that, taking into consideration the findings of the Select Committee on Appointments on its report on the vetting of the nominee for approval as a County Secretary laid on the table of the Assembly on Wednesday 15th March 2023 and pursuant to Section 44 (2) (b), of the County Government Act 2012, Section 3 and 9 of the Public Appointments, County Assembly Approvals Act 2017 and Standing Order No. 48 (4), this assembly rejects the nomination of Dr. Jairus Musumba for appointment as County Secretary by H.E the Governor, and resolve that the appointment authority; H. E. the Governor of Nairobi City County appoints another officer other than the nominee within seven (7) days of adoption of this report to act on the position of the County Secretary pursuant to applicable laws until the position is substantially filled.

I beg to lay the Notice of Motion, Hon. Speaker.

(Point of Order)

Hon. Hashim Kamau: Thank you Mr. Speaker. I want to give a notice of Motion on amendment of the Motion when the time arrive, under Standing Order No. 61, for the approval of the same person.

(Some Members attempted to walk out of the House)

Hon. Speaker Order Hon. Member! Come back please, we have serious business before the assembly.

Hon. Members, I wish to make a communication in regards to the point of order raised by Hon. Hashim Kamau on Standing Order No. 61. Hon. Hashim Kamau, by wisdom at least you may revisit Standing Order No. 62 on amendment to be in writing. We stand guided.

(Hon. Hashim Kamau rose to speak)

You cannot advise the Speaker Hon. Member. Please be seated.

Hon. Hashim Kamau: You need to be guided Mr. Speaker. The Standing Order that you are quoting...

Hon. Speaker: Hon. Hashim, can you please take your seat? Clerk, proceed.

STATEMENTS

STATEMENTS DUE FOR RESPONSE FROM CHAIRPERSONS OF THE SPECIFIED COMMITTEES

Hon. Speaker: Order Hon. Members! Hon. Members, under Order No. 7 on statements, I wish to notify members that pursuant to the provisions of the Standing Order No. 47 (2) (f), the following statements requests are due for responses from the chairperson of the specified committees.

- i. Statement requested by Hon. Stazo Omang'ala MCA, from the Chairperson of the Sectoral Committee on Transport and Public Works regarding the allocation of pick up and drop off points in the County
- ii. Statement requested by Hon. Robert Alai from the Chairperson of the Sectoral Committee on health Services regarding the deteriorating state of the Nairobi City Mortuary and its operations

I hope the Chairpersons of the relevant committees are taking stock of the pending business.

- iii. Statement requested by Hon. Redson Otieno MCA, directed to the Chairperson of the Sectoral Committee on Planning and Housing regarding the alleged grabbing of public land at Kamindi Supermarket at Donholm
- iv. Statement requested by Hon. Sam Kago MCA, directed to the Chairperson of the Sectoral Committee on Energy, Information and Communication Technology regarding the records management in the County
- v. Statement requested by Hon. Thuo Fiunifu MCA, directed to the Chairperson of the Sectoral Committee on Water, and Sanitation regarding the number of boreholes drilled and water points.
- vi. Statement requested by Hon. Nicholas Juma MCA, directed to the Chairperson of the Sectoral Committee on Culture, and Community Services regarding the status of the Eastleigh Social Hall
- vii. Statement requested by Hon. Jared Akama MCA, directed to the Chairperson of the Sectoral Committee on Planning, Lands and Housing regarding mismanagement of housing estate owned by the County

(Loud consultations)

Hon. Members, order please!

- viii. Statement requested by Hon. Sam Kago MCA, directed to the Chairperson of the Sectoral Committee on Health Services regarding lack of medical supplies in the county, especially in Mwiki Ward
- ix. Statement requested by Hon. Anthony Kimemia MCA, directed to the Chairperson of the Sectoral Committee on Planning and Housing regarding the interdiction of staffers working in urban Planning and Compliance
- x. Statement requested by Hon. Joseph Ndung'u MCA, directed to the Chairperson of the Sectoral Committee on Transport and Public Works regarding the dilapidated roads in the County especially in Makongeni Ward
- xi. Statement requested by Hon. Hashim Kamau MCA, directed to the Chairperson of the Sectoral Committee on Culture and Community Services regarding the stadia managed by the National Government

- xii. Statement requested by Hon. Abel Atito MCA, directed to the Chairperson of the Sectoral Committee on Environment, and Natural Resources regarding air pollution from industries and factories especially in Industrial Area and Baba Dogo Wards
- xiii. Statement requested by Hon. Thuo Fiunifu MCA, directed to the Chairperson of the Sectoral Committee on Labour, and Social Services regarding officers working in the County Executive
- xiv. Statement requested by Hon. Thuo Fiunifu MCA, directed to the Chairperson of the Sectoral Committee on Environment, and Natural Resources regarding cutting trees in the County
- xv. Statement requested by Hon. Victor Omondi MCA, directed to the Chairperson of the Sectoral Committee on Health Services regarding the construction of public health centre in Lucky Summer Ward
- xvi. Statement requested by Hon. Joseph Ndung'u MCA, directed to the Chairperson of the Sectoral Committee on Culture and Community Services on noise pollution from clubs and bars in Clay City Ward
- xvii. Statement requested by Hon. Victor Omondi MCA, directed to the Chairperson of the Sectoral Committee on Environment, and Natural Resources regarding the collection of solid waste by Nairobi City County trucks in the Lucky Summer Ward
- xviii. Statement requested by Hon. Mark Thiga MCA, directed to the Chairperson of the Sectoral Committee Health Services regarding stalled construction projects in the County in particular Upendo Hospital in Hospital ward
- xix. Statement requested by Hon. Anthony Kimemia MCA, directed to the Chairperson of the Sectoral Committee on Environment and Natural Resources regarding the County Government preparedness on climate action change
- xx. Statement requested by Hon. Perpetua Mpojiwa MCA, directed to the Chairperson of the Select Committee on Implementation regarding the operationalization of Nairobi City County pop up markets and street vendors
- xxi. Statement requested by Hon. Samora Mwaura MCA, directed to the Chairperson of the Sectoral Committee on Health Services regarding Yellow Fever Vaccine in the County
- xxii. Statement requested by Hon. Diana Katile MCA, directed to the Chairperson of the Sectoral Committee on Health Services regarding the operationalization of Umoja II Health Centre which was developed by the Nairobi Metropolitan Services
- xxiii. Statement requested by Hon Wilfred Odalo, MCA from the Chairperson of the Sectoral Committee on Lands, Planning and Housing regarding alleged evictions, subdivision and allocation of land LR No 208/7260/189, formerly known as ES 9 Eastleigh Sewerage Depot in Eastleigh Ward.
- xxiv. Statement requested by Hon. Peter Imwatok, MCA from the Chairperson of the Select Committee on County Finance, Budget & Appropriations regarding revenue collection and management system in the County,

- xxv. Statement requested by Hon. Jared Akama, MCA from the Chairperson of the Sectoral Committee on Environment and Natural Resources regarding outstanding payments to garbage contractors in the County,
- xxvi. Statement requested by Hon. Joseph Ndungu, MCA from the Chairperson of the Sectoral Committee on Transport and Public Works regarding blockage of Wangaari Mathaai road;
- xxvii. Statement requested by Hon Davidson Ngubaini, MCA from the Chairperson of the Sectoral Committee on Water and Sanitation regarding perennial lack of water in Woodley/ Golf course Ward,
- xxviii. Statement requested by Hon. Mwaura Samora, MCA from the Chairperson of the Sectoral Committee on Transport and Public Works regarding status of loading zones in the County,
- xxix. Statement requested by Hon. Hashim Kamau, MCA from the Chairperson of the Sectoral Committee on Labour and Social Welfare regarding alleged misuse of Public funds,
- xxx. Statement requested by Hon. Fiunifui Kamau Thuo, MCA from the Chairperson of the Sectoral Committee on Trade, Tourism and Cooperatives regarding unfair market competition in County markets,
- xxxi. Statement requested by Hon Redson Otieno, MCA from the Chairperson of the Sectoral Committee Environment and Natural Resources regarding inadequate landfill sites in the County;
- xxxii. Statement requested by Hon Redson Otieno, MCA from the Chairperson of the Sectoral Committee on Transport, and Public Works regarding delayed completion of earmarked road projects in the County, particularly Sokoni and Kibichoi roads projects in Ngei Ward,
- xxxiii. Statement requested by Hon. Maurice Onyango, MCA from the Chairperson of the Sectoral Committee on Culture and Community Services regarding alleged discrimination of Kenyans in hospitality establishments operating in the County and in particular Westlands Sub Country;
- xxxiv. Statement requested by Hon. Redson Otieno MCA from the Chairperson of the Sectoral Committee on Health Services regarding increased cases of medical negligence in the County Health facilities;
- xxxv. Statement requested Hon Davidson DNG Ngibuini MCA from the Chairperson of the Sectoral Committee on Justice and Legal Affairs regarding Harassment of business owners and members of public by the Askaris;
- xxxvi. Statement requested by Hon. Redson Otieno, MCA from the Chairperson of the Sectoral Committee on Health Services regarding in increased cases of medical negligence in the County health facilities.
- xxxvii. Statement requested by Hon Redson Otieno, MCA from the Chairperson of the Sectoral Committee on Transport and Public Works regarding delayed completion of earmarked project in the County;

- xxxviii. Statement requested by Hon Moses Kitema, MCA from the Chairpersons of the Sectoral Committee on Transport and Public Works; and Water and Sanitation regarding dilapidated roads especially GNC A road in Kware Ward,
- xxxix. Statement requested by Hon Robert Alai, MCA from the Chairperson of the Sectoral Committee on Lands, Planning and Housing regarding alleged irregular and/or fraudulent disposal and or transfer of Land Reference number 209/6612, the property at Mariakani Estate, along and or within Mkoma Road, South B.
- xl. Statement requested by Hon. Silas Matara, MCA from the Chairperson of the Sectoral Committee on transport and Public Works regarding advertised road projects by Nairobi Metropolitan Services,
- xli. Statement requested by Hon. Silas Matara. MCA from the Chairperson of the Sectoral Committee Water and Sanitation regarding drilling of borcholes advertised through a tender on 6 May, 2022 by the Nairobi Water and Sewerage Company
- xlii. Statement requested by Hon. Jared Akama, MCA from the Chairperson of the Sectoral Committee on Lands, Planning and Housing regarding alleged non remittance of fees owed to the County Government by various outdoor advertisement and signage companies operating in the County,
- xliii. Statement requested by Hon. Malyun Abdi, MCA from the Chairperson of the Sectoral Committee on Water and sanitation regarding operation, management and rehabilitation of the sewerage system and sanitation infrastructures across the County, and
- xliv. Statement requested by Hon. Silas Matara, MCA from the Chairperson of the Sectoral Committee on Lands, Planning and Housing, regarding several buildings collapsing in the County

Thank you Hon. Members that is for your consumption and for those Members who have actually been left out you need to up the game.

Order No. 7 Hon. Oyugi please. Is Hon. Oyugi in the House?

Hon. Kennedy Oyugi: Yes, Sir! Hon. Speaker I am rising to request for a for a statement but before I do so I think it is also important for Members to understand some of this statement before they are presented like for example the statement you have read No.14 if you allow me I can read it.

Statement requested by Hon. Fiunifu Thuo MCA from the chairperson of the sectoral Committee on Environment and Natural Resources regarding cutting trees in the County.

Mr. Speaker, Hon. Fiunifu is a Member of the Environment Committee and not only a Member he is a vice chair. The Standing Order does not allow a Member to ask a question to a committee that he sit in. So some of this statement should be scrutinized before they are presented. Again, I am requesting this statement with a very heavy, in the sense that we have 44 statements that have been sought by Members and answers has not been provided. I wonder whether I will get the response to this statement in time.

REQUEST FOR STATEMENT REGARDING DECLINING REVENUE COLLECTION FROM MARKETS

Hon. Kennedy Oyugi: Hon. Speaker. Pursuant to Standing Order 47(2) (c) I wish to request for statement from the Chairperson of the Select Committee on Public Investments and the Sectoral Committee on Trade, Tourism and Cooperatives regarding declining revenue collection from markets.

Hon. Speaker, recently the County Government pumped in a considerable amount of monies to revamp some of our public markets like Westlands City Park and Mwariri Markets etc.

Hon. Speaker, despite having made the said improvements, the County has continued to witness a worrying drop in the revenue being collected,

Hon. Speaker. It is expected that having invested in renovation of the said markets, then revenue collection should be seen to incline due to the improved services and new face that the markets offer both to traders and to customers.

Hon. Speaker, in the statement, the Chairperson should inquire into and report on;

- 1) Why revenue collection from the markets rector is declining and
- 2) Measures the County Executive is taking to ensure that maximum revenue collection is tapped from these markets.

Yours Hon. Kennedy Oyugi Member for Highrise Ward. Thank you.

Hon. Speaker: I commit this request to the committee on Public Investment and Sectoral Committee on Trade and Tourism and cooperatives. The relevant chairs please can you do an under taking. The Chair for PIC.

Hon. Hashim Kamau: Two weeks, Mr. Speaker.

Hon. Speaker: Thank you. The chair for Trade?

Hon. Deonysias Mwangi: It has also been a concern in our Committee and I thank you Hon. Oyugii. I would like to be given two weeks, in my Committee. Thank you.

Hon. Speaker: Hon. Geoffrey Majiwa; is he in the House. You may proceed. it is well with you Hon. Member two weeks it is not a lot. Thank you for the understanding.

REQUEST FOR STATEMENT REGARDING THE ALLEGED DIVERSION OF USER FEE FOR BABA DOGO HEALTH CENTER

Hon. Geoffrey Majiwa: Thank you Hon. Speaker. Pursuant to Standing Order 45(2) (d) I wish to request for a statement from the Chairperson of the Sectoral Committee on Health Service regarding the alleged diversion of User fee fore for Baba Dogo Health Centre.

Hon. Speaker, Article 45 of the Constitution 2010 guarantees every citizen to the highest attainable standard of health, which includes the right to health care services. This can only be achieved if health facilities in the County receive adequate funding and utilize the funds in an accountable way.

Hon. Speaker the Baba Dogo Health Centre is one of the facilities in the County that receive user fees foregone and in November 2022 the facility received a compensation of Ksh.3.5 million from the National Government.

Hon. Speaker, initially the money was to be utilized to purchase computers for the facility's use. However, the Chief Officer halted the process since it has allegedly been established that the monies are to be shared with other four (4) health facilities including Githurai, Ngomongo, Pickens and Ruaraka Health Facilities.

Accordingly, the Chief Officer directed that the funds be used as per the budget prepared by these facilities according to their needs. Therefore, the intended purpose of purchase of computers was allegedly abandoned on the directives of the Chief Officer for Health Service.

Hon. Speaker, it is my considered opinion that the alleged diversion of the said monies will greatly affect the operations of Baba Dogo health facility which is still grappling with shortage of pharmaceutical and non-pharmaceutical supplies.

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

- i) The criteria used by the County Executive in disbursement and utilization of user funds
- ii) Reasons why the initial intended purpose of the fund allocated to Baba Dogo health centre was allegedly abandoned, and
- iii) Reason why the user fees fund allocated and meant for Baba Dogo health centre are being diverted to the other uses and why the monies are to be shared with other facilities.

Thank you Mr. Speaker.

Hon. Speaker: Thank you. Chairperson Sectoral Committee on Health please.

Hon. Maurice Ochieng': Thank you Mr. Speaker. The Hon. Member will get the report within seven days.

Hon. Speaker: Thank you.

PROCEDURAL MOTION

Hon. Speaker: Procedural Motion, Hon. Majority Leader please. Under Order number eight we have a Motion, please.

(Hon. Hashim Kamau rose to speak)

Can you sit down, first? The Motion has not been even moved. You have not indicated that through writing and you did not notify the chair.

Order! Hon. Hashim you are out of order. What does the Standing Order states!

Hon. Hashim Kamau: The Standing Order states that any time after the question after the Motion has been proposed before it has been put. At any time?

Hon. Speaker: You are out of order! Please and you may be seated please, I will give you guidance later. Please Hashim can you sit down. Majority Leader you may proceed!

REJECTION OF NOMINATION OF DR. JAIRUS MUSUMBA FOR APPOINTMENT AS COUNTY SECRETARY

Hon. Peter Imwatok: Taking into consideration the finding of the select committee on appointment in this report on vetting of nominee of approval as County Secretary laid on the table of the Assembly on Wednesday 15th March, 2023 and pursuant to the provisions of Section 44 (2)(b) of the County Governments Act, 2012; Sections 3 and 9 of the Public Appointments (County Assemblies Approval) Act, 2017; and Standing Order 48 (4) this Assembly resolves:

- i) Rejects the nomination of Dr. Jairus Musumba for appointment as County Secretary by His Excellency the Governor; and
- ii) Resolves that the appointing authority (being H.E. the Governor of Nairobi City County) appoint another officer other than the nominee within seven (7) days of adoption of this

report to act in the position of County Secretary pursuant to the applicable laws until the position is substantively filled.

Hon. Speaker and Hon. Members of this House, this House is called to make laws and to make sure that every appointment that takes place in this House is in tandem with the law. Hon. Speaker, I must give credit to this House, as it has been the most efficient House ever in history. For those who were in second Assembly this House was so efficient to give this County Government a Governor, when the County Government was in absolute.

I remember we had a vetting process for then Governor Anne Kananu at 10.45 a.m. and by 2.30 p.m. we had given the Nairobi City County a Governor. This House is on record for making sure all the CECs were passed on a record time with our absolute obstacle. This House is on record of passing more than 35 Chief Officers in a record of one day.

Hon. Speaker, this House under this Government is on record of passing a budget of Kshs. 39 billion on a record of 24 hours. Therefore, no one in the History of devolution can question the credibility and efficiency of this House and its committees. Therefore, I must applaud the Appointment Committee for doing their jobs so efficiently and effectively. This Report is for the good of Nairobians, as I said last week if we do not stand firm for the good of our people and this House then it is better you stay at home.

Hon. Speaker without much ado let me welcome my counterpart to second this Motion.

(Applause)

Hon. Antony Kirangu: Hon. Speaker, I rise to second this Motion and maybe bring to the attention of this House that I am a Member of the Appointment Committee and I was fully involved and aware and was present when we vetted and did the report.

Hon. Speaker, among the duties of this House is to approve and disapprove. Hon. Speaker we have tested the candidate and we have looked at the merits and demerits, we have looked at the history. The experience, the process and the history of the candidate and in the opinion of the Appointment committee we have decided that the candidate does not fit to be the County Secretary of this great city.

Hon. Speaker, just to bring you to the speed to what we found in the committee, the said Dr. Jairus Musumba has been the chief officer, health for a very long time and his contract expired last year in November 2022 and we are in March 2023. Hon. Speaker, for you to be an acting County Secretary you must be an active chief officer.

Hon. Speaker Jairus Musumba became a member of the public last year in November 2022. We are actually going to sit again and question all the decisions that have been made in that office based on that fact.

Hon. Speaker, we are the eyes of this city; we cannot allow illegalities to continue; we cannot allow bad things to be done against the law. It is during this time and it is a question that was posed in the Committee that the Nairobi Water Company lost land in Eastleigh and when he was asked that question, he said he has no idea and he has never heard and he does not know.

Hon. Speaker we cannot have Jairus Musumba as a County Secretary under those circumstances. I beg to come here, second this Motion, and hope that our Members will tell the Governor of this city to kindly do an interview and get somebody who is fit to hold that office thank you.

(Question proposed)

Hon. Robert Alai: Hon. Speaker, thank you so much. I was seeing my leader Hon. Ogeto tapping his microphone so I thought you would give him priority since he is...

Hon. Speaker: You may proceed!

Hon. Robert Alai: Thank you Hon. Speaker. Today, the tall people have their way and like yesterday but we are so happy that you are back. Hon. Speaker, I want to stand here to support the Motion and with a very strong rider that the person being appointed to act in the position should not be another Jairus Musumba because there are many Jairus Musumba in that Chief Officers who are angling to take up his position. I strongly believe that if the Member takes this move to bring down the candidature of the candidate, it is going to send a strong message to the Executive that we are here for business.

A lot has been happening in this Assembly without respect to the Members. Last week we witnessed a Member of this Assembly going through a very traumatizing experience with the parking officers and when we called a Chief Officer and the County Secretary, they were not helpful. The Majority Leader himself made a call to that effect and it was painful to watch as we celebrate the International Women's Day, a woman representative of this House being traumatized, denied parking and her car being towed with orders that she was not going to have her car released no matter what. It was a very traumatizing incident considering that our parking has been grabbed. I wish that we took up these positions and especially in some of the appointments because some of them were approved without being properly vetted and in turn disrespect Members.

I wish that we took this position earlier on. I am proud of our leadership for taking this move and taking down the candidature of the County Secretary and with that Hon. Speaker, I am a happy fellow and I support the Motion.

Hon. Speaker: Majority Whip please!

Hon. Moses Ogeto: Thank you Hon. Speaker. I want to applaud Hon. Robert Alai for seconding the Motion and the Appointments Committee for working tirelessly on the vetting process. I also want to thank the House and ask that they be firm on this matter. During the interview, I was keen to find out how long Dr. Musumba has served in that office and we found out that he was nominated to serve by the then Acting Governor Benson Mutura to date. I would like to read part of Section 10 of the County Service Act 2017 34(2) which states that a person acting in that position should act not less than 30 days or not exceeding six months. We want to know how and why this officer has been acting in that position for the last two years.

Hon. Speaker, the Member of Parliament then from Embakasi West brought a Motion before the House stating that staff should not be let to act for a period exceeding six months. Serving in an acting position usually gives an institution leeway to recruit other members of the public who are capable of working in that position. We implore the Ethics and Anti-Corruption Commission to move in with speed and see the violation of section 34 of the Public Commissions Act. One cannot be in an acting position for more than two years, Hon. Speaker.

Hon. Speaker, when he was asked how many times he absconded his duty to attend committee sittings then he noted that they were eight consecutive sittings. He blatantly refused to come to the House, so imagine if he becomes the substantive advisor to the Governor. That is why we are saying that he lacks

capacity and we need somebody who is capable. We are therefore requesting the Governor to propose a member of the public who will respect this House. Martin Luther King said that when they came for the trade unionist all of us kept quiet, when they came for [Jews] we kept quiet, when they came for you, nobody was ready to fight for you. Hon. Members, this is the time to bring sanity here. We have been lenient enough ensuring that the business of this House by His Excellency the Governor are worked on but he cannot bring before the House an incompetent person.

Mr. Musumba has been drawing salary since November 14th with no substantive position. He has no portfolio and I want to sincerely thank the Appointments committee for scrutinizing him and ensuring that this happens. I wish that the Public Service Act will be implemented by the EACC and the DPP appropriately. I beg to support this Motion.

Hon. Speaker: Hon. Members, from my screen I do not see any request. Hon. Emily, please

Hon. Emily Oduor: Thank you Hon. Speaker. I would like to tell the Members of this House that they should not read any malice on this decision that was taken by the Appointments committee.

Hon. Speaker: Hon. Member, can you contribute to the Motion

Hon. Emily Oduor: Yes, I am there

Hon. Speaker: Kindly do not gag Members of the Assembly

Hon. Emily Oduor: Okay. I withdraw Hon. Speaker. Hon. Speaker, I took part in the vetting of the said Dr. Jairus Musumba and one thing that I came out with was that for every question we asked, it was disappointing to hear him answer "I do not know". He said that in close to 20 questions meaning as an acting County Secretary, he did not know what was happening in the sectors. He is the head of the Cabinet but has no clue of what happens in the environment sector, trade sector and we felt that a person like that will not make changes in this city and nothing will work.

Hon. Speaker, I asked him why letters written to the executive summoning Chief Officers to attend committee sittings must be addressed to him and that off late so we have so many statements that have not been answered. We realized that these letters are actually sitting on the desk of Dr. Musumba because when we call the CEC's and Chief Officers they say that because Dr. Musumba is not present then they cannot act. We then figured that that was going to derail the Assembly and with those few remarks, I beg to support.

Hon. Speaker: Hon. Deputy Speaker, your screen is on. May I call the mover to reply.

(Loud consultation)

Hon. Speaker: Order Hon. Alvin. I asked who else wanted to contribute

Hon. Peter Imwatok: Hon. Speaker, the Leader of Majority is on his feet

Hon. Speaker: I have already called the mover to reply. Please, can you be orderly.

Hon. Peter Imwatok: Hon. Speaker, that is the chair of Planning and I do not expect such from him as a member of the cabinet. I would like to thank the Members of the Appointment committee for speaking on what transpired before the committee. It is clear that Nairobi County has a population of not less than 20,000 employees with different professionalism therefore one chosen to lead this workforce must be a person who can make decisions, knows what he or she does and has the capacity in terms of administration and in the wisdom of the committee; we could not deduce this from our brother Jairus Musumba. I understand

as Hon. Emily Oduor said, we are doing this for the interest of the County. I come from Busia County and my brother Jairus comes from---

Hon. Speaker: Order Hon. Majority!

Hon. Peter Imwatok: Hon. Speaker, there is a point I am driving on. We cannot allow this House or the County Government to be segmented into tribal lines. Let the best candidate get the job and perform for the people. Secondly, Hon. Speaker, Hon. Ogeto explained it well that one cannot be an acting County Secretary if you are not a Chief Officer. This gentleman has never been a Chief Officer for two years even after the Governments changed hands. Instead, he was given an extension for five years as a County Secretary with no portfolio. We must correct the illegality and make things work as it is.

Hon. Members, for us to get what is demanded of us, I believe that the millions of Kenyans who woke up on the 8th of August did not make a mistake in electing us here. They made a choice aware that when we come to the red carpet then we have something to give back. I am proud of this Assembly. The first and second Assembly used to be that of clappers but that is no more. Those days we had to check the body language of our leader but now, we allow every Member to speak his or her mind and no one is gagged. I say thank you to all Members, the Appointment Committee Members, the UDA party led by my able brother Anthony Kiragu, the Whip and all Members of UDA. The journey to reclaiming our independence is now and leaders, we should lead from the front. Hon. Speaker, I beg to reply. Thank you.

Hon. Speaker: Thank you Hon. Majority Leader

(Question put and agreed to)

PROCEDURAL MOTION

RESOLUTION TO EXTEND THE PERIOD FOR CONSIDERATION OF COUNTY FISCAL STRATEGY PAPER FOR YEAR 2023/2024 BY A PERIOD OF 21 DAYS

Hon. Speaker: The Chairperson for Budget and Appropriations

Hon. Wilfred Odalo: Thank you Mr. Speaker. That notwithstanding the provision of Standing Order 227, section 7 and pursuant to the provision of section 90 of Public Finance Act 2012, this Assembly resolves to resolve the extend the period for consideration of County Fiscal Strategy Paper for the year 2023/2024 by a period of 21 days from today Wednesday 15th March 2023.

Hon. Speaker, the role of the County Fiscal Strategy Paper plays in any given financial year is secured by the provision of section 117 of the Public Finance Management Act 2012...

Hon. Speaker: Chair, please reduce the volume of your microphone and switch off the other one.

Hon. Wilfred Odalo: Can I use this one sir?

Hon. Speaker: Yes, please.

Hon. Wilfred Odalo: Thank you. Hon. Speaker, the Paper plays a role in determining and settling the mode and strategy priorities earmarked for implementation of subsequent financial years. Kindly protect me, Hon. Speaker.

Hon. Speaker: Member you are protected.

Hon. Wilfred Odalo: Thank you. Most importantly, the Paper sets the ceiling for the respective sectors beyond which their respective budgets submitted in April should not exceed.

Mr. Speaker, the County Fiscal Strategy Paper and the Debt Management Strategy paper 2023 for the financial year 2023/2024 was submitted to this County Assembly tabled on 3rd March 2023 and committed to the select committee on Finance, Budget and Appropriations committee and selected for consideration and reporting in line with the standing orders.

The provision of 117 of the PFM Act 2012 as read together with the Standing Order 227/7 requires that CFSP be considered and approved by 15th, that is today of every year. In this regard, it is expected that the Paper be approved not later than today Wednesday. However, the provision of section 125 of the PFM Act 2022 provides that the budget process of any county government begin with integrated development plan process, which shall include both long term and medium term planning.

Further the provision of section 104 of the County Government Act 2012 provides that a County Government shall plan for the County and no public funds shall be appropriated outside the planning framework developed by the County Executive Committee and approved by the County Assembly while section 108 clearly spells out that there shall be a five-year county integrated plan for each county which shall have clear goals and objectives. An implementation plan with clear outcomes and provisions for monitoring and evaluation.

Hon. Speaker, kindly protect me from the Majority Leader

Hon. Speaker: You are protected.

Hon. Wilfred Odalo: Than you, Sir. An implementation plan to which clear outcomes, provisions for monitoring and evaluation and clear reporting mechanism. Retreating that the provision of section 117 subsection 1 of the PFM Act dictates that the County Treasury shall align its County Fiscal Strategy paper with the National objectives in the public policy.

This provision of the law expects that an approval of BPS shall proceed consideration of the CFSP but the reality of our time is that the National Assembly is yet to dispense with its consideration of BPS making full legal compliance of a difficult House.

Consequently Hon. Speake, the comprehensive reading of the above provision leads the incapable conclusion that approval of the County Integrated Development Plan informs that the preparation of other key budget documents including the County Annual Development Plan and the County Fiscal Strategy Paper. It is however noted that the County Executive has not submitted the draft CIDP and the attendant ADP to the County Assembly for consideration and consequently approval therefore making the submitted CFSP not properly grounded. Therefore, it would be impractical to consider the submitted document and comply with the timeline set for today 15th March.

Hon. Speaker, this process would therefore not be realized within the limited time available for consideration of the CFSP hence the need to extend this deadline to make it possible to have a budget document that meets the aspiration of the County Government while maintaining the spirit of section 117, 125 of the PFM Act 2012 and section 104 of the County Government Act 2012. In doing this Mr. Speaker, I am guided by the provision of section 90 of the PFM Act 2012 which allows this House to extend timelines for consideration of documents submitted to it under that specific statue. The recent ruling on the Nairobi County Finance Act 2018 has indeed confirmed this.

In this regard therefore Hon. Speaker, I wish to beg this Assembly to agree with the committee on extension of this time as approved by this Assembly through its committee to do justice to the CIDP 2023 to 2027, ADP 2023-2024 and CFSP 2023.

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

Hon. Mark Mugambi: Thank you Hon. Speaker. I beg to second.

(Question proposed)

Hon. Speaker: Having no request, I call upon the mover to reply

Hon. Wilfred Odalo: Thank you Hon. Members for being patient and supporting such an important extension. I beg to reply.

(Question put and agreed to)

ADJOURNMENT

Hon. Speaker: Hon. Members, having concluded the business for today the House stands adjourned to 2:30 p.m. tomorrow and I direct that the House Business Committee sit at the rise of the Assembly. Thank you.

The House rose on 4.08 p.m.