



NAIROBI CITY COUNTY ASSEMBLY

OFFICIAL REPORT

Third County Assembly – Second Session

Tuesday 17th October 2023

The House met at 2.30 p.m.

[The Temporary Speaker (Hon. Diana Mwangangi) in the Chair]

PRAYER

Hon. Temporary Speaker: Hon. Members, you may be seated.

QUORUM

Hon. Temporary Speaker: Clerk, confirm quorum.

(The Clerk-at-the-Table confirmed there was no quorum)

Serjeant-at-Arms, ring the Bell for ten minutes.

(Quorum Bell was rung)

Deputy Minority Whip, Hon. Joyce Kamau, kindly assist in whipping the Members into the Assembly.

(The Clerk-at-the-Table confirmed, again, there was no quorum)

Pursuant to Standing Order No. 37 (2), Serjeant-at-Arms, ring the Bell for a further five minutes.

(Quorum Bell was rung)

The Hon. Members standing, kindly take your seats. Clerk, confirm if we have quorum.

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

Hon. Members, take your seats, we shall proceed.

COMMUNICATION FROM THE CHAIR

CAR REIMBURSEMENT

Hon. Members, in regards to the car reimbursement of Kshs.2.2 million and the subsequent tax, the Speaker shall give a comprehensive communication tomorrow at 2.30 p.m.

STATEMENTS

REQUEST FOR STATEMENT REGARDING IRREGULAR CONSTRUCTION OF COMMERCIAL STRUCTURES IN KILELESHWA WARD

Hon. Temporary Speaker: Hon. Robert Alai.

Hon. Robert Alai: Thank you, Hon. Speaker. Pursuant to Standing Order No. 47 (2) (c), I wish to request for a Statement from the Chairperson of the Sectoral Committees on Lands, Planning and Housing, and Environment and Natural Resources regarding alleged irregular construction of commercial structures in the County, particularly in Kileleshwa Ward.

Hon. Speaker. Part II of the Fourth Schedule of the Constitution of Kenya, 2010 determines that development planning is a function undertaken by both County and National Government. This involves, amongst other, regulation and control of housing and approval of developments based on existing laws, policies, guidelines and regulations.

Hon. Speaker, there are many cases where the County grants development approvals to developers without proper due diligence. Such irregularities are endemic with regards to approvals for business structures such as car washes and entertainment joints. Kileleshwa has been the most affected by developments that do not confirm to policy guidelines.

Hon. Speaker, protection of the environment. water and soil are functions performed by both National and County Governments and need to be taken into account while considering applications for development approval. For instance, the development of the nature of a shopping complex incorporating a car wash, car parking, rental shops and a lounge (common alias for a club) ...

(Loud consultations)

Hon. Temporary Speaker: Order, Members! Proceed.

Hon. Robert Alai: For instance, the development of the nature of a shopping complex incorporating a car wash, car parking, rental shops and a lounge (common alias for a club) along Ring Road within Kileleshwa was allegedly given a node to proceed despite bordering the botanically iconic Nairobi Arboretum and likely being on a riparian land.

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

- i. Whether the LR number 21941, as captured in planning and approval documents of the development, exist and is properly referenced;

- ii. Whether the said shopping complex obtained development approval from the County and if so, the criteria used in approving its construction;
- iii. Whether any public participation was conducted to pick the views of the nearby residents on the development;
- iv. Whether proper assessment was conducted to inform the security and environmental suitability of the project before its approval, and
- v. Policy and regulatory measures that the County has put in place to safeguard the welfare of residential estates in the face of marauding business interests.

Thank you, Hon. Speaker.

Hon. Temporary Speaker: Chairperson, Committee on Planning? Vice Chair? Do we have a Member of the Planning Committee to give an undertaking on behalf of the Committee on this matter? Hon. Osama.

Hon. Peter Maina: Thank you, Madam Speaker. I request that the Committee be given two weeks after we come after recess.

Hon. Temporary Speaker: Hon. Alai?

Hon. Robert Alai: Hon. Speaker, I think the recess is not going to affect Committee sittings, so, I ask for two weeks from today.

Hon. Temporary Speaker: Hon. Osama, you have heard what Hon. Alai has requested?

Hon. Peter Maina: Hon. Speaker, the Committee is so overwhelmed by Statements. We are committed with what we are doing and I know when given two weeks after recess, he will get what he wants.

Hon. Temporary Speaker: Hon. Alai, are you willing to accommodate the Committee in light of that explanation?

Hon. Robert Alai: Most obliged, Hon. Speaker.

Hon. Temporary Speaker: Hon. Alai, you have another request.

REQUEST FOR STATEMENT REGARDING ALLEGED IRREGULAR FELLING OF TREES IN KILELESHWA WARD

Hon. Robert Alai: Thank you, Hon. Speaker Pursuant to Standing Order No. 47 (2) (c), I wish to request for a Statement from the Chairperson of the Sectoral Committees on Environment and Natural Resources regarding alleged irregular felling of trees in the County, specifically in Kileleshwa Ward.

Hon. Speaker, environmental conservation and prevention of pollution by extension are some of the functions set out in Part II of the Fourth Schedule of the Constitution of Kenya, 2010 based on which this Assembly exercises oversight in line with Article 185 of the Constitution of Kenya, 2010.

Hon. Speaker, there is an established regulatory procedure to be followed by residents of Nairobi before embarking on cutting trees. However, some people exploit enforcement loopholes to cut vegetation and trees, contrary to the country's aspirations to enhance tree cover.

For instance, in Kileleshwa Ward, a piece of land (LR. No. 209/4501/4) that was previously illegally occupied by squatters has had big and old trees felled by unknown people in collusion with the Sub-County Administrator in order to irregularly erect structures.

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

- i. Whether proper procedure was followed in the felling of the trees on the said piece of land, including obtaining relevant approvals from the County;
- ii. Whether public participation was conducted in order to ensure that residents in the area gave their views before felling the trees and in anticipation of further developments on the said piece of land; and
- iii. Policy and regulatory steps that the County Executive has taken to protect existing tree and vegetation cover in the County in line with climate change mitigation efforts.

Thank you, Hon. Speaker.

Hon. Temporary Speaker: Chairperson, Environment and Natural Resources? Vice Chair, make the undertaking.

Hon. Cyrus Mubea: Madam Speaker, we beg to be given three weeks after recess.

Hon. Temporary Speaker: Hon. Alai, will you accommodate that?

Hon. Robert Alai: Hon. Speaker, I ask for a shorter time because the said piece of land is bringing lot problems and is a cause of security concern within the ward. So, I ask for urgent consideration of the same. Hon. Speaker, I kindly ask for two weeks.

Hon. Temporary Speaker: Vice Chairperson Environment, adjust your timings.

Hon. Cyrus Mubea: Then we can beg for two weeks after recess.

Hon. Temporary Speaker: Noted. Hon. Eutyclus Mukiri.

REQUEST FOR EXTENSION FOR CONSIDERATION OF CASE BEFORE THE COMMITTEE ON POWERS AND PRIVILEGES

Hon. Eutyclus Muriuki: Thank you, Madam Speaker. I wish to request an extension for consideration of the case before the Select Committee on Powers and Privileges.

Hon. Speaker, the Select Committee on Powers and Privileges is established pursuant to Section 15 of the County Assembly Powers and Privileges Act of 2017. The Committee is mandated to either of its own motion or as a result of a complaint made by any person, inquire into the conduct of a Member whose conduct is alleged to constitute breach of privilege.

Hon. Speaker, the Committee, at its meeting held on 4th October 2023, received a report alleging that on 13th September, 2023 the Member of the County Assembly for Lower Savanah Ward was assaulted by the Member of the County Assembly for Parklands/Highridge Ward within the precincts of the County Assembly.

Hon. Speaker, Section 15(5) of the County Assembly Powers and Privileges Act of 2017 provides that:

“The Committee of Powers and Privileges shall, either of its own motion or as a result of a complaint made by any person, inquire into the conduct of a Member

whose conduct is alleged to constitute breach of privilege in terms of Section 16, within fourteen days of receipt of complaint”.

Accordingly, the Committee is expected to conclude the inquiry by Wednesday 17th October 2023.

Hon. Speaker, the Committee having considered the complaint, resolved and inquired into the alleged assault of the Hon. Member for Lower Savanah Ward. The Committee is in the process of gathering evidence and has accordingly lined up witnesses on different dates to produce evidence necessary for the Committee to make informed recommendations.

Hon. Speaker, due to the number of witnesses invited to shed more light on the matter, the Committee has noted that the time provided will not be sufficient for it to conclusively inquire into the matter and make recommendations that are supported by evidence. In this regard, the Committee wishes to request an extension of two weeks to enable it to conclude on the inquiry.

Hon. Speaker, the Committee humbly seeks your indulgence on the matter.

Hon. Eutyclus Mukiri Muriuki, MCA, Member of the Select Committee on Powers and Privileges, Nairobi County. Thank you.

Hon. Temporary Speaker: The same is granted, you will proceed to table your request.

Point of Order

Hon. Temporary Speaker: Hon. Waithera Chege. Facilitate the communication device of the Hon. Member.

Hon. Waithera Chege: Thank you, Madam Speaker. I am standing on a point of Order under Standing Order No. 45 (2) (c). I can see the Chair of Environment is in the House today. I have a pending Statement for the last two and a half months.

Madam Speaker, you can use Standing Order No. 1 to request the Chair to confirm today when I am getting the answers. Thank you, Madam Speaker.

Hon. Temporary Speaker: Chairperson, Environment Committee, Hon. Silas Matara, addresses that concern.

Hon. Silas Matara: Thank you, Hon. Speaker. Before I make a commitment on when I am going to respond to the Statement, as chairpersons we have been having the challenge of summoning the CECs and the Chef Officers. In my Sector, there has been a change of a Chief Officer. That notwithstanding, I commit to bring the response to the Hon. Member by 1st November 2023, immediately after recess. Thank you, Hon. Speaker.

Hon. Temporary Speaker: Hon. Waithera Chege.

Hon. Waithera Chege: That is in order, Madam Speaker. However, I thought I had seen the Hon. Majority Leader in the House. The Constitution of Kenya has given committees powers to summon someone. We are not requesting for those summons, we are ordering that these people appear before the Committee. In the event that that they do not appear, then there are structures to that effect. Thank you, Madam Speaker.

Hon. Temporary Speaker: That is well noted. Chairperson, kindly note that the Statement requests made in this House are not in vain. You should take all the necessary measures to ensure that you respond within the time you undertook to do the same.

RESPONSE TO STATEMENT REGARDING
OPERATIONS OF THE CITY MAGISTRATE COURT

Hon. Temporary Speaker: Chairperson, Justice and Legal Affairs Committee?

Hon. Jared Ondieki: Thank you very much, Madam Speaker. I have a response in regards to a Statement which was requested by Hon. Nasra Nanda. I was requesting for your indulgence before I give the response because this matter was entirely touching on issues of our courts and the crisis we find ourselves in as far as court matters are concerned by virtue of it being transferred to Milimani. Madam Speaker, it is a very grave...

Hon. Temporary Speaker: Is Hon. Nasra in the House today? She is not in and we need her to confirm that she appeared before you and what you are tabling here was presented.

Hon. Jared Ondieki: I want to assure you, Madam Speaker, that she appeared before the Committee and was satisfied.

Hon. Temporary Speaker: What proof do we have that she appeared before your Committee?

Hon. Jared Ondieki: I will take your guidance on this matter.

Hon. Temporary Speaker: When did she appear before your Committee?

Hon. Jared Ondieki: I think it was last week.

Hon. Temporary Speaker: Which day?

Hon. Jared Ondieki: Like I have said, Madam Speaker, I will take your advice. It has been a tradition in this House that if a Member is not present, then we do not give the response. But I can assure you that she appeared before the Committee and she was satisfied.

Hon. Temporary Speaker: Let us give her a chance to appear tomorrow and you give the response.

Hon. Jared Ondieki: Madam Speaker, may be you can allow me to give a brief because I feel that it is very important for this House.

Hon. Temporary Speaker: Give the brief tomorrow.

Hon. Jared Ondieki: Thank you, most obliged.

Hon. Temporary Speaker: If she will not be present, we will take the necessary measures.

Hon. Jared Ondieki: Thank you, guided.

(Response to the Statement deferred)

Hon. Temporary Speaker: Hon. Chairperson of Health.

Hon. Maurice Onyango: Thank you, Madam Speaker. I doubt whether the Member who requested for the Statement is in the House. That is Hon. Geophrey Majiwa.

Hon. Temporary Speaker: From the look, I can see Hon. Majiwa is not in the House.

Hon. Maurice Onyango: Can you also confirm if Hon. Redson Otieno is in the House?

Hon. Temporary Speaker: Hon. Redson Otieno is also not in the House. The Whips present, kindly direct these Members to attend the Assembly tomorrow so that they can get their responses.

Hon. Maurice Onyango: Thank you, Madam Speaker.

Hon. Temporary Speaker: Tomorrow we expect responses to Statement requested by Hon. Nasra Nanda, Hon. Geophrey Majiwa and Hon. Redson Otieno. It is also important that when you request for a Statement and you know the response is being tabled in this House, attend the Assembly. The same way we are telling the chairpersons to do their job and bring the responses, is the same way we are also telling Members to be responsible for the Statements that they request.

MOTION

OPERATIONALIZATION OF THE SPORTS FUND

Hon. Temporary Speaker: Majority Leader, it is time for your Motion.

Hon. Peter Imwatok: Madam Speaker, allow me to ask for deferment of this Motion because my seconder, who is very valuable on this Motion, had asked me to defer it so that he can consult more because the Motion entails a very important component he wanted to be captured on the HANSARD. May be the Clerk can advise on which Standing Order I can use in order to defer this Motion through your guidance, Madam Speaker, if you allow me.

Hon. Temporary Speaker: Your seconder is not present today?

Hon. Peter Imwatok: Madam Speaker, not all days our brains work how it ought to. Allow me under the guidance of the Clerk to quote Standing Order No. 57 (1):

“The County Assembly Business Committee shall allot the time and sequence of the publication in the Order Paper of every Motion approved by the Speaker.”

Kindly allow me to revert it to the House Business Committee for a new allotment, with your kind permissions, Madam Speaker.

Hon. Temporary Speaker: That is noted, the deferment is allowed and will be allocated the appropriate time by the Assembly Business Committee.

(Motion deferred)

ADJOURNMENT

Hon. Temporary Speaker: Hon. Members, we will adjourn at this point until tomorrow, Wednesday 18th October 2023 at 2.30 p.m.

The House rose at 3.21 p.m.