



## NAIROBI CITY COUNTY ASSEMBLY

### OFFICIAL REPORT

#### Third County Assembly – Second Session

Thursday 27<sup>th</sup> April 2023

The House met at 2.30 p.m.

*[The Temporary Speaker (Hon. Malyun Abdi) in the Chair]*

#### PRAYER

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

#### QUORUM

**Hon. Temporary Speaker:** Clerk, confirm if there is quorum.

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

**Hon. Temporary Speaker:** We do not have quorum. Pursuant to Standing Order 37 (2), I instruct the Serjeant-at-Arms to ring the [quorum] bell for 10 minutes.

*(Quorum bell was rung)*

I direct the bell to be rung for a further five minutes. Serjeant-at-Arms!

*(Quorum bell was rung)*

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

Order, Members! Clerk.

#### COMMUNICATION FROM THE CHAIR

##### CONCLUSION OF PENDING STATEMENTS

**Hon. Temporary Speaker:** Hon. Members, I have the following communication to convey; the conclusion of the pending statements.

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You may recall that yesterday the Hon. Speaker gave an undertaking to issue direction on pending statements. Hon. Members, pursuant to Article 185 (3) of the Constitution of Kenya, 2010, “A county assembly, while respecting the principle of the separation of powers, may exercise oversight over the county executive committee and any other county executive organs.”

Hon. Members, statements are among opportunities through which the Assembly exercises its oversight over the Executive functions. The Chair wishes to note and appreciate the zeal with which Members have leveraged the statements to obtain information and answers from the County Executive on crucial issues in the County. However, the Chair has noted with concern the delay in responding to the statements by the committees, lack of responses from Executive and poor management of the responses on the floor.

Hon. Members, after an audit of all the statements from the First Session to date, the Chair wishes to note that there are pending responses to the statements of the last Session and First Session 2022, which have a total of 46 pending statements, while in this second session, we have a total of 15 pending statements. In total, we have 61 pending statements from the First Session to the current Session.

Hon. Members, as you continue working with indulgence you have exhibited in executing your oversight mandate for the benefit of Nairobi residents, I hereby direct that the chairpersons with the pending statements from the First Session to date, should work with speed to disperse all statements in their respective committee and give a status report on this Assembly by Thursday 8<sup>th</sup> June 2023. Every Chair will be called upon to give his or her respective report. The Chairpersons who fail to observe the ongoing direction must report to the Select Committee on Liaison the reason for such failure on time for the County Assembly leadership to make necessary action on the same.

Hon. Members, the Chair commits to follow up on the ongoing to ensure all pending statements are responded to conclusively. Thank you.

## PAPERS

### REPORT OF LABOUR AND SOCIAL WELFARE COMMITTEE ON A WORKSHOP AT MAXLAND HOTEL

**Hon. Temporary Speaker:** Chair, Labour and Social Welfare? Hon. Matara, please come forward and lay the Papers. Proceed.

**Hon. Allan Gathuku:** Madam Speaker, pursuant to Standing Order 196, I beg to lay the following Paper on the table of this Assembly, today, Thursday 27<sup>th</sup> April 2023:

The report of the Sectoral Committee on Labour and Social Welfare on a workshop held from 16<sup>th</sup> - 19<sup>th</sup> March 2023 at Maxland Hotel, Kiambu County.

Thank you, Madam Speaker.

*(The Paper was laid on the Table)*

### REPORT OF ENVIRONMENT AND NATURAL RESOURCES COMMITTEE ON A WORKSHOP HELD AT MAXLAND HOTEL

**Hon. Temporary Speaker:** Chairperson, Environment and Natural Resources

**Hon. Silas Matara:** Thank you, Hon. Speaker for this opportunity. Pursuant to Standing Order 196, I beg to lay the following Paper on the table of this Assembly, today, Thursday 27<sup>th</sup> April 2023:

The report of the Sectoral Committee on Environment and Natural Resources on a workshop held from 16<sup>th</sup> -19<sup>th</sup> March 2023 at Maxland Hotel, Kiambu County.

*(The Paper was laid on the Table)*

**Hon. Temporary Speaker:** Clerk!

## STATEMENTS

### REQUEST FOR STATEMENT REGARDING STRUCTURAL ENCROACHMENT OPPOSITE JTM CHURCH IN UPPER SAVANNAH

**Hon. Temporary Speaker:** Hon. Redson Otieno.

**Hon. Redson Onyango:** Pursuant to Standing Order 47 (2) (c), I wish to request for a Statement from the Chairperson of the Sectoral Committee on Lands, Planning and Housing regarding a structural encroachment by a private developer opposite JTM Church in Upper Savannah.

Hon. Speaker, Section 10 of the Nairobi County Nuisance Act, 2021 provides that no person shall attach, erect or permit erection of any object from or alongside any street in such a manner as to protrude over into a street without a permit from the County.

Hon. Speaker, structural encroachment occurs when a property owner builds or structure extends to a public land/road. There have been numerous complaints from the residents of Nairobi regarding several establishments encroaching on public land while constructing their premises.

Hon. Speaker, the said private developer has illegally constructed his premises on an encroached parcel of land.

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

- i. Whether the County Executive issued construction approval to the said private developer;
- ii. Reason why the County Executive has not taken any action against the private developer for encroaching on public land; and
- iii. Measures the County Government has put in place to ensure that private developers do not encroach on public land.

**Hon. Temporary Speaker:** Chairperson, Lands, Planning and Housing? The Vice Chair? Please respond to the Statement request by Hon. Redson Onyango.

**Hon. Alvin Palapala:** I am sorry I have come in late and do not know who asked the question. Can they kindly repeat?

**Hon. Temporary Speaker:** I kindly request Hon. Redson Onyango to kindly go through the Statement since the Chairperson has arrived late and apologized for that.

*(Hon. Redson Onyango read the Statement again)*

**Hon. Alvin Palapala:** Thank you, Madam Speaker. I was aware of the matter even before the Hon. Member brought it to the House. It is a matter that needs urgency. I request for two weeks after recess.

**Hon. Temporary Speaker:** Hon. Redson.

**Hon. Redson Onyango:** It is okay.

### REQUEST FOR STATEMENT REGARDING HARASSMENT OF HAWKERS

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## OPERATING WITHIN THE CBD

**Hon. Temporary Speaker:** Hon. John Mwaniki

**Hon. John Kwenya:** Hon. Speaker, pursuant to Standing Order No. 47 (2) (c), I wish to request for a Statement from the Chairperson of the Sectoral Committee on Justice and Legal Affairs regarding harassment of hawkers operating within the Central Business District---

**Hon. Temporary Speaker:** Order, please! Hon. Mwaniki, according to information on my desk, you are supposed----

*(The Clerk-at-the-Table consulted the Speaker)*

Sorry.

**Hon. John Kwenya:** Thank you. Let me repeat, Hon. Speaker. Pursuant to Standing Order No. 47 (2) (c), I wish to request for a Statement from the Chairperson of the Sectoral Committee on Justice and Legal Affairs regarding harassment of hawkers operating within the Central Business District.

Hon. Speaker, small scale traders have been recognized to contribute immensely to the economy of the County and the country by extension. Indeed, the need to empower and uplift them is well captured in the incumbent Government manifesto for they form the majority of the potential economic forces in the recent economic forecast. However, a big number of them face challenges such as lack of sufficient capital, access to credit and harassment by authorities for alleged non-compliance

Hon. Speaker, hawkers in Nairobi City County operate on streets because this is where they can reach their clients easily in order to sell their merchandise. The County Executive has from time to time made promises of providing proper mechanisms to address the plight of hawkers, including construction of adequate markets. The most recent was by the County Executive Committee Member for business and hustler opportunities, to designate lanes for the hawkers which is taking long than expected. Because of this, the inspectorate officers take advantage of lack of proper structures to harass them by confiscating their merchandise without returning them. They allegedly take them to children's' homes within the County. Section 29 of the Nairobi City Inspectorate Act, 2017 outlaws torture or other cruel inhumane and degrading treatment of persons.

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

- i. Whether the County Executive is in process of formulating of regulations to streamline the operations of hawkers in the County;
- ii. The mechanisms applied by the County Inspectorate officers in confiscating merchandise belonging to hawkers; and
- iii. Measures that the County Executive has put in place to ensure that the Inspectorate officers enforce County laws without harassment and ill treatment of hawkers.

Thank you, Hon. Speaker.

**Hon. Temporary Speaker:** Chairperson, Justice and Legal Affairs.

**Hon. Jared Ondieki:** Madam Speaker, thank you very much. I give an undertaking of two weeks after recess. I also want to advise the Hon. Member without debating that he advises the hawkers to trade in their specific areas allocated to them. This will help the County in ensuring that the designated areas are not passed. We will look into the matter in the next two weeks after recess. Thank you very much.

**Hon. Temporary Speaker:** Hon. Kwenya.

**Hon. John Kwenya:** It is okay. Thank you.

**Hon. Temporary Speaker:** Next Order!

## MOTION

### ALLOCATION AND MANAGEMENT OF LOADING ZONES WITHIN THE CITY

**Hon. Temporary Speaker:** Hon. Paul Kados

**Hon. Paul Kados:** Thank you, Hon Speaker, I beg to move the following motion:

THAT, aware that Articles 209 and 210 of the Constitution of Kenya 2010, grants powers to County Governments to impose, vary or waiver taxes, fees, levies and other charges in order to raise revenues to fund both their recurrent and development programs; further aware that, Nairobi City County boasts of several revenue streams key among them being parking fees which include loading zones yet there has been gross underperformance as regards the county's annual revenue collection vis a vis its annual expenditure; noting that, in successive financial years, the County Government has continuously lost revenue from loading zones due to non-payment by entities using them i.e. both private and government institutions; further noting that, the County Treasury does not have information on the number, location and the designated users/beneficiaries of all loading zones in the City; concerned that, the responsible County Government Officers fail to enforce measures aimed at collecting revenue from the loading zones due to compromise, corruption, negligence and a weak legal framework on loading zones; recognizing that maximum revenue collection is one of the foundations needed to buttress sustainable economic growth; this Assembly resolves that the County Government: -

- i) Identifies, automate and clearly mark all loading zones within the City and submit a comprehensive report on the identified loading zones to this Assembly within sixty (60) days of adoption of this Motion;
- ii) Repossess all loading zones with outstanding balances until the balances are cleared by concerned parties/beneficiaries;
- iii) Develops a legal frame work either in form of a legislative proposal or regulations on allocation and management of loading zones and submit the same to this Assembly for approval within sixty (60) days of adoption of this motion; and
- iv) Suspend any allocation or renewal of allocated loading zones until the aforementioned legal framework is enacted and/or operationalized.

Hon. Speaker, tax collection is a fundamental way for the County of Nairobi to generate revenue which further facilitates financial investment that improve the provision of services to the people of Nairobi. The Nairobi City County Transport Act, 2020 provides for designated loading zones and unloading zones for both commercial vehicles and private vehicles for reasonable period and a defined fee.

The Nairobi City County Fiscal Strategy Paper, 2023 observes that parking is key revenue earner to the County Government. Further, it reveals that the County earned – Hon. Speaker you should note this – Kshs.2.3 billion in the financial year 2015/2016, which has steadily declined to Kshs.1.8 billion in the last financial year 2021/2022. Additionally, there is a medium term projection that collection for the financial year

2023/2024 shall clock Kshs.3 billion. Loading zones are projected to contribute around Kshs.220 million to the total revenue from parking fees. However, with the current laxity on enforcement and lack of database of loading zones, this target may remain a pipe dream.

The challenges facing collection of revenue from the loading zones can be attributed to factors such as: -

- Poor administrative capacity to enforce fee collection;
- Poor administrative capacity to access the revenue base;
- Explicit of intentional fee evasion and resistance; and
- Incapacitated legal framework.

Hon. Speaker, the efficient allocation and management of loading zones is crucial to the smooth functioning of any urban environment. Loading zones are essential for safe and efficient delivery of goods and services to businesses. However, lack of proper allocation and management of loading zones can cause traffic congestion, road safety issues and inconvenience to the public.

Hon. Speaker, the County Executive should undertake a comprehensive survey to identify all loading zones in our City since this will enable proper planning and implementation measures to ensure efficient use of loading zones. Subsequently, the Government should consider the automation of loading zones and prevent illegal parking and misuse of the loading zones. This will improve the efficiency of loading zones and reduce congestion.

Hon. Speaker, as Members of this Assembly, we should strive to create systems that improve the capacity of service delivery to our people as well as creating financial revenue streams. To mitigate these challenges, we should push for: -

1. Tougher laws to check businesses and people evading paying loading zone fees;
2. Put in place mechanisms to address inaccuracies such as automating fee billing to optimize revenue collection from loading zones; and
3. Train enforcement officers and sensitize them to the need to uphold ethics.

Therefore, Hon. Speaker, I urge this Assembly to pass this Motion as it will achieve considerable success in mitigating against revenue loss. Hon. Speaker, I call upon Hon. Akama to second this Motion.

**Hon. Jared Ondieki:** Thank you very much, Madam Speaker. I rise to second this very important Motion. I want to congratulate my senior, Hon. Kados, for these well-thought-out Motion. The objective is to realize an increase in revenue collection in this County.

Hon. Speaker, as it stands, we are losing a lot due to the loopholes in terms of enforcement and the people in charge, the management, should put measures to ensure that we are not losing a lot of money in this case. Just as Hon. Kados has noted, that for instance in 2015/2016, the revenue collection was almost Kshs.2.5 billion. Traditionally, revenues are supposed to increase over the years, but as you can see, the trend has been downwards from very lucrative sector. Therefore, I am hoping that we are going to take this matter very seriously.

Even as we were going through this very important Motion, Hon. Speaker, we noticed some loopholes. A person can pay for one loading zone, and once this person has paid, he is given a leeway of even five or six loading zones. What does that imply? Corruption has taken root in this particular sector.

Therefore, we are calling upon the Executive to ensure that there is speedy action to ensure that these loopholes are sealed so that we collect enough revenue. Without enough revenue, we will not be in a position to serve Nairobian better. I want to believe that this particular Motion seeks to ensure that there is more revenue collection in the County so that Nairobian can get the services they deserve.

Therefore, Madam Speaker, I rise to second and hope that this Motion will see the light of day. Thank you.

*(Question proposed)*

**Hon. Temporary Speaker:** Hon. Silas Matara.

**Hon. Silas Matara:** Thank you, Hon. Speaker, I rise to humbly support this Motion and congratulate our senior, the Deputy Speaker for this well-thought-out Motion because it will ensure efficiency in terms of handling the needs of the business owners who normally get to lease these loading zones.

First, the Member has spoken about review of policy and regulations or coming up with new laws in terms of how the loading zones are going to be governed. Taking into consideration the realization that the current loading zones are inadequate, we need a system that clearly lays out the ratio of loading zones vis-à-vis the other parking slots that are left for taxis and Nairobian who get to visit the City Center to park their vehicles. You have seen there is an increase of commercial entities in Nairobi. Previously, these loading zones were being taken up by supermarkets for offloading of their wares, and other big businesses. Even if you walk outside the Assembly, we have stalls selling various wares. So, we need policies that clearly lay out what the ratio is, e.g. 10 to 100. In as much as revenue is important to the County, we don't lease out most of the parking spaces to businesses.

Second, when the Executive is going to come up with the policy, there is a problem of people leasing out or getting these loading zones but they use them commercially by renting out to people on hourly basis, which is really a problem. So, we should have strict measures put into place to ensure that once someone has leased a loading zone, it is purely for the purposes that he has leased it for to serve that business.

Hon. Speaker, there has been an increase in the number of vehicles that we import and most of them end up in Nairobi. We import roughly 9000 vehicles in a month, according to the records of the NTSA. So, this Motion has come at the right time so that we are able to serve the people who own these businesses to ensure that the turnaround of vehicles parking and having to offload is reduced.

Then there is an issue about people who apply for loading zones but they lease them out to matatus. You find matatus using the same loading zones. There is a question of a review of those policies to ensure that they are aligned to the current dynamics of the City. For example, for a loading space for a particular vehicle, what is the rate that is going to be charged so that we do not use the previous rates. When doing calculations in terms of revenue, we need to know whether loading zones gives us more revenue or we allow other people to use those spaces in parking their cars. Thank you.

**Hon. Temporary Speaker:** Hon. Diana Mwangangi.

**Hon. Diana Mwangangi:** Thank you, Madam Speaker. I must admit that the Motion has already received constructive support from Hon. Akama and Hon. Matara, but nevertheless, I can put my one or two lines to support the Motion. This is a matter of order and of collection of revenue. It is a matter of order in the sense that it will ensure that loading zones and parking zones in this City are allocated or are used according

to a laid legal framework. It is a matter of revenue because when you have that order, it will be simpler to collect the much needed revenue. It is this revenue that will also enable the Governor of this County to deliver his manifesto because nothing can be delivered without proper collection of revenue.

I have here that one of the recommendations of this Motion is the development of a legal framework to back the Motion. Indeed, this is a good thought. After we have developed all these things, I hope the legal framework will also provide for mechanisms of monitoring the compliance with the laid down procedure to ensure that things are not just passed on paper and are not implemented according to the law. With those few words, Madam Speaker, I beg to support this Motion.

**Hon. Temporary Speaker:** Hon. Hamisi Maleya.

**Hon. Hamisi Maleya:** Thank you, Madam Speaker, I rise in support of this Motion. As Hon. Members of this House, ours is to assist the County Government of Sakaja in raising revenue. But of late, I have realized some shops selling clothes being allocated almost three to four loading zones. I tend to wonder, what are the loading zones meant for? As you drive around looking for a space to park in town, you will realize that private security guards have made it a way of generating funds; you will be called and signage is removed and you park at a fee, that fee goes directly to somebody's pocket.

As we pass this Motion, we would want the policy to be clear on what kind of business should be allocated loading zones. In support of this, I say thank you Madam Speaker for giving me this opportunity.

**Hon. Temporary Speaker:** Hon. Jeremiah Karani Themendu.

**Hon. Jeremiah Themendu:** Thank you, Madam Speaker, I rise to support the Motion and congratulate the Deputy Speaker for the good Motion. I am aware that there are so many loading zones, sometimes they are vacant. As Nairobi County, we need funds so that we can be able to do projects and many other services to Nairobians.

Hon. Speaker, we had another Motion here concerning taxis and other online taxi hailing companies which do not have designated areas to drop off and pick up passengers. But if you go along the streets of Nairobi, you can see that those loading zones are so many. They should pay revenue to the County of Nairobi. Thank you.

**Hon. Temporary Speaker:** Hon. Emmy Khatemeshi Isalambo.

**Hon. Emmy Isalambo:** Thank you, Madam Speaker. First, let me congratulate the Deputy Speaker for such a fantastic Motion. I think if we go as per the maiden speech of our Governor, Hon. Sakaja, it will be a good move. If we automate this issue of parking, for example charging vehicles on hourly basis, we will realize a lot of revenue for the County. This will even discourage hawkers from setting up their wares in the parking lots, and if they want to do so, they will have to pay. This is going to bring revenue to Nairobi. As we promised Nairobians, we will serve them make Nairobi green city in the sun. I rise to support the Motion. Thank you.

*(Applause)*

**Hon. Temporary Speaker:** Deonysias Mwangi Waithera.

**Hon. Deonysias Mwangi:** Thank you, Hon. Speaker for this chance. I rise to support and salute our senior and our Deputy Speaker, Hon. Kados for such a well thought Motion. It is our mandate as Assembly to make sure that the County collects enough revenue to give services to the Nairobians. Unfortunately, you



find a lot of illegal channels milking the money on behalf of the County, these loading zones being one of them. We know that these loading zones have cartels who collect money on the behalf of the County. You will find even some business owners owning some parking spaces like it is private area, which is very unfortunate. I beg to support. Thank you.

**Hon. Temporary Speaker:** The mover to reply.

**Hon. Paul Kados:** Thank you, Hon. Speaker. I register my gratitude to Members of this Assembly for the support they have given this Motion. Supporting this Motion will go a long way in improving the revenue for this County.

Hon. Speaker, this County used to collect around Kshs.2.3 billion in the FY 2015/2016. Seven years down the line, it has gone down by around Kshs.500 million. That shows there is a lot of negligence because loading zones are increasing every day. In 2015, we did not collect anything beyond Ngara, but now we collect even from our estates yet the revenue is going down. So, there is a lot of negligence.

Hon. Speaker, with those few remarks let me congratulate all Members of this Assembly for the support they have given this Motion. With those few remarks, I beg to reply. Thank you.

*(Question put and agreed to)*

#### **ADJOURNMENT**

**Hon. Temporary Speaker:** There being no other business, Hon. Members, the House stands adjourned till Tuesday 2<sup>nd</sup> May 2023 at 2:30 p.m. Thanks for your cooperation

**The House rose at 3:57 p.m.**