



NAIROBI CITY COUNTY ASSEMBLY

OFFICIAL REPORT

Third County Assembly – Second Session

Tuesday 28th November 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 now be seated.

QUORUM

Clerk please confirm quorum.

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

Serjeant-at-Arms, please ring the bell for 20 minutes.

(Quorum Bell was rung)

Hon. Members, the House is fully constituted, we can start the business.

NOTICE OF MOTION

Hon. Temporary Speaker: Order, Hon. Members! The sequence of the proceedings according to Standing Order No. 43 (2):

“Business shall be disposed of in the sequence in which it appears in the Order Paper or in such other sequence as the Speaker may, for the convenience of the County Assembly, direct.”

I therefore want to issue a communication.

COMMUNICATION FROM THE CHAIR

WELCOMING DELEGATES FROM KISUMU COUNTY ASSEMBLY

Hon. Members, I have the following communication to convey:

Hon. Members, today's sitting is graced by a delegation drawn from the Membership and the secretariat of the Select Committee on House Business of the County Assembly of Kisumu City, which is seated at the Speaker's Gallery. The delegation is here to bench mark with us, specifically with its counterpart Committee in our Assembly.

Hon. Members, the delegation comprises of the following:

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|-----|----------------------|-----------------------------|
| 1. | Hon. Elisha Oraro | The Speaker |
| 2. | Hon. Nareah Okobo | Deputy Speaker |
| 3. | Hon. Seth Okumu | Member and 1st Panel Member |
| 4. | Hon. Jenifer Obonyo | Deputy Whip |
| 5. | Hon. Lumumba Owade | Deputy Majority Leader |
| 6. | Hon. Carren Odhiambo | 3rd Panel Member |
| 7. | Hon. Eunice Atandoh | Member |
| 8. | Pst. David Ochieng | Senior Clerk Assistant |
| 9. | Ms. Angelyn Obonyo | Clerk Assistant |
| 10. | Ms. Judith Omollo | Serjeant-at-Arms |
| 11. | Ms. Jessica Otieno | Hansard Reporter |

(Applause)

I take this opportunity on behalf of the County Assembly of Nairobi to extend a warm welcome to our distinguished guests and to appreciate them for finding it appropriate to benchmark with us and to share experiences. I wish you all the best in your engagements with our Assembly Business Committee and the Assembly by extension.

Thank you, Hon. Members. You are welcome.

NOTICE OF MOTION

Hon. Temporary Speaker: We are now on Notices of Motion. Hon. Waithera Chege.

Hon. Waithera Chege: Thank you, Madam Speaker. I was wondering whether we have followed the Order Paper.

Hon. Temporary Speaker: I previously stated that we have not followed the sequence.

AMENDMENT OF THE EXISTING COUNTY URBAN HOUSING RENEWAL AND REGENERATION POLICY

Hon. Waithera Chege: Thank you, Madam Speaker. I beg to give notice of the following Motion:

THAT, aware that Article 43 (1) (b) of the Constitution of Kenya, 2010 provides for the right of every person to accessible---

Hon. Temporary Speaker: Order, Hon. Members! There is a lot of movement.

Hon. Waithera Chege: Thank you, Madam Speaker. --- and adequate housing, and to reasonable standards of sanitation;

FURTHER AWARE THAT, Paragraph 8 of Part II of the 4th Schedule to the Constitution of Kenya, 2010 provides for the functions of the County Planning and Development, including housing, are vested in the County Government;

NOTING THAT, Nairobi City County Government owns various estates in the various parts of the County, such as Jamhuri in Woodley, Ngara in Starehe, Huruma, Jericho, amongst others;

CONCERNED THAT, most of the estates are in dilapidated conditions and lack clear management framework;

ACKNOWLEDGING THAT, the County has initiated the Urban Renewal Programme aimed at developing decent affordable housing units, particularly in the County owned estates;

FURTHER ACKNOWLEDGING THAT, the County developed the County Urban Housing Renewal and Regeneration Policy, which provides for the general promotion of housing;

THIS ASSEMBLY URGES the County Executive to amend the existing County Urban Housing Renewal and Regeneration Policy to provide for the management of County Government owned estates, including maintaining best practices in estate management, maintain and update a comprehensive County Government Housing Inventory and protect County Government ownership in properties.

Thank you, Madam Speaker.

Hon. Temporary Speaker: Thank you. Hon. Samora Mwaura? Hon. Sospeter Mumbi? Clerk!

STATEMENTS

Hon. Temporary Speaker: Hon. Clarence Munga? Anthony Kimemia?

REQUEST FOR STATEMENT ON ALLEGED INADEQUATE PUBLIC PARTICIPATION DURING THE ROLL OUT OF THE COUNTY AFFORDABLE HOUSING PROGRAMME IN JERICHO, HARAMBEE WARD

Hon. Antony Gathumbi: Thank you very much, Madam Speaker. I have a Statement request.

Hon. Speaker, pursuant to Standing Order No. 47 (2) (c), I want to request for a Statement from the Chairperson of the Sectoral Committee on Planning and Housing on alleged inadequate public participation during the roll out of the County Affordable Housing Programme in the County, specifically in Jericho in Harambee Ward.

Hon. Speaker, the County Governments Act Section 94 and 95 provides that counties are to establish mechanisms to facilitate public communication and access to information with the largest county outreach using media, as per Section 33 (g) of the County Governments Act. The Government should promote and provide citizen participation in the development of policies and

plans, and service delivery in the County. Additionally, Section 4 (2) (g) of the County Governments Act provides that The County Executive Committee should bear in mind the need to all participatory decision making.

Hon. Speaker, Jericho Estate was built between 1961 and 1962 by the Israeli Government and later handed to the National Government of Kenya, who it is alleged were to be trustees on the behalf of other occupants for a period of 22 years. During this period, the occupants were to pay for service charge. The government was allegedly to surrender the houses to the occupants after 22 years, but up to date, this has not been the case. Instead, there are plans to develop affordable housing in these estates without the involvement of the current occupants.

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

1. Why the residents of Jericho were not involved in the public participation from the onset, and the one recently done, the notice was too short for the residents to attend;
2. How effective was the public participation considering that the concerned residents were not involved;
3. The criteria the County Executive is using to disseminate information for public participation on the issues of Government project on Affordable Housing;
4. Why the County Executive earmarked Jericho as one of the estates to construct affordable housing in due disregard of the previous existing agreements between Kenya and the Israeli Government; and
5. Measures that the County Executive is taking to ensure that the agreement between Kenya and Israel is adhered to.

Thank you, Madam Speaker.

Hon. Temporary Speaker: Chairperson, Planning and Housing Committee.

Hon. Alvin Palapala: Thank you, Madam Speaker. We request for three weeks because we have other matters before us.

Hon. Temporary Speaker: Is that after recess because we are going for recess from next week?

Hon. Alvin Palapala: Yes, after recess.

Hon. Temporary Speaker: Hon. Member?

Hon. Antony Gathumbi: Most obliged, I will wait. Thank you.

Hon. Temporary Speaker: Thank you. Hon. Joseph Ndung'u? Hon. Joyce Muthoni?

Hon. Joyce Kamau: Madam Speaker, I am not aware I have a Statement.

Hon. Temporary Speaker: You have a Statement according to the Speaker's Brief. Please consult the Clerk.

REQUEST FOR STATEMENT REGARDING BANNING OF HAWKERS FROM OPERATING WITHIN THE CBD

Hon. Joyce Kamau: Thank you, Madam Speaker. Pursuant to Standing Order No. 47 (2) (c), I wish to request for a Statement from the Chairperson of the Sectoral Committee on Trade,

Tourism and Co-operatives regarding banning of hawkers from operating within the Central Business District (CBD).

Hon. Speaker, on 25th October 2023, His Excellency the Governor of Nairobi City allegedly launched an operation to force out hawkers from selling items from the streets of the CBD. While addressing officers drawn from Security and Compliance Department, the Governor stated that commencing Tuesday 26th October 2023, there will be an operation to enforce the said directions.

Hon. Speaker, from history, Members of this Assembly and the public alike are familiar with the models of operation of the City askaris when enforcing County laws. Recently, hawkers have been treated to inhumane operations that have prompted one of us to ask for a Statement on the same.

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

1. Whether the hawkers were given adequate notice to adjust to the new order by the Governor;
2. Whether the County Executive has put in place any safeguards to ensure that the operation will be executed in a humane manner devoid of harassment;
3. Whether there are any special arrangements and concessions for the hawkers to operate within the CBD;
4. Whether the County Executive has provided alternative trading spaces for the hawkers; and
5. Whether the County has put in place any long term infrastructural and regulatory measures to accommodate hawking in the County.

Thank you.

Hon. Temporary Speaker: Chairperson Trade, the Vice Chair? Any Member of the Committee?

Hon. Emmy Isalambo: Thank you, Madam Speaker. We request for two weeks after the recess because it requires a lot of interrogation from the Executive side. Thank you.

Hon. Temporary Speaker: Hon. Joyce, are you okay with that?

Hon. Joyce Kamau: Madam Speaker, I am not satisfied, but because we are going for recess, I don't have any other option but to accept. We have next week and then one week after recess.

Hon. Temporary Speaker: Now that we do not have the Chair and the Vice Chair, the Member is holding brief for them. They will give you a response in writing.

Hon. Joyce Kamau: Okay.

Hon. Temporary Speaker: Hon. Peter Maina? Hon Redson Otieno?

REQUEST FOR STATEMENT REGARDING THE STATUS OF THE CITY COURTS, STAFF AND THE REVENUE COLLECTED BY THE CITY COURTS SINCE AUGUST 2022

Hon. Redson Onyango: 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 Committee on Justice and Legal Affairs regarding the status of the City Courts, staffers and the revenue collected by the City Courts since August 2022.

Hon. Speaker, as you are aware, the Judiciary issued a notice on 28th September 2023 communicating to the public the transitioning of County cases to the Judiciary and registration of the cases in the case tracking system. The notice further communicated that cash bail and fines will be paid at Milimani Law Courts after issuance of an invoice at the Milimani Law Courts, County Registry Counter.

Hon. Speaker, the Judiciary directed that City Hall Court be relocated to Milimani where it will undertake its operations. The Judiciary further issued clear guidelines that the staff handling court matters shall be staffed by the Judicial Service Commission, therefore rendering County staffers initially working at County Courts, jobless.

Hon. Speaker, the Judiciary has been collecting fines arising from the enforcement of the County legislation and remitting the same to the National Treasury, therefore denying the County revenue since there lacks a revenue sharing formula between the two entities.

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

1. A copy of the memorandum of understanding between the Judiciary and the Council of Governors regarding the matter;
2. A comprehensive report stating the number of cases charged since August 2022 and proof of payment paid to the County;
3. Whether the County Executive has put in place measures to ensure that a revenue sharing framework is put in place to ensure that the county does not lose any form of its revenue streams; and
4. The employment status of the County officers who initially worked at the City Courts.

Hon. Temporary Speaker: Hon. Redson Otieno, you have two statements. You still have another statement regarding the Marie Stopes Clinic.

Hon. Redson Onyango: 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 Planning and Housing regarding the number of approved building plans since August 2022.

Hon. Speaker, Nairobi City County is the capital and---

Hon. Temporary Speaker: Hon. Member, I am asking about the previous statement that you have just made; was it for Health or Housing Sector?

Hon. Redson Onyango: It was for Justice and Legal Affairs Sector.

Hon. Temporary Speaker: The one you are reading now is for Planning Committee?

Hon. Redson Onyango: Yes.

Hon. Temporary Speaker: The Chair for Justice and Legal Affairs to respond.

Hon. Jared Ondieki: Thank you, Madam Speaker. I am happy the Member has raised the important statement. Owing to the fact that this matter is grave and urgent, I am willing to burn

the midnight oil to ensure that this matter is dispensed. Let me break the tradition of two weeks, to respond by Wednesday next week.

Hon. Temporary Speaker: We are going for recess on Thursday next week.

Hon. Jared Ondieki: I am saying that this matter needs to be addressed before we go for recess because it is a grave matter as it is affecting this House directly in terms of the laws we pass here, and how they are being enforced and prosecuted. Madam Speaker, I will make sure that this matter is dispensed with before we go for recess on Wednesday next week.

Hon. Temporary Speaker: Thon. Member, are you satisfied with this?

Hon. Redson Onyango: I am satisfied.

REQUEST FOR STATEMENT REGARDING NUMBER
OF APPROVED PLANS SINCE AUGUST 2022

Hon. Redson Onyango: 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 Planning and Housing regarding the number of approved plans since August 2022.

Hon. Speaker, Nairobi City County is the capital and largest city in Kenya, and it is also the most populous county in the country. The city is rapidly growing and has experienced significant urbanization over the last few years. With the growing population, there is a need for new and improved infrastructure, commercial buildings, and residential homes, as well as a continuous structural audit to ensure that all buildings are structurally sound and conducive to habitation.

Hon. Speaker, it is also notable that there have been various complaints regarding the County Executive delaying approvals of building plans despite having set timelines for their consideration and reporting.

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

1. A comprehensive report on the number of building plans that have been approved by the County Executive since August 2022, and the total revenue generated from the approvals;
2. A report with the names of the committee that has been mandated to consider and make approvals, the officer in charge, and whether the said committee has been reshuffled since August 2022; and
3. A comprehensive report on the number of building plans that have not been approved and reasons for rejection.

Hon. Temporary Speaker: Chairperson Lands.

Hon. Alvin Palapala: I thank the Hon. Member for the good observation. I think he knows we are on it. I want to follow whatever my colleague has said, on Thursday next week before we go for recess, I will come with comprehensive answers here. Thank you.

Hon. Temporary Speaker: Hon. Member, are you satisfied with the response?

Hon. Redson Onyango: Hon. Speaker, for the first time, I have been satisfied. So, I will be waiting for it on Thursday.

Hon. Temporary Speaker: Thank you. Hon. Kennedy Oyugi? Clerk!

Point of Order

Hon. Temporary Speaker: Hon. Waithera Chege.

Hon. Waithera Chege: Thank you, Madam Speaker. I am on a Point of Order under Standing Order No. 47 (2) (c). I want you to invoke Standing Order No.1 to request Hon. Akama give the response on my Statement by the end of the day tomorrow. Thank you, Madam Speaker.

Hon. Temporary Speaker: Yes, it is also in the Speaker's Brief. Chairperson, Justice and Legal Affairs.

RESPONSE TO STATEMENT REGARDING MANHANDLING OF HAWKERS
BY THE CITY INSPECTORATE OFFICERS IN THE COUNTY

Hon. Jared Ondieki: Thank you very much, Madam Speaker. First, before I respond, I want to urge my comrade, Hon. Waithera Chege to always be patient. I know she is a very senior Member, and she should be able to understand the procedures.

Hon. Speaker, on 11th September 2023, Hon. Waithera Chege, MCA, rose on the floor of the Assembly pursuant to Standing Order 47 (2) (c) and requested the Chairperson of the Sectoral Committee on Justice and Legal Affairs for a Statement regarding the manhandling of hawkers by the City Inspectorate officers in the County.

In the Statement, the Member requested that the Chairperson inquire into and report on:

1. Action taken against the officers who carried out such a heinous act to the hawkers;
2. Whether an investigation into the conduct of the officers has been done, and if so, provide a report on the same; and
3. Measures the County Executive is taking to cease the infamous, ruthless handling of the residents and traders by the city inspectorate officers.

The response: Whether an investigation into the conduct of the officers has been done;

Hon. Speaker, the Chief Officer Inspectorate and Security Compliance, appeared before the Committee on 3rd October 2023 to respond to the Statement, and Hon. Waithera Chege was present in the meeting.

The committee did receive a written response. Hon. Waithera Chege affirmed to the Committee her contentment with the representations put forth by the Chief Officer, Inspectorate and Security Compliance.

Hon. Speaker, The Committee received information that on October 3, 2023, the sector initiated an investigation in response to allegations of mistreatment of a hawker with a disability by their officers, as depicted in a video circulating on social media. The purpose of this investigation was to gain a comprehensive understanding of the events and circumstances that led to the incident and to take appropriate action against any officers found guilty of misconduct.

The Committee was apprised of the investigative procedures undertaken by the sector, which included:

1. Conducting interviews with the alleged victims.
2. Recording statements from the involved officers.
3. Analyzing the video shared on social media.
4. Assessing various pertinent factors, such as:
 - a. Directives issued by the Authority;
 - b. The conduct of the officers involved;
 - c. The context in which the alleged incident transpired;
 - d. Characteristics of the parties involved; and
 - e. The frequency of similar incidents.

Regarding the actions taken concerning the officers involved in this reprehensible act towards the hawker;

The Committee was informed that in such situations, it is mandatory for an officer to submit an incident report explaining the sequence of events. In this case, the officer in charge of the operation provided an incident report supported by authenticated CCTV footage. An excerpt from officer SCI Ngunjiri's report included the following key points:

1. The traders had been repeatedly instructed to remove their merchandise from the footpath, with a verbal notice given from the 28th to the 30th of September 2023.
2. On the particular day in question, the traders defied the orders.
3. When the officers asked them to close and leave, the traders reacted with abusive language and physical confrontation, prompting the response team to request backup.
4. The situation escalated to the point where one individual engaged in disruptive behaviour.
5. The matter was unfortunately taken out of context on social media.
6. It is standard procedure to involve a male and a female officer when arresting a violent female, in compliance with the Criminal Procedure Codes (CPC) of the Laws of Kenya (LOK).

The Committee was also briefed on the measures being implemented by the County Executive to prevent the brutal treatment of residents and traders by City Inspectorate officers. This information is summarized as follows:

1. Adherence to the Standard Operating Procedures (SOP), which serve as a code of conduct for the sector.
2. Prompt disciplinary actions against officers found guilty of misconduct as per the Standing Orders
3. Few instances of officers acting contrary to the Standing Orders have been reported within the sector.
4. Nevertheless, the sector is committed to taking appropriate action against any officer found guilty of offences warranting disciplinary action.

Hon. Speaker, I humbly present this report for your consideration. Thank you, Madam Speaker.

Hon. Waithera Chege: Thank you, Madam Speaker. I could have accepted that response, but unfortunately, there are two key things that are missing: The absence of a woman police officer in that report, and part of the way forward was for the development and generation of SOPs, which is not in that report. So, allow me, Madam Speaker, to request the Hon. Chairman to go back and amend the report. Thank you, Madam Speaker

Hon. Temporary Speaker: Were you invited to the Committee?

Hon. Waithera Chege: Yes, I was, and that was part of the way forward.

Hon. Temporary Speaker: Did you inquire about the women police?

Hon. Waithera Chege: Yes, I did; it is actually in the HANSARD.

Hon. Temporary Speaker: Did you go through the response to the Statement that has been issued?

Hon. Waithera Chege: No, the response has not been forwarded to me, Madam Speaker.

Hon. Temporary Speaker: Hon. Member, I request that you go through it, figure out the issues, and write a response or a question regarding the Statement to the Chair and the Committee.

Hon. Jared Ondieki: Hon. Waithera, I have just summarized the report, I did not want to belabour this honorable House to read the entire Statement. However, my good friend was in the Committee meeting.

On the issue of the female and male arrests in this case, we agreed on the same. In that video, it was explained that when the female officer was overpowered, she requested for a reinforcement. Therefore, a stronger person was invited to the rescue. We discussed this deliberately and extensively. Hon. Speaker, the report is comprehensive; the only thing I have done is to summarize so that I don't take much time for this House.

Hon. Temporary Speaker: Thank you, Chair. That is why I was saying she has to go through the report as it is comprehensive and you have only summarized it on the floor.

Hon. Jared Ondieki: She accepted and we agreed in the Committee. I am surprised she is disowning me and she is my good friend. We took like a week to dispense on this matter. She was always present, and we appreciate her.

Hon. Temporary Speaker: Hon. Waithera Chege, kindly---

Hon. Waithera Chege: Thank you, Madam Speaker. The Chair can appreciate me after this Session. However, on this, I want to remind you that the Constitution of Kenya, 2010 gives committees the power to summon anybody to appear before that committee, and this report can be used in a court of law. So, if these key and very specific issues are missing in that report, then somebody can decide to misuse that report in a court of law. He can confirm on the floor of the House whether the issue of the absence of the female officer arresting the female hawker is contained in that report; and whether SOPs is part of the way forward. If he confirms that it is in the report, then we can move forward, Madam Speaker.

Hon. Temporary Speaker: Hon. Chair, please confirm if those allegations are in the report.

Hon. Jared Ondieki: Hon. Speaker, what I have said and I want to be slow, maybe I was talking very first. What I have said is that I did not want to belabour this honorable House by reading the entire report; I did a summary. All the things we deliberated in the Committee in her presence and which she agreed to, are captured in this report, Hon. Speaker. I want to believe that if she is going to be patient again to go through the report, she will be able to realize that everything is captured. Even one of my Members who is here can confirm that she agreed. So, I do not see why she is again trying to--- It is unfair.

Hon. Waithera Chege: I think, Madam Speaker, the Hon. Chair is not understanding where I am coming from. I am saying that I agree with the report; however, if these two specific issues are missing in that report, then I do not have to accept the report. Why would he not extract just that one specific paragraph and read it out on the floor of this House if for sure it is in that report? Can he read we hear it? Just an extract.

Hon. Temporary Speaker: Hon. Chair.

Hon. Jared Ondieki: Hon. Speaker, it is clearly captured, and I think Members have heard me mention the issue of female and male officers. Madam Speaker, I can get that right, it is here in the report, and I want to give it to her to read.

Hon. Temporary Speaker: In the interest of time, if the Member has not read the document, you will give it to her and let her go through it. I will give her a chance again to write to the Committee why they have not responded to the issues she raised.

Hon. Waithera Chege: Madam Speaker, I will not accept a report that is not up to standard and does not meet the threshold. The Committee must sit back because it has a video. That is why I am telling him to read the extract, Hon. Speaker. What is so wrong with reading the extract?

(Hon Member spoke off the record)

Hon. Temporary Speaker: Order, Hon. Member! Hon. Waithera Chege, please go through the document. If there is an issue that has not been addressed, let the Committee again sit and address. But, before you go through the response, we cannot give a ruling on the issue. Thank you.

Chair Planning, you also had a response.

QUORUM

Hon. Alvin Palapala: I have a response, but before I respond, under Standing Order 38 (1), we have no quorum. I don't know if we can proceed with the business when we do not have a quorum. I stand as guided, Hon. Speaker.

Hon. Temporary Speaker: Since there is a Member who has notified me, under Standing Order 37 (2), I instruct the Serjeant-at-Arms to ring the bell for ten minutes.

(Quorum Bell was rung)

ADJOURNMENT

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Hon. Temporary Speaker: Due to the lack of quorum, the House stands adjourned until tomorrow at 2.30 p.m. The Assembly Business to meet at the rise of the Assembly. The business will be directed back to the House Business Committee for the reallocation. Thank you.

The House rose at 3.56 p.m.