



NAIROBI CITY COUNTY ASSEMBLY

OFFICIAL REPORT

Third County Assembly – Second Session

Thursday, 28th September 2023

The House met at 2.30 p.m.

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

PRAYER

Hon. Temporary Speaker: You may be seated.

QUORUM

Hon. Temporary Speaker: Clerk, confirm quorum.

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

We have quorum. Minority Whip Hon. Mark Mugambi, I will give you time to take your seat so that we can proceed. Clerk.

PAPERS

Hon. Temporary Speaker: Chairperson, Liaison Committee or any other person with instructions to proceed. I can see the Chair is not available. Vice Chair, Liaison? Do we have any Hon. Member with instructions to lay this Paper on behalf of the Chairperson of the Select Committee on Liaison? Hon. Musango? Proceed.

PROGRESS REPORTS OF ASSEMBLY COMMITTEES

Hon. Musango Maithya: Thank you, Madam Speaker. Pursuant to Standing Order No. 197 (2), I beg to lay the following Paper on the Table of this Assembly, today, Thursday 28th September 2023:

The Consolidated Report of the Select Committee on Liaison on Progress Reports of Assembly Committees.

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I beg to lay.

(The Paper was laid on the Table)

Hon. Temporary Speaker: We also have another report from the Chairperson, Agriculture. Hon. Isalambo you may proceed.

REPORT OF WORKSHOP HELD FROM 24TH TO 27TH MAY 2023
AT MAXLAND HOTEL, KIAMBU COUNTY

Hon. Emmy Isalambo: Thank you, Hon. Speaker. Pursuant to Standing Order 196, I beg to lay the following Paper on the Table of this Assembly, today, Thursday 28th September 2023:

The report of the Select Committee on Agriculture, Livestock and Fisheries on the workshop held from 24th to 27th May 2023 at Maxland Hotel, Kiambu County.

I beg to lay.

(The Paper was laid on the Table)

Hon. Temporary Speaker: Clerk.

NOTICE OF MOTION

ESTABLISHMENT OF AN AD HOC COMMITTEE TO INVESTIGATE
COUNTY LOCAL REVENUE COLLECTION SYSTEM AND ADMINISTRATION

Hon. Temporary Speaker: Hon. Imwatok, Majority Leader.

Hon. Peter Imwatok: Hon. Madam Speaker, the entire Assembly, I am pleased to present a notice of Motion to the Hon. House on Establishment of an ad hoc committee to investigate the County local revenue collection system and administration.

WHEREAS Article 209 of the Constitution of Kenya, 2010 grants powers to County Government to impose, vary or waiver taxes, fees, levies and other charges in order to raise revenues to fund their programmes;

WHEREAS Nairobi City County boasts of several revenue streams, yet there has been gross underperformance as regards the County annual revenue collection *vis-à-vis* its annual County expenditure;

NOTING that an effective revenue collection system is one of the foundations needed to back trace sustainable economic growth;

FURTHER NOTING that the underperformance in revenue collection by the County, is attributed to challenges in collection and administration of the revenue system;

COGNIZANT that attempts to improve revenue collection have seen the County Government adopt various strategies, including adoption of an automated revenue collection system such as Jambo Pay, Noveta, the Nairobi Revenue System by the Kenya Revenue Authority (KRA), the Nairobi Pay System, and the recent establishment of the Nairobi Revenue Authority;

CONCERNED that the adoption of the aforementioned strategies, the County's internal revenues have continued to decline over the years;

FURTHER CONCERNED that failure to properly manage local revenue collection could lead to the County Government failing to fund its recurrent and development programme since relying on National Equitable Share is currently unsustainable;

NOW THEREFORE, the County Assembly resolves to establish an ad hoc committee comprising of 15 Hon. Members to enquire into the revenue collection system adopted by the County Government and report to the Assembly within 60 days after the adoption of this Motion on:

- i. Reasons why local revenue has been declining;
- ii. The strength, nature and weakness of revenue collection system currently being used by the County Government;
- iii. Propose legal policy administration interventions on improvement of local revenue collection; and
- iv. That the Majority and Minority coalition parties' representative in the County Assembly, through the Whips offices, proposes names of Members to the said ad hoc committee based on their strength of the Assembly within the next 7 days, preferably next week on Tuesday.

I beg to lay the notice of Motion, Madam Speaker.

Hon. Temporary Speaker: Thank you, Majority Leader. Just a concern for purposes of records before you take your seat, I heard you mentioning 15 Members but what I have before me talks of 13 Members.

Hon. Peter Imwatok: Madam Speaker, it was amended by the Speaker as he was signing it, but I am told we have no internet system in the County Assembly currently. So, they could not print another one quickly.

Hon. Temporary Speaker: Thank you for the clarity. It is very important.

Hon. Peter Imwatok: Thank you.

Hon. Temporary Speaker: Clerk.

STATEMENTS

REQUEST FOR STATEMENT REGARDING ISSUANCE OF TITLE DEEDS TO KAMAE LAND RESIDENTS IN KAHAWA WEST WARD

Hon. Temporary Speaker: Hon. Clement Kamaru.

Hon. Clement Kamaru: Hon. Speaker, 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 issuance of title deeds within the County, specifically Kamae land residents in Kahawa West Ward.

Hon. Speaker, in 2022 the defunct Nairobi Metropolitan Services (NMS) in collaboration with the Ministry of Lands embarked on a joint programme to fast track processing, registration

and issuance of title deeds to property owners within the County. A venture that was targeting land owners in informal settlements in the City.

Hon. Speaker, the residents of Kamae land in Kahawa West Ward were issued with allotment letters to reside in the land in 1964. Consequently, the residents had expected to be issued with the title deeds through the programme that was initiated by the defunct NMS.

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

- i. The status of the programme to first track processing, registration and issuance of land titles within the County, and especially Kamae residents land in Kahawa West; and
- ii. Measures the County Executive is taking to ensure that residents of Kamae land are issued with title deeds within the shortest time possible to enable them unlock the land businesses and investment potential.

I beg to lay the Statement.

Hon. Temporary Speaker: The Chairperson, Planning, give the undertaking.

Hon. Alvin Palapala: Hon. Speaker, I beg my Hon. Member, who is a Member of my Committee, to give me three weeks because we have other matters before the Committee.

Hon. Temporary Speaker: Is Hon. Clement a Member of the Planning Committee?

Hon. Alvin Palapala: Yes, he is my Member. Maybe he has some interests.

Hon. Temporary Speaker: Hon. Mark Mugambi.

Hon. Mark Mugambi: Hon. Speaker, it is not in order for a Member of a committee to request for a Statement from the same committee. Therefore, I would like to advise my Member, Hon. Clement that maybe he can redo the Statement and I will ask on his behalf, or he can choose any other Member to request the same on his behalf. It beats the logic as to why you are on that Committee. This should guide all the other Members.

Hon. Martin Waithaka Wairobi has really faced these challenges because he has lots of Statements that he needs to ask in the same Planning Committee, but he finds himself being a Member of the Committee. It may be deemed to be a conflict of interest on the same. This is a matter you can channel through a committee sitting as an AOB so that Members can pick it up for the next sitting. I believe that is the easiest way out to help the people that you represent, Hon. Clement. Thank you.

Hon. Temporary Speaker: Thank you very much, Hon. Whip. Indeed, it is against the Standing Orders for a Member of a committee to request for a Statement in the House. If you have a concern, you have an ample opportunity to address the same in the committee that you belong to. Therefore, this Statement will not be admitted today because you are a member of Planning Committee. Stand guided.

REQUEST FOR STATEMENT REGARDING OPERATIONS OF THE CITY MAGISTRATE COURT

Hon. Temporary Speaker: Hon. Nasra Nanda.

Hon. Nasra Nanda: Thank you, Hon. Speaker. Pursuant to Standing Order 47 (2) (c), I wish to request for a Statement from the Chairperson of the Sectoral Committee on Justice and Legal Affairs regarding the operations of the City Magistrate Court in Nairobi City County and the offences executed therein.

Hon. Speaker, the promulgation of the Constitution of Kenya, 2010 brought along many changes in the national governance, and legal structures and operations. Before this Constitution which is currently in use, offences related to enhancement of public order relied majorly on by-laws underpinned in the Local Governments Act, 1989. These by-laws were repealed by operation of the Constitution of Kenya, 2010.

Hon. Speaker, I am however apprehensive that the County Inspectorate might still be prosecuting cases and offences previously under and by the defunct Nairobi City County, which means they are contravening the Constitution, and the same is being used to convict citizens of Nairobi at the City County Magistrates Court.

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

- i. The laws relied on by the City Inspectorate to charge citizens of Nairobi in the City County at the Magistrates Court; and,
- ii. The operations of the City Magistrate Courts and the role of the County in the management and collection of fines.

Thank you, Hon. Speaker.

Hon. Temporary Speaker: Chairperson of Justice and Legal Affairs, Hon. Jared Akama.

Hon. Jared Ondieki: Thank you very much, Hon. Speaker. I very much appreciate the question raised by Hon. Nasra. Even as I want to do an undertaking, I want to bring to the attention of this House that there is an attempt to take over our City Courts. When that time comes, I want to urge the House to make noise. I want to urge friends of devolution to make noise because we are here because of devolution. We are children of devolution and anything that goes in the direction of watering down the gains we have made out of devolution...

Hon. Temporary Speaker: Chairperson of Justice, we can address those concerns. Kindly do the undertaking.

Hon. Jared Ondieki: I wanted to build on the reason why I want to give the shortest time possible as far as responding to this very important question.

Hon. Temporary Speaker: You have indeed laid the foundation, proceed.

Hon. Jared Ondieki: Because of the urgency of the matter, Madam Speaker, I want to give an undertaking that by Wednesday next week, we will give a very comprehensive Statement over this matter. But, make noise. Thank you.

(Applause)

RESPONSE TO STATEMENT REGARDING CONSTRUCTION
OF PUBLIC HEALTH CENTRE IN LUCKY SUMMER WARD

Hon. Temporary Speaker: We have a response from the Chairperson of the Health Committee. Proceed.

Hon. Maurice Onyango: Thank you, Madam Speaker. On 4th April 2023, Hon. Victor Omondi Ochola rose on the Floor of the Assembly pursuant to Standing Order 47 (2) (c) and requested for a Statement from the Chairperson of the Sectoral Committee on Health Services regarding the construction of a public health centre in Lucky Summer Ward.

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

- i. A report on the status of the health facility in Lucky Summer Ward;
- ii. Whether the County Executive has set aside budget for construction of the health centre in Lucky Summer Ward in the FY 2022/23; and
- iii. Measures the County Executive has put in place to ensure all residents of Nairobi get access to adequate health facilities in the County.

Hon. Speaker, the County Executive Committee Member for Health, Wellness and Nutrition appeared before the Committee on Wednesday 28th June 2023 to respond to the Statement. Hon. Victor Omondi Ochola was not in attendance despite having been invited by the Committee three times.

In this regard, Hon. Speaker, I wish to report to the Assembly as follows:

i. A report on the status of the health facility in Lucky Summer Ward;

Hon. Speaker, the Committee was informed as follows: Lucky Summer Ward has an estimated population of 60,000 people and is currently served by a private health facility. There is no public health facility in the ward.

ii. Whether the County Executive has set aside budget for construction of the health centre in Lucky Summer Ward in this financial year;

Hon. Speaker, the Committee was informed as follows: The Government of Kenya, under the Executive Office of the Former President under the Nairobi Metropolitan Service, acquired a two-acre piece of land that was donated by a businessman living in Lucky Summer Ward. Under the Presidential directive to construct health facilities in Nairobi, a contract was awarded by the Ministry of Health for the project. The construction and equipping of the Lucky Summer Dispensary was part of this project. Work on this project commenced in the year 2021 but stalled when the work was at approximately 38% completion. The project is yet to be handed over to the Nairobi City County Government. However, in the financial year 2022/2023, the County Executive has allocated for the said project.

iii. Measures the County Executive has put in place to ensure all residents of Nairobi get access to adequate health facilities in the County;

The County Executive Sector has identified and prioritized projects across the County which were captured in the County Integrated Development Plan (CIDP) 2022-2027 for construction, renovation and upgrading of hospital facilities. This will increase access to health services within the County.

Madam Speaker, herewith, you will find the attached submission from the Executive. I also urge the Hon Members that if you have asked for a Statement, try to attend the Committee meeting so that we don't take too much to respond to your Statements. Thank you, Madam Speaker.

Hon Temporary Speaker: Hon Victor Omondi.

Hon Victor Ochola: Thank you very much, Madam Speaker. I take this opportunity to thank Hon Maurice for doing a good job. He visited my ward several times. Now, work is ongoing and soon we will open the health center. So, I am satisfied with the response. Thank you.

Hon Temporary Speaker: Thank you. Clerk.

MOTION

INEFFICIENCIES AND DELAYS IN THE DELIVERY OF COUNTY GOVERNMENT SERVICES

Hon. Temporary Speaker: Hon. Kimemia, I believe you are moving this Motion on behalf of Hon Paul Kados.

Hon. Anthony Gathumbi: Thank you very much, Hon Speaker, it is true I will be moving this Motion on behalf of my senior and my boss, Hon Kados.

Hon Speaker, I beg to move the following Motion:

THAT, aware that Article 232 (1) (c) of the Constitution of Kenya as read together with Section 7 (1) of the Public Service (Values and Principles) Act, 2015 provides that public services shall be provided promptly, effectively, impartially, and equitably;

FURTHER AWARE that Section 56 of the County Governments Act, 2012 requires each county government to establish its own public service responsible for delivering county government services across various departments;

RECOGNIZING that pursuant to Section 46 of the County Governments Act, 2012, the Nairobi City County Government has created various departments for purposes of performing County Government functions;

NOTING that in the recent past, there have been unwarranted delays in the provision of public services by the County Government of Nairobi City, characterized by:

- a. Failures in service payment systems such that service seekers make payments for various taxes, charges, levies, and license fees at various payment points but the payments take longer periods than expected to reflect and get acknowledged by the County Treasury or County Government departments and the subsequent issuance of receipts thus delaying their access to a County service;
- b. Delays in the settlement of dues owed to service providers and suppliers of goods and services due to an unreliable payment system adopted by the County Treasury;
- c. Delays in the issuance of development approvals for a period spanning up to six months or more after the application is lodged and the requisite payments are made thus inconveniencing property developers who end up incurring huge losses, especially those with commercial loans;

- d. Unreliable revenue collection system that is shrouded in secrecy with little control by the County Government thus leading to unaccountability in revenue collection and potential loss of revenues, hence affecting overall service delivery; and
- e. General lethargy among County Government departments;

NOW THEREFORE, in order to address the said inefficiency, the County Assembly resolves that:

- i. The County Treasury adopts a service payment system that will shield service seekers from unnecessary delays, instantly acknowledge receipt of service fee payments made, and allow various departments to issue receipts and offer services paid for in the event of a system downturn. Alternative measures must be put in place to ensure the seamless provision of services;

(Hon. Victor Ochola attempted to leave the Chamber without bowing to the Speaker)

Hon. Temporary Speaker: Hon Victor Omondi you should bow before leaving.

(Hon. Victor Ochola bowed at the Bar and left the Chamber)

Hon. Anthony Gathumbi: I will proceed.

- ii. All payments to service providers and suppliers of goods and services should be decentralized to respective sectors or departments and executed by sector or departmental accountants through the Online Purchase Order under the Integrated Financial Management. Information System (IFMIS) and eradicating the manual LPO system to ensure efficiency and accountability;
- iii. The Physical Planning Department should take deliberate steps to ensure timely processing of development approvals and undertake to clear all pending approvals within the next three months of the adoption of this Motion and submit a report to the County Assembly;
- iv. That the County Executive Committee Member for Finance and Economic Planning should; first disclose to the County Assembly the automated revenue collection system currently in place, and secondly, demonstrate that the system is foolproof, under the control of the County Government, and can generate instant reports for audit and accountability within the next one month of adoption of this Motion and submit a report to the County Assembly; and
- v. That each County Government sector, department, or agency should develop a service charter, share it with the public, and submit the same to the County Assembly within three months of the adoption of this Motion.

Madam Speaker, the primary role of the governments worldwide is to provide services that individuals cannot effectively provide for themselves, such as roads, education, social services and

environmental protection. Some government entities also provide public utilities such as water, sewerage treatment or electricity.

Madam Speaker, today's public sector agencies have better tools, stronger infrastructure and in many cases better access to funding. Despite this, improving service sector delivery has remained a significant challenge across the board. With rapid changes in public sector, it can be challenging to develop and implement predictive service delivery and improve delivery processes before operation inevitably shifts again. While improving service delivery in the public sector, many may be challenging. There are ways in which agencies and their leadership can work through or overcome some of the most common obstacles to ensure efficient and effective service delivery.

Madam Speaker, as highlighted in the Motion on various unwarranted delays in the provision of public service by the County Government of Nairobi City, it is vital for this County to adopt a service payment system that will shield service seekers from unnecessary delays and instantly acknowledge receipt of service payment made and allow various departments to offer services paid for. In the event of system downtime, an alternative measure must be provided to ensure seamless provision of services.

Madam Speaker, to add to that point, we need to ensure all payments to service providers and suppliers of goods and services are decentralized to respective sectors and executed by the sector department accounts through the online purchase order under the IFMIS and eradicate the LPO system. The County should take deliberate steps to ensure timely processing of development approvals and undertake to clear all pending approvals within the next three months of adoption of this Motion and submit a report to the County Assembly. First, disclose to the County Assembly the automated revenue collection system currently in place. Secondly, demonstrate that the system is foolproof under the control of the County Government and can generate instant report for audit and accountability within the next one month of adoption of this Motion, and submit a report to the County Assembly. Last but not least, develop a Service Charter, as indicated earlier, as this will go a long way to help with accountability.

I therefore ask Mheshimiwa Silas Matara to second the Motion. Thank you, Hon. Speaker.

Hon. Temporary Speaker: Proceed, Hon. Matara.

Hon. Silas Matara: Thank you, Hon. Speaker for this opportunity. I rise to second this well-thought-out Motion by the Deputy Speaker Mheshimiwa Kados, as submitted to the floor by Hon. Kimemia. I rise to second the Motion for the reason of delays in the payment system when paying for services. That has a huge effect in the loss of revenue to the County because you realize that Kenyans are not very patient. When you have a payment system that is slow and has delays, then the county will not realize its revenue collection potential. It is important that the County has an alternative system or go manual to cure the problem of breakdown on the digital system.

When a service seeker is supposed to pay for a permit or license with timelines and a failure occurs, the effect of that is that they are going to be penalized by the same County. It is unfortunate to penalize a Nairobiian for a problem that the County has created.

There is an issue of decentralization of payment system and doing away with the manual LPO system. This House, just like Hon. Akama raised when he was doing submission in regards

to Legal Statement raised by Hon. Nanda, is about devolution. Decentralizing payments to suppliers and service providers speaks to the import of devolution. Devolution speaks about decentralization of services to the lowest point possible.

We realize that we have some many contractors and service providers who have supplied goods to this County yet there are delays. We have a National pending bills and County pending bills for all the 47 counties of Kshs.164 billion. About Kshs.102 is by Nairobi County. It is therefore quite unfortunate that in as much as we have limited resources and provision to clear pending bills, the delays have a clear effect to the respective suppliers and contractors who have procured loan facilities from financial institutions. These suppliers have been auctioned and some have gone into depression. Some are in hospitals because they lost what they worked for. Failure in payment to the suppliers has enormous effects to their livelihoods. They have employees and other costs that they need to defray with. This delay in paying them has a bigger socioeconomic effect. Therefore, it is important that the County prioritizes on making provision towards clearing of the same pending bills.

Delay in service delivery scare away investors and have an effect in their confidence in investing in Nairobi. It is therefore important to make sure that the approvals are cleared in a timely manner. It is also important that the approvals are made to cure these problems because when experienced developers experience delays in approvals, you find that some of them go to the ground and begin constructions which sometimes causes issues such as buildings collapsing here and there.

It is important that the Executive needs to fully realize the dictates of this Motion because of inflation. When there is a delay in the approval of a development plan, by the time a developer is getting to the ground the cost of building materials and labour have gone up.

The world is going digital and we appreciate the much the Governor has done in terms of digitizing the payment processing system. I hear that we are going to an e-procuring system which is important. It would be so good if they address the negative failures of the digitization process.

Lastly, there is the issue raised by the Member about each and every sector having a Service Charter. In this age and time, it is important that every person who visits any County facility for any service, sees the Service Charter clearly displayed at the entrance or at the customer service desk. Everybody should know what each sector deals with, the timelines that the various services are supposed to take, the cost of the services, and who is responsible for the service provision. We should work towards ensuring that Nairobi works because that is the desired result of us as elected leaders and the County Executive led by our able Governor.

On the last issue on the general lethargy by the Executive, I would have wished that the Mheshimiwa was here to explain more on where the lethargy is. I think what he meant is that maybe there is low performance in service delivery by the Executive. So, they should work towards ensuring that Nairobi works.

With those few remarks, Hon. Speaker, I beg to second. Thank you.

(A Member spoke off the record)

Hon Temporary Speaker: Will you allow me to finish?

(Question proposed)

Hon Temporary Speaker: Members, you may debate.
What is your point of order, Hon. Kiogora?

(Point of Order)

Hon. Erick Murigu: Thank you, Madam Speaker. I rise on point of Order under Standing Order No. 38. The Motion that is before the House is very important, but I have noticed there is no quorum in the House.

Hon. Speaker, any Member in this House who has gone through this Motion will see that it is a very important Motion that requires everyone to be here, including the leadership of this House and the sector chairpersons, who are currently very few in the House. Also, this Motion needs what we call the ‘mental jugglers’ of this House. They are very few, I can only see Hon. Bishop, Hon. Member for Roysambu and Hon. Ndung’u. We need them so that we can be able to deliberate on this Motion.

Madam Speaker, I am requesting you that if it is possible, we postpone so that we can debate on it when we have the full House. To support my idea, if you look at point No. (v) of the Motion, it requires various sector chairpersons to be here. I hope you will consider that, Madam Speaker. Thank you

Hon. Temporary Speaker: Thank you, Hon. Kiogora. The issue of quorum is not tied to an individual Member. It is not about Hon. Samora or Hon. Matara, it is about the quorum. Clerk, can you confirm if we have quorum?

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

Point of Order

What is your Point of Order Hon. Kimemia?

Hon. Anthony Gathumbi: Madam Speaker, when we began today’s session, it was established that there was quorum and the House was alive. We are talking about a Motion that is moving on, so, Madam Speaker---

Hon. Temporary Speaker: Hon. Kimemia, you need to acquaint yourself properly with the provisions of Standing Order No. 38.

QUORUM

Hon. Temporary Speaker: Serjeant-at-Arms, ring the Bell for ten minutes we see if we can get quorum. Hon. Kiogora, approach the Chair.

(Quorum Bell was rung)

Hon. Temporary Speaker: Hon. Members, note that you should still maintain order in the House as the bell is ringing.

Clerk confirm if we have the numbers to proceed.

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

Hon. Temporary Speaker: Hon. Members, pursuant to Standing Order No. 38, as raised by Hon. Kiogora, the Bell has rung for ten minutes and we still do not have quorum. We will adjourn and the business will resume at an appropriate time as allocated by the Assembly Business Committee. Thank You.

(Motion deferred)

ADJOURNMENT

Hon. Temporary Speaker: The Assembly stands adjourned until Tuesday 3rd October 2023 at 2.30. p.m.

The House rose at 4.06 p.m.