



NAIROBI CITY COUNTY ASSEMBLY

OFFICIAL REPORT

Third County Assembly – Third Session

Wednesday 17th April, 2024

The House met at 2.30 p.m.

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

PRAYER

COMMUNICATION FROM THE CHAIR

Hon. Speaker: In the sequence of the business appearing in the Order Paper, I have the following communication to make but I will defer it to a later time, so I direct the Clerk to move to the next order.

Hon. Members kindly get seated.

MESSAGES

NOMINATION OF CHIEF OFFICERS

Hon. Speaker: Hon. Members under messages, I have got a message from the Governor. Madam Speaker kindly get seated.

Hon. Members, Standing Order No.45 (1) provides that, *the Speaker shall read to the County Assembly any message from the Governor or the Senator of the County delivered to the Speaker for communication to the County Assembly.*

In this regard Hon. Members, I wish to report that the Office of the Speaker is in receipt of a Message from H. E the Governor of the Nairobi City County vide a letter Ref. XV-IV-MMXXI.

Hon. Members, the message regards a list of nominees for vetting and approval as County Chief Officers for various sectors. I now wish to convey the following Message: -

"Following shortlisting by the County Public Service Board, I hereby nominate the following for the positions of Chief Officers for onward vetting and approval by the County Assembly": -

1. David Sande Oyolo Alukhome - Digital Economy and Start-ups;
2. Halkano Dida Waqo - Housing and Urban Renewal;
3. Amina Mohammed - Wellness, Nutrition and School Feeding;
4. Machel Waikenda - Economic Affairs;
5. Gladwell Cheruiyot - Food, Agriculture and Natural Resources;
6. Bernard Muia - Boroughs and Sub-County Administration; and
7. Jane Wangui - Markets and Trade

(Applause)

Hon. Members, Standing Order No.48 of our Standing Orders as read together with Section 7 of the Public Appointments (County Assemblies Approval) Act,2017 and I quote: - *"Upon receipt of a notification of nomination for appointment to an office as is under the Constitution or under any other legislation required to be approved by the County Assembly, the nomination shall stand committed to the relevant Sectoral Committee of the County Assembly for consideration."*

Accordingly, Hon. Members, I now commit the nominees to the relevant Sectoral Committees to undertake the vetting process and report back to the County Assembly within twenty-one (21) days pursuant to the provisions of Section 9 of the Public Appointments (County Assemblies Approval) Act,2017.

I thank you Hon. Members. Hon. Members, kindly proceed.

PETITIONS

PETITION BY THE RESIDENTS OF MWIKI, GIAKIWAWA

ON THE ALLOCATION OF PUBLIC LAND IN INFINITY AREA MWIKI WARD

Hon. Speaker: On Petitions, Member for Mwiki Ward, you have the petition with you? Kindly proceed.

Hon. Sam Kago: Thank you Mr. Speaker. I beg to lay the following petition by the residents of Mwiki, Giakiwawa on the allocation of public land in Infinity area Mwiki Ward.

We the undersigned citizens of Kenya who are residents of Mwiki and members of Giakiwawa Enterprises, a local business community within Nairobi City County, draw the attention of the Nairobi City County Assembly to the following:

Aware that the Constitution of Kenya 2010 and Article 37 and Section 15 and 88 of the County Government Act 2012, provides the rights for citizens to petition authorities or county governments on any matter;

That, whereas Article 62 of the Constitution of Kenya 2010 provides that the public land shall vest in and be held by a county government in trust for the people, residents in the county and may be admissible by the National Land Commission on behalf of the county government;

That, on 12th June 2014, we bought a land plot L.R. No.9363/3014 from the Githieko farmland measuring 8.87 hectares located in the Infinity Area, Mwiki Ward.

That, following the complainant acquisition procedures, we were granted a lease in accordance with the Lands Act Transition provisions in Section 160 and 161. The Land Registration Act Section 108 and Deed Plan No. 435931. The lease is dated 10th March 2022 has an annual rent of Kshs.278,00.

That, the land was formerly an abandoned quarry with excavation reaching a depth of a 100 feet. However, we back filled it to restore its usability. We further constructed a perimeter wall and obtained approvals from the county government to construct the go downs.

That, we have however stalled any further development after we received information that the said land was county land which was fraudulently sold to us.

That, due to its strategic location, the said parcel of land if put to proper use by the local community, can generate revenue to the county government, create employment and be a source of livelihood to many households residing in the area.

That, whereas Giakiwawa is ready and willing to utilize the land, if the land is regularized, we are committed to construct an ECDE Centre and a Primary School to serve the community as there is none within the area and establish a go down will cater for employment opportunities for the residents and boost the county revenue.

That, all the matters in respect of which this petition is raised, are not pending before any court of law or constitutional body and the petitioner confirmed the efforts have been made to make the mater addressed through the relevant bodies but to no avail.

Now therefore, your humble petitioners pray that the Nairobi City County Assembly intervenes to ensure that:

1. The Nairobi County Executive regularizes the ownership of the land L.R. No.9363/3014 under a long term lease to Giakiwawa
2. The Nairobi City County Executive permit us to proceed with the proposed projects which are entirely focused on the good of the local community.

And your petitioners will forever pray.

Mr. Speaker, I therefore beg to lay the petition, thank you.

Hon. Speaker: Thank you very much Hon. Member.

Hon. Members, the Hon. Member for Mwiki Ward has laid the petition before the assembly, I direct that the laid paper be committed to the Committee of Planning. Chair of Planning Committee, you have 45 days to make a response before the assembly as per the requirements of the Constitution. Thank you.

PAPERS

Hon. Speaker: Hon. Chairperson for Education, the Report of the Sectoral Committee on Children, Early Childhood, Education and Vocational Training.

Hon. Perpetua Mpojiwa: Thank you Hon. Speaker. Pursuant to Standing Order No. 211 (4) (b), I beg to lay the following Paper on the Table of the assembly today Wednesday 17th April

Disclaimer: *The electronic version of the Official Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor.*

2024; the Report of the Sectoral Committee on Children, Early Childhood, Education and Vocational Training on the consideration of Nairobi City County Early Childhood Development and Education Bill 2023, Assembly Bill No. 8 of 2023. I beg to lay.

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

STATEMENTS

STATEMENT REGARDING THE BUSINESS APPEARING BEFORE THE ASSEMBLY FOR THE WEEK BEGINNING WEDNESDAY 17TH APRIL 2024 AT 2.30. P.M.

Hon. Speaker: Hon. Emily will issue a statement under Order No. 7, kindly proceed.

Hon. Emily Oduor: Thank you Hon. Speaker. Pursuant to Standing Order No. 47 (2) (a), on behalf of the Assembly Business Committee, I rise to give the following statement regarding the business appearing before the assembly for the week beginning Wednesday 17th April 2024 at 2.30. p.m.

Hon. Speaker, the Assembly Business Committee met on Tuesday 16th April 2024 to allocate business for consideration by this assembly.

In that regard Hon. Speaker, allow me to brief the assembly as follows:

That, today Wednesday 17th April 2024, under Order No. 8, the Assembly will be considering the Motion of the Leader of Majority Party on the Governor's Address pursuant to the provisions of Standing Order No. 27 (5) which is supposed to be debated in four days.

Further, on Thursday 18th April 2024 under Order No. 8 and 9, the Assembly shall be considering the under listed business items respectively:

- a) The Second Reading of the Nairobi City County Persons with Disabilities Amendment Bill No. 2023, Assembly Bill No. 7 of 2023 being sponsored by Hon. Chege Mwaura.
- b) The Second Reading of the Nairobi City County Food Safety and Fortification Bill 2023, Assembly Bill No. 10 of 2023 sponsored by Hon. Elijah Stazo Omang'ala.
- c) Lastly Hon. Speaker, on Tuesday 23rd April 2024 under Order No. 8 and 9, the Assembly shall be considering the under listed business items respectively:
 - i) The Second Reading of the Nairobi City County Eviction, Resettlements and Demolition Bill 2023, Assembly Bill No. 11 of 2023 sponsored by Hon. Jateso Imwatok – the Majority Leader
 - ii) The Second Reading of the Nairobi City County Betting, Lotteries and Gaming Bill 2023, Assembly Bill No.12 of 2023 sponsored by Hon. Chege Mwaura.

Hon. Speaker, the Assembly Business Committee urges Members of this assembly to familiarize themselves with the aforementioned Bills and prepare accordingly for debate through the help of our Research Department. Details of the Bills can be obtained in the Notice Paper, being the last page of today's Order Paper and copies of the Bills can be accessed on line on the Assembly website or at the Table and Journals office.

Hon. Speaker, Assembly Business Committee shall be informing this assembly through its designee the allotted business every Wednesday during the statement hour for timely preparations.

Finally, Hon. Speaker, the Assembly Business Committee will again meet on Tuesday 23rd April 2024 at the rise of the assembly to ballot business for the subsequent week.

Hon. Speaker I now wish to lay the statement on the Table of the Assembly, thank you.

STATEMENT REGARDING DRILLING OF
WATER BORE HOLES IN THE COUNTY

Hon. Speaker: Under Order No.7, Hon. Kennedy Oyugi.

Hon. Kennedy Oyugi: Thank you Mr. Speaker. I rise to seek a statement regarding drilling of water boreholes in the county.

Hon. Speaker pursuant to Standing Order No. 47 (2) (), I wish to request for a statement from the Chairperson of the Water and Sanitation regarding drilling of water bore holes in the county.

Article 43 (1) of the constitution of Kenya 2010 provides for the right of every person to access clean and safe water in adequate quantities.

Further, Paragraph 11 (b) of Part II of the Fourth Schedule to the Constitution provides for the County Public Works and services including water and sanitation services as a function of the County Government. Mr. Speaker, bore holes provide local source of clean water that can be used for drinking, cooking, hygiene and sanitation. Boreholes in High Rise ward and specifically Shiranga PCEA and Undugu bore holes broke down a couple of months ago and are yet to be restored thus posing hazard to the residents of the said areas.

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

1. The County Executive Committee Member in charge of Water and Sanitation through the relevant authority to report on the status of all the boreholes constructed by the Nairobi Metropolitan Services within the city and specifically Shiranga PCEA and Undugu bore holes in high rise Ward;
2. Reasons why the County Executive has not repaired the duo and plans to repair the above mentioned bore holes; and
3. Whether the County Executive has developed a policy to guide the construction and maintenance of boreholes and if the said policy is operational.

Thank you Mr. Speaker.

Hon. Speaker: Thank you Hon. Member. I now call upon the Chairperson of the Water and Sanitation Committee regarding the drilling of bore holes in the county to give an undertaking.

Hon. Redson Onyango: Thank you very much Hon. Speaker. I request for ten days.

Hon. Kennedy Oyugi: Much obliged, Mr. Speaker.

Hon. Nasra Nanda: Thank you Hon. Speaker. First, I would like to say that I am requesting for this statement on behalf of Hon. Abbas Khalif this afternoon. With your---

Hon. Speaker: I am sorry Hon. Member; I do not have any written authority from the author of the statement request. You may be seated.

Hon. Nasra Nanda: Thank you Hon. Speaker.

Hon. Speaker: Can we proceed?

MOTION

*(Resumption of the Debate on the Address
of the Governor on the Status of the County)*

Hon. Speaker: Hon. Members, the resumption of the debate on the Address of the Governor on the Status of the County, today being the final day for debate.

Hon. Davidson Ngibuini: Thank you so much Hon. Speaker. Indeed, I listened to the brilliant speech by H.E the Governor Johnson Sakaja and Nairobi has achieved a lot without a doubt this financial year, so far so good. I believe there is a lot more on the way.

However, Hon. Speaker, as a true friend of H.E the Governor – I believe I am one of those people who have known him the longest – and as a passionate champion for oversight over Nairobi County, I would like to dwell on what we need to sort out as Nairobi County. I want to record my disapproval of the County Executive’s delay in paying of contractors which has led to stalled projects. We are facing a real challenge which we must intervene and get it right.

I would like to table the case of Woodley Stadium, a very peculiar matter where the payment certificate was received on the 6th of September 2023 and payment was supposed to be done on or before 5th November 2023. It shows that the Nairobi City County Government should have taken two months to pay this contractor but it took seven months to do so. The payment process within the Nairobi County Government has become extremely tedious process which is tiresome and pretty ineffective. There is massive inefficiency in this exercise and papers have to be pushed from one office to the other and followed from one officer to the other.

What I would like to bring to the attention of this House, Mr. Speaker, is that there are too many officers in this chain. I believe that this is something that can be sorted out administratively. May be the reason for this inefficiency is so that some officers can benefit at the expense of the contractors and development in our wards.

I call upon the Governor as the head of the County Executive to streamline these inefficiencies and ensure that the payment processes are functioning optimally without sabotage and frustrations administratively. I believe that it is possible for us to get it right and for this county to work seamlessly as a corporation. As a government we can get it right being the capital city and we need to set an example for the other 46 counties. If we do not do this during this term, I do not know when we will ever do it.

The challenge we are facing is that MCAs have been truly reduced to messengers. What we are doing is that we are leaving our core mandate so that we can chase payments on behalf of contractors who are doing projects in our wards so that these projects do not collapse or stall. I have been chasing contractors’ payments for my ward development projects because this is my first term and I wanted to understand why payments take so long to be paid. Why are the contractors not bidding? They are never being paid, what is the problem? When I enquire about the status of the payments or where is this document, I am told that it is with so and so. When I

enquire about the whereabouts of that person, I am told that the person is out of Nairobi or is not available. Is there another person who can do that work? I am told there is nobody else or the other person is also outside the city.

I believe that the reason why things are moving at snail speed is because we have officers who are not serious with their duties. Moreover, I feel we need to ensure that our staff are inspired and motivated. They also need to be aligned to our vision of making Nairobi work. Our roles are clearly stipulated; oversight, legislation and representation. Where does it state that we should be pushing papers and knocking offices to ensure that payments move from point A to B?

I would like to call upon the Governor to ensure that his officers do their job without having to be facilitated and been motivated. We have thousands of staff and it makes no sense where only one officer or two are have the rights or are allowed to approve processes. Mine is to call upon the Governor to open up this payment process a bit more and issue more people the rights to approve these processes. If one of the staff is not there, somebody else can do this work instead of delaying the process for one or two weeks.

There is a reason why I am bringing this up on the floor of the assembly today, Hon. Speaker. This delay is making Nairobi County lose so much needed revenue. In Woodley Stadium, the contractor is demanding Kshs.1.87340 million as interest on delayed payments. He is further asking to be paid Kshs. 333,000 as accrued charges for security over the four months that the works have been suspended. From December to March, he is asking for a total of Kshs.2.2 million, that is enough to fund 441 bursaries worth Kshs. 5,000.

It does not end there, Hon. Speaker. The contractor is citing the state of inflation, increased taxes, high cost of doing business, procuring and importing materials, higher cost of credit with bank lending rates now at 19% to claim an upward review of the sum of this contract which is Kshs.132 million. He is claiming an upward review of 16% of that amount which is Kshs. 21,120,000 million. When you tabulate the two amounts, it comes to Kshs.23, 326, 673 which we are about to lose as Nairobi County simply because of delayed payments by the Nairobi County Government.

Hon. Speaker, this amount is an entire budget for the ward development programme for one ward and with a balance of Kes. 326,673. We should not be losing these kinds of monies. The contract has been signed by the County Attorney and the County Secretary therefore Nairobi County is bound to pay these amounts if they want the works to continue.

I call upon the Governor to prevent these massive financial losses by paying contractors on time as stipulated in these contracts and with that, we will ensure that the county works optimally and we do not loose revenue.

Hon. Speaker: Your light is on. Are you through? Ok. Hon. Members, I made a promise to make a communication, kindly bear with me. Do you have a burning issue?

Hon. Peter Imwatok: I beg for your indulgence on whether to reply to the Governors speech so that we end this as we proceed to your communication.

Hon. Speaker: Hon. Majority Leader, I have requests from Hon. Jeera, Hon. Kamau Thuo and Gathumbi including yourself. You had already contributed during the Motion

Hon. Peter Imwatok: Make your communication first

Hon. Speaker: Ok. I have been advised by the Clerk that we get two Members to contribute. Hon. Jeera please

Hon. Samson Ooko: Thank you Hon. Speaker. I am a member for Lindi in Kibra and I came here while as the Vice chairman for ODM in Nairobi County and I am proud to say that because it is the party that brought me to the House.

Hon. Speaker, it has come to my attention that as a Member of County Assembly for Nairobi that most of the Members seated here today are from Azimio coalition and within the coalition, my party ODM had the opportunity to get more Members in the Assembly. All the Members seated here today except three are independent candidates. I am ashamed as a Member of this wonderful party that my party has come down here to play witch-hunt. As the Vice chairman on this party, I am considering doing a letter to my party so that---

Hon. Speaker: Hon. Member, I thought you were within the confines of the Motion

Hon. Samson Ooko: Yes. I am coming to that Mr. Speaker. I am just walking slowly
(Loud consultations)

Hon. Samson Ooko: Hon. Speaker, as the vice chairman I am considering doing a letter to my party so that they are aware of what is happening here. It is a shame that the party that I love and respect, the party that nominated members to this Assembly and gave us a leader by the name Ken Ngondi. It is a shame that some party members can take videos of a greeting and share the same with bloggers so as to shame the Speaker of this Assembly. Furthermore, some of them are going around sharing the same videos with the message that the Speaker must come down. I want to know if that is what brought us here to the Assembly apart from legislation, oversight and representation. I plead with Members of my party that as we discuss the Governors speech, it is important---

Hon. Speaker: Hon. Member, I will give you a chance to speak but for now, I would love that you confine yourself within the limits of the Motion before the Assembly.

Hon. Samson Ooko: Fine, I will do that

Hon. Speaker: Hon. Catherine please

Hon. Samson Ooko: I support the speech by the Governor of Nairobi County because---

Hon. Speaker: Kindly Hon. Member, can you seek leave of the chair so as to make your maiden communication after we are done with the Motion. Can you make the request?

Hon. Samson Ooko: Yes. I will appreciate that

Hon. Speaker: Okay.

Hon. Samson Ooko: If you allow me to proceed

Hon. Speaker: Not now.

Hon. Samson Ooko: Can I finish on the Governors speech?

Hon. Speaker: You had not contributed.

Hon. Samson Ooko: No, I have not

Hon. Speaker: Please proceed

Hon. Samson Ooko: I supported the Governor when he came to address the Assembly because all that he said I have seen in Kibra and specifically in Lindi ward. Regarding issues of education, I have seen bursaries to Members, dishi na county and bursaries. Allow me to say this Mr. Speaker.

Hon. Speaker: In under one minute

Hon. Samson Ooko: I want to plead with the Governor to come down to my ward because disaster has struck there. So many people have lost their belongings, slept in the cold and I am sure that the county has a very effective disaster team to rescue our team. Thank you.

Hon. Speaker: The mover of the Motion to reply. Hon. Thuo in under one minute as we wait for the Majority Leader

Hon. Kamau Thuo: Thank you Hon. Speaker.

Hon. Speaker: Use the microphone adjacent to you

Hon. Kamau Thuo: Thank you Hon. Speaker. I would like to take this opportunity to contribute to the speech by the Governor. What speaks to me the most as much as it was a colorful speech is the issue of mental health and opening up Uhuru park. Nairobians have a problem as far as mental health is concerned and by opening up Uhuru part, it will go a long way into helping Nairobians. As we were going for recess, I encouraged Members here to visit Karura forest because their ward residents are going through a hard time. Mental health is an issue that most Members in this Assembly are concealing and some of the thing you see happening here is because of that. An assessment needs to be done. Your Members are overwhelmed on the ground and I seek your indulgence as we need sessions and being the champion of mental health, Hon. Speaker, I ask that you look into it. Thank you.

Hon. Speaker: Thank you. Mover

Hon. Peter Imwatok: Hon. Speaker, I believe that Members have spoken on the Governors speech and I do not have much to say. On behalf of the Government I want to say thank you to the honorable Members and ask that we be very careful on what we say so as to protect the identity of the County. More importantly, I want to be on HANSARD that I am the leader of government business and not the opposition so in case you want to oppose the Government then it will be proper that you seek the leadership of the party so that a direction is taken. Hon. Speaker, I beg to reply.

Hon. Speaker: Thank you. In the sequence of the business of the assembly, I was to make a communication.

Hon. Members I swore by the Constitution of Kenya to uphold the dignity of this Assembly and to bring the face of the 125 members of this Assembly to the world and not necessarily to Nairobi as a city. God has brought us this far and here we are today.

Hon. Members you are very much aware and alive to the fact of what is happening in our Assembly and I do not understand what it stands to benefit the people who are driving the agenda.

Today as I stand before you here, I am aware of some Members with mischievous plans to see me sit on this seat as the final day. But before then, my God who gave me an opportunity to sit as the Speaker of Nairobi County has got the exact date, time and minute when I shall exit.

I am aware of some Members out there who are still not satisfied with the much damage they have done and chest thumping that they have more to release. I can categorically tell them that they do not hold breath for me. Let them proceed and do the worst. Let the so called Members do their worst.

I am about 52 years and I have served this Assembly as the Speaker for one and a half years and for the last 51 years or so, I was never the Speaker. you gave me an opportunity to serve and uphold the dignity of this House, little did I know there are Members with what I may refer to as a medical condition or an inborn situation for them. What I can confirm to the Assembly is that if today marks my last day sitting on this Chair then so be it.

COMMUNICATION FROM THE CHAIR

DISBANDMENT AND RECONSTITUTION OF PAC AND WATER AND SANITATION COMMITTEES

Hon. Speaker: Hon. Members, I have the following communication to convey. The County Assembly committee are an extension of the Assembly established under the County Assembly Standing Orders and in accordance with section 14 of the County Government Act 2012.

The committees are supposed to perform functions that the Assembly is not well fitted to consider in plenary. Hon. Members, Standing Order 203 (4) provides the county Public Accounts committee constituted immediately following the general elections shall serve for a period of three calendar years and thereafter shall serve for the remainder of the Assembly term.

Hon. Members, further Standing Order 209 (3) provides that a Member appointed to a select committee at the commencement of a county assembly shall serve for three sessions and the committee shall thereafter be reconstituted to serve for the remainder of the term of that County Assembly.

Hon. Members, the committees being an extension of the County Assembly and the watchdog are supposed to perform functions on behalf of the County Assembly effectively and efficiently for the betterment of the assembly and the county at large.

Hon. Leader, kindly proceed. I shall be seated.

(Applause)

Hon. Members, last week I appeared before the Senate PAC committee to answer to responses in the financial year 2020/2021 where I had reservations with the report and presented the same on the kind of challenges we were facing.

One of the issues raised by your Speaker was the absence of proper administration during that period in consideration. During that period Hon. Members, we had up to about 6 acting Clerks. During the same period, we had three acting Speakers, one substantive, one acting for a year - Hon. Chege Mwaura and my predecessor Hon. Benson Mutura.

We raised these issues with the Senate committee and that is why we had a lot of difficulty to express and explain ourselves. But above all Hon. Members you are much aware and alive to the fact that the functions of the PAC committee at the Senate is equivalent to the functions of the

PAC committee at the County Assembly of Nairobi and for that reason, the line should be drawn on the responsibility of the PAC committee and the so called leadership.

Some of you are blaming the leadership for the auditor's report of 2020/2021 and I don't understand where the leadership comes in while some of you are also blaming the Speaker.

Hon. Members, to ensure effectiveness and efficiency in performance of the county assembly and its committee and pursuant to the provision of Standing Order one and notwithstanding the provisions of Standing Order 203 and 209 respectively, I direct for the disbarment of the following committees;

- PAC committee - to be disbanded and reconstituted
- Committee on Water and Sanitation, pursuant to the provisions of Standing Orders 168 (2) and 171 (1) to be disbanded and reconstituted.

Hon. Members, on the viral video on social media which was captured within the precincts of the Assembly by one of the Members, two or more. The viral video has raised eyebrows across the society which is not the presentation of the stature, dignity of this August House.

Hon. Members, in this regard, I direct the matter of the viral video on social media to be investigated by the select committee on Powers and Privileges on the source of the video and report to the Assembly pursuant to the provision of section 15 of the County Assembly Powers and Privileges Act 2014 within a period of 21 working days.

Hon. Members, it is so guided.

ADJOURNMENT

Hon. Speaker: The Assembly stands adjourned to 2:30 p.m. tomorrow.

The House rose at 4.10 p.m.