



NAIROBI CITY COUNTY ASSEMBLY

OFFICIAL REPORT

Third County Assembly – Third Session

Tuesday 20th February 2024

The House met at 2.30 p.m.

[The Speaker (Hon. Kennedy Ng'ondi) in the Chair]

PRAYER

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

PETITION

ENCROACHMENT OF PUBLIC LAND BY A PRIVATE DEVELOPER AT KANGEMI MARKET

Hon. Speaker: Hon. Members, you may proceed.

(Several Hon. Members walked into the Chamber)

I am on my feet to bring to the attention of the Assembly a public Petition by Kangemi Ward residents on stoppage of public land encroachment by a private developer at Kangemi Market in Nairobi City County.

We, the undersigned Citizens of Kenya who are residents of Kangemi Ward within Nairobi City County, draw the attention of the County Assembly of Nairobi to the following: -

AWARE THAT, Article 185 of the Constitution of Kenya, 2010 vests the legislative authority and oversight of the county governments in the county assembly;

THAT, Article 62 of the Constitution mandates the county government to hold in trust public land in trust for county residents;

THAT, the Kenya National Land Use Policy, 2017 recognizes the need for social development that takes cognizance of provision of basic infrastructure and services;

THAT WHEREAS Section 5 (e) of The National Land Commission Act, 2012 requires the Commission to initiate investigations into present or historical land injustices and recommend appropriate redress;

THAT WHEREAS Section 116 of the County Governments Act, 2012 imposes an obligation on the county government and its agencies to deliver services within its designated area of jurisdiction. Further, Section 117 (1) (a) of the Act provides that the county government shall give priority to basic needs of the public to ensure that all members of the public have access to basic services;

THAT, before commencing any development, developers must seek approval from the County Government;

THAT, the road reserve adjacent to LR. No Dagoretti/Kangemi 481 at Kangemi Market was reserved for the use of public parking area;

THAT, a private developer has allegedly invaded the said public land and erected illegal structures in form of containers resulting in lacking parking area thus inconveniencing motorists especially those intending to access the Market and other utilities located on the buildings on Land LR.No Dagoretti/Kangemi 481 such as banks and hospitals;

THAT, the said illegal structures in form of containers have been rented out as unlicensed drinking joints and bars which openly sell alcohol and other illicit drugs and often used as a hide out for youths who engage in crime in the area;

THAT WHEREAS the Petitioners confirm that efforts have been made to have the matter addressed by the relevant body, it failed to give a satisfactory response;

AND THAT, all the matters in respect of which the petition is raised are not pending before any court of law or constitutional body.

HEREFORE, your humble Petitioners PRAY that the County Assembly of Nairobi City County intervenes and ensure that; -

- a) The National Land Commission and all the relevant bodies furnishes the Nairobi City County with the deed plans to facilitate and solve the dispute herein;
- b) The Nairobi City County Government in conjunction with the relevant organs to bring down the illegal structures being developed on LR No. Dagoretti/Kangemi 481 and legal action be taken against the developer and any other Government officer(s) who might have participated in the illegality;
- c) The said land be surrendered back to the Nairobi City County Government and give appropriate deed plans in respect to the public utility land in issue herein; and
- d) The Nairobi City County Government to secure the said land and hold it in trust on behalf of the motorists and Nairobians at large.

And your Petitioners will forever pray.

Presented by Hon. Speaker, on behalf of Kangemi Ward residents. Hon. Members, you may proceed and sit. Thank you.

(Several Hon. Members walked into the Chamber)

PAPERS

ANNUAL COUNTY GOVERNMENT BUDGET IMPLEMENTATION REVIEW FOR FY 2022/2023

Hon. Speaker: Hon. Members, before the Assembly is the report of the Office of the Controller of Budget on the First Quarter County Government Budget Implementation Review for the fiscal year 2023/2024. Hon. Majority Leader, kindly proceed and lay.

Hon. Peter Imwatok: Hon. Speaker, I am still panting, please allow my Deputy to lay them because he is already in charge.

Hon. Speaker: He can proceed.

Hon. John Musila: Thank you, Mr. Speaker. Pursuant to Article 228 of the Constitution of Kenya, 2010, I beg to lay the following Paper on the Table of this Assembly, today, Tuesday 20th February 2024:

The report of the Office of the Controller of Budget on the Annual County Government Budget Implementation Review for FY 2022/2023.

(The Paper was laid on the Table)

FIRST QUARTER COUNTY GOVERNMENT BUDGET IMPLEMENTATION REVIEW FOR THE FY 2023/2024

Hon. John Musila: Hon. Speaker, pursuant to Article 228 of the Constitution of Kenya, 2010, I beg to lay the following Paper on the Table of this Assembly, today, Tuesday 20th February 2024:

The report of the Office of the Controller of Budget on the First Quarter County Government Budget Implementation Review for the Fiscal Year 2023/2024. Thank you.

(The Paper was laid on the Table)

PETITION BY NAIROBI UMOJA I AND TENA RESIDENTS ON THE GRABBING OF PUBLIC LAND L.R. NO. 891/889

Hon. Speaker: Thank you. Order, Hon. Members! I am meant to understand that the Vice Chair of the Planning Committee has a Paper to lay before the Assembly. Is that correct?

Hon. Collins Ogenga: Thank you, Mr. Speaker. Pursuant to Standing Order No. 221, I beg to lay the following Paper on the Table of this Assembly, today, Tuesday 20th February 2024:

The report of the Sectoral Committee on Lands, Planning and Housing on Petition by Nairobi Umoja I and Tena residents on the grabbing of public land L.R. No. 891/889 in Umoja and Tena area in Nairobi.

Hon. Speaker: Thank you. Clerk, let us proceed.

NOTICE OF MOTION

PROVISION OF FREE CLEAN DRINKING WATER IN HOTELS AND OTHER PUBLIC AREAS

Hon. Sospeter Mumbi: Hon. Speaker, I wish to give notice of the following Motion:

THAT, aware that 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 AWARE THAT paragraph 11 (b) of Part Two of the Fourth Schedule to the Constitution provides for County Public Works and services including water and sanitation services as a function of the County Government;

COGNIZANT THAT the County has various public areas that were designed to provide free clean drinking water to residents within the County;

CONCERNED THAT such designated areas stalled and are no longer in operation yet we have the word “Nairobi” which comes from the Maasai phrase ‘Enkare Nyrobi’, which translates to “cool water”;

FURTHER CONCERNED THAT most hotels and restaurants do not provide free clean drinking water to their customers;

ACKNOWLEDGING THAT County water and sanitation services includes county-specific water and sanitation asset development, asset management and related water supply and sanitation service provision for the realization of the human right to water and reasonable sanitation standards in the County;

THIS ASSEMBLY URGES the County Executive to: -

1. Rehabilitate the existing stalled public points designed to provide free and clean drinking water to the residents of Nairobi City County; and
2. Develop a policy compelling hotels and restaurants across the County to provide free and clean drinking water to clients at their premises.

Thank you, Hon. Speaker.

REGULATION OF BOREHOLE WATER VENDORS

Hon. Speaker: Hon. Okello.

Hon. Hellen Okello: Thank you, Hon. Speaker. I wish to give notice of the following Motion:

THAT, aware that Article 43 (1) of the Constitution of Kenya, 2010 provides for the rights of every person to access clean and safe water in adequate quantities;

FURTHER AWARE THAT Paragraph 11 (b) of Part II of the Fourth Schedule to the Constitution provides for County Public Works and services including water and sanitation services as a function of the County Government;

COGNIZANT THAT Nairobi City County Government regulates the operations of the Nairobi City Water & Sewerage Company Limited in provision of clean and accessible water to its residents;

CONCERNED THAT the water supplied by the Nairobi City Water and Sewerage Company Limited is not sufficient to serve the ever growing demand by the Nairobi residents;

FURTHER CONCERNED THAT there are private borehole water vendors that supply water to the City residents without any clear legal framework for their operations;

DISTURBED THAT majority of borehole water vendors sell untreated water from illegal boreholes in some estates which is a health hazard thus exposing residents to several diseases such as typhoid and cholera;

THIS ASSEMBLY RESOLVES THAT: -

1. The County Executive Committee Member in charge of Water & Sanitation, through the relevant authority commence the process of registration of all borehole water vendors in Nairobi City County and forward a detailed database for each Ward to this Assembly within sixty (60) days from the date of adoption of this Motion; and
2. The County Executive Committee Member in charge of Water & Sanitation develops a policy to guide the operationalization of borehole water vendors within Nairobi City County.

STATEMENTS

REQUEST FOR STATEMENT REGARDING APPROVAL OF NUMBER OF FLOORS FOR BUILDINGS

Hon. Redson Onyango: Pursuant to Standing Order No. 47 (2) (c), I wish to request for a Statement from the Chairperson of the Sectoral Committee on Lands, Planning and Housing regarding the approval of number of floors for buildings in Nairobi County.

Hon. Speaker, the approval process for determining the number of floors in buildings is a crucial aspect of maintaining safety, sustainability and overall urban landscape that enhances the quality of life of all residents of Nairobi County.

Hon. Speaker, in the recent past, Nairobi residents have witnessed the mushrooming of unapproved high-rise buildings which have been in existence for a long time. This is in total violation of Nairobi City County Regularization Development Act, 2015.

Hon. Speaker, the regulatory body oversees urban development and construction in Nairobi County, and recognizes the significance of ensuring that buildings projects adhere to established guidelines and regulations.

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

- i. Number of floor of development buildings authorized for approval;
- ii. Steps that the County is putting in place to ensure that unauthorized developments not legalized are demolished;
- iii. Measures that the County is putting in place to ensure that privacy of controlled estates is adhered to; and
- iv. Measures the County Government has put in place to enhance compliance to the County regularization of developments.

Hon. Speaker: Thank you, Hon. Redson. Chairperson, Planning?

Hon. Collins Ogenga: Thank you, Mr. Speaker. We need 21 days.

Hon. Speaker: Hon. Redson, are you in concurrence?

Hon. Redson Onyango: I am not in concurrence, Mr. Speaker, because from early last year, the Planning Committee has not responded to more than four of my statements. They keep on telling me 21 days or 14 days, but up to date, they have not responded even to one statement.

Hon. Speaker: What is your request to the Member?

Hon. Redson Onyango: 14 days.

Hon. Speaker: Hon. Vice Chair, are you competent enough to finalize on the request of the Hon. Member?

Hon. Collins Ogenga: Mr. Speaker, we will try within 14 days.

Hon. Speaker: Are you committing before the House that you will deliver in 14 days?

Hon. Collins Ogenga: Yes, Mr. Speaker.

Hon. Speaker: Thank you.

Hon. Speaker: Hon. Redson, is that okay?

Hon. Redson Onyango: Yes, Mr. Speaker.

Hon. Speaker: Thank you. Hon. Redson, you may proceed with further statement requests.

REQUEST FOR STATEMENT REGARDING STATUS OF
PENDING PAYMENT OF CONTRACTORS WHO HAVE
COMPLETED PROJECTS IN NGEI WARD

Hon. Redson Onyango: Pursuant to Standing Order No. 47 (2) (c), I wish to request for a Statement from the Chairperson of the Select Committee on Ward Development Fund (WDF) regarding the status of the pending payment of all contractors who have completed their projects across the City, particularly in Ngei Ward.

Hon. Speaker, the County recently embarked on major renovation works on constructed roads across the City. Whereas various projects have not been implemented, some areas in the County have completed road works. For instance, Makuti Road in Ngei Ward was completed in September 2022 yet the Scope Contractors who worked on the said road have never been paid their dues. Scope Contractors were awarded another contract on renovation works in the said ward in the FY 2023/2024 but work has never commenced due to non-payment.

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

- i. Whether the County Executive has set aside a budget to pay the said contractor;

- ii. List of all paid and unpaid contractors across the County; and
- iii. Steps that the County is taking to resolve issues of non-payment to contractors for full implementation of county projects.

Hon. Speaker: The Chairperson of Ward Development Fund, Hon. Dabar? Is he in the House? Vice Chair?

Hon. Samora Mwaura: Thank you, Mr. Speaker. I request the Hon. Member to give us a minimum of seven days to bring a comprehensive answer.

Hon. Speaker: Thank you.

Hon. Redson Onyango: Hon. Speaker, that is okay with me, thank you.

REQUEST FOR STATEMENT REGARDING DECREASING REVENUE COLLECTED FROM MARKETS IN THE COUNTY

Hon. Redson Onyango: 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 the decreasing revenue collected from the markets within the County.

Hon. Speaker, the County recently embarked on allocating considerable amount of monies to renovate some of the public markets. It is expected that having invested in the renovation of the said markets, revenue collected shall increase due to improved services and new face that the markets offer, both to traders and customers.

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

- i. List of all markets across the County;
- ii. Amount each market generates in terms of revenue to the County;
- iii. Whether payments of these revenue is made in terms of Mpesa or made through County Revenue Fund (CRF) Account to the County, and if the account, who are the signatories of the accounts and how much is in these accounts; and
- iv. Steps that the County is taking to ensure that maximum revenue collected is tapped from these markets.

Hon. Speaker: The Chairperson of Trade. Kindly press your mic.

Hon. Paul Irungu: Thank you, Mr. Speaker. I request the Hon. Member to give the Committee seven days, though we will only respond to the first question. The rest are not for the Sector.

Hon. Speaker: Hon. Redson, may be you need to clarify on the concerns of the Chair of the Trade Committee on taking the responsibility on the first question.

Hon. Redson Onyango: Hon. Speaker, that what about the other three?

Hon. Speaker: Chair, please.

Hon. Paul Irungu: Thank you, Mr. Speaker. The other three questions are for the Finance and Budget Committee. We only deal with the markets and not the financial aspect.

Hon. Speaker: The Chair Water Committee, you will have to do your research properly and then forward your request to the relevant Committee. If need be, you can separate the two.

Hon. Redson Onyango: Thank you, Mr. Speaker. I want to ask the Chair for Trade if he is aware how much is being collected.

Hon. Speaker: That is not within the docket of the Trade Committee.

Hon. Redson Onyango: Thank you.

(Hon. Member spoke off the record)

Hon. Speaker: Hon. Member, we are under Statements. Please, you will have to hold a bit.

REQUEST FOR STATEMENT REGARDING AMOUNT ALLOCATED
TO THE RECENT FIRE TRAGEDY IN EMBAKASI EAST SUB COUNTY

Hon. Oscar Lore: 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 Culture and Community Services regarding the amount allocated to the recent fire tragedy in Embakasi East Sub County.

Hon. Speaker, Nairobi County frequently experiences fire disasters especially in the informal settlements, which causes considerable property damage and eminent suffering to citizens. It is expected that the County Government should put in place adequate measures to respond to disasters such as fire outbreaks wherever they occur.

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

- i. How much was used in the recent fire tragedy in Embakasi East by the County, Disaster and Emergency Management;
- ii. Amount of money allocated to the Nairobi County, Disaster and Emergency Management; in the last financial year; and
- iii. Whether there was any donor involved and how much was donated by each donor.

Hon. Speaker: Thank you, Hon. Member. Hon. Chair of Culture?

Hon. Clarence Munga: Thank you, Mr. Speaker. We will respond after two weeks.

Hon. Speaker: That is only if the Hon. Member is comfortable.

Hon. Oscar Lore: It is okay, Mr. Speaker.

Hon. Speaker: Thank you. Hon. Oscar, you still have another Statement?

REQUEST FOR STATEMENT REGARDING AMOUNT
OF REVENUE COLLECTED BY THE LIQUOR BOARD

Hon. Oscar Lore: Yes, 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 Culture and Community Services regarding the amount of revenue collected by the Liquor Board since the current County Government administration was sworn in.

Hon. Speaker, the County Government recently inaugurated the appointment of member to the Nairobi City County Alcohol Drinks Control and Licensing Board. Despite making the said new appointment, the County continues to witness a worrying drop in the revenue being collected

by the said Board. It is expected that upon the inauguration of the new Board, the revenue collected should be increased due to improved services and new face of the Liquor Board.

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

- i. List of all the Liquor Board members and Sub County licensing committee;
- ii. Number of Liquor Board accounts where revenue is being banked;
- iii. Bank statements of each account;
- iv. Signatories of the Liquor Board accounts; and
- v. Steps that the County is taking to ensure that maximum revenue collected is tapped from the liquor stores.

Hon. Speaker: Thank you. Hon. Chair of Culture?

Hon. Clarence Munga: Thank you, Mr. Speaker. We will respond after two weeks from now.

Hon. Speaker: Thank you. Hon. Oscar?

Hon. Oscar Lore: Agreed.

REQUEST FOR STATEMENT REGARDING NUMBER OF EMPLOYEES
WORKING IN THE COUNTY EXECUTIVE ON ACTING CAPACITY
AND THOSE ON SECONDMENT FROM THE NATIONAL GOVERNMENT

Hon. Nicholas Okwacho: Thank you, Mr. Speaker. Pursuant to Standing Order No, 47 (2) (c), I wish to request for a Statement from the Chairperson of the Sectoral Committee on Labour, and Social Services regarding the number of employees working in the County Executive on acting capacity and those on secondment from the National Government.

Hon. Speaker, Section 34 (1) of the Public Service Commission Act, 2017 stipulates that the acting appointments should be made by lawful authority and subject to prescribed regulations and procedures which apply to appointments. Further, Section 34 (3) of the same Act provides that an officer may be appointed in an acting capacity for a period of at least 30 days but not exceeding a period of 6 months.

Hon. Speaker, the County Executive has a majority of their senior and junior staff serving on acting capacity basis for more than the stipulated period of time, consequently making the officers not accountable for their actions and also limiting their growth in terms of career progression.

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

1. A comprehensive report of all staff in the County Executive who are on acting appointments and secondment, clearly indicating their substantive positions vis-à-vis their acting appointment and dates of appointments to the respective positions;
2. Reports on their contracts and how many times their contracts have been renewed on acting basis and whether they meet the qualifications for the jobs they have been allocated on acting basis; and
3. Measures that the County Executive has put in place to ensure that all the positions that are vacant are substantively filled.

Thank you.

Hon. Speaker: Chairperson, Labour Committee?

Hon. Oscar Lore: Mr. Speaker, I standing on behalf of the Chairman, Allan.

Hon. Speaker: You are the Vice Chair?

Hon. Oscar Lore: No.

Hon. Speaker: You are a Member of the Committee?

Hon. Oscar Lore: Yes.

Hon. Speaker: You may proceed.

Hon. Oscar Lore: We request for two weeks.

Hon. Speaker: Hon. Okwacho, are you okay?

Hon. Nicholas Okwacho: That is okay with me, Mr. Speaker.

Hon. Speaker: Thank you. There is a further Statement request by Hon. Oscar?

Point of Order

Hon. Speaker: Hon. Fiunifiu.

Hon. Kamau Fiunifiu: Thank you so much, Hon. Speaker. As I had stated earlier, I am standing on... Hon. Speaker, protect me from the Member for Kileleshwa Ward.

Hon. Speaker: What do you want to be protected from?

Hon. Kamau Fiunifiu: He is disturbing me. Hon. Speaker, I am standing on a Point of Order under Standing Order No. 47 (1) (c), in regards to a statement that I requested in the First Session of this Assembly from the Chairperson of the Sectoral Committee on Trade. To this day, the Committee has never reported back to this House. Hon. Speaker, in your opening remarks of this County Assembly...

(A member spoke off the record)

I am on a point of order.

Hon. Speaker: The Member is on a point of order.

(Hon. Sospeter Mumbi spoke off the record)

Hon. Speaker: What does it say?

Hon. Sospeter Mumbi: We do not have Standing Order No. 47 (1) (c).

Hon. Kamau Fiunifiu: Hon. Speaker...

Hon. Speaker: Order, Hon. Member! Is it deliberate that you are misleading the House?

Hon. Kamau Fiunifiu: Hon. Speaker, I am not misleading the House. I said that I am standing on a Point of Order under Standing Order No. 47 (1) (c), that was an oversight on my part. Thank you neighbor for pointing out; it is actually 47 (2) (c). Thank you so much, you are a good neighbor.

Hon. Speaker, when you were opening this County Assembly, in your opening remarks you were cognizant of the fact that there are so many businesses pending in most of the committees. I am seeking your intervention because the Statement that I had requested was to be responded to

within 14 days. It is now one year and a half and it has not been responded to. I do not know which other interest the Chairperson of that Committee is representing other than the interests of the residents and traders of City Park Market.

Hon. Speaker: Thank you, Hon. Member for your concern. The House Business Committee on its sittings had resolved to set one of the days within the week as a day of dispensing on reports and statement requests of the committees. Going forward from next week, we will be allocating a day within the week, either Thursday or Wednesday as a day for reports of committees.

(Applause)

Thank you, Hon. Members. We have a lot of pending business from the committees. Your interests will be taken care of, Hon. Member, alongside others. It is not in isolation.

Point of Order

Hon. Alai, under which standing order?

Hon. Robert Alai: Standing Order No. 47 (2) (c), Hon. Speaker.

Hon. Speaker: You may proceed.

Hon. Robert Alai: I suffer the same fate, many of the statements we have requested in this House have not been responded to. It is not because the Assembly does not have a day to address these statements, but it is because the committees have not called us or even witnesses. And if they have, then it is without the knowledge of the people who requested for the statements. The most common thing here is that the committees never get to address the statements which have been requested by the Members.

Hon. Speaker: Thank you, Hon. Alai. Our Standing Order is very clear on the dictates as bestowed to each and every committee, Under the Liaison Committee, they are supposed to consider the reports of various committees on timely basis.

I direct the Liaison Committee to take action and make sure that the House is brought to speed on these several pending requests. The Chairperson Liaison Committee, the Hon. Deputy Speaker is not in the House. We have the Vice Chair of the Liaison Committee, kindly give a commitment to this House as to when the reports of the committees and the requests are going to be brought on the floor of the Assembly.

Hon. Malyun Abdi: Thank you, Hon. Speaker. I want to hold brief for the Chair of Chairs, I will consult the Chair and the Committee, and we will come up with a comprehensive report on the status of all those statements.

Hon. Speaker: Hon. Vice Chair of the Liaison Committee, kindly share with us the mandate of the Liaison Committee. Pass on the Standing Order. Under which Standing Order does the Liaison Committee fall? Any Member of the Liaison Committee?

Hon. Members, I expect each and every Member to be in the know of each and every committee that you serve. The Chair is still on the floor, Hon. Member. Can you read the whole mandate of the Committee?

Hon. Malyun Abdi: Standing Order No. 97 on Progress Reports:

“(1), Unless more regular interval is prescribed under any written law or these standing orders, each select committee shall submit half yearly progress reports to the Liaison Committee.

(2) The Liaison Committee shall, within twenty-one days compile the reports under paragraph (1) and submit a report in the County Assembly.”

Hon. Speaker we will have a retreat on this matter...

Hon. Speaker: So you are in agreement it is the responsibility and the mandate of the Committee to give the reports of the various committees?

Hon. Malyun Abdi: Yes, we will do that on Thursday in our retreat in Mombasa. All the Chairs will present their annual reports and we will compile a recommendation and table it in the Assembly. Thank you, Hon. Speaker.

Hon. Speaker: Thank you. I hope the House is informed.

REQUEST FOR STATEMENT REGARDING IRREGULAR
CHANGE OF USER ON PLOT KNOWN AS LE PAX 58

Hon. Oscar Lore: Hon. Speaker, pursuant to Standing Order No, 47 (2) (c), I wish to request for a statement from the Chairperson...

Hon. Speaker: Excuse me. Serjeant-at-Arms, please you are doing the unordinary.

Hon. Oscar Lore: 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 Lands, Planning and Housing regarding the irregular change of user on plot known as Le Pax 58 opposite the US Ambassador’s residence along Muthaiga Road.

Hon. Speaker, County Government has been mandated under the Fourth Schedule to the Constitution, 2010 to oversee County planning and development, which includes approving construction of buildings in consultation with other state agencies. As such, all buildings development plans need to be approved by the County Government and all developers have to adhere.

Hon. Speaker, despite the above requirement, the developer on the said property applied for change of user which was issued by the County Government Planning Department in complete and blatant disregard of the laid down procedures of building guidelines. The change of user was done without considering the local physical and land use plan of the area. It is unclear whether public participation was conducted.

It is required that the CECM Built Environment and Urban Planning to put a notice to the public for their input before approving any change of user application.

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

- i. The procedure for approving change of user application;
- ii. The proceedings of the public participation exercise within Muthaiga residence conducted in regards to the mentioned change of user application;

- iii. The local physical and land use plan for the area along Muthaiga Road;
- iv. The change of user application and any approvals made and issued to the said developer; and
- v. Measures that the County Executive has put in place to ensure that the said developer and any other developer within the City adheres to building guidelines.

Thank you.

Hon. Speaker: Hon. Chair of Planning.

Hon. Alvin Palapala: Thank you, Mr. Speaker. I am aware of the matter. Give us seven days to be able to report back to the Assembly.

Hon. Speaker: Hon. Chair, it is quite unusual that you can rise before the Assembly and acknowledge that you are aware of the concern of the Member without doing anything about it.

Hon. Alvin Palapala: Hon. Speaker, the area...

Hon. Speaker: This is doing injustice to this Assembly, and you are part of the interested parties. Hon. Chair, this is serious business before the Assembly, can you declare and excuse yourself because of conflict of interest.

(Applause)

Hon. Alvin Palapala: The area MCA had already talked to me about the---

Hon. Speaker: Order, Hon. Member! The Speaker is on the floor. Hon. Chair of Planning Committee, now that you have declared interest, you are an interested party. Can you excuse yourself and delegate the same to your Vice Chair?

Hon. Alvin Palapala: Hon. Speaker, what do you mean by saying that I am an interested party?

Hon. Speaker: You have confirmed to the House that you are aware of the concerns.

Hon. Alvin Palapala: The area MCA informed me that the residents are complaining and they have given them change of user.

Hon. Speaker: That was at a personal level.

Hon. Alvin Palapala: Yes, it was at a personal level.

Hon. Speaker: It is a matter before the House.

Hon. Alvin Palapala: But the area MCA had already told me, so I was aware. When Hon. Regi read the Statement here, I was not aware because he did not talk to me but the area MCA had already talked to me.

Hon. Speaker: That is Hon. Oscar who has raised the question.

Hon. Alvin Palapala: Kindly, Hon. Speaker, whatever Hon. Oscar Lore has read in the floor, I knew it because the area MCA had already talked to me.

Point of Information

Hon. Speaker: Hon. Member, please you may be seated. Under which Standing Order, Hon. Member?

Hon. Kamau Fiunifiu: On a point of information, I want to inform the House.

Hon. Speaker: You want to inform the Member or the House.

Hon. Kamau Fiunifiu: I want to inform the able Member of Kitusuru Ward.

Hon. Speaker: Hon. Member, do you want to be informed?

Hon. Alvin Palapala: I do not think you should inform me. I think I am...

Hon. Speaker: He has some information to pass to you.

Hon. Alvin Palapala: Okay, then go ahead.

Hon. Kamau Fiunifiu: Thank you, Hon. Speaker. Before that, Hon. Speaker, it is important that you pronounce yourself on this matter whereby Members are requesting statements for other wards. Is that provided in our Standing Order?

Secondly, Hon. Speaker, you have made a ruling that the Member for Kitusuru should recuse himself from the hearing of that Committee. What the Member is doing is arguing with you. Is the Member for Kitusuru in order to argue with the Speaker yet the Speaker has pronounced himself on that matter?

Hon. Speaker: Thank you for that concern, Hon. Member. The 124 Members of the County Assembly of Nairobi transact business on behalf of the County of Nairobi Government. Therefore, they have all the authority bestowed to them by the Constitution to ask questions across all the 85 wards. You stand guided.

(Applause)

Hon. Chairperson of Planning Committee, kindly recuse yourself and delegate the same either to a member of Planning Committee or to your Vice Chair.

(Applause)

Hon. Speaker: Is the Vice Chair in the Assembly.

Hon. Alvin Palapala: No, he has just walked out.

Hon. Speaker: Can you assign one of the members of Planning Committee.

Hon. Alvin Palapala: I will assign Hon. Petit.

Hon. Speaker: Hon. Petit, are you a member of Planning Committee?

Hon. Paul Irungu: Yes, I am a member of the Committee.

Hon. Speaker: So, are you positively taking up the responsibility on behalf of the Committee?

Hon. Paul Irungu: Yes, Mr. Speaker, I will take it 100%.

Hon. Speaker: Kindly communicate to the Member within what period of time are you going to respond to his Statement.

Hon. Paul Irungu: Yes, Hon. Speaker, we shall communicate to the Member within 14 days.

Hon. Speaker: Hon. Oscar?

Hon. Oscar Lore: Mr. Speaker, I am okay.

Hon. Speaker: Thank you. We may proceed. Clerk!

MOTION**SOLID WASTE COLLECTION AND POSTING OF
COLLECTORS' SIGNAGE ON PREMISES**

Hon. Sospeter Mumbi: Thank you, Hon. Speaker.

AWARE THAT Section 5 of the Nairobi City County Solid Waste Management Act, 2015 provides that every person within the County is entitled to a clean and health environment and has a duty to safeguard and enhance quality of the environment;

FURTHER AWARE THAT Section 16 read with Section 26 of the same Act provides that the County may directly or indirectly undertake collection of solid waste from the streets, public places; and, for application of license to collect and transport solid waste by any collector from the Chief Officer in charge;

ACKNOWLEDGING the need by the owners and occupiers of any premises which generate solid waste to ensure collection of such waste, indicating the collector name, business registration number and waste collection license number for compliance;

THIS ASSEMBLY URGES the County Executive to conduct a registration of all Solid Waste Collectors in the County and through a public notice, encourage placing of signage at the entrance of all the residential building indicating the Solid waste collector's name, Business number and collection license number to ensure compliance, as annexed below.

I have a sample here:



Solid Collector Name

Client Name

Business Registration Number

Solid Collection License Number

Hon. Speaker, allow me to go direct to the point on what has brought rise of this Motion. There are many challenges that continue to be bedevil the people of this County. If I was to give a background, rural-urban migration has caused a bulge in the population in the City leading to the increase in the number of high rise buildings. We also have inadequate machineries as a County

such that we have not been able to provide sufficient solid waste management solution to the people of Nairobi. Also, we have uncontrolled business that are coming up in all corners of the City. These have had negative effects on our County.

When you look at the blocked drainages which cause flooding, they have strings attached to lack of waste collection or insufficient means of collecting that waste. We have people who dump waste in the sewer lines. Also, some people dump waste on the road causing traffic jams. Solid waste is a health Hazard in the County. River pollution is another issue we are dealing with as a County. We are also losing revenue as a County. All these are because of lack proper mechanism to deal with the people who collect waste for us.

I would want to ask a question here; are we aware we might be part of the people who are polluting our environment within the County? Hon. Speaker, perhaps we are not aware that whatever garbage you generate in your house gets to the designated area. This Motion now is trying to address that problem so that any waste generated within the County gets to the designated areas.

Where are we today? Hon. Speaker, for one to collect garbage you need to be licensed by the County. Today, we have a number of organizations and groups that continue to run this business without getting the required certifications from the County. How has this caused problems to our County? Let me give a scenario of the reality on the ground. Once your garbage is not collected, maybe you contract an individual to go and dispose waste on your behalf. These wastes land on the roadsides, in rivers, and other undesignated areas.

Hon. Speaker, Section 17 of Part III of the Solid Waste Management Act states:

“It shall be the duty of every occupier or owner or agent of a house or other premises to clean or cause to be clean 10 Meters radius around his or her house or other premises or any area otherwise in his or her control but which shall not include a main road or street”.

Hon. Speaker, this Motion is trying to ensure that we have a clean environment and that the occupiers...

(Hon. Speaker left the Chair)

(The Temporary Speaker (Hon. Diana Mwang'angi) took the Chair)

(Loud consultations)

I wish to continue, and I am seeking the attention of the Speaker, kindly.

Hon. Speaker: Proceed.

Hon. Sospeter Mumbi: Thank you, Hon. Speaker. What this Motion is proposing is that, we shall have a signage on every entrance indicating the name of the collector, the license number, and other necessary details. How will that help in addressing the issue of solid waste management in the County? We have officers who are mandated to go around and ensure that there is enforcement of the said law or rules. Once the officers get to your entrance, they will interact with the signage and through that signage, they will be able to login because we understand they will

be having a data of all registered collectors. They will key in details that have been inscribed there and they will be able to establish whether that collector is licensed by the County.

For a person to be licensed, they will provide certain documents to the County during registration, which ascertain that indeed this person takes their garbage to the designated areas. That being the case, it will be now be upon the owner of the premise to go out of their way and ensure they get the right person for that job.

Today what is happening in Nairobi, the owners have distanced themselves from that responsibility of vetting the people who are engaged in solid waste management. What is happening, they just engage anyone without caring where this person is going to take that garbage. That is why garbage has landed on the roadsides and rivers, and we end up having flooding in this County.

Therefore, Hon. Speaker, the benefits that will come with that:

1. Every plot once it has that signage, will ensure there is public participation where the residents will be involved in the management of waste.
2. We will have enhanced environment, health and sanitation standards.
3. Increased revenue because for one to run garbage collections activities, they will have to undergo the process of registration under the County, and by so doing, that will attract revenue for the County.
4. It will enhance accountability among garbage collectors in the County.

Today, if you ask the County how many people are registered or in the data of garbage collectors? You will find they have recorded about 50% of the people who are engaged in solid waste management. That tells us number of companies engaged in solid waste management are not in the data of the County. Once we have them registered, at least we are able to hold them accountable.

In terms of employability, that will also come as an advantage because the people who are engaged in solid waste management will also have good returns for their work.

Hon. Speaker, allow me to urge the House to support this Motion because it will go a long way in addressing the issues of environment within our respective areas. I understand each one of us from the 85 wards is somehow grappling with this issue of solid waste management.

Hon. Speaker, I end there and request Hon. Matara to second my Motion. Thank you.

Hon. Silas Matara: Thank you, Hon. Speaker for this opportunity. I rise in support of this Motion, not only as the Chair of the Environment, but also as a resident of Nairobi. Matters of waste collection and disposal is a pertinent issue in Nairobi, taking cognizance that Nairobi generates 3,200 tons of wastes per day. We have inadequate internal capacity with regards to collection of the generated waste. With that in mind, the County each year licenses private service providers (PSPs) to augment the waste collection and final disposal at the dump site from the respective residential and commercial buildings.

Hon. Speaker, the import of this Motion is compliance. When we will be able to have signage indicating who the PSPs are and where they have been allocated to work, we can be able

to identify the gaps that need to be filled, whether to seek a review of the conditions, and rules and regulations that guide and govern the private service providers. You cannot hold people accountable before knowing who they are. So, the passage of this Motion by this House sufficiently enables the Environment Sector headed by the CEC to come up with mechanisms towards alleviating the challenges faced by Nairobians in terms of the waste generated that is normally not handled in a professional way.

Hon Speaker, there is an issue about getting the right information. At the end of the day when we realize that in a particular area there is laxity or inefficiency in service provision, we can see whether we can be able to prioritize in informing our budgetary provision, whether we are going to increase our internal capacity or we get to issue more licenses to more service providers to be able to handle the respective waste. This is going to create an additional channel of Nairobians having a channel of raising concerns with regards to garbage collection. When the County fails to pay contractors like they have done in the last one year, the PSPs come in handy towards filling the gap left by the County because it is our responsibility to make sure that Nairobi is clean by timely collection and disposal of the waste. With those few remarks, I beg to second. Thank you

(Question proposed)

Hon. Temporary Speaker: Members, you may now debate. Hon Davidson DNG Ngibuini.

Hon Davidson Ngibuini: Thank you so much, Madam Speaker. I rise in support of this Motion. Personally, I have struggled with matters solid waste and garbage management in my ward since elected. In Woodley/Kenyatta Golf Course Ward, many business owners and operators of vibandas dump their waste on the footpaths and in the storm water drains. They also dump their waste in culverts and ditches. It is a sad state of affairs. Now, we have employed and deployed green army. This green army collects waste during the day, only for traders to illegally dump garbage at night.

Every business owner and premise owner needs to take responsibility for their individual waste generation. As much as this responsibility of collection is the County's, I would like to encourage every business owner and premise owner within the Nairobi City County to take waste management seriously. One cannot operate a *kibanda* or a kiosk and dump garbage right next to their premise. It is also peculiar that in Woodley's Jamhuri Market, what we know as Adams Othaya, we have a lady who sells *omena* and the garbage is right outside her stand. In fact, many times garbage is put right there. She does not complain and she says nothing about it, and it has become the norm.

I would like to tell this Hon House that it is not the norm for Nairobi, and things cannot get these unhygienic without us taking action against it. It is also sad that traders also engage youth with *mkokoteni* to go and dump waste generated from their business premises to footpaths away from their shops.

As Hon. Sospeter has said, when it rains, it is the same garbage that clogs our drainages. What we see is storm water overflowing and flooding on our roads. In addition, Twitter gets alive with complaints. The storm water destroys the same tarmac that we are funding to put and lay with our Ward Development Program. It is simply retrogressive and unsustainable. This behavior is uncouth and must be checked. We must do better to our capital city.

As we strive to operate in a dignified manner, we need to know who is collecting this garbage. We need to know whether they have any training. Maybe they do not know any better. That is why *wanalipwa shilingi ishirini* or 50 shillings to dump this thrash using their *mikokoteni*. Perhaps those that we are tasking to collect our waste need to be engaged, trained and be empowered to do the right thing. We also need to hold those who participate in illegal dumping to account. Severally, I have raised this matter on this floor.

The Nairobi City County Enforcement and Environment sectors need to do better. They have to collaborate to reign in on those dirtying our wards and sabotaging our service delivery agenda. I have proposed severally the formation and activation of an antidumping unit. I am told that unit exists but we never see it on ground. Which begs the question, why? Excuses from these sectors include and are not limited to “*hakuna mafuta, hakuna magari au gari liliharibika.*” It is not the job of elected MCA to facilitate officers employed by the Nairobi City County Government. It is a big shame, and we must get serious with Nairobi in this session. We must facilitate our officers and we must start seeing this antidumping unit operating at night when this illegal dumping is most rampant in our wards. We must put an end to the disgust that we come across every single day in Nairobi. Hon Speaker, I wholeheartedly support this Motion.

Hon. Temporary Speaker: Hon. Waithera Chege.

Hon. Waithera Chege: Thank you, Madam Speaker. As I rise to support this motion, I think we are missing so much on the threshold of this House – the operating system – because many times the Speaker will keep on referring to Hon Petit, knowing very well that this House doesn't have a Member by the name Hon Petit. So, I still want to take you back to the Speaker's Rules. I think it is quite unfortunate that if that threshold is not achieved from that desk, then we might also be losing it on the content of the debate on the floor.

Hon. Temporary Speaker: Your concern is noted for action.

Hon. Waithera Chege: Thank you, Madam Speaker. Having said that, allow me to thank and congratulate the Hon. Member who has brought this motion on the floor of this House, Hon. Sospeter. The contents of this motion is lacking something that the Inspectorate ought to have done a long time ago. When I was listening to Hon. Sospeter, the issue of having 10 meters away from your working space and away from where you live ought to have been enforced long time ago.

I think the Chair for Environment should now wake up and agree with the whole of this House, that it is the Enforcement within this County that has failed in their mandate. Madam Speaker, the issue of garbage collection in Nairobi is a multibillion business. And what we see every day are cartels who are only interested in profits and extortion. When we speak about garbage collection cartels in Nairobi, you realize what we are having in our wards are disposal

sites. This Act gives a definition of a disposal site, and one of the things the Act underlines is that, a disposal site should not be a site for retrieval of garbage. If you come to South B, for example, outside one of our churches, there is a disposal site. But the definition of this Act of a disposal site means any area of land on which waste disposal facilities are physically located or final discharge point without the intention of retrieval. It does not mean to reuse or to recycle plant or site.

We have a 30-acre piece of land in the Dandora. Dandora is surrounded by areas Korogocho and Baba Dogo which are informal settlements. The people living within those locations live below a dollar a day, yet the Dandora site with a 30-acre plot is generating billions of monies. The people sorting out garbage in the dump site are from the informal settlements. If you follow further, Madam Speaker, you realize that those people are paid very little allowances or none, they are told to go and sell may be bottles that they have sorted within that garbage

Madam Speaker, to remind this House, Nairobi generates 50% more of garbage than Addis Ababa, Ethiopia, and 30% more than Dar es Salaam, Tanzania. The budget that we pass here is supposed to cover because this is an Act of the Assembly which gives zones that are 17 in number. When you speak about these zones, therefore we are speaking about constituencies in Nairobi. They are very well listed in the in the in the Nairobi City County Solid Waste Management Bill that was passed in 2015 when most of the members were not there. So, it is something that is supposed by now to have achieved so much, but for those issues of implementation and enforcement.

The other day, we said that a motion here is a proposal requesting the Governor to act on certain issues and to make sure that they are not only done but also be seen to be done. If you look at most of the motions that have been passed on the floor of this House, Madam Speaker, you realize not even a 0.7% has been implemented. We will keep on year in year out passing motions here, yet nobody is interested in the implementation of the same.

(Applause)

We are proposing to the Governor to do A, B, C, D as an agenda on the motion. But if you go to the County Attorney's office today, she is not even aware how many motions have been passed on the floor of this House for the last one year. The same County Attorney's office is also requesting this House to go back to the past five years and retrieve the bills to come back to the house to be passed again. So, even as we debate this motions, I want to request those people in charge to make sure that the current Government is not just being seen to be doing these things but also delivering on the manifesto that we gave to the residents of Nairobi.

Madam Speaker, allow me to take Members to Article 11 (2) of the Solid Waste Management Act. I will still keep on going back to Nairobi South Ward. When you make a call to the Executive to request them to collect garbage within the ward, they will send you a truck that is supposed to be working in a different zone. This Article 11 (2) says that, "any person or firm authorized to collect transport waste, shall be guilty of an offence if he or she operates outside the zone in which he or she is authorized to operate in." Madam Speaker, if you ask me today and

most of the elected Members on the floor of this House, which constituency or zone – it is the Act that has given these zones – that has a truck of its own? That every morning if I see a truck that is operating within my area and has not been given that mandate, the driver together with their people are supposed to be arrested. Every zone, and in this case Starehe zone, should have its trucks and the MCAs should have the number plates of these trucks. If I see a truck that has a number plate that has not been given the zone, it is the law. We have passed this laws so that we can be able to implement its contents.

Madam Speaker, allow me also to take this House to Article 21. Article 21 where it speaks about...

Hon. Temporary Speaker: You have two minutes remaining.

Hon. Waithera Chege: Thank you, Madam Speaker. Article 21 speaks about the branding of bags and other containers. All the containers and garbage collection materials that you see in Nairobi, the Act says that, that bag must have a name and the logo of the service provider. These are some of the things that Hon. Sospeter is asking within this motion. It must have the logo, address and phone number of the service provider. Also, it must have any other information that may be prescribed by the Executive Committee Member.

I ask the Chair for Environment to put the Executive Committee Member to task to make sure that these things are done in every ward. If you ask every Member here, whether elected or nominated, they have not seen bags labeled with logos and service provider details. They do not have them within those areas.

As I conclude, Madam Speaker, because you are telling me that my time is almost over, I want to go again to Article 20. It indicates clearly that litter bins, liner bags and other solid waste bags shall be coded in order to facilitate waste segregation. So, waste segregation should not be done at the Dandora dump site. I have seen they have been doing waste segregation there. It should be done within the ward. And it says, there should be a green liner, a blue liner, and a brown liner. These Members have not seen that within their areas. Therefore, the reason why I am standing up to support this motion is because Hon Sospeter has indicated and has put it very clearly that these people should have their details and their addresses put together.

Finally, Madam Speaker, Article 28 speaks about the owner and the occupier of that building. We have so many buildings in Nairobi, the Act has covered not only the tenant, but also the any owner or occupier of any promise where waste is generated. He or she shall register or ensure that his or her tenants register for waste collection. So, we should also be going for the owners and occupiers of these buildings to make sure that they not only have a list of the tenants that are in that building, but also those tenants are also aware that the Act is in place and should be implemented as it is. Thank you, Madam Speaker. I beg to support.

Hon. Temporary Speaker: Hon Jeremiah Karani Themendu.

Hon Jeremiah Themendu: Thank you, Madam Speaker. I congratulate Hon. Sospeter for the good motion that he has brought to this Assembly. Solid Waste Management has employed many youths in our areas. Like in my area, they register as CBOs, then after that, they are given

letters by the Environment Sector. Because we do not have many positions that we can employ those young boys and girls, the County Government should register them. Moreover, when I say to register, it does not mean the County officials go and exploit them by demanding money so that they can be registered. They could be aware that they are already registered under the CBOs.

In my ward, collectors normally collect waste from houses or residential areas. Thereafter, they take the waste to collection points where they dump because Dandora is very far away. From there, County contractors come and carry the waste to the Dandora dumpsite.

I support the motion and advise the County that when it comes to registration, because we are going to pass the motion, they do so in a humane manner. Thank you, Hon Speaker.

Hon. Temporary Speaker: Hon Gerald Irungu Mukuru.

Hon Gerald Mukuru: Thank you, Madam Speaker for giving me this chance to support this noble motion that has come at the right time. Solid waste management is a big menace in almost every ward and every sub County. Notably, in my area which falls in the same sub County as my sister here, Madam Waithera, many are the places where they dump wastes and garbage spilling everywhere. Many people do not comply by putting garbage into the right places where they should. Those illegal dumpsites can be transformed into places where our people can do their own businesses, especially those who come from the informal sector.

During the rainy seasons, those places are not accessible. The waste contractors sometimes dump garbage into the rivers against the bylaws. For those of us who neighbour Nairobi River, the river is unlike when the Michuki rules where strictly adhered to. Now, from the upper sides to the lower sides of the river, it looks bad. If only we can have the right channels, we can make our Nairobi City County clean. Those who throw garbage, our Enforcement officers should not compromise; they should take them to court. I support. Thank you, Madam Speaker.

Hon. Temporary Speaker: I now call upon the mover to reply.

Hon Sospeter Mumbi: Thank you, Hon. Speaker. I wish to appreciate the contributions that have come from my fellow Members. Thank you very much for your support, and collectively as a House for remaining behind to support this motion. I do not take it for granted.

I want to respond to the concerns raised the Hon. Member for Woodley/ Kenyatta Golf Course Ward. The main objective of this motion is changing the target from young people who are engaged in garbage collection – because I know the County has put measures to enforce – to the owner. If you look at the Act, it is very categorical on the owners and the occupiers. Therefore, what will happen, it will go to the owner because we are going to monitor the owner; “who collects your garbage? Can you give us details of that person?” Now, it will be upon the owner to go for the right person, so, that will make it easier not for us as the County going for that person who is engaged in garbage collection. By so doing, I think it will go a long way in addressing that. Thank you very much for your contribution. I beg to reply. Thank you.

(Question put and agreed to)

Hon. Temporary Speaker: Members of the Assembly Business Committee, we are meeting after the rise of the Assembly.

ADJOURNMENT

Hon. Temporary Speaker: The House stands adjourned until tomorrow, Thursday 22nd February 2024 at 2:30 p.m.

The House rose at 5:00 p.m.