



THIRD ASSEMBLY – (THIRD SESSION)

NAIROBI CITY COUNTY ASSEMBLY

VOTES AND PROCEEDINGS

TUESDAY, NOVEMBER 5, 2024 AT 2.30PM

1. The Assembly assembled at thirty minutes past Two O'clock.
2. The Proceedings were opened with Prayer.

QUORUM OF THE ASSEMBLY

The Speaker having confirmed that there was no Quorum at the commencement of the Assembly caused the bell to rung for 10 minutes. At the expiry of 10 minutes and having confirmed that there was not quorum, the Speaker ordered that the bell to be rung for a further 5 minutes.

Having confirmed that there was quorum before the expiry of 5 minutes, the Speaker called the Assembly to order.

3. COMMUNICATION FROM THE CHAIR

The Speaker issued the following communication: -

**GUIDANCE ON EMERGING ISSUES REGARDING THE APPLICATION OF
STANDING ORDERS AND TRANSACTION OF COMMITTEE BUSINESS**

“Honorable Members, good afternoon. Welcome to this afternoon sitting. I have the following Communication to convey:

Honorable Members, you will recall that during the sitting of Tuesday, 29th October, 2024, I guided the Assembly on the procedure for handling business

before Committees reiterating the provisions of Standing Order No. 94 which prohibits Members from referring to the substance of the proceedings of a Select Committee before the Committee has made its report to the County Assembly. Upon issuing of my guidance, the Hon. Robert Alai, MCA rose on a point of Order and argued that the provisions did not apply to Sectoral Committees. It was the contention of the Hon. Member that there was a difference between Select Committees and Sectoral Committees.

Honorable Members, at that time, I did indicate to the Hon. Member that all committees were Select Committees and therefore bound by the provisions of Standing Order No. 94. However, I thereafter received a letter dated **30th October, 2024** from **Hon. Robert Alai** raising various misleading allegations on the very guidance I had issued and on the issue of resignation from Assembly Committees.

Honorable Members, whereas I would have ordinarily responded to the letter from my Chambers, I have reviewed the correspondence and found it prudent that due to serious legal, procedural and factual issues it raises, I need to address those issues on the floor of this Assembly and put to an end any speculations regarding the application of Standing Order No. 169 (3), Standing Order No. 94 and Part (22) XXII of our Standing Orders as follows:-

1) Resignation from Assembly Committees.

Honorable Members, in a letter dated **7th October, 2024**, Hon. Robert Alai tendered his resignation from all Assembly Committees. Standing Order No. 169(3) anticipates that a Member might opt to resign from any Committee upon which the resignation becomes **effective** once the Member tenders the resignation and no action is required of me to validate such resignation. In essence, a Member's resignation becomes effective once he/she submits the resignation letter to my office and that of his/her Party Whip. However, the concerned party/coalition is required to fill the vacancy that arises within fourteen (14) days. Further, the party and the concerned member must be alive to the provisions of Section 14(4) of the County Governments Act, 2012 which provides:-

“(4) The County Assembly shall in establishing committees under this section ensure that each member of the county assembly is appointed to at least one committee.”

To this end **Honorable Members**, all members of the County Assembly have a public duty to be at least in one Committee.

2) Categorization of Assembly Committees.

Under the commonwealth parliamentary practice, which we heavily borrow from, parliaments establish Committees to conduct business on their behalf in order to effectively discharge their mandates. Assembly Committees are the best and ideal avenues for the Assembly to play its roles more effectively especially the oversight role. The Committees report back to the Assembly on matters referred to them by the speaker, petitions received, or on any other matter within the scope of their mandate that they consider necessary for their consideration and reporting.

Further, under the commonwealth parliamentary practice, all parliamentary committees are, by and large, **‘select committees’** since they are constituted by the entire Assembly through a selection process that involves the consideration of a report of the **Selection** Committee as provided for under Standing Order 171 (1) and (2). Indeed, the entire provisions of **Part XXII** of our Standing Orders speak to matters related to **“SELECT COMMITTEES”**. Under this part, the procedure of the Assembly allows for **four kinds** of **Assembly Committees** i.e. **Sectoral, House Keeping, Investigatory/Watchdog/Financial Management** and **Ad hoc** Committees as follows:-

(i) Sectoral Committees

The mandate of Sectoral Committees is in respect to the subject matter assigned by the Standing Orders and is exercised within the limits contemplated under Part 2 of the Fourth Schedule to the Constitution. Currently, the Standing Orders provides for the following Sectoral Committees: -

- a) Agriculture, Livestock and Fisheries
- b) Environment and Natural Resources
- c) Energy and Information, Communications and Technology

- d) Transport and Public Works
- e) Planning and Housing
- f) Trade, Tourism and Cooperatives
- g) Water and Sanitation
- h) Culture and Community Services
- i) Justice and Legal Affairs
- j) Labour and Social Welfare
- k) Health Services
- l) Children, Early Childhood Education and Vocational Training

Indeed, **Hon. Members**, Standing Order 209 clearly provides that and I quote: -

*“209. (1) There shall be **select committees** to be **known as Sectoral Committees** comprising of not less than fifteen and not more than seventeen members who shall be nominated by the Committee on Selection in consultation with County Assembly parties at the commencement of every County Assembly.”*

Hon. Members, this emphasizes the fact that Sectoral Committees are Select Committees.

(ii) Housekeeping Committees

Housekeeping Committees generally are concerned with the smooth administration of the Assembly. Currently the main house-keeping Committees are: -

- a) Assembly Business Committee
- b) Liaison Committee
- c) Committee of Powers and Privileges
- d) Procedure and Assembly Rules Committee

(iii) Investigatory/Watchdog and Financial Management

Investigatory Committees are mandated to examine the financial affairs and accounts of the County Government Departments including the County Assembly and County investments/enterprises. They fulfill their mandate by examining reports of the Auditor General and make recommendations to the

Assembly for appropriate action to be taken. Currently, the standing orders provides the following as the Investigatory/Watchdog Committees: -

- (a) Public Accounts Committee (PAC); and
- (b) Public Investments Committee (PIC)
- (c) Finance, Budget and Appropriations Committee

(iv) Ad hoc Committees

Ad hoc Committees are formed through a resolution of the Assembly on a matter that does not fall under the mandate of any other select Committee. They are dissolved as soon as proceedings are concluded, report compiled and tabled.

3. Application of Standing Order 94 and suppression of oversight.

In my communication issued on the floor of the Assembly on **Tuesday, 29th October, 2024**, I conclusively addressed this matter. Nonetheless, I wish to reiterate that having established that all Committees are select committees within the meaning of Part XXII of our Standing Orders, it follows therefore that Standing Order 94 applies to all Committees of the Assembly. Further, as expressed in my communication to the Assembly cited herein, the purpose of the said Standing Order is not to gag Hon. Members but to allow Committees, which are extension of the Assembly, to conclude considering business before them and submit their reports to the Assembly in order to inform debate and also allow them to conduct business objectively and independently without undue influence. This also ensures that Members do not pre-empt debate on business before the Assembly which is an established practice. Even so, nothing stops you or any other Member from appearing before the relevant Committee to raise issues under its consideration.

Hon. Members, this guidance should therefore settle all matters raised herein with regards to resignation of members from committees and the application of standing order 94. I further direct that the Majority Party/Coalition takes necessary steps contemplated under Standing Order 194(3) with respect to Hon. Robert Alai's resignation while taking into account the provisions of Section 14(4) of the County Governments Act, 2012

I also wish to reiterate that the Speaker my role is to guide the County Assembly to ensure strict adherence to our Standing Orders and the law and to facilitate Hon. Members to execute their broad mandate. Thus, as far as I am concerned, I have remained faithful to this doctrine even as I undertake that my office shall remain open to offer any assistance to all Hon. Members as they discharge their roles within the law. **The Assembly is so guided!** I thank you **Hon. Members.**”

4. PETITION

The following petition was issued: -

A PUBLIC PETITION ON BEHALF OF SOWETO RESIDENTS ASSOCIATION REGARDING THE SOWETO COMMUNITY WATER PROJECT AND SEWERAGE BY THE NAIROBI CITY COUNTY WATER AND SEWERAGE SUB-SECTOR AND THE NAIROBI CITY WATER AND SEWERAGE COMPANY IN NAIROBI CITY COUNTY.

(The Hon. Peter Imwatok, MCA)

5. PAPERS

The following papers were laid on the Table of the Assembly: -

- i. NAIROBI CITY COUNTY REVENUE AND FUND REPORTS AND FINANCIAL STATEMENTS FOR FIRST QUARTER OF FY 2024-2025**

(Hon. Peter Imwatok, MCA)

- ii. NAIROBI CITY COUNTY REVENUE AND EXPENDITURE REPORT FOR PERIOD ENDED 30TH SEPTEMBER 2024**

(Hon. Peter Imwatok, MCA)

6. STATEMENTS

Pursuant to Standing Order 47 (2) (c) the following statements were requested: -

- i. The Hon. Samson Jera, MCA requested a Statement from the Chairperson of the Sectoral Committee on Transport and Public Works regarding installation and maintenance of lights in the County. (Response due in two weeks)**
- ii. The Hon. Samson Jera, MCA requested a Statement from the Chairperson of the Sectoral Committee on Children, Early Childhood and Vocational**

Education regarding disbursement and administration of bursaries in the County. (Response due in two weeks)

7. MOTION - AMENDMENT OF URBAN HOUSING RENEWAL AND REGENERATION POLICY

Motion Made and Question Proposed;

THAT, aware that Article 43(1) (b) of the Constitution of Kenya, 2010 provides for the right of every person to accessible and adequate housing and to reasonable standards of sanitation; **further aware** that paragraph 8 of Part Two of the Fourth Schedule to the Constitution of Kenya, 2010 provides for the functions of County planning and development including housing are vested in the County Government; noting that Nairobi City County Government owns various estates in various parts of the County such as Jamhuri in Woodley, Ngara, Huruma, Jericho amongst others; concerned that most these estates are in dilapidated conditions and are lacking clear management framework; **acknowledging** that the County has initiated the urban renewal program aimed at developing decent affordable housing units particularly in the County owned estates; **further acknowledging** that the County developed the County Urban Housing Renewal and Regeneration Policy which provides for general promotion of housing, this Assembly urges the County Executive to amend the existing County Urban Housing Renewal and Regeneration Policy to provide for the management of County Government owned estates including maintaining best practices in Estate Management, maintain and update a comprehensive County Government Housing inventory and protect County Government ownership of its properties.

(Hon. Waithera Chege, Mca – Deputy Minority Leader)

Debate ensued;

Mover replied;

Question put and agreed to.

8. MOTION - ENFORCEMENT OF SECTION 22 OF THE NAIROBI CITY COUNTY SOLID WASTE MANAGEMENT ACT, 2015 REQUIRING ALL BUSINESS OWNERS TO HAVE DUSTBINS IN DESIGNATED AREAS AT THEIR PREMISES.

Motion Made and Question Proposed;

THAT, aware that Article 42 of the Constitution of Kenya 2010 provides for the right of every person to a clean and healthy environment which include the right to have the environment protected for the benefit of current and future generations; further 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 healthy environment and has a duty to safeguard and enhance quality of the environment; **acknowledging** that Section 4 of the said Act provides for the shared responsibility of all actors including the County Government, owners and occupiers of premises and contracted service providers in solid waste management; **further acknowledging** that Section 22 of the Act states that every owner or occupier of any premises shall provide appropriate waste container and maintain it in accordance with the Act and shall cause all domestic waste from his or her premises to be placed in such container. The Section further provides that every such owner or occupier shall cause all waste containers in his or her premises to be placed and kept in approved place upon his or her premises or elsewhere as directed by an authorized officer so as to be accessible to the service provider that he or she subscribed to for the purpose of its removal; **concerned** that since the enactment of the Nairobi City County Solid Waste Management Act in 2015 to date nothing in terms of operationalization of Section 22 of the Act has been done; therefore, this Assembly **resolves** that the County Executive Committee Member responsible for environment to move with speed and: -

1. Enforce the provisions of Section 22 of the said Act on all business premises and any other premises across the County; and

2. Develop Regulations pursuant to the provisions of Section 27 of the said Act and submit to the Assembly within sixty (60) days after the adoption of this Motion for consideration and approval.

(Hon. John Rex Omolleh, MCA)

Debate ensued;

Mover replied;

Question put and agreed to;

And the time being thirty-four minutes Past Four O'clock the Speaker adjourned the Assembly without Question put pursuant to the Standing Orders.

9. ASSEMBLY ROSE - at thirty-four minutes past four O'clock.

—

MEMORANDUM

The Speaker will take the Chair on
Wednesday, November 6th, 2024 at 2.30 p.m