

COUNTY GOVERNMENT OF KISUMU



COUNTY ASSEMBLY OF KISUMU

THE HANSARD

SECOND ASSEMBLY – SECOND SESSION

Wednesday, 08th August, 2018

House met in the Main Chamber at 02:30 p.m.

(The Temporary Speaker (Hon. Carren Muga) in the Chair)

PRAYERS

The Temporary Speaker (Hon. Muga): Good afternoon Hon. Member?

Hon. Members: Good afternoon Madam Speaker!

The Temporary Speaker (Hon. Muga): Welcome to this afternoon session and I request the Clerk to take the House through the business of this afternoon.

COMMUNICATION FROM THE CHAIR

The Temporary Speaker (Hon. Muga): Hon. Members, I want to make the following communications. This is communication from H.E. the Governor, Kisumu County, Professor Peter Anyang' Nyong'o and it reads;

The County Government of Kisumu is pleased to invite you to an event on the Kisumu Universal Healthcare at Diemo Primary School, Kombewa on Thursday, 09th August, 2018 as from 09:00 a.m. to 11:15 a.m. The kick-off of this ambitious plan cannot be complete without your esteemed participation. As you are a strategic partner in the achievement of Universal Healthcare, your presence and contributions as Leaders in the Health Sector will be highly appreciated. I therefore request the pleasure and your company to celebrate the launch of this milestone, thank you.

The Temporary Speaker (Hon. Muga): Next order!

MOTION

ENFORCEMENT OF THE ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION
ACT, 1999

BY HON. PRISCAH MISACH, MCA, KALOLENI-SHAURIMOYO

Aware that the Fourth Schedule Part II (10) (a) (b) of the Constitution of Kenya 2010, a Devolved Function on Implementation of Specific National Government Policies on Natural Resources and Environmental Conservation including soil, water conservation and forestry.

Madam Speaker, developers have developed a preference for wetland, especially in the urban areas, Encroachment of Riparian Zones as is the case in Kisumu County, where the Kameta Lagoon in Nyalenda A Ward and River Kibos runs beneath. The Environmental Management and Co-ordination Act, 1999 regulates sustainable management of wetlands and water resources and ensure the protection of wetlands as habitats for species of plants and animals.

Madam Speaker, EMCA provides a framework for Public Participation in the management of Wetlands and enhance civic education, research and prevention and control of pollutants and siltation of dams. The law states that, no person shall discharge raw effluent from sewerage treatment plants without a valid license. It further states that no one shall obstruct ground water or carryout activities near lakefronts or river streams that is likely to have adverse effects on water quality and quantity without an Environmental Impact Assessment License. (EIAL). This Act is categorical on the usage of waste water for irrigation. No. person is permitted to use waste water for irrigation unless it complies with the set quality guidelines.

Madam Speaker, we have experienced people growing horticultural products in urban areas using sewer waters and illegal fishing at Kameta Lagoons in Nyalenda A Ward which has a significant effect on Health with regards to the quality of water discharged in those outlets.

Madam Speaker, this motion urges Members of this House to compel the Department of Environment to enforce the Environmental Management and Co-ordination Act, 1999 for environmental sustainability.

Madam Speaker, I brought this motion to as the County Government to re-enforce this law because I recently visited Kameta Lagoons which is next to Kasagam Secondary School. Madam Speaker, you will find people fishing there and this left me wondering where they take these fish. You will witness a lot of horticultural produce grown around this lagoon. I took keen notice of vegetables sold at Oile Market and I could compare the seedlings I saw at Kameta as those being sold to our people for consumption.

Hon. Misachi: Madam Speaker, I would like to say that if this motion meets the threshold of this House and submitted to Public Health Department then let them also go and see the Kameta for

themselves. I would suggest that they go very early in the morning and late in the evening because that is the time that they shall find people fishing there and they will also find people ferrying vegetable to Oile Market for consumption.

Madam Speaker, I would wish therefore to table the motion and may I request Hon. Agola to second.

The Temporary Speaker (Hon. Muga): Hon. Agola the floor is yours.

Hon. Agola: Thank you. I stand to thank the Hon. Misachi for bringing this important motion before this Honourable House. Matters of environment and matters of food consumption must be taken very seriously. We are currently suffering from many deceases. Our hospitals are full of patients from this county because of complications that are originating from what we consume.

If this motion is taken seriously and its implementation is taken up very seriously and as a county we enforce laws where it applies because it is unlawful to do irrigation and produce food on water that is not approved by NEMA.

Madam Speaker, I come from Lake Region. I come from a beach where riparian areas have been encroached by private developers. The other day I had a meeting with an individual who claimed of bringing developments to the beach and he is encroaching the landing site within that beach. We need to second our riparian areas and wet land area. I beg to second.

The Temporary Speaker (Hon. Muga): Thank you Hon. Agola Erick. A motion on Environmental Management Enforcement Act has been brought before this House by Hon. Prisca Misachi and dully seconded by Hon. Erick Agola. I therefore put it before this House for deliberations. Yes Hon. Khan.

Khan: Thank you Madam Speaker. I rise to support this motion and especially encroachment of riparian and wetlands which is our livelihood. As you are aware there is a lot issues on Mau Escapement, all these are cartelist to our environmental well being.

If you go a bit deep, you'll find that most of the houses in Nairobi were built on these areas. I witnessed one this week when I was there. One big Java House on Kileleshwa Road is built on riparian land. All these Houses are being brought down and as I was watching news today, I saw the demolitions are ongoing. This should be a lesson to people who may have similar motives because if we can't take care of our environment now then it will be too late.

You'll find that in places like Mombasa, the citizens cannot access public beaches because those lands have been taken by private developers. The same is happening in Lake Naivasha

We also have problems with our landing areas along the lake and that is why we have inadequate fish production. We must ensure a proper means to ensure that the habitats are taken care as sanctity for the next generation. We must take care of our environment. Thank you.

The Temporary Speaker (Hon. Muga): Thank you Senior Member. Yes Hon. Oraro.

Hon. Oraro: Thank you Madam Speaker. I rise to support the motion as read by Hon. Misachi. As you are aware environment and economic development normally go hand in hand. We also need to look at the impact. We cannot purport to be growing economically while ignoring our environment.

Madam Speaker, the mover of the motion has only confined herself on issues of food production and her worry is only on what she saw in Nyalenda and around where the lagoons are. It is true that our wetland areas have been interfered with. The EMCA 1999 was a guiding principle. We need to come up with policies and environmental laws that govern this area.

I am afraid we have no laws that govern noise pollution and liquid waste management which is directly linked to what the motion was talking about. That at what moment are we allowed to use waste water for irrigation? It has to be recycled. It has to meet some World Health Organization Standard.

The Temporary Speaker (Hon. Muga): I want to request the House to give me time to consult with Clerk so that we can get a way forward. Thank you.

Thank you very much members, I have consulted and agreed that it has to be checked in the motion tracker. I therefore suggest that we adjourn for 10 minutes to give them ample to time to check on the same. Thank you.

I wonder what the Majority Leader would like to say because we have already suspended the House. Continue, but I would like to request you Hon. Arao that since the Majority Leader is on his feet, we give him time to contribute first then you can contribute next.

Leader of Majority (Hon. Onyango): Madam Speaker it is a bit sad that we are seen so analogue in this Assembly, as a matter of fact, we need to have a serious motion tracker, so that if a motion comes up and it had been discussed then we need to emphasize on implementation other than duplicating motions. And I want to say that our Clerks should take that seriously. I do not believe this should happen again. Moving forward this should be taken seriously. Thank you.

The Temporary Speaker (Hon. Muga): Thank you Majority Leader, we normally learn from mistakes. I now believe that the Clerks should henceforth take their work seriously. Yes, Hon. Arao, what is it? Sergeant at Arms, please give Hon. Arao the microphone.

Hon. Arao: Thank you Madam Speaker, I want to hold my horses and wait for the end of the consultations. Madam Speaker, I did research on this motion and was not in the last Assembly and I do not have any copy at all. Am very much shocked when the Hon. Member for Manyatta

“B” comes up with this information to the Assembly. I insist that she brings evidence but I thank her for having such a bright mind.

Madam Speaker, whether it was passed or not, if you were in the house yesterday, I said categorically that we should not be passing motions and then we keep them under key and lock. We cannot take our motions and keep them in the stores. This is a Hon. House which passes laws to be implemented. I am very bitter Madam Speaker, because the motions that I bring into this house are passed and kept without implementation.....

The Temporary Speaker (Hon. Muga): Hon. Arao, thank you. Madam Pamela is on her feet, give her time to do clarifications please.

Hon. Pamela Odhiambo: Thank you. I want to start by praising Hon. Arao for bringing this motion. It is not his fault and it is not my fault either, but the Assembly lacks enough Staff. We lacked staff in the last regime. We have talked and deliberated with the Hon. Speaker on how we can have enough staff in this Assembly. If this is done we can have someone who checks on the motion tracker efficiently. Hon. Arao did not know that the motion was passed. I just informed him. There is no need of discussing the motion for the second time. Thank you Madam Speaker.

Temporary Speaker (Hon. Muga): I want to request Hon. Arao that this should not be debated on because we have given the Clerks the task to go research and bring for us the findings. That's the reason why we have suspended the House. Yes Hon. Roy Samo.

Hon. Roy Samo: Thank you Madam Speaker,

Temporary Speaker (Hon. Muga): Hon. Arao Order!

Hon. Roy Samo: Hon. Speaker, I seem to be lost and I need your guidance. I will not say that what is going on is right but I would like your guidance. You have suspended the house for 10 minutes that is in my memory, The Hon. Arao has also stood and said that he is giving chance as he waits for the results of the consultations as the house stays suspended. I can see the mace is still in place, we are also contributing and the same is going through the Hansard, so I need your guidance Madam Speaker.

The Temporary Speaker (Hon. Muga): Thank you Liaison Chairperson, we are in a learning process and I am glad the Clerk is back.

Hon. Kanga: Thank you Madam Speaker. I will be very brief in my contribution towards the motion moved by Hon. Misachi. The motion calls for enforcement of environmental management of Act as speculated in Act 1989. The motion is further strengthened by the

Constitution enacted in the year 2010 if you look at article 70 (b) of the constitution which states that;

‘(b) to compel any public officer to take measures to prevent or discontinue any act or omission that is harmful to the environment; or

(c) to provide compensation for any victim of a violation of the right to a clean and healthy environment.’

I want to concur with the contributions of Hon. Khan going by the happenings in the country right now where by people have built massive building in the riparian areas hence the buildings are being brought down as witnessed in our local daily whereby a huge building was brought down. Although I represent a cosmopolitan ward, there is a stream flowing just next to my father’s massive land. The other side of the river that is river Nyamasaria Madam Speaker, you are seeing massive buildings along river Nyamasaria and nobody has taken note of that. If these happenings are not stopped we are going to have very many serious economic effects when the law will be catching up with them. If this motion is taken seriously, it should be implemented to the end to ensure that we protect our rivers and plant trees because right now people are talking about Mau, Abadere and Mount Elgon catchment areas and in our County we are not making more emphasis on environmental conservations. Otherwise I support the motion.

The Temporary Speaker (Hon. Muga): Yes Leader of Majority.

The Leader of Majority (Hon. Kenneth Onyango): Allow me to thank the mover of the motion. I think that this is a very serious and fundamental motion because the right to a clean environment is enshrined in Article 42 of the constitution which states that;

‘Every person has the right to a clean and healthy environment, which includes the right—

(a) to have the environment protected for the benefit of present and future generations through legislative and other measures, particularly those contemplated in Article 69’

Madam Speaker, this does not stop there and that, it actually has enforcement team because if you go to Article 70 of the constitution it states that;

‘(1) If a person alleges that a right to a clean and healthy environment recognized and protected under Article 42 has been, is being or is likely to be, denied, violated, infringed or threatened, the person may apply to a court for redress in addition to any other legal remedies that are available in respect to the same matter.’

Madam Speaker, the impact of the constitutional provision is that if a community’s right to a clean environment has been denied, then these people have recourse in court, they can get

redress and this can result into the Government loosing very heavily. It therefore means that this Act must be domesticated within our County Government because this falls under the concurrent constitutional provision. As Hon. Arao has rightly put it, we already have the Act that deals with Solid Waste Management but in most of the areas especially where the rivers pass through, you will find that there are very many green and supposedly healthy vegetables growing there but these vegetables are contaminated and a lot of times we readily consume these food stuffs with consequential result that so many of our people are being attacked by diseases. It is therefore very important that we must find a way in which the relevant statutes can be implemented or rather domesticated so that we protect our people.

Madam Speaker, the riparian land as Hon. Khan has alluded, like the massive demolitions going on for those who constructed along Nairobi River, they violated what is provided for under this Act. I want the same to happen even in our County because if you roll down to Dunga for example, you will find that people are building very massively on riparian land and you know that this riparian land has very delicate eco system. If we destroy them we will be endangering both the animal and the plant species that depend on them and therefore it is important that the department of environment moves with speed to enforce this Act so that we may protect our environment. Madam Speaker, unfortunately in our county we are at war with the environment and any time that man is at war with the environment the man becomes the loser.

I want to urge this Honorable house that let us move with speed. If certain Acts have not been established to manage specific aspects of environmental pollution then that needs to be done like yesterday because we cannot afford to have the fight with an environment because we can naturally be the losers. I want to support this motion and urge the Honorable house to compel the department of environment that those who have violated the provisions of this Act either by building along drainages, pipelines, let those developments be demolished. I also want to say that let the community take it upon themselves also to educate one another especially those that grow crops or vegetables along the polluted areas to stop. The Committee on Implementation should visit Auchu river with a view to see the developments there and bring a report to the house to remedy the situation. Thank you.

Hon. Okumu: I rise to support the motion and I want to thank the mover because he brought the motion at the right time when we are having major demolitions happening in Nairobi because people did not follow the Environmental Management and Coordination Act. I want to make reference to the roads that are being constructed in Kisumu County. Those roads need to be graveled and murrum put. Most of the times the constructors put murrum on the roads it leads to more danger than the roads they are constructing. I have seen constructors harvesting murrum next to schools and after that they leave holes that cause a pull of water that are more dangerous to the children. I also want to make a reference to the ASK show which happened in Kisumu recently. Those who live close to the showground will bear me witness that during the show,

there are a lot of noise as a result of music being played there at night and this is contrary to the Environmental Management and Coordination Act which is a national law.

Lastly, I want to give example to this house on the people farming on the river banks. This is contrary to the Act but it is happening because the County has not adhered to the law as stipulated in section 29 of the same Act. It requires every county to have a County Environmental Committee. This Committee comprises individuals both appointed and selected with the knowledge of the Governor. (Reading section 29 of the Environmental Management and Coordination Act) This is the committee that will ensure that the Act is implemented and the Implementation Committee of this Assembly works together with them Madam Speaker. Section 40 of the same law and if I am to make reference; requires that we have an action plan of a county, this is what will enable them to implement. When these things are not done this way then, some of the things we want done might be impossible. I want to request this house that our prayer today is that we have a County Environment Committee and we should task the Executive to form this Committee immediately. After that we can have an action plan to be brought in this Assembly so that we pass to enable us move on to implement the Environmental Management and Coordination Act. Thank you

Hon. Jenifer: Thank Madam Speaker, allow me to request you to call the mover of the motion to reply.

The Temporary Speaker (Hon. Muga): The mover of the motion please! Can you reply?

Hon. Misachi: Thank you. I want to thank those who have contributed to the motion and as you commit the motion to the relevant committee in this house, let us follow it up because our people are suffering outside here with different diseases without knowing where it is coming from. We should check and ensure that nobody is planting along the road reserves or along drainages because it is pathetic. Kindly put emphasis on the enforcement of the law. Thank you.

The Temporary Speaker (Hon. Muga): Thank you senior member, the debate has been strongly deliberated on and I want to put a question.

(Question put and agreed to)

The motion has been adopted this day of Wednesday 8th August 2018. I commit the motion to the Environmental Committee to do their research and bring it before the house in 60 days time.

ADJOURNMENT

The house stands adjourned until tomorrow Thursday at 2.30 pm.

(House rose at 3.17 pm)

