

COUNTY GOVERNMENT OF KISUMU



COUNTY ASSEMBLY OF KISUMU

THE HANSARD

SECOND ASSEMBLY – FIFTH SESSION

Wednesday, 11th August, 2021

House met in the Main Chamber at 9:00 a.m.

(The Speaker (Hon. Elisha Jack Oraro) in the Chair)

PRAYERS

The Speaker (Hon. Oraro): Hon. Members, pursuant to the provisions of County Assembly of Kisumu Standing Order No. 32 (2), I want to request the Serjeant-at-Arms to ring the quorum bell for five minutes.

(Quorum bell rung for five minutes)

The Speaker (Hon. Oraro): Hon. Members, since we have not attained the required quorum, I want to request that pursuant to the provisions of Standing Order No. 32 (2) that the Serjeant-at-Arms rings the quorum bell for a further five minutes.

(Quorum bell rung for five minutes)

The Speaker (Hon. Oraro): The Minority Whip, could you please confirm if we have quorum.

The Minority Whip (Hon. Ageng'o): Mr. Speaker, we have quorum. Thank you.

The Speaker (Hon. Oraro): Thank you. Madam Clerk, kindly take us through the Order Paper of the day.

The Speaker (Hon. Oraro): Next order!!

COMMUNICATION FROM THE CHAIR

The Speaker (Hon. Oraro): Honourable Members, welcome to this session. Just wanted to remind you that the Covid-19 is real. The Ministry of Health Protocols still applies. Ensure that your mask cover both your nose and mouth. I also want to say that a report was passed that was confirming the Memorandum by the Governor and therefore we shall be proceeding to other stages. If you have seen the Order Paper, there is Second and Third Reading. I can't see the Chairperson of the Planning, Industrialization and ICT Committee but I believe Hon. Ogutu will stand in for him like he did yesterday. It is therefore necessary for us to proceed.

The Speaker (Hon. Oraro): Next order!

MOTION

SECOND READING OF THE KISUMU COUNTY LAKEFRONT DEVELOPMENT CORPORATION BILL, 2021

BY

HON. GEORGE OLWAL

CHAIRPERSON, PLANNING, INDUSTRIALIZATION AND ICT COMMITTEE

The Speaker (Hon. Oraro): Hon. George Ogutu.

Hon. Ogutu: Thank you Mr. Speaker. Allow me to request the Clerk to read the Bill for the second time.

The Speaker (Hon. Oraro): Proceed Mr. Clerk.

THE KISUMU COUNTY LAKEFRONT DEVELOPMENT CORPORATION BILL, 2021

A Bill for

AN ACT of the County Assembly of Kisumu to make provision for the establishment of Kisumu Lakefront Development Corporation as a Special Purpose Vehicle (SPV), to develop and manage economic and social activities of the lakefront, mobilize resources and for connected purposes.

The Speaker (Hon. Oraro): Yes, Hon. Ogutu.

Hon. Ogutu: Thank you Mr. Speaker. May I request that we convert to the Committee of the Whole House?

(House reverts to the Committee of the Whole House)

Chairperson, Committee of the Whole House (Hon. Muga): Thank you Honourable Members. We shall be guided by the Standing Order No 128.

Chairperson, Committee of the Whole House (Hon. Muga): Yes, Hon. Olwal.

Hon. Olwal: Thank you Chair. Since the Memorandum of the Governor was quite specific on certain areas and given that the report was adopted by the House yesterday, I would request that we go the guillotine way to enable us dispense with this issue as quick as possible. May I request Hon. Ogutu to second?

Chairperson, Committee of the Whole House (Hon. Muga): Proceed Hon. Ogutu.

Hon. Ogutu: Thank you Chair. I stand to second.

Chairperson, Committee of the Whole House (Hon. Muga): Mr. Clerk take us through the Bill.

(The Clerk guiding the Members through Clause 3 of the Bill)

Chairperson, Committee of the Whole House (Hon. Muga): Any amendment Honourable Members? I want put a question that Clause 3, Objects be part of the Bill as read by the Clerk.

(Question put and agreed to)

Chairperson, Committee of the Whole House (Hon. Muga): Next!

(The Clerk guiding the Members through Clauses 4 to 21 of the Bill)

Chairperson, Committee of the Whole House (Hon. Muga): Any amendment Honourable Members? I want put a question that Clauses 4 to 21, read by the Clerk.

(Question put and agreed to)

Chairperson, Committee of the Whole House (Hon. Muga): Next!

(The Clerk guiding the Members through Schedules (Article 1 to 31) of the Bill)

Chairperson, Committee of the Whole House (Hon. Muga): Any amendment Honourable Members? Yes, Hon. Roy Samo.

Hon. Samo: Thank you Madam Chair. I wish the Clerk had read the composition of the members. That is Article 20. There is the County Government of Kisumu, Kenya National Chambers of Commerce and Industry, Kisumu County, Kenya Railways, Kenya Ports Authority, Lake Basin Development Authority and Nyanza Club Trustees. I still insist that we have a representative of the people. That is the Beach Management Units. Thank you.

Chairperson, Committee of the Whole House (Hon. Muga): Hon. Ogutu.

Hon. Ogutu: Thank you Madam Chair. Hon. Samo is taking us back because we discussed all these yesterday and it was very clear that we were talking about gazetted entities. Let us discuss the matter before us. I submit Madam Chair.

Chairperson, Committee of the Whole House (Hon. Muga): Thank you Honourable Member. Let us debate on the matter before us.

Hon. Samo: Madam Chair, the Honourable Member is out of order.

Hon. Ogutu: It is not the responsibility of the Honourable Member to rule whether I am out of order or not.

Leader of Majority (Hon. Onyango): Thank you Madam Chair. Hon. Samo has proposed for an amendment which has not been seconded. There is no way we can start a debate on a proposed amendment which has got no seconder. Thank you.

Chairperson, Committee of the Whole House (Hon. Muga): What is it Hon. George Olwal?

Hon. Olwal: Thank you Madam Chair. There are several stages of law making. If Hon. Roy has an amendment, then allow him to proceed.

Chairperson, Committee of the Whole House (Hon. Muga): Honourable Member, you have not been present in the House for a long time. Can you give me time to take you through the Standing order...

Hon. Olwal: Madam Chair, kindly withdraw that statement because all of us were on recess.

(Laughter)

Chairperson, Committee of the Whole House (Hon. Muga): My apologies, otherwise, I want to request Hon. Members to allow me to read them Standing Order. We all know that the Governor brought a Memorandum to this House, which was adopted by this House yesterday. I want to refer you to Standing Order No. 137 (2)

“The Governor shall within 14 days after receipt of a bill, ascent to the Bill or refer the Bill back to the County Assembly with a memorandum outlining reasons for the referral.”

(3) ‘If the governor refers back a Bill to the County Assembly, the County Assembly may, following the appropriate procedures under paragraph (v), amend the Bill taking into account the issues raised by the Governor or pass the Bill without amendment. If the County Assembly amends the Bill, taking into consideration the issues raised by the Governor, the Speaker shall within 14 days submit the Bill to the Governor. If the County Assembly passes the Bill the second time with or without amendment, which do not accommodate the Governor’s concerns by a vote supported by

two-thirds of MCAs, the Speaker shall within 7 days submit the Bill to the Governor and the Governor shall within 7 days ascent to the Bill.

Hon. Members, I believe that we followed all the necessary procedures and being that there are absentees in this House, who want to take us back so can we continue...

Hon. Guya: A point of order Madam Speaker

Hon. Samo: Madam Chair that is quite wrong of you to make such utterances because you are like the judge who should be listening to us debating on this. If you are alluding that we are absentees yet we have been present in this House, this is wrong.

Chairperson, Committee of the Whole House (Hon. Muga): Can you give Hon. Arao time to give his views as well.

Hon. Arao: Thank you Madam Chair, some Members might have been absent on certain occasions but two wrongs don't make a right. If you allow because I believe that this is something which is going to affect our people because one Member was absent then, then I think that we will take measures if those things to go as they are (*Inaudible*)

(Loud consultation)

Chairperson, Committee of the Whole House (Hon. Muga): Hon. Samo can you go by the rule of the House!

Hon. Guya: (*On a point of order*) A point of Order Madam Speaker

Hon. Samo: Madam Speaker, it is not

Chairperson, Committee of the Whole House (Hon. Muga): What is your point of Order Hon. Guya?

Hon. Guya: Madam Speaker, I am on the point of Order regarding the Standing Order you have just read, and you have clearly stated that as per paragraph (v), which you did not read to us, should be read so that we be at par in totality. I want to disagree with you in calling Member as absentees and would urge you to withdraw your statement and kindly read for us paragraph (v) as you have read in the Standing Order.

Chairperson, Committee of the Whole House (Hon. Muga): Okay.

Hon. Ogotu: A point of information Madam Chair,

Leader of Majority (Hon. Onyango): Madam Chair, let me give some direction on this...

Chairperson, Committee of the Whole House (Hon. Muga): Hon. Ogutu, the Leader of Majority is on his feet.

The Leader of Majority (Hon. Onyango): Madam Chair, you know that you aren't under trial for such and I would say that we can bring amendments at any stage, but we cannot re-introduce debates. If you want to bring amendments then it should be closely related to the clauses that you want to amend. Also, those amendments as the Standing Order rightly provides;

1. We can agree with what the Governor has said.
2. We can make amendments that disagrees with what the Governor has said.

If that happens then we must marshal the two-thirds of the Members who support that argument. Any member with a counter agreement with what the Governor's Memorandum can bring it forth.

Hon. Ogutu: A point of information Madam Chair.

Hon. Guya: Madam Chair I was on a point of order and waiting on you to let me proceed.

Hon. Ogutu: (*On a point of information*): Madam Chair, before you read the paragraph (V), I believe that Hon. Roy Samo is right to bring an amendment at this stage and time but as they have said. This is a House of rules and procedures, which we want Hon. Samo to follow. He should therefore get someone to second his proposed amendment. Thank you.

Hon. Otura: A point of information Madam Speaker.

Chairperson, Committee of the Whole House (Hon. Muga): What's your point of information and whom do you want to inform Hon. Vitalis Otura?

Hon. Otura: (*On a point of information*): Thank you Madam Chair. I want to inform the House that this being a House of rules and procedures. Madam Speaker, yesterday we debated on this Bill and the only thing remaining was for the Governor to ascent to it within a given period of time. We are on a specific discussion and the procedure we are undergoing is to allow the insertion of what was adopted because of the Governor's Memorandum. I want to inform the House that the window for debate is never gagged but because of the specific actions which was prompted by the Governor's Memorandum, we are undergoing this procedure to make that amendment in the Bill.

Madam Chair, the amendment must be very specific to that which pertains to the Governor's Memorandum and going by the report that was adopted in this House yesterday. There's nobody who is or was gagged to debate over this but at this juncture, it is important to note that we are on a specific issues on the Bill, thank you.

Chairperson, Committee of the Whole House (Hon. Muga): Thank you Hon. Vitalis Otura. Well, Hon. Guya requested that I re-read to him paragraph (v) of Standing Order no. 137 "*If the County Assembly passes the Bill a second time with or without amendment, which do not*

accommodate the governor's concerns by a vote supported by two-thirds of the Members of the County Assembly, the Speaker shall within 7 days re-submit the Bill to the governor, and the governor shall within 7 days ascent to the Bill. ' That's what I read, thank you.

Hon. Olwal: Madam Chair.

Chairperson, Committee of the Whole House (Hon. Muga): Yes.

Hon. Olwal: As the Chairperson to this Standing Committee and having gone to public participation in various parts of this County, I would wish that we debate on this issue extensively so that a member doesn't feel gagged.

Hon. Okumu: A point of Order Madam Chair.

Chairperson, Committee of the Whole House (Hon. Muga): Granted.

Hon. Okumu: *(On a point of order)* Madam Chair, Hon. Olwal is the Chair of this Standing Committee making amendments.

Chairperson, Committee of Whole House (Hon. Muga): Hon. Olwal, you seem to be misleading this House.

(Loud consultations)

Hon. Ogutu: Thank you Madam Chair. I believe that my Chair Hon. Olwal is misleading this House.

(Applause)

Hon. Ogutu: Madam Chair, Hon. Olwal gave me the authority to bring this report yesterday. He instructed me to defend the report. It is within the right of Hon. Members to bring any amendments to this Bill. Let them follow the procedure of introducing those amendments.

(Loud Consultations)

Hon. Okumu: Madam Chair, we are in the Committee of the Whole House Stage and at this stage, we are supposed to factor in what was discussed in the report and the amendments they are bringing in the Bill. The first thing we should be doing is that, the Governor requested a change in a section of the Bill and members agreed yesterday that those parts can be amended. I believe that this is what we should be doing now.

If Hon. Roy Samo needs to make any amendment, we need to first finish this one then he can propose, be seconded then we vote.

Hon. Guya: Madam Chair, I want to agree with Hon. Okumu that we first insert the amendments that we passed in the report yesterday thereafter, we give opportunity to any other member who wants to make any amendment.

Madam Chair, I want to plead with you to give Members time to debate soberly. If I were you, I would do more listening than talking. Thank you.

Hon. Olwal: Part 2, that in the First Schedule under the Kisumu County Lakefront Development Cooperation agreement, I propose to amend by inserting Nyanza Club Trustees and expunging Beach Management Unit. I ask Hon. Jennipher Obonyo to second.

Deputy Majority Whip (Hon. Obonyo): Madam Chair, I second.

Chairperson, Committee of the Whole House (Hon. Muga): I want to propose a question that the First Schedule be amended as read.

(Question put and agreed to)

Chairperson, Committee of the Whole House (Hon. Muga): The First Schedule is amended as read by the Chair. We now have to go through the Articles...

Hon. Okumu (On a point of Order); Madam Chair, I request that the Clerk reads for us how the new Clause of the Bill will read.

The Chairperson Committee of the Whole House (Hon. Muga): Thank you very much. Mr. Clerk, can you read it?

The Bill having been amended to read; The First schedule under KISUMU COUNTY LAKE DEVELOPMENT FRONT CORPORATION agreement in the mutual covenant of KISUMU COUNTY LAKEFRONT DEVELOPMENT CORPORATION agreement shall read as follows:

The mutual covenant or agreement shall bind the following members' decision;

1. The County Government of Kisumu (CGK).
2. The Lake Basin Development Authority (LBDA).
3. The Kenya National Chambers of Commerce and Industry (KNCCI). Kisumu chapter.
4. The Kenya Railways Corporation (KRC).
5. The Kenya Ports Authority (KPA).
6. The Nyanza Club Trustees be inserted to substitute with the Beach Management Unit as per the Governor's Memorandum.

Chairperson, Committee of the Whole House (Hon. Muga): Hon. Members, we now want to go to the Articles. I want to propose that Article (1) to (31) be part of the Bill. I therefore want to put a question.

(Question put and agreed to)

Chairperson, Committee of the Whole House (Hon. Muga): Hon. Members, now Article (1) to (31) be part of the Bill.

Chairperson, Committee of the Whole House (Hon. Muga): Under the sequence provided under the Standing Order No. 36 we now move to INTERPRETATION which is under Clause 2. You now propose Madam Chair.

Chairperson, Committee of the Whole House (Hon. Muga): Yes chair.

Hon. Olwal: Madam Chair, I wish to propose an amendment in Clause (2) that in PART I-PRELIMINARY, I propose to amend by inserting Nyanza Club Trustees and expunging Beach Management Unit.

THEREIN AFTER, Clause (2) shall read as follows; “member institutions” means the County Government of Kisumu (CGK), Lake Basin Development Authority (LBDA), Kenya National Chambers of Commerce and Industry (KNNCI) Kisumu Chapter, Kisumu Railways Corporation (KRC), Kenya Ports Authority (KPA), and the Nyanza Club Trustees; I wish to call upon Hon. Obonyo to second?

Deputy Majority Whip (Hon. Obonyo): Thank you Madam Chair, I second.

Chairperson Committee of the Whole House (Hon. Muga): Thank you very much Chair. That is under Clause (2) INTERPRATATION. I want to propose that clause (2) be part of the Bill as the Chairperson of the Standing Committee of Planning and Industrialization has read.

(Question proposed and agreed to)

Chairperson Committee of the Whole House (Hon. Muga): So, Clause (2) INTERPRATATION as the chairperson has read is part of the Bill.

Chairperson Committee of the Whole House (Hon. Muga): Clause (2) has now been amended reads; membership will be as follows; the County Government of Kisumu (CGK), Lake Basin Development Authority (LBDA), Kenya National Chambers of Commerce and Industry (KNNCI) Kisumu Chapter, Kisumu Railways Corporation (KRC), Kenya Ports Authority (KPA), and the Nyanza Club Trustees.

The Nyanza Club Trustees is inserted to substitute the Beach Management Unit. Thank you.

Chairperson Committee of the Whole House (Hon. Muga): Mr. Clerk can we go to the next stage please.

Under SEQUENCE, we do not have preamble but we will get to the Long title if there is any. The long title reads;

THE KISUMU COUNTY LAKEFRONT DEVELOPMENT CORPORATIONS BILL, 2021

A Bill for

AN ACT of the county of Assembly of Kisumu to make provision for the establishment of Kisumu Lakefront Development Corporation as a Special Purpose Vehicle (SPV), to develop and manage economic and social activities of the lakefront, mobilize resources and for connected purposes.

Chairperson Committee of the Whole House (Hon. Muga): That the long title be part of the Bill. Chair,

The Chairperson Committee of the Whole House (Hon. Muga): now I want to propose as has been read by the clerk.

(Question proposed and agreed to)

So the Long Title is part of the Bill

Under Clause (H) UNDER Section (126) (H) talks about the CITATION and COMMENCEMENT, that is the Short title in PART 1- PRELIMINARY. Short Title and commencement reads;

This Act maybe cited as the Kisumu County Lakefront Development Corporation Act, 2021 and shall come into operation upon Publication in the *Kenya Gazette*. Be part of this Bill.

The Chairperson Committee of the Whole House (Hon. Muga): Thank you very much Mr. Clerk, I want to propose that the short title and commencement be part of the Bill as read by the clerk;

(Question proposed and agreed to)

Chairperson Committee of the Whole House (Hon. Muga): So the Short Title and Commencement be part of the Bill.

Chairperson, Committee of the Whole House (Hon. Muga): Next, Mr. Clerk!

(House reverts to the plenary. Hon. Muga leaves the chair as the Speaker Hon. Oraro takes the chair).

The Speaker (Hon. Oraro): Yes Chair of the Committee of the Whole House, can you report back to the plenary on the findings of the Committee.

Hon. Muga: Thank you Mr. Speaker. We deliberated well during Committee of the whole House. The Members were very positive and they robustly discussed issues that were raised in the Memorandum by the Governor.

Mr. Speaker, there were only two amendments which were made; Under Standing Orders No. 126, the 1st schedule Kisumu County Lakefront Development agreement; I proposed to amend by inserting Nyanza Club Trustees and substituting the Beach management Unit.

Mr. Speaker, thereafter the mutual covenant of the Kisumu County Lakefront Corporation agreement shall read as follows; the mutual agreement of the covenant shall bind the following Members and institutions; County Government of Kisumu (CGK), Lake Basin Development authority (LBDA), Kenya National Chamber of Commerce (KNCC), Kenya Railways Corporation (KRC), Kenya Ports Authority (KPA) and the Nyanza Club Trustees.

Mr. Speaker, Beach management Unit is herein substituted with Nyanza Club Trustees whenever it may appear in the Bill.

Mr. Speaker, the second amendment the Members made is Part I preliminary. We proposed by inserting Nyanza Club Trustees and expunging Beach Management Unit. Therefore clause 2 shall read as follows; Member institutions means the County Government of Kisumu (CGK), Lake Basin Development Authority (LBDA), Kenya National Chamber of Commerce and Industry (KNCC), Kenya Railways Corporation (KRC), Kenya Ports Authority (KPA) and the Nyanza Club Trustees.

Mr. Speaker those are the amendments that the Members made during the Committee of the whole House. I there call upon Hon. Olwal to second. Thank you.

The Speaker (Hon. Oraro): Hon. Members now that we have received the report from Committee of the Whole House I want to put a question on the adoption of the same report.

(Question put and agreed to)

The Speaker (Hon. Oraro): The report is hereby adopted and now forms part of the Bill. Thank you.

The Speaker (Hon. Oraro): Next Order!

MOTION**3RD READING OF THE KISUMU COUNTY LAKEFRONT DEVELOPMENT CORPORATION BILL, 2021**

BY HON. OLWAL

CHAIRPERSON,

STANDING COMMITTEE OF PLANNING, INDUSTRIALIZATION AND ICT

The Speaker (Hon. Oraro): Yes Hon. Olwal.**Hon. Olwal:** Thank you Mr. Speaker. I wish to request the Clerk to take us through the 3rd reading of the Kisumu County Lakefront Development Corporation Bill, 2021.**The Speaker** (Hon. Oraro): Yes Mr. Clerk.*(The Clerk takes Honorable Member through the Bill)*Thank you Mr. Speaker. Pursuant to the provisions of Standing Orders No. 134, I hereby read the 3rd reading of the Kisumu County Lakefront Development Corporation Bill, 2021.A Bill for an ACT of the County Assembly of Kisumu to make provisions for the establishment of Kisumu Lakefront Development Corporation as a Special Purpose Vehicle (SPV), to develop and manage economic and social activities of the lakefront, mobilize resources and for connected purposes is read for the 3rd time.**The Speaker** (Hon. Oraro): Hon. Members now that the Kisumu County Lakefront Development Corporation Bill, 2021 has been read for the 3rd time, it provides opportunity for further debate if there is any further amendment that may arise. In that regard I want to propose a question that the Bill is open for further debate.*(Silence)***The Speaker** (Hon. Oraro): Hon. Members, I will assume that silence means that there are no further amendments and that brings us to the last part of the Bill.Hon. Members, I want to remind Members that the Kisumu County Lakefront Development Corporation Bill, 2021 was introduced in the Assembly through the Chairperson, Hon. Olwal, debated, public participation carried out and finally the Bill was passed, sent to the Governor for ascent on 18th May 2021. However, on 2nd of June 2021 we received a Memorandum from the Governor on Refusal to Assent to the County Assembly Bill.

The Memorandum was committed to the Standing Committee of Planning, Industrialization and ICT. They have done their consultation and presented the report which was adopted by the House. Further, the House did the 2nd reading and the 3rd reading. I therefore want to put a question adoption of the Kisumu County Lakefront Development Corporation Bill, 2021 with the amendments therein.

(Question put and agreed to)

The Speaker (Hon. Oraro): The Kisumu County Lakefront Development Corporation Bill, 2021 has been approved and passed today 11th August 2021 at 1032 hours. I hereby direct that the Hansard Report and the Vellum be prepared and the Bill be forwarded to the Governor for assent.

The Speaker (Hon. Oraro): Next Order!

ADJOURNMENT

The Speaker (Hon. Oraro): There being no any other Business to transact, the House stands adjourned to today 11th August 2021 at 2.30 p.m.

(House rose at 10.36 a.m.)

Addendum

The Hansard Team

Zablon Otiende – Senior Hansard Reporter

Edward Odanga – Hansard Reporter

Fanuel Okode – Hansard Reporter

Patrick Okoyo – Hansard Reporter

Jacklyne Otieno – Hansard Reporter

Denis Onyango – Hansard Reporter

Jesca Otieno – Hansard Reporter