

COUNTY GOVERNMENT OF KISUMU



COUNTY ASSEMBLY OF KISUMU

SPECIAL SITTING

Official Report

THE HANSARD

SECOND ASSEMBLY – FIFTH SESSION

Tuesday, 25th January, 2022

House met in the Main Chamber at 2:30 p.m.

(The Temporary Speaker (Hon. Seth Okumu) in the Chair)

PRAYERS

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

(Quorum bell rung for five minutes)

The Temporary Speaker (Hon. Okumu): Chief Whip, could you please confirm if we have quorum.

The Majority Whip (Hon. Misachi): Mr. Speaker, we have quorum. Thank you.

The Temporary Speaker (Hon. Okumu): Thank you. Madam Clerk, please take us through the Order Paper of today.

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

PAPER LAID

THE KISUMU CITY LOCAL PHYSICAL AND LAND USE DEVELOPMENT PLAN

BY

HON. KENNETH ONYANGO

LEADER OF MAJORITY

The Temporary Speaker (Hon. Okumu): Leader of Minority.

Leader of Minority (Hon. Oiko): Please allow me to lay this Paper on behalf of the Leader of Majority.

The Temporary Speaker (Hon. Okumu): Please proceed Hon. Leader of Minority.

Leader of Minority (Hon. Oiko): Thank you Mr. Speaker. Pursuant to the provisions of section 42 (3) (b) of the Urban Areas and Cities Act 2011, I wish to lay today Tuesday 25th January, 2022 the Kisumu City Local Physical and Land Use Development Plan.

(Leader of Minority tables document before the House)

The Temporary Speaker (Hon. Okumu): Honourable Members, I acknowledge the receipt of the Kisumu City Local Physical and Land Use Development Plan and I do hereby commit it to the Planning, Industrialization and ICT Committee for consideration.

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

NOTICES OF MOTION

The Temporary Speaker (Hon. Okumu): Yes, Hon. Caren Muga.

Hon. Muga: Thank you Mr. Speaker. Pursuant to the provisions of the Kisumu County Assembly Standing Order No. 45 (1), I wish to give a Notice of Motion for Procedure and Rules Committee report on the Amendment of Kisumu County Assembly Standing Orders be considered in February, 2022. Thank you.

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

STATEMENTS

The Temporary Speaker (Hon. Okumu): Hon. Johnson Guya.

Hon. Guya: Thank you Mr. Speaker. Allow me to wish all the Honourable Members a Happy New Year. This is a Personal Statement under Standing Order No. 41. It's about voter registration that is currently going on. If you walk to the registration centers then you will realize that the voter registration turn out is very low to the extent that our performance as a county is slightly more than ten per cent of what we are expected to do. Going by that, I want to encourage my colleagues that we find time during our busy schedules to also be part of the mobilization team in various areas we come from. That was my concern. Thank you.

The Temporary Speaker (Hon. Okumu): Hon. Maurice Ngeta.

Hon. Ngeta: Thank you Mr. Speaker. Sometimes back I gave a Statement....

The Temporary Speaker (Hon. Okumu): Order!! Hon. Member. It is either you are giving a Statement as Chair....

Hon. Ngeta: Mr. Speaker, I am following up on the status of the response to a Statement that I had sought. My people are suffering....

The Temporary Speaker (Hon. Okumu): Hon. Member, under which Standing Orders.

Hon. Ngeta: Mr. Speaker, I am citing the provisions of Standing Order No. 42.

The Temporary Speaker (Hon. Okumu): Honourable Member, I want to help you. That is why your Statement might not be responded to because you don't listen. I want the Clerk to read for you Standing Order No. 42. Under that Standing Order, your Statement may not be discussed.

Hon. Ngeta: Mr. Speaker, I am only following up on the Statement.

The Temporary Speaker (Hon. Okumu): Order!! Order!! Honorable Member. Honourable Member take your time and go through the Standing Order.

The Temporary Speaker (Hon. Okumu): Hon. Joseph Olale.

Hon. Olale: Thank you Mr. Speaker. I want to raise a Personal Statement. The water bill in my House has gone so high by about 200 per cent. I believe majority of the residents of Kisumu are facing the same dilemma and I want to seek for the leave of the House that you allow the Members ventilate on this matter under Standing Order No. 1.

The Temporary Speaker (Hon. Okumu): Honourable Members, I know you are from long recess. How to give Statements are explicitly explained in the Standing Orders and if you cannot apply them then, I find it very difficult to assist.

Hon. Olale: Mr. Speaker, I am requesting while citing the provisions of Standing Order No. 41 (1).

The Temporary Speaker (Hon. Okumu): Honourable Member, you are not quoting the right Standing Order. We are having a Special Sitting on Friday, 4th February, 2022. Kindly, prepare a written Statement on the same and forward it to the Office of the Speaker for approval. That is my guidance.

Hon. Olale: Thank you Mr. Speaker. Most obliged.

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

MOTION

2ND READING OF THE KISUMU COUNTY ENVIRONMENTAL HEALTH AND
SANITATION BILL, 2021

BY

HON. VINCENT JAGONGO

(CHAIRPERSON, STANDING COMMITTEE OF HEALTH, HOUSING AND SANITATION)

The Temporary Speaker (Hon. Okumu): What is it Hon. John Atieno.

Hon. Atieno: Thank you Mr. Speaker. Allow to ask the Clerk to read the Kisumu County Environmental Health and Sanitation Bill, 2021 for the second time.

The Temporary Speaker (Hon. Okumu): Please Madam Clerk.

(The Clerk taking the House through the Second Reading of the Kisumu County Environmental Health and Sanitation Bill, 2021)

THE KISUMU COUNTY ENVIRONMENTAL HEALTH AND SANITATION BILL, 2021

A Bill for

. AN ACT of the Kisumu County Assembly to give effect to the right to a clean and healthy environment and the right to reasonable standards of sanitation; to provide for the performance of the powers and functions of the County Government in respect of environmental health and sanitation matters; and to provide for the regulation and management of environmental health and sanitation; and for connected purposes.

The Temporary Speaker (Hon. Okumu): Yes, Hon. Atieno

Hon. Atieno: Mr. Speaker, with your permission, I would like to ask the House to revert to the committee of the Whole House. Thank you.

The Temporary Speaker (Hon. Okumu): Honorable members, now that the Kisumu County Environmental health and Sanitation Bill, 2021 has been read for the second time, I direct that the House be reverted to the Committee of the Whole House, thank you.

(The House converts to the Committee of the Whole House)

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

Hon. Khan: Madam Chair, I request that we go the guillotine way, may I ask Hon. Priscah Misachi to second.

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

Chief Whip (Hon. Misachi): Madam Chair, I second.

Chairperson, Committee of the Whole House (Hon. Muga): Honorable Members, now that Hon. Khan has proposed that we proceed and use the guillotine method which has been seconded by the Chief Whip, I now want to call upon Hon. John Atieno to take the Members through all the amendments that were proposed by the Standing Committee of Health, Housing and Sanitation on the Kisumu County Environmental Health and Sanitation Bill, 2021.

Hon. Atieno: Thank you Madam Chair, we had the following amendments to the Bill as a House Committee, and all are captured in the report that was read during the morning session.

1. THAT, an amendment be caused on Clause 2 under the definition ‘Public Health Officer’ by removing the brackets so as to read as follows:

“Public Health Officer” means a public Health Practitioner as defined in the Public Health Officers Training, Registration and Licensing Act.

2. THAT, an amendment be caused on Clause 2 by inserting the definition of the initials ‘PHOTC’ as follows;

“PHOTC” means the Public Health Officers Technical Council

3. THAT, an amendment be caused on Clause 6 by deleting the word ‘National’ and substituting it with the word ‘Public’ to read as follows;

Directorate of Public Health and Sanitation shall be constituted as per section 18 of the Public Health Act 2017.

Justification - The Directorate of Health and Sanitation is established in the Public Health Act 2017 and not National Health Act as indicated in the Bill.

4. THAT, Clause 5 (d) be amended by inserting the word ‘stakeholders, immediately after the word ‘sanitation’ to read as follows;

To empower the environmental health and sanitation stakeholders to carry out their activities within Kisumu County.

5. THAT, Clause 7(2) (e) be amended by deleting the word ‘Vetenary’ and replacing it with the word ‘Veterinary’

Justification - There is a spelling error in the drafting of the word ‘Veterinary’.

6. THAT, Clause 8 (e) be expunged.

Justification - The Bill as it is; in this clause provides the Kisumu County Environmental Health and Coordination Committee with roles of approving revenue and expenditure estimates.

The Committee observes that the roles of approving Revenues and Expenditures of Estimates of Departments is a function of the County Assembly established pursuant to Article 185 of the Constitution of Kenya read together with section 8 of the County Governments Act 2012.

7. THAT, in Clause 9 (2) (a) the word ‘County’ be inserted immediately after the word ‘Sub’ to read as follows;

Sub County Medical Officer of Health who shall be the Chair.

8. THAT, Clause 9(2)(d) be amended by inserting the word ‘Officer’ immediately after the word ‘Environment’ to read as follows;

Sub County Environment Officer.

9. THAT, Clause 9(2) (f) be amended by deleting the word ‘Vetenary’ and substituting it with the word ‘Veterinary’

10. THAT, Clause 9(2) be amended by reducing representation of the Public Health Practitioners from ‘two representatives’ to ‘one representative’.

Justification - The Committee should have a membership of odd number while this Committee as it is has a membership of 10.

11. THAT, Clauses 10 (v) and 12 (e) be expunged.

Justification - Both Sub County and Ward Environmental Health and Sanitation Coordination Committee as established do not have the necessary expertise to prepare Estimates of Revenue and Expenditure of the Department at both Sub-county and Ward level; These are statutory mandates of the Department of Health Services, Housing and Sanitation and must not be delegated.

12. THAT, Clause 11(2) (d) be amended by deleting the provision for ‘two Village Administrators’ and substituting it with; ‘one representative of PWDs’ and ‘one representative of the youths.

Justification - The Department of County Administration has already been represented by the Ward Administrator.

13. THAT, Clause 17 be amended by deleting the number ‘11’ and substituting it with ‘16’ to read as follows;

The provisions of Clause 16 ...

14. THAT, Clause 19 (3) be amended by adding the phrase ‘Environmental Health and Sanitation’ immediately after the word “annual” and before the word “report” to read as follows;

The County Executive Committee Member must within 14 days of receiving the Annual Environmental Health and Sanitation report submit it to the County Executive Committee which shall within 21 days submit the report to the Clerk for tabling before the County Assembly.

15. THAT, Clause 20 (3) be amended by deleting the Roman numeral “ii” and substituting it with arithmetic numeral ‘2’ to read as follows;

The County Government shall upon (2) above ...

16. THAT, Clause 21 be amended by deleting the word “may” and substituting it with the word “shall” to read as follows;

The CECM health Kisumu County shall make regulations for carrying into effect the provisions of this Act.

Justification – Pursuant to the Statutory Instruments Act, the CECM is mandated to submit Regulations of all relevant Acts before the Assembly for consideration for purposes of implementing of the Acts. This is a compulsory role and therefore this Honourable House must seek to compel the CECM to conduct his delegated legislative roles.

17. THAT, Article 3 in the First Schedule be rephrased as follows;

The Chairman shall not vote unless there is a tie in the votes cast.

18. THAT, Memorandum of Objects and Reasons be amended by deleting ‘2020’ and substituting it with “2021” to read as follows;

The Kisumu County Environmental Health and Sanitation Bill, 2021 ...

Chairperson, Committee of the Whole House (Hon. Muga): Honorable Members, do you have any other amendments apart from the ones read by Hon. John Atieno?

(No response)

Chairperson, Committee of the Whole House (Hon. Muga): Hon. Members, I therefore want to put a question for all the amendments as read by Hon. Atieno because we agreed to go the guillotine way.

(Question put and agreed to)

Chairperson, Committee of the Whole House (Hon. Muga): Chair it is therefore your turn

Hon. Atieno: Madam Speaker, I would like to request with your permission that the House reverts to plenary.

Chairperson, Committee of the Whole House (Hon. Muga): May the House revert to plenary.

(The House reverts to the plenary)

The Temporary Speaker (Hon. Okumu): Thank you Hon. Members, could the chair of the Committee of the Whole House give this House a report on the deliberations from the Committee of the Whole.

Hon. Muga: Thank you Mr. Speaker. I want to report to you that, the report on the amendment from the Committee of the Whole House was as follows;

Amendment of clause six as proposed by the Committee's Report be deleted and substituted with clause six of the Bill be amended to read as follows;

- a) Introducing the words "to deal with matters as provided for in section 18 (a) and (b) immediately after the word constituted and (b) delete the word "national".

Mr. Speaker, in clause six after the amendments have been considered to read as follows;

"Directorate of Public Health and Sanitation shall be constituted to deal with matters as provided in section 18 (a) and (b) of the Health Act No. 21 of 2017". Mr. Speaker, that was the amendment proposed and approved. Thank you.

The Temporary Speaker (Hon. Okumu): Hon. Muga, could you please approach the Chair.

(The Temporary Speaker consults with Hon. Muga)

The Temporary Speaker (Hon. Okumu): Hon. Muga.

Hon. Muga: Thank you Mr. Speaker. Please let me consult the clerks.

The Temporary Speaker (Hon. Okumu): Please approach the Clerks.

(Hon. Muga consults the table clerks)

The Temporary Speaker (Hon. Okumu): Hon. Muga!! When crossing the isle or floor, it is a parliamentary beat practice that you ensure that you bow. I know that we have just resumed from the long recess.

The Temporary Speaker (Hon. Okumu): Hon. Muga, please I just want to you read all the proposed amendments that have were raised and approved on the Bill following a Committee of the Whole House report and any other amendments that was made in the floor of this House during the Committee of the Whole House so that they are captured for the purposes of the Hansard Report.

Hon. Muga: Thank you Mr. Speaker. The amendments that were proposed and approved in the House are as follows;

1. Amendment be caused in clause 2 under the definition on the word “officer”. By deleting the brackets so as to read as follows;

“Public Health Officer” means a Public Health Practitioner as defined in the Public Health Officer’s Training, Registration and Licensing Act.

2. Amendment be caused in clause two by adding the definition of the initials PHOTC as follows;

“PHOTC” means the Public Health Officers Technical Person.

3. That, clause 6 of the Bill be amended by introducing the words “to deal with matters as provided for in section 18 (a) and (b) immediately after the words “constituted” and (b) deletion of the word “ national”. After amendment of clause six therefore to read as follows;

Provides as follow Directorate of Public Health and Sanitation shall be constituted to deal with matters as provided for in section 18 (a) and (b) of the Health Act No. 21 of 2017.

4. That, clause 5 (d) be amended by inserting the word “stakeholders” immediately after the word Sanitation to read as follows;

To empower the Environmental Health and Sanitation stakeholders to carry-out their activities within Kisumu County.

5. That, clause 7 (2) (e) be amended by deleting the word “Vetenary” and substituting it with the word “Veterinary”. There was a typo error in the drafting of that word.

6. That, clause 8 (e) be expunged.

Justification: The Bill as it is in this clause provides the Kisumu County Environmental and Coordination Committee with specific roles of approving Revenues and Expenditure Estimates.

The Committee observed that the roles of approving Revenues and Expenditure Estimates of Departments is the function of the County Assembly established pursuant to article 185 of the Constitution of Kenya 2010 read together with section 8 of the County Government Act of 2012.

7. That, clause 9 (2) (a) the word “County” be inserted immediately after the words “sub” to read as follows;

Sub-county Medical Officer of Health who shall be the Chairperson.

8. That, clause 9 (2) be amended by insertion of the word “officer” immediately after the words “environment” to read as follows;

Sub-county and Environment Officer.

9. That, clause 9 (2) (f) be amended by deleting the word “Veterary” and substituting it with the word “Veterinary”

10. That, clause 9 (2) be amended by reducing representation of the Public Health Practitioners from two representatives to one.

Justification: The Committee should have a Membership of odd number while, this Committee has a Membership of ten.

11. That, clause 10 (5) and 12 (e) be expunged from this Bill.

Justification: Both the Sub-county and Ward Environmental Health and Sanitation Coordination Committee as established do not have the requisite expertise to prepare Estimates of Revenues and Expenditures of the Department at both the Sub-county and Ward Levels. These are statutory obligations of the Department of Health Services Housing and Sanitation and must not be deleted.

12. That, clause 11 (2) (d) be amended by deleting the provisions of two Village Administrators and substituting it with “one representative of PWD and “one representative of the youths”

Justification: The Department of County Administration has already been represented by the Ward Administrators.

13. That, clause 17 be amended by deleting the word “eleven” and substituting it with “sixteen” to read as follows;

The provisions of clause 16.

14. That, clause 19 (3) be amended by inserting the phrase “environmental health and sanitation” immediately after the word annual and before the word “report” to read as follows;

The County Executive Committee Member must within 14 days of receiving the Annual Environmental Health and Sanitation report submit it to the County Executive Committee which shall within 21 days submit the report to the Clerk for tabling before the County Assembly.

15. That, clause 20 be amended by deleting Roman numeral (ii) and substituting it with arithmetic numeral (2) to replace as follows;

The County Government shall upon (2).

16. That, clause 21 be amended by deleting the word “may” and substituting it with the word “shall” to read as follows;

The CECM- Health Kisumu County shall make Regulations for carrying into effect the provisions of this Act.

That, pursuant to the statutory instrument Act the CECM is mandated to submit regulations of all relevant Acts before the Assembly for consideration for purposes of implementing of the Act. This is a compulsory role and therefore this House must seek to compel the CECM to conduct this delegated legislation role.

17. That, Article 3 in the First Schedule be rephrased as follows;

The Chairman shall not vote unless there is a tie in the vote cask.

18. That, the Memorandum of Objects and Reasons; is amended by deleting “2020” and substituting it with “2021” to read as follows;

The Kisumu County Environmental Health and Sanitation Bill, 2021.

Mr. Speaker those were the amendments proposed during deliberation in the Committee of the whole House.

The Temporary Speaker (Hon. Seth Okumu): Thank you Hon. Member. I therefore want to put a question on the adoption of the report from the Committee of the whole House.

(Question put and agreed to)

The Temporary Speaker (Hon. Okumu): The report from the Committee of the whole House is hereby adopted.

The Temporary Speaker (Hon. Okumu): Next Order!

MOTION

3RD READING OF THE KISUMU COUNTY ENVIRONMENTAL HEALTH AND
SANITATION BILL, 2021.

BY

HON. JAGONGO,

(CHAIRPERSON, STANDING COMMITTEE OF HEALTH, HOUSING AND SANITATION)

The Temporary Speaker (Hon. Okumu): Yes, Hon. John Atieno.

Hon. John Atieno: Thank you Mr. Speaker. Allow me on behalf of Hon. Jagongo to request the Clerk to take us through the 3rd reading of the Bill.

The Temporary Speaker (Hon. Okumu): Yes Madam. Clerk.

The Kisumu County Environmental Health and Sanitation Bill, 2021.

A Bill

for AN ACT of the Kisumu County Assembly to give effect to the right to a clean and healthy environment and the right to reasonable standards of sanitation; to provide for the performance of the powers and functions of the County Government in respect of environmental health and sanitation matters, and to provide for the regulations and management of environmental health and sanitation; and for connected purposes.

MEMORANDUM OF OBJECTS AND REASONS;

The Kisumu County Environmental Health and Sanitation Bill, 2021 aims to ensure access to safety managed sanitation, promote clean and healthy environment and ensure the wellbeing of all in Kisumu County. Its main policy objective is to prevent and reduce health risks associated with environmental hazards and to tackle the social and economic costs of preventable diseases related to poor environmental health and sanitation conditions in Kisumu County. The constitutional basis of the Bill is anchored on Articles 42 and 43 of the Constitution of Kenya that guarantee the right of every person to a clean and healthy environment, highest attainable standards of health, reasonable standards of sanitation, clean and safe water of adequate quantities, adequate food of acceptable quality and other related rights. The Bill also provides the legislative framework and powers vested in the County Government of Kisumu by the Constitution of Kenya and related national policies and legislation.

The Bill has undergone a transformation following its initial formulation. Its provisions now reflect a consensus among the relevant departments and stakeholders that it is a legislation designed to be

enforced by multiple departments, agencies and stakeholders in the interest of the people of Kisumu County.

PART I deals with the title, interpretation, object of the Act, guiding principles and obligation of the County Government.

PART II Establishes an institutional framework for the administration of the Act. It includes the Kisumu County Environmental Health and Sanitation Coordination Committee, functions of the Kisumu County Environmental Health and Sanitation Coordination committee-conduct of Business, remuneration, the Chief Officer, the staff, common seal, protection from the person to liability, liability for damages Remuneration of the Board, Chief Office, the Staff, common seal, protection from person liability, liability for damages, corporate Governance and annual reports.

PART III Contains miscellaneous and general provisions, Financial, Regulations and Consequential provisions. The bill is hereby read for the 3rd time.

The Temporary Speaker (Hon. Okumu): Thank you Hon. Members. The Kisumu County Environmental Health and Sanitation Bill, 2021 has been read for the 3rd time and I want to give Members an opportunity to propose any further amendment that they would feel is still needed after the 1st and the 2nd reading.

Hon. Members if there is no any further proposed amendment, I want to put a question on adoption of the Kisumu County Environmental Health and Sanitation Bill, 2021 with the amendments therein.

(Question put and agreed to)

The Temporary Speaker (Hon. Okumu): Hon. Members the Kisumu County Environmental Health and Sanitation Bill, 2021 is hereby approved with the amendments therein today Tuesday, 25th January, 2022 at 1540 hours.

Hon. Members, I want to further direct that the Hansard Report and the accompanying documents be prepared to be forwarded. Likewise, this Bill be printed and taken to the Governor for accent so that the department can start on working on the regulations for its implementation. Thank you.

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

ADJOURNMENT

The Temporary Speaker (Hon. Okumu): There being no any other business to transact, the House stands adjourned to Friday, 04th February, 2022 at 2.30 p.m.

(House rose at 03.45 p.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

Jesca Otieno – Hansard Reporter

Vallery Achieng’ – Hansard Reporter