



REPUBLIC OF KENYA

## NAIROBI CITY COUNTY ASSEMBLY

### OFFICIAL REPORT

#### First County Assembly – First Session

Thursday, 5<sup>th</sup> September 2013

The House met at 2.30 p.m

*(Mr. Speaker in the Chair)*

#### PRAYERS

#### COMMUNICATION FROM THE CHAIR

**Hon. Speaker** (Mr. Alex Ole Magelo): Sorry Members, I am late due unforeseen circumstances. I did not have a way to enter the precincts of the Assembly. Thank you.

Hon. Members yesterday there were issues I said I will present answers to, this afternoon. One is the issue of insurance. Hon. Members I want to tell this house today that the issue of medical insurance cover for the Members will be finalized next week and you will be told the organization or company that will insure you. Further to that I want to dispel any rumours going around the House that the team that went to Mombasa were insured.

That is a rumour and that rumour shall just be left on the floor of this House. I want to ask you Hon. Members, you are mothers; you are fathers; you are grandfathers and you are uncles to many, you must live by example. We cannot let ourselves be carried away by rumours. Rumours were left to people in a place we call South America. That is where rumours boil and that is where rumours grow not in the Assembly. This is because a rumour can make nearly all of us to clash because when you say Members who went to Mombasa were insured; how do we insure Members singularly?

Secondly there is the issue of hygiene with regard to Members, especially our Hon. Members (Women/ladies). I want to tell you that the Serjeant-At-Arms is on it and I am expecting a report by next week. You won't find any more of what you said was the case. But further to that the Clerk will go ahead and order those very important gadgets with regard to your needs. This is in reference to the ladies. They said there are other very special gadgets that they use to take care of themselves. We will find a way to order for them. Therefore the hygiene for all of us is paramount.

I think those were the very important matters and then I have received an issue raised by Members, which I want to communicate. It is with regard to the Hon. Members especially the women or ladies. Their mode of dressing has been brought to my attention by Members and as I said earlier we are mothers; we are aunts and we are grandmothers. It is important that we strictly follow the dress code. I don't want the Members to send me another note again with regard to that. I would like to find out under what Standing Order I can punish inappropriately dressed Members (Women/ladies).

*(Applause)*

Hon. Members it also goes to men. Hon. Members (Men) will also adhere to the dress code. It is not only the women/ladies. I said here the other day that certainly you will not dress like Kanda Bongoman going to a disco. So we expect you to be properly dressed and let me tell you Hon. Members; did you know that you are better dressed than our counterparts across the road in the National Assembly? Did you know that? Your dressing beats the National Assembly Members' dressing. Your appearance is better than those guys across. I am very proud of you. Certainly I am better dressed than them. So I want to say 'ahsante sana' for the men. You are really up to it. Ladies, challenge the other ladies at the National Assembly by beating them at dressing well.

So Hon. Members, I am sure you have read today's Nation Newspaper. With regard to the forum of Speakers; if you have read that one, ask me a question next week. You go and read it; we paid so much money to draw your own attention to what is going on. *(Loud consultations)* No, it is in the Daily Nation newspaper. Let me tell you my brothers and sisters even the Star is a city newspaper just like the London Morning newspaper or the London Evening Standard. The Star is a Nairobi paper. But I am not telling you to buy. It is up to you to buy whatever you want to buy.

But Hon. Members go read the Nation paper; the story is well done and it articulates what we will now go ahead with, head-on with the Salaries and Remuneration Commission (SRC). Apparently we have been so quiet, moving on with diplomacy but now we are engaging them and we will call upon you to engage them further. Ours will be more vicious and I talked today to the Vice Chairman of SRC and I told him; we have been quiet, doing diplomacy, but now we are going to be vicious and the voices of the County Assembly are 20 times more than the National Assembly. So Members; good afternoon.

On what? (*Loud consultations*)

**Hon. Member for Pipeline Ward (Mr. Samuel Kagiri):** Mr. Speaker, thank you for opportunity and also for your response concerning our insurance cover. The answer, that the cover will be available by next week, is not satisfactory for Members because for the period we have spent without insurance and now until next week, we don't know how we are surviving or how we will survive till then. We have credible information about the compromise that has been going on with the process of the insurance.

**Hon. Speaker:** Order Member! You have said that you have credible information; can you give us this credible information?

**Hon. Samuel Kagiri:** Give me time. I will give the information but I am saying; by the time the cover is available, despite the information we are saying we have, we need to know how Members will be surviving without the insurance; coming to work and back to their places of residence; thus moving about. Please give us your advice.

**Hon. Speaker:** Hon. Members, yesterday you heard me talk about the problem that we had from the Procurement Department of the County Assembly. It is just the other day that we formed the Tender Committee of this House, that is why you saw us advertising as a County Assembly. So Members we have a delay because we first of all need money and I told you that our finances are held up. We cannot enter into a contract with the insurance company when we are not sure of funds. We need our own account and we have requested for this so that our money will be sent to our own County Assembly account. The Account is yet to be opened.

'Kuna mengi ambayo sitaki kusema hapa'. If today, auditors came to audit the County of Nairobi, somebody will be affected. We said the other day that our money should be put in our own account at Central Bank and secondly we agreed that we open a Commercial Bank Account as well. This has not been done. That is why I am telling you that there is a problem. You don't know the trouble the Clerk has been going through, especially borrowing funds, to facilitate the work of the Members.

*(Loud consultations)*

Order Members! That is why I called the Minister for Finance and I will table that letter on Tuesday, here, for the benefit of you Members; so that the Speaker can relay to you all that transpired. On the day we wrote the letter, they had taken away the gadgets that the officer of the County Assembly 'anatumia kufanya kazi'. Members, 'hivyo vifaa amerudishiwa juzi'. 'Barua imeandikwa ili tufungue akaunti yetu ili pesa zetu kutoka kwa kaunti' fund 'ziingie' directly 'kwa' account 'yetu'. That is all we have been trying to do.

I remember Hon. Nyang'wara Nyang'wara, came to my office and asked me why we don't want to crack the whip. I said the first thing is to follow order; call the Minister, the Chief Finance Officer and the County Treasurer. We have done what is supposed to be done. 'Jumatatu saa nane, tutakuwa na mkutano wetu ambapo tutazungumza mambo yetu yote. Tunaonekana kama watu wa kuombaomba, but until we crack the whip, watu watakuwa wakituona na kutuheshimu. So waheshimiwa wenzangu, we agree, Jumatatu saa nane tukutane hapa tujadiliane mambo yetu. Nataka mpoe kidogo. Msiniulize maswali. Ask me those questions on Monday. Even the Tender Committee communications on the Insurance which will by then have been finalized; I will give the Clerk to present to you.

Hon. Members I would want you to understand that I thought we were working and moving together, but apparently it is like the County Assembly is moving together alone, the rest have gone their own way. Therefore, when the whip is cracked, yule itaangukia, ni shauri yake. The other thing is that they have always hidden behind the Governor's back. Mambo ni mengi ya kudharau Kaunti Assembly.

*(Loud consultations)*

Sitaki kutaja jina la mtu lakini, let us meet on Monday and then we can talk.

*(Loud consultations)*

Hon. Members, sit. Members I don't want us to talk here. We will do it in form of a 'Kamkunji', then men and women of this County can formulate a proper agenda but not to remove anybody but to punish

*(Loud consultations)*

Hon. Members it has not come to my attention. No complaint has been raised regarding any Executive Member. We know the people who are even frustrating the County Executives themselves. The Executives are in more problems than you. Okay.

*(Loud consultations)*

Order Members! Can we go to the order of the day? Allow the Members at the door to come in. Yes the Hon. Nyang'wara Nyang'wara, point of information.

**Hon. Member for Viwandani Ward (Mr. Samwel Nyang'wara):** Mr. Speaker, I just wanted to inform you that somebody will not be allowed to get away with this and I want to inform you that up to date even the Hon. Members have not been paid their August salary. At the same time, we know, not that you have just told us, but we know that there are officers who are ready to work but they are being frustrated by other officers who have been here before. We will not allow this to continue. It is high time, Mr. Speaker, that you crack the whip. The Hon. Members are ready to stand with you. We will make sure that we sweep this County for the benefit of the people of Nairobi. Thank you very much.

**Hon. Speaker:** Thank you Hon. Member. There was, Hon. Elkana who wanted to speak.

**Hon. Member for Mukuru Kwa Reuben Ward (Mr. Elkana Mauti):** Thank you Mr. Speaker sir, it is just last week that I was struggling to get only Ksh 5,000 from the Treasurer. Unaenda unaambiwa, hayuko, na ni saa tatu za asubuhi. Sincerely, we are struggling but one cannot be seeing things happen and keep

quiet only to heap blame on the Governor, yet we know very well the person responsible. Mr. Speaker, I will bring a motion to this House; that the team working at the County Treasury vacates the offices so that we can replace them with officers who are willing to work.

*(Loud consultations)*

**Hon. Speaker:** Can somebody close that door?

*(Points to a door to his left)*

Because the Speaker's life is in danger.

*(Loud consultations)*

Hon. Chege

**Hon. Member for Ngara Ward (Mr. James Chege):** Thank you Mr. Speaker, for giving me this opportunity to contribute to this very important debate. I want to implore Members to understand that we are an equal arm of government same as the Executive. We should not be challenged; we should not be intimidated or looked down upon. We should co-exist with the Executive functions of this County. The Office of the Comptroller and the Auditor General is not in America, it is across the road. We task the office of the Clerk to take the necessary steps to make sure that we find out what is happening with the Finance office here.

We are law makers and the reason why I am standing to speak, is not because I am hitting at the kamukunji, but the kamukunji on Monday is not binding. This House is binding. Let us discuss this matter here. Let us have resolutions here and let us build on it. When these Members of Jubilee elected me to be in the Speaker's panel, whether it is functional or not, I was put there to check the Executive functions.

Mr. Speaker, I want you to listen to me, it is very important because we cannot allow; I know because of your position you cannot be allowed to mention names, but we need to know the position. For example a guy, whether he has funds or not, we need to know the role of Kiamba. We need to know how far his powers go. We know he is the one frustrating this House. We have standing orders in our banks, yet today is 5<sup>th</sup> September 2013. We cannot be controlled by the Executive; we should be having our own

Account. We should not be complaining; once we have our pay slips, that should be a foregone conclusion and by 27<sup>th</sup> of the month our money should be in the bank accounts.

Without pre-empting what you want to put in the kamukunji let us discuss this matter today. Let us have a position. Let that position be adopted by this House and let that position be known to the Governor and his Executive so that if nothing is done; then there will be no motions, no passing of Bills until our position is clearly heard, Mr. Speaker. Thank you.

*(Loud consultations)*

**Hon. Member for Kariokor/Ziwani Ward (Ms Millicent Wambui Mugadi):** Thank you, Mr. Speaker. I rise here to contribute to the ongoing debate. To be honest, Mr. Speaker, taking it from what you have just said, I am a bit scared or a bit confused, because you talk as if there are some people who are more powerful than this House. So my question is; we are here as law makers, what surety do we have that the laws we are making in this House are going to be implemented, if people outside there are the ones frustrating us?

We need to understand who is more powerful; who has a say and where we stand as law makers. This is because we cannot condone frustrations from other people. Even you, yourself, you look scared. It is not fair. We need to be respected. We need to set boundaries. We need to be given our responsibilities and they need to also respect us; knowing our capability, our role, what we are capable of and what we are not capable of. Thank you.

**Hon. Member for Makongeni (Mr. Peter Imwatok):** I have been listening to the discussions and I want to contribute to the same. I want to start with its genesis two weeks ago. I know the bug stops with the Governor. At times we have tended to push the bug which does not even stop with the Governor, to the Governor. It is time this County; and everybody, had their areas of jurisdiction. The Governor is the CEO of the County. He is not in charge of finance.

Like yesterday, the Chief Revenue Officer indicated in the Daily Nation that this County collects an average of Ksh 50 million per day and then he says because of the effects of the strike this County is losing

Ksh 25 million per day and then in his conclusion he says but last month we only collected Ksh435 million. Then the question is; today you collect Ksh 50 million times six working days, and you know how the Council works, that is Ksh 300 million per week times four weeks it comes to Ksh 1.2 million. How does it negate to come to Ksh 435 million? I want to speak in this sense; it should not be anybody shouting and 'hullabalooing' must shout the name of the Governor. There are some issues which must stop with the Chief Officers not the Governor of the County of Nairobi. The issue of press conferences everywhere must cease and people should take the officers accountable not the Governor of this County.

*(Loud consultations)*

**Hon. Speaker:** Order Members!

**Hon. Member for Ruai Ward (Mr. Daniel Mbugua Mari):** I think Mr. Speaker sir, with all due respect, I want to address the Hon. Member through you. The Governor is the CEO of the Nairobi County Government. So when the Chief Officers are neglecting their duty, the bug stops with the Governor. So as for complaining and heading our complaints to...

**Hon. Speaker:** Point of order please

**Hon. Samwel Nyang'wara:** Mr. Speaker there is no motion of discussing the Governor that is on the table. What we are discussing here is the state of wellbeing of this Assembly.

*(Loud consultations)*

Is the Member in order? Mr. Speaker, can you protect me? Can I be protected? *(Loud consultations)* I need to be protected Mr. Speaker *(Loud consultations)* Mr. Speaker protect me.

**Hon. Speaker:** Order Members!

**Hon. Samwel Nyang'wara:** Is the Member in order to mislead this House, when we know that we are not discussing a given individual in this House? All we are asking; is why the mess? Mr. Speaker you



have clearly stated here that on Monday we shall deliberate on these issues. Why should we continue with this, Mr. Speaker?

*(Loud consultations)*

**Hon. Speaker:** Order Members!

**Hon. Member for Komarock** (Mr. Samuel Irungu Mwangi): Mr. Speaker, I rise on Standing Order number 18. I would like to inform the Hon. Member that the issue we are inquiring into is that the Governor is the head of the Executive arm of this County and when Members raise the.....

**Hon. Speaker:** Order Member! I think Members.....

**Hon. Samuel Irungu:** My right to speak, Mr. Speaker

**Hon. Speaker:** Order!

**Hon. Samuel Irungu:** Please Mr. Speaker

**Hon. Speaker:** Order! *(Loud consultations)* Order Members! Hon. Members, I now order that we move to the order of the day. Order Members! Order! The Member for Eastleigh; first warning.

### NOTICE OF MOTION

**Hon. Member for Kayole South Ward** (Ms Elizabeth Manyala): Mr. Speaker, I beg to give notice of the following motion; **WHEREAS** of late the problem of street children/families in Nairobi City has increased thereby affecting business in the city center; **AWARE** that this problem has turned into a social nightmare with more street children/families invading more streets within the Central Business District (CBD); **CONCERNED** that this street children are now extorting money from innocent pedestrians and motorists through intimidation and threats of use of human waste; this Assembly urges the County Executive Committee to move with speed and curb this menace once and for all. Thank you, Mr. Speaker.

Mr. Speaker, I beg to give notice of the second motion; that states that **AWARE** that Nairobi city is the hub of East and Central Africa, with vast potential resources for wooing investors especially in the hospitality industry; **CONCERNED** that there is poor location of food courts and eating hubs with most of the eating places being housed within or adjacent to petrol stations within the city or along major highways,

thereby exposing consumers to pollution, more so to the risk of exposure to the hazardous Benzene Toloen Ethylbenzen and Xylene (BTEX) commonly found in petroleum fumes; this Assembly urges the County Executive Committee to take necessary measures to re-locate food courts situated within or adjacent to petrol stations, to safer havens. Thank you, Mr. Speaker.

## STATEMENTS

**Hon. Peter Imwatok:** Thank you, Mr. Speaker, for giving me another chance to present a statement. I, Peter Imwatok, member for Makongeni Ward would like to request for a statement from the Chairperson of the Sectoral Committee on Labour and Social services with respect to the ballooning wage bill of Nairobi County, which has been sky-rocketing to about Ksh 800 million, while it is evidently clear that the last employees were hired 14 years ago. 14 years back, the wage bill was Ksh 200 million. I would request a statement with regard to four questions:

1. What is the 'morality' rate (underline)? I apologize, Mr. Speaker; what is the mortality rate for the last 14 years among the staff of the defunct City Council i.e how many staff have since died in numbers per month and per year for the last 14 years?
2. How many staff moved to the Water Company upon its formation 10 years ago, which was then a department in the defunct City Council?
3. How many members of staff have retired for the last 14 years and lastly
4. How many members of staff of the defunct City Council were transferred to other municipalities across the country?

Thank you.

**Hon. Speaker:** Thank you Hon. Imwatok. Just to correct you, the last time employment was done here, we were here with Hon. Hashim Kamau that was back in 1984 or 1994. So you are actually right (*loud consultations*) Members, I think it is common sense for the committee on Labour. That is not a question that can take a week to answer, because in the files of the Human Resource, you will find letters from the Ministry of Local Government that put an embargo on employment, while we were still here. We were here with Hon. Kados also. We understand that the last employment was actually in 1994 not 1984. So the Committee on Labour, please, by next Thursday, 13<sup>th</sup> September 2013 at 2.30pm, we want that answered promptly.

**Hon. Member for California Ward (Mr. Hashim Kamau):** Thank you Mr. Speaker, I am informed that Hon. Hashim was not here in 1984 (*Laughs*). Actually Mr. Speaker, in 1994, I was in Form III. I was here in 2002. Unless, it was Hon. Kados, who was here in 1992 (*Laughs*). Thank you, Mr. Speaker.

**Hon. Speaker:** It must have been your brother, who was here then.

**Hon. Member for Kasarani (Mr. Martin Gichohi):** Thank you, Mr. Speaker, I beg to reply on a Ministerial statement requested by the Hon. Member for Karura Ward. According to the report from Transport and Public Works; we visited the site and this is the statement:

The Hon. Members for Transport and Public Works including Hon. Thuo visited the area on Thursday 5<sup>th</sup> September 2013 at 11.00am so as to be better placed to answer the question. We visited the first barrier off Kiambu road. The observation we made is that it is situated off Kiambu road and it is noted that public service vehicles, matatus and motorcycles cannot pass through the road unless they have a pass with them, yet it is a public road.

### **Recommendations**

It should be removed so that all members of the public can have access to that road.

We visited the second barrier situated on Baobab road.

### **Observation**

This second barrier placed on Boabab road has a height of 2.5 metres and is deemed too low for passage of certain vehicles. The barrier has been there for the last 15 years.

### **Case point:**

There was an incident in 2003 in which there was a wedding in that area and a video photographer who was on a pick-up was knocked by the barrier leading to his untimely death.

### **Recommendation**

Without any hesitation, the barrier should be removed effectively.

### **Barrier 3**

This is situated on Tara Road

**Observation**

It is the barrier that is connecting Runda and Kiambu road. This barrier has been put in place and it requires a letter for lorries using the route. This letter is issued by the security manager from Runda Water.

**Case point 1**

The Members met a lorry driver who had been sent back the previous day by the security manning the barrier and he was forced to go back and use Limuru road. He cited that he had lost time due to the existence of the barrier.

**Case point 2**

Also, we had a contractor present who told Members that he was delivering stones and metals and he had to acquire the letter from the security manager at Runda Water at a fee of Ksh 200.

**Recommendation**

Members viewed this as discriminatory and perceived a division amongst the rich and the poor. It was recommended that the barrier should be removed as it was contrary to the Constitution that cites the freedom of movement.

**Barrier 4, 5 and 6**

These are barriers on Ruaka Road. Barrier number 5 connects Ruaka road to the Northern By-pass; barrier 6 connects Limuru Road to Kiambu Road.

**Observation**

The barriers noted are indeed on Public Road and this is a violation of freedom of movement. The Members took photographs of the barriers and even a copy of the letter that is required to pass it. Due to time constraints we were not able to submit to the House copies of the photographs and the letter but we will table it on Tuesday 11<sup>th</sup> September 2013 at 2.30pm.

**Case point**

Fire Engines and police cars have no immediate access to this road thereby posing danger on their response effectiveness in case of emergency.

**Recommendation**

If the barriers cannot be removed, they can be retained but be friendly to the public. There should be consultation between the Members, the residents and community at large.

This road had been contracted by Nyoro Contractors with the client being Ministry of Nairobi Metropolitan Development. This is further proof that indeed this is a public road. We have copies of the photographs of the road which we took. We will circulate them to Members.

**Hon. Speaker:** Thank you very much, Bwana Chairman. I take it that this is a very preliminary report. We would like you, Chairman to table the report and a notice of motion to adopt the report and also before next week, try to do more investigation as to the Police report of the death of the photographer. I know there is one, on the death of the brother of Hon. Ole Kenta, who was knocked by the barrier some years ago. All those reports we need them. We will be able to look for reports and avail them to you but meanwhile do thorough investigation. Get all these; because now I see there is one photographer who died and there is Adam who died too. Thank you.

**Hon. Martin Gichohi:** Thank you, Mr. Speaker, we will bring the full report on Thursday, 13<sup>th</sup> September 2013 at 2.30pm including the photographs.

**Hon. Member for Karura Ward (Mr. Stephen Kamau Thuo):** Thank you Mr. Speaker, indeed I am the one who requested for that statement, 'Pop Star' as most of you would like to refer to me. Mr. Speaker, I do appreciate the report that the Chairperson has brought to this House and also if you have gone through the report you will notice that there are various recommendations and all the recommendations are pointing to the fact that we need to remove those barriers; but if you go to the last recommendation there is a contradiction; because the recommendation reads as follows: " *The Members felt that if the barriers are not to be removed they can be retained but be friendly to the public. There should be consultations between*

*the Members, the residents and the community at large.*” These barriers should have been removed yesterday. They are on a public road. My question is; when will this be effected? When will the barriers be removed? I need a simple answer to that, Mr. Speaker.

**Hon. Speaker:** Hon. Kamau, we have said; and the Chairman promised, by Thursday. It is a matter of just writing this report and bringing it for adoption. He just said; Thursday next week.

**Hon. Martin Gichohi:** Mr. Speaker sir, may be what Hon. Kamau is saying is maybe he was carried away by what Hon. Jeffer was doing... *(Laughs)*

**Hon. Speaker:** Order! Chairman! Thursday?

**Hon. Martin Gichohi:** Thank you, Mr. Speaker. Thursday, 13<sup>th</sup> September 2013 at 2.30pm.

**Hon. Speaker:** Hon. Chege, point of information

**Hon. James Chege:** Thank you, Mr. Speaker, I am a Member of the hardworking Transport Committee. I just want to inform the Members that it is the work of the Committee to bring up the policy. The implementation and giving of actual dates is the Executive's function. They are the ones who implement; so even if we say next week, we will not be giving you specific dates because we are not the ones who will be removing the barrier. The barrier is going to be removed by the implementers. Ours is to assert as he said and we agreed they should be removed. The action remains with the implementers. So, Members can be patient and follow-up with the guys who will remove, on the other side. Thank you.

**Hon. Speaker:** thank you very much Hon. Chege. I think as soon as we adopt it, it will be the work of the House and it will be upon this House to make sure that these barriers are pulled down. 'Mheshimiwa'

**Hon. Tabitha Wothaya Ndigirigi (Nominated Member):** Thank you Mr. Speaker, I was just wondering. I was one of the people who accompanied the Committee to see the barriers and what we agreed with the Members was that only one barrier will be removed and with regard to the rest of the barriers, we are going to call the residents of Runda Estate so that we can discuss. This is because we are

not aware whether the Runda residents are willing to have the barriers removed and also if the barriers are a security measure for the residents. Thank you very much. (*Loud consultations*)

**Hon. Speaker:** Actually, Hon. Members, take your seats. Hon. Members we just got lost a little bit and as we are learning, we will continue learning and we are going to be articulate on this. When we get the report it will be upon the House to decide what to do with the barriers. Barriers are actually illegal anywhere, anytime. Yes, 'Mheshimiwa' what are you rising on?

**Hon. Member for Lower Savannah Ward** (Mr. Alfred Ambani Muhindi): Thank you, Mr. Speaker..... (*Interruption*)

**Hon. Speaker:** On what?

**Hon. Alfred Ambani:** To deliver a statement.

**Hon. Speaker:** Okay

**Hon. Alfred Ambani:** Thank you, Mr. Speaker, Hon. Members good afternoon. I would like to deliver a statement as requested on 3<sup>rd</sup> July 2013. Pursuant to Standing Order number 41(2c); the Hon. Peter Anyule Imwatok, Member for Makongeni Ward, requested a statement from the Chairperson of the Sectoral Committee on Agriculture, Environment and Natural Resources on the following:

1. Whether the utility, City Gate parking area and West Gate mall parking area and other buildings and malls were built in the area that is a riparian land
2. Who authorized the commercial use of the riparian land by commercial entities
3. What revenue was being generated to the County compared to the private developer who collect a lot of money in terms of parking fees and other charges
4. If no revenue was being generated to the County what was the Department doing to correct the mistake and grabbing of riparian land by investors

The Committee wrote to the Interim County Secretary requesting for a statement on the above. The Chief Officers in charge of Environment and Natural Resources via a memo dated 5<sup>th</sup> July 2013 gave the following response:

According to the Environmental Management and Coordination Act (EMCA) of 1999 and the Environmental Impact Assessment Regulation Act of 2003 (EIA), Nairobi City County is

a lead agent in implementation of this law. EIA regulations require that all projects out of character with their surrounding are expected to undergo an EIA before implementation. Both the City Gate and the Nakumatt Ukay parking area fall in this category as they are on a river path and particularly because their implementation was going to impact on the existing eco-systems. However there is need to appreciate that approval of buildings in Nairobi City is the responsibility of the Department of City Planning while licensing of parking areas is the responsibility of the Department of City Engineer.

**a) City Gate Mall Parking**

This parking is within the City Gate mall and is used by the tenants and customers visiting the places respectively

**b) Nakumatt Ukay Parking**

This is an extension parking that is approximately one hectare, built on the river riparian with the river flow confined within a concrete channel passing along the whole parking land. Some part of the river is completely covered with concrete slab. The parking is used by tenants and customers visiting the supermarket.

**c) Authorization status**

The authorization for commercial use of the riparian land of Nakumatt Ukay has been approved by the City Engineer; Ref: City Engineer Transport Unit. In the case of West Gate mall parking; it is within the premises and was approved by the Planning Department; Ref: Planning Control Section.

**d) Revenue Generation**

Before the implementation of the investment the parking area was a river riparian and also a road reserve and therefore not suitable as a parking area.

**e) Role of the Department of Environment**

The role of the Department of Environment in any development project is at the EIA stage where it evaluates the EIA report before NEMA gives the EIA license. In this



investment the Department was not consulted and therefore was not aware whether the project got an EIA license from NEMA or not. However in the spirit of environmental conservation the Department wishes to state that all wet lands be conserved and preserved for biodiversity and the ecosystem enhanced.

Mr. Speaker, I wish to table the response together with the relevant documentation.

**Hon. Speaker:** Hon. Imwatok, please.

**Hon. Peter Imwatok:** Thank you Mr. Speaker, I was the originator of the two questions that I asked of the Department of Public Works and at the same time the Department of Environment, with regard to the riparian lands. As we all know our Country was almost degenerating into a lawless society and this is very clear from this report tabled by the Department of Environment. No consultations, no regard of the law as per the Environmental Impact Assessment (EIA) was taken and ultimately for the Department of Environment it is very clear there was a challenge in finding the information as to who particularly gave the authority to the said premises to use the riparian land as a parking.

When you go to the Department of Public Works, without wasting time, as you have got a lot of things to indulge into as a House, as regards my request; in the ruling of the High Court it says that the Nairobi City Council failed to table the evidence to support the claim that the plots in contention were in wet lands, Mr. Speaker. More or less the report now presented to us by the Department of Environment is very clear that they accept that the said parking areas are on wet lands.

On the second issue, I would like to understand why the investors said Nairobi City Council had not tried to nullify the Title of the said properties, if they were on wet lands. So, Mr. Speaker with regard to this, I wouldn't like to waste a lot of time but only to request your Hon. Speaker for direction.

Mr. Speaker if you look at the document on your table, there is the Ndung'u Report which clearly says that these riparian lands were allocated irregularly. So, Mr. Speaker, I ask for your indulgence if you will allow the Committee on Environment together with the Committee on Public Works to ascertain the real picture; the real culprit behind the allocation of an environmental aspect of this County. I beg you to assist

us get into deeper details so us to have the real information of what transpired; who did it; why and how; so that we safeguard the future of this County.

**Hon. Speaker:** Hon. Kagiri, please.

**Hon. Samuel Kagiri:** Mr. Speaker, thank you for this chance, I have a statement to present, but before I forward my statement, I would like to say that we need the Title Deeds, the allotment letters, and the PDPs for the said places or the riparian lands to be provided; to be tabled in this House so that we can know how these people got these properties. Thank you.

I have a statement to present on behalf of the Chairman, Committee on Agriculture, Environment and Natural Resources: pursuant to Standing Order number 41(2c); Hon. Kamau Thuo, Member of the County Assembly, I am sorry you will have to correct this, it is written here, '*Member for Eastleigh*' but the Member is for Karura Ward; requested for a statement from the Chairperson for the Sectoral Committee on Agriculture, Environment and Natural Resources on the following:

1. Whether there are any plans for the Executive to rehabilitate the City Park forest
2. If yes, to avail details on when the rehabilitation will commence (*Loud consultations*)

**Hon. Speaker:** Order Members! Airbase

**Hon. Samuel Kagiri:** Thank you Mr. Speaker, let me continue.

3. The cost that will be incurred and finally the source of funds.

The Committee wrote a letter to the Interim County Secretary requesting for a statement on the above. The Interim County Secretary by a letter dated 30<sup>th</sup> August 2013 gave the following response:

There is a plan for rehabilitation of City Park by the Aga Khan Trust for Culture. A memorandum of understanding was entered into between the Ministry of Local Government, Ministry of National Heritage and Culture, City Council of Nairobi and the Aga Khan Trust for Culture (AKTC) on 16<sup>th</sup> April 2012. A subsequent agreement, being referred to as, Rehabilitation, Financing and Technical Assistance (RFTA), was entered into by the same parties on 24<sup>th</sup> November 2012. The details of the proposed rehabilitation project

including the project cost are contained in the MOU and the RTFA documents attached herewith.

I wish to table the response together with the relevant documents. Thank you.

**Hon. Speaker:** Hon. Members, I think we have done justice with regard to collecting answers. Now, the issue of the riparian land; I direct that the Public Works Committee, the Environment, Lands and Planning Committees to go and thoroughly investigate; bring us all the documentations; bring us copies of the Title Deeds; bring us their rates; bring us the Property Development Plans (PDPs) and get a survey map from the Kenya Survey and Mapping of Kenya to indicate where, for those who know Westlands, the river was. Actually in addition, just after the West Gate and the Nakumatt Ukay Malls, there is a temple and I remember the other day during the heavy rains, there was a problem in that place. So, we want all that tabled here. We all know that the legal Department of the former defunct Council was part of the problem that the people of Nairobi are facing now. Bring the documents so that we can interrogate them.

This goes now to the issue of City Park. Members, you saw today's paper, with regard to City Park where the members of Aga Khan Foundation appeared before the National Assembly Committee on Environment. They discovered, when they were about to start the project worth 1.2 billion, that they were actually dealing with 19 acres and the whole was ninety-something. The Hon. Leader of Minority, how many acres was it? Ninety-what? Was it 95?

Now, for the Committees on Environment, Lands and Works; again, can you go and bring us all the details of the allottees because this is Council property, so the allottees are within this roof or these floors of the Council. The copies were not on that side of the Engineer, which was burnt some months ago. So they are within reach. So, can we have them tabled? What time do you want to have these tabled before the House? Okay, I will give you a time frame. Bring us this information; because these are three committees working together, note this; that the report will be tabled on Thursday after next Thursday, two weeks from now. It will be on Thursday, 26<sup>th</sup> September 2013 at 2.30pm.

We also need your recommendations as to what we should do and also with regard to the Runda Road. We need to finalize that too as soon as possible. I want to tell you, the Runda Road issue affected us so much because we collected the body of the brother of the Hon. Member of Parliament for Narok North,

Hon. Kenta. The Hon. Member's brother was knocked off a pick-up as they were cruising through the barrier. He was on the pick-up. 'Alikuwa anashuka, hakujua kwamba kuna chuma barabarani.' So he died there. I know the barrier can kill. But basically, for the Lands and Environment Committees, you should not allow barriers in the city. Employ askaris; that is what will be my final word.

But let's get a proper report and again for you Members, I am happy for you to have come up with this, because it has been taken up by the National Assembly, yet it is supposed to be your baby. But they took it because they thought we are of a lower status than them, but we are not. So when you get hiccups on the way, please do not hesitate to report them on the floor immediately so that we can take action. Thank you.

**Hon. Leader of Minority (Mr. Abdi Ibrahim Hassan):** Mr. Speaker sir, I requested for a statement from the Chair of Physical Planning and Housing Committee, but the statement is not forthcoming. They promised to bring it today but it is not forthcoming, yet.

**Hon. Speaker:** Very well, on Wednesday 11<sup>th</sup> September 2012 at 2.30pm, we shall have the statement. Next order.

**Interim Clerk (Mr. Jacob Ngwele):** Order number 8; The Nairobi City County Flag and other symbols Bill (The Nairobi City County Assembly Bill No. 5 of 2013) an Act of the Nairobi City County Assembly to provide for the County flag and other symbols and to prevent the improper use of the County flag and of certain symbols, names, words and likeness for professional or commercial purposes and for matters incidental thereto. First reading.

**Hon. Speaker:** Where is the Chairman? Oh! The Chairman is also off to the great city of Kenya. So, just hold on, we consult. *(Speaker consults with the Clerk)* Hon. Members this goes to the Committee on Justice and Legal Affairs, and take note that this should be done as soon as possible so that we can be able to carry our own identity as a County of Nairobi. Actually what we carry and even the Speaker carries around, a card with Kenya's National colours; is wrong. You can be sued for using it. So, the Committee please move as fast as possible and let's dispense with it next week. Thank you.

**Interim Clerk:** Order number 9 motion.

*( A Member raises the issue of lack of quorum)*

**Hon. Speaker:** Point of order on what? Hon. Member, Chairman of Environment Committee, you have been used to counting trees; we are more than forty members. Yes.

**Hon. Samwel Nyagwa'ara:** Mr. Speaker, action needs to be taken on this Hon. Member, who is lying to this Assembly. The Standing Orders are very clear that Mr. Speaker, you can use your powers to throw out any Hon. Member who cheats in this House.

**Hon. Samuel Kagiri:** Can we have the Members who are present counted to ascertain his comments?

**Hon. Speaker:** Hon. Onduru

**Hon. Member for Lucky Summer Ward (Mr. Kennedy Onduru):** Thank you Mr. Speaker, even though the Chair of our Committee is trying to complicate my motion, all is good. So the motion reads: **AWARE** that most of the plot owners in Nairobi City County do not have the legal documents to their properties, which has largely fueled the culture of land grabbing and duplication of ownership; further **AWARE** that the Department of City County Planning cannot generate adequate revenue through approval of plans and land rates; and that the Department of the City County Engineer cannot supervise the construction of properties built on such land thereby leading to the collapse of such illegal structures and consequent loss of lives; **CONCERNED** that City residents who do not have legal Titles to their properties cannot access bank loans and other opportunities; this Assembly urges the County Executive Committee to immediately fast track issuance of allotment letters, Titles or lease certificates to all the deserving residents of Nairobi City County. Hon. Members, this is very important. I think you are going to concur with me...  
*(Loud consultations on the issue of quorum)*

**Hon. Speaker:** Order! Hon. Members, allow him to finish. At least Hon. Kagiri is present.

**Hon. Kennedy Onduru:** Thank you Mr. Speaker for protecting me. This is a very important motion that should be passed by Members even though the Hon. Member is so anti-the motion. I don't know what

is happening to him. To us Members, the motion is very important. Land is of great concern in this County. Why do I say so? The land issue has been a menace to our lives. We have witnessed double allocations or duplication of land ownership causing a tug of war in our Wards. Apart from that it interferes with our collection of revenue because the Engineers' Department and our Department of Planning cannot generate any rates from approval of development plans since the owners of the lands earmarked for development do not have legal documents of ownership. Again it is very unfortunate for our Engineers to supervise the projects since they would not have approved the plans. This has contributed to the collapse of structures in Nairobi; structures constructed without supervision and approval from the Engineers. *(Loud consultations)*

**Hon. Speaker:** Order Hon. Members! Ken Onduru, County Representative for Lucky Summer Ward, it looks like you are not very lucky today but we will continue with this motion. Order Members! Actually we have a quorum, continue.

**Hon. Kennedy Onduru:** Thank you Mr. Speaker for protecting me still, even though the Hon. Member is so much on my case, rising against me now and then. I do not know whatever is wrong with him in relation to this particular motion.

**Hon. Speaker:** Order Member! This issue is very important and that is why you are still seated over there. *(Consultations, as some of the Members rise on the issue of quorum)*. You have your own agenda. Okay Members, I will do the head count now.

**Hon. Kennedy Onduru:** What I was telling Members is that without approved plans our electorates are affected negatively. This is because most of the developments done without our City Engineers' supervision are hazards to our people. Most of the time we hear of the structures collapsing, causing loss of life and even most workers perish under the collapsing structures. Hon. Members, we are not ready to lose lives in Nairobi.

Another issue is access to financial credit. You all know that if you do not have legal documents, then you have no proof of ownership. There are many tall buildings and flats constructed in Nairobi County whose owners do not have legal documents. On the other hand, loans taken with security of an existing structure will enable the owners construct other buildings, yet our people cannot take loans for lack of

documents for their properties. We are here, to see our people develop but they cannot do so without the requisite documents. To develop, one requires finances. With those remarks, I urge the members to ponder over this issue. I would like to call upon Hon. Wainaina to come and second.

**Hon. Member for Kariobangi North Ward** (Mr. Michael Wainaina): Thank you Mr. Speaker, I beg to second the motion which has been brought to the floor by my good friend 'serikali' because most of the issues he has touched are the issues affecting most of us who come from Eastlands. If measures can be taken to ensure that we have these legal documents, there will be no illegal documents, double allocation and land grabbing. Last but not least, if our people are issued with land Title Deeds we will have more people accessing bank loans and this will enable our County to develop. We will then be able to do away with 'matope' or mud structures in Nairobi County. So I beg to support the motion totally, 'Serikali'.

**Hon. Speaker:** Yes, Hon. Members, motion 'imeiva'. (*Consultation*) Hon. Members, thank you. This motion is pushed to Tuesday 10<sup>th</sup> September 2013 at 2.30pm. Thank you.

*(House rose at 4.36pm)*