



NAIROBI CITY COUNTY ASSEMBLY

OFFICIAL REPORT

First County Assembly – Second Session

Thursday, 23rd October, 2014

The House met at 2.30 p.m.

(Hon. Speaker in the Chair)

PRAYERS

Hon. Speaker(Mr. Alex Magelo): Good afternoon, Hon. Members. Searjant at Arms, please ring the bell for ten minutes.

(The Quorum bell is rang for 10 minutes)

Hon. Speaker: The Hon. James Kinuthia, Kiamaiko.

REQUEST FOR STATEMENT REGARDING PERSISTENT BREAKDOWNS OF SEWAGE SYSTEM IN KIAMIKO WARD

Hon. Member for Kiamaiko Ward (Mr. James Kinuthia): Thank you, Mr. Speaker. Pursuant to Standing Order 41(2), I wish to request a Statement from the Chairperson of the sectoral Committee on Water and Sanitation regarding the persistent breakdowns of the sewage system in Kiamaiko Ward. Hon. Speaker, the residents of Kiamaiko Ward have been experiencing frequent sewerage blockages in the last four months. The matter has been raised with the Nairobi City Water and Sewerage Co. for intervention but it has been in vain. Hon. Speaker, in the Statement the Chairperson should enquire into and report on;

1. Reasons for the delay in fixing the breakages despite the matter being reported to the relevant authority.
2. Measures being taken by the County Government to ensure that the problem of the sewerage system in Kiamaiko Ward is solved once and for all.

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Thank you, Mr. Speaker.

Hon. Speaker: Very well. The Chairperson, Water and Sanitation.

Hon. Member for Njiru Ward(Mr. Kenneth Thugi): Thank you, Mr. Speaker sir. On behalf of the Chair, sectoral Committee, Water and Sanitation, we beg to be given two weeks to respond to the Statement. Thank you.

Hon. Speaker: Thank you very much. The Hon. Issac Ngige.

Hon. Member for Mwiki(Mr. Issac Ngige): Thank you, Mr. Speaker. I had a Statement which has not yet been brought to me. Apart from the Personal Statement I also had another Statement on street lighting and I was told that I will get it on the floor here. However, it has not been given to me.

Hon. Speaker: Was it brought to the Speakers office?

Hon. Issac Ngige: I am not sure. The point I left it at they told me that they would take it to the Clerk and then to the Speakers office. However, I still have a Personal Statement.

Hon. Speaker: Very well, we can dispense with that on Tuesday, 2.30 p.m.

PERSONAL STATEMENT FROM HON. ISSAC NGIGE

Hon. Issac Ngige: Thank you, Mr. Speaker. My Personal Statement concerns my personal security. Mr. Speaker, last week on Friday, I think after leaving this Assembly, I was serving my suspension, I had two surprises in my life. The first one was my birthday; I celebrated my birthday on Friday last week. I had friends, including some of my colleagues here who were part of my surprise birthday. Later that night I was surprised by other people in my house. My house was broken into and I was robbed of almost everything. Mr. Speaker, right now investigations are still going on with the OCPD, Kayole and the DCIA is in charge of the investigations.

At a personal level, I am not sure whether these thugs were just coming to steal or they were coming to harm me, or to kill me. At the time my car was in my compound but I had left using another car. Mr. Speaker, I needed your guidance. I also wanted to register my concern as many other Members have raised their concerns about personal security. You can give your guidance on that matter and especially on the way forward. Thank you, Mr. Speaker.

Hon. Speaker: Very well. I think on Tuesday, 2.30 p.m. I will give a comprehensive Statement in regards to the very unfortunate incidents where our Members have continued being subject to insecurity in the city. Next. Hon. Chairperson, Water and Sanitation, in regards to the response to Njoroge G. Maina's request.

RESPONSE TO STATEMENT REGARDING LACK OF WATER SUPPLY IN UMOJA 1 WARD

Hon. Member for Njiru(Mr. Kenneth Thugi): Thank you, Mr. Speaker sir. On behalf of the sectoral Committee on Water and Sanitation, I beg to give the response on a Statement requested by Hon. Njoroge Maina, MCA, Umoja I. Mr. Speaker sir, on Tuesday 14th October, 2014 the Hon. Njoroge Maina, MCA, rose on the floor of the Assembly pursuant to Standing Order 41(2)(c) and requested the Chairperson of the Water and Sanitation Committee for a Statement regarding lack of water supply in Umoja I Ward. In the Statement, he sought to know the following;

1. The cause of the lack of water supply to the residents having been paid the charge of the same;
2. The effort being made by the Nairobi and Sewerage Co. to supply the residents with water.

Mr. Speaker sir, the Committee wrote to the County Executive Committee Member responsible for Water, Energy and Natural Resources on 15th October, 2014. He requested that he be furnished with the written response to the Statement sought by the Hon. Member. In this regard, Mr. Speaker sir, I wish to report to this Assembly as follows:

Mr. Speaker sir, the water supply to Umoja I Ward is done through a 600 millimeter diameter pipe from Girigiri. The water supply problem in the Ward was caused by a failure of DNA 600 switch valve along Kangundo Road next to Total Petrol Station. This meant that the water supply had to be fully shut down to replace the faulty valve. Mr. Speaker, the faulty valve was noticed on 1st October, 2014 and its replacement was done the same day.

This water pipeline serves a big area including Umoja I, Tena, Donholm, Fedha, Nyayo and Avenue Park among other estates and also serves industrial area. Due to the big area it serves it takes 2 to 3 weeks for the water pressure to build up, stabilize and normalize. The water supply to most areas in Umoja has been restored pursuant to the equitable distribution programme. Mr. Speaker sir, I beg to lay this response.

(Hon. George Maina lays the response on the table of the Assembly)

Hon. Speaker: The Hon. G. Maina. Thank you, Chairperson. That was a good answer.

Hon. George Maina: Thank you very much, Mr. Speaker. Having asked for the Statement, things changed a little, only that the answer they have given is not 100% satisfactory because of the water pressure--- They are saying that the pressure--- The water is not yet back in all places, but I am satisfied with the answer although I am going to be bringing a Motion next week to request the Executive to provide us with water bowsers. Thank you, Mr. Speaker.

Hon. Speaker: Thank you, next Order. Hon. Chairperson for the sectoral Committee on Justice and Legal Affairs on the Statement request by Hon. Ibrahim Abdi Hassan. Is the Hon. Abdi Ibrahim Hassan in?

Hon. Member: No, he is not in.

Hon. Speaker: The Chairperson of the sectoral Committee on Justice is not in. Can we move this to next week? Is the Chairperson of Planning and Housing in?

Hon. Member for Korogosho(Mr. Maxwell Ochar): Yes.

Hon. Speaker: Are you ready with this answer or we wait until next week?

Hon. Maxwell Ochar: Mr. Speaker, we can do it next week.

Hon. Speaker: Wednesday, 2.30 p.m. Also, the answer from the Chairperson of Legal and Justice, Wednesday, 2.30 p.m. Hon. Chairperson, Planning, please bring us a comprehensive report in regards to (b). Next. Let us proceed.

MOTION

Hon. Member of Kayole South(Ms. Elizabeth Manyala): Thank you, Mr. Speaker. ***That***, aware that the first bylaws on building, development and control in Kenya were introduced by the colonial Government and applied by the then Nairobi Town Council. This was later replaced by the Nairobi City Council bylaws that incorporated town planning and zoning. ***Further*** aware that the current building code whose framework guides the building and construction center is a replica of the British building regulations. ***Concerned*** that current building components tend to collapse at different rates. This depends on the material used, designs, method of construction, environmental conditions and the use of the building. Further concerned that most building constructors have failed to adhere to safe building measures. This Assembly urges the County Government to introduce a compulsory safety/performance compliance certificate to every building and undertake a compulsory inspection and periodic auditing of every building within the County.

(Consultations between the Clerk and the Speaker)

Hon. Elizabeth Manyala: Mr. Speaker, lend me your ear because this is a very serious issue.

Hon. Speaker: Yes, go on please.

Hon. Elizabeth Manyala: That aware of the buildings which are coming up in town and in our Wards, you see a building coming up and within one months' time it is finished. The way the foundation is laid, the stones are of substandard quality. This is to an extent that when it rains during the rainy seasons or during El Nino, you are called up at night and told that a building has collapsed in your Ward and has killed five to ten people. Or the builders, the time they were building when they were putting the concrete blocks, the building collapsed.

This has happened before. We had Sunbeam here if you can recall and we lost so many people because of the lack of safety measures and compliance. We also had the tragedy that killed people when the Nakumatt Supermarket caught fire. The safety performance and compliance that could have mitigated in terms of disaster management was lacking. For example, having adequate fire extinguishers within the premises. These fire disasters are on the rise and we want to come up with a new structure and new inspection guidelines to be done periodically. Also, we have buildings that were there during the colonial times.

If you are driving along Jogoo Road you will see in Kariakor and Makongeni, the buildings are dilapidated. At least if periodical inspections had been conducted annually we would even have introduced or come up with a system whereby we can paint them. As you drive from the airport coming to Nairobi - for those who have been out of the country - when you are coming back the first scene you see are dilapidated houses. You are taken aback and ask yourself, 'am I going to a ghetto, where am I?'

This is a County and Nairobi being the city and the hub of East and Central Africa, we really need to style up and at least paint our buildings regularly or annually. We can even come up with a kind of paint scheme within estates. Also we should come up with a safety and compliance certificate that will regulate and help curb the menace of us losing more people every time it rains or every time buildings are coming up. Without further ado, I want to call upon our able Deputy Speaker, Hon. Ken Ngondi to come and second this Motion. Thank you.

Hon. Speaker: Hon. Masiga.

Hon. Member for Eastleigh South(Mr. Nelson Masiga): Thank you, Mr. Speaker sir. As we are speaking now, the Planning Committee has a building and construction control regulation Bill and we are going to discuss these issues. So, I am seeking your guidance on how we are going to tackle this Motion now. Thank you, Mr. Speaker.

Hon. Speaker: Where is the Chairperson of the Liaison Committee? Hon. Masiga, I am guided that it does not jeopardize the Motion but also it is good advice that the Hon. Manyala.

SUPPLEMENTARY ORDER PAPER

Hon. Speaker: Order number 8, Supplementary Order Paper.

Hon. Chief Whip of Minority: Point of Order, Mr. Speaker.

Hon. Speaker: What is it, Hon. Hashim?

Hon. Chief Whip of Minority: Mr. Speaker, I am standing on Point of Order, number 47.

Hon. Speaker: Yes, Hon. Hashim.

Hon. Chief Whip of Minority: Mr. Speaker, yesterday you gave two directions. One was that we meet today, we adjourn the House and we discuss that Motion. Two, we agreed that that Motion should appear on the Order Paper on Tuesday next week. Now, Mr. Speaker, Order number 47(1);

“The County Assembly Business Committee...” of which I am a Member “...shall allot the time and sequence of the publication in the Order Paper of every Motion approved by the Speaker”

Now, Mr. Speaker, as a House Business Committee we have not sat down to agree that this Motion appear in the Order Paper. So, I am proposing that this Motion be deleted and it goes to the House Business Committee.

(Consultations between the Speaker and the Clerk)

Hon. Speaker: Hon. Members, notwithstanding the fact that this is a Supplementary Agenda, the Speaker has invoked Standing Order number 1.

Hon. Member for Makadara Ward(Ms. Leah Mumo): Point of Information.

Hon. Speaker: Proceed. I have invoked Standing Order number 1.

Hon. Leader of the Majority: Thank you, Mr. Speaker. Hashim, just obey the---

Hon. Chief Whip of Minority: Mr. Speaker, Point of Order.

Hon. Speaker: Order, Hon. Hashim. Let the Mover move and then you can contribute.

Hon. Chief Whip of Minority: Before he moves.

Hon. Leader of the Majority: Mr. Speaker, tell Hashim Kamau to sit down for a while, you will have your time to speak.

Hon. Chief Whip of the Majority: Point of Order, Mr. Speaker.

Hon. Speaker: Can we hear what his Point of Order is?

Hon. Chief Whip of Minority: Unfortunately, Mr. Speaker, the Standing Order that you have quoted "*is only in case not provided for, the Speaker to decide*". Unfortunately that issue has been decided in the Statutory, Mr. Speaker.

Hon. Speaker: Can you read properly Standing Order number 1. Can we proceed, please? Leader of Majority, proceed.

Hon. Chief Whip of Minority: Mr. Speaker, can I take you through, Mr. Speaker?

Hon. Speaker: Order, Hon. Hashim Kamau.

Hon. Leader of Majority: Thank you, Mr. Speaker. I think you Members should not even argue about this because this is where you are going to get your Ward Development Funds, this is where you are going to get your mortgage.

Hon. Member for Njiiru: It was in the budget.

Hon. Speaker: Order, Hon. Members. Let him tell us what he wants to tell us.

Hon. Leader of Majority: Okay. Even if it is in the budget there is no money right now so they will just refund it back. For now, they want something which they can jump start with. They do not have money right now so they want something which they can start with.

Hon. Chief Whip of Minority: *(Inaudible)*

Hon. Leader of Majority: Hon. Hashim Kamau, let me just read it and then if you want to oppose it, just mobilize your foot soldiers to oppose the Motion instead of arguing before I read the Motion. “Pursuant to the provision of Section 140 and 142 of the---

Hon. Speaker: Hon. Leader of the Majority, please move the Motion.

Hon. Leader of Majority: What will I bring here, Mr. Speaker?

Hon. Speaker: Yes, can you move the Motion. *(Laughter)*

Hon. Leader of Majority: This is Motion number 8?

Hon. Speaker: Number 8, yes.

Hon. Leader of Majority: We are asking something different then.

Hon. Members: Point of Order.

Hon. Leader of Majority: “Pursuant to the provisions of Section 140 and 142 of the Public Finance Management Act 2012. This Assembly approves:-

- a. That the County Executive Committee Member for Finance to borrow the sum of Kshs.1.5 billion as a revolving overdraft to cater for the County’s monthly personal bills; and
- b. That the County Executive Committee Member for Finance to borrow the sum of Kshs.2.5 billion to cater for capital projects for the financial year 2014-15.

Mr. Speaker, the person I was supposed to call to second the Motion is already opposing the Motion. So, I am not going to call him. I am going to call the Chairman of Budget to come and second the Motion. Thank you.

Hon. Karen Githaiga: Point of Order.

Hon. Speaker: Order, Hon. Karen. I will give you your time.

Hon. Member for Embakasi(Mr. Michael Ogada): Thank you, Mr. Speaker. I am here to second this Motion. I think this matter came up yesterday--- You see, Mr. Speaker, there are people to be consulted over everything and I think Hon. Hashim was consulted. Mr. Speaker, sir, what I am saying is that we have got issues. We need not bring politics in everything because we are mixing politics and work in the Assembly.

So, Mr. Speaker, what I am saying is that these are the very Members who were accosting the Minister for Finance in the morning. That they are going on demonstration because we have not given them mortgage. They are the same Members who are standing there now and I personally saw them. Mr. Speaker, these people like Hashim Kamau personally took his documents for work to be started in his Ward---

(Loud consultations)

Hon. Chief Whip of Minority: No, No!

Hon. Speaker: Order, I will give you your time.

Hon. Michael Ogada: You will give him his time. Mr. Speaker, sir, what is there is that developments are supposed to start. He personally went to several offices trying to ensure that development in his Ward---

(Loud Consultations)

Hon. Speaker: Order! He is seconding the Motion. After that you can come in.

Hon. Michael Ogada: Mr. Speaker, this is not a party issue. We are discussing developments, but when you look at it, they are trying to bring a party issue. They are trying to frustrate development in this city so that they Governor is seen as not working. They want money and at the same time they do not want money to be found. So, it is upon the Government to ensure that there is money so that development can start.

If we do not allow the Governor to operate then how are we going to develop in the city? So, we need to get a source of money and we do development for them, but you cannot force us to do development and you do not want us to assess money. So, Mr. Speaker sir, I am here to second the Motion because the money is urgently needed.

Hon. Speaker: Hon. Millicent.

Hon. Member for Ziwani/Kariakor Ward(Ms. Millicent Mugadi): Thank you, Mr. Speaker. I am here to stand as the voice of reason. Mr. Speaker, nobody is opposing development, we all want development in our Wards. However, on the other hand, we cannot be rushed into getting loans yet we do not know what the loans are for---

Hon. Speaker: Sorry, Millicent, let me first propose.

(The question is proposed)

Hon. Millicent Mugadi: Mr. Speaker, I stand to speak as a voice of reason and nobody is objecting to any developments in our Wards. It is two years down the line and nothing has been done in our Wards. However, I believe that all the Hon. Members have to be made to understand, what are the intricacies of borrowing this money? What will be done with this money when it is brought?

That is the issue, nobody is objecting to any development, Mr. Speaker. So, Hon. Members should not take this personally, they should not bring political party issues here. Our role is to oversight and this is part of over sighting when people are asking why they need to borrow this money. Has the defunct City Council finished paying the previous money that they borrowed? That is all, and then the rest will flow.

Hon. Speaker: Hon. Ochola and then Hon. Kairu.

Hon. Member for Hospital Ward(Mr. George Ochola): Thank you, Mr. Speaker sir. I would like to tell my colleagues here that we need development. We are not here to fight one another. We are here to get money for the Nairobi County because is it not two years down the line and there is no development in Nairobi City County. When we want to get money, I am supporting this so that we borrow that money. We need mortgage, we need Ward Development Funds, we need a.b.c.d. Thank you, Mr. Speaker.

Hon. Speaker: Hon. Kairu.

Hon. Member for Woodley/Kenyatta/Golf Course(Mr. David Kairu): Thank you very much, Mr. Speaker sir. I rise here to oppose the Motion and I am opposing the Motion with reasons. Mr. Speaker sir, currently Nairobi County is critically in ICU and the reason why it is in ICU is because of heavy debt that we have. Mr. Speaker, do not forget that towards 2012/2013 there, Nairobi County borrowed 5 billion Shillings. Right now the reason why we cannot move forward is just because of this debt that we have. Mr. Speaker sir, there are rules and regulations on how the County can borrow money.

All those have not been adhered to because we even have to request the Central Bank on whether we can borrow that money or not. The project that you are purporting that you want to undertake in Nairobi, it does not necessarily need money for us to start, Mr. Speaker sir. Obviously the contractors start

with their own money and then they claim money back. So, Mr. Speaker sir, in my view, this is a way of raising money to fund the Referendum and we are going to oppose it because it is not right.

(Loud consultations)

Mr. Speaker: Order, Hon. Members. Hon. Kairu, it is unfair for you to insinuate that this money is for Referendum. Could you withdraw that please?

Hon. Michael Ogada: Mr. Speaker, the reason I have said that---

Hon. Speaker: No, no! I want you to withdraw the word Referendum.

Hon. Michael Ogada: Thank you very much. Mr. Speaker sir, because of the respect I have for the Chair I want to withdraw. However, this House needs to be consulted, this House does not belong to the Majority alone. It belongs to all of us as Hon. Members. When anything happens within Nairobi, I as the representative of Woodley/Kenyatta will be questioned by the people. Thank you very much.

Hon. Speaker: Hon. Mari and then Hon. Mumo.

Hon. Member for Ruai Ward(Mr. Daniel Mari): Thank you, Mr. Speaker sir. I rise up to oppose this Motion with the following facts. Number one, we have been in this Assembly close to two years now and we know that the National Government has been remitting money to the County Government. Before they come to tell us to give them permission to give us money, I think it is wise for them to tell us what they have done with what they have been collecting and what they have been remitting from the National Government.

We are not opposing development, but we are saying can there be transparency. Before I borrow money I must say, the money that you remitted to me, this is what I have done with it. So, Mr. Speaker, with all due respect, Members, every one of us is answerable and carries the burden to prove when we were in this Assembly, when the County Government borrowed 4billion--- In fact we are saying, not 1.5 or 2.5, we are saying that we are giving them permission to borrow KShs.4 billion. So we must discuss this Motion with the proper attitude. Where are we taking our Government, where are we taking our County Government?

So, Mr. Speaker sir, I oppose this Motion powerfully and urge our Members to oppose it but not based on party lines.

Hon. Speaker: Hon. Deputy Speaker.

Hon. Deputy Speaker(Mr. Kennedy Ngondi): Hon. Speaker, I believe in the principal based on power and separation as indicated in the Constitution. Mr. Speaker, we have the arm of legislation which we are representing today. We have the administrative arm which is pegged with the process of implementation.

Mr. Speaker, we have received a request from one arm of this Government of Nairobi County that the County is in dire need of money. The issue here is not about loans, the issue here as indicated is overdraft, so what we are talking about here is overdraft. People need to separate overdraft and loan. Mr. Speaker, I support the Motion.

Hon. Speaker: Hon. Nyangwara and then Hon. Issac.

Hon. Samuel Nyangwara: Mr. Speaker, I stand to support the Motion. Mr. Speaker, when it comes to separation of powers, we are being told as the County Assembly that we are not supposed to micro manage the Executive. Mr. Speaker, we are the same people who have been complaining here, day in and day out, that there are no developments in our Wards. I want to urge the Hon. Members to give the Governor the permission that he can actually borrow this money so that it can bring developments in our Wards. Mr. Speaker, who is this man who is asking for permission to borrow money to use to develop the County? This is a man the majority of the electorate in Nairobi gave the nod to govern this County.

Mr. Speaker, we have no doubt that this money will be used--- We can only question the whereabouts of this money if it will not be used properly. I want to urge these Members who want to micro manage the Executive and who want to question how the money will be used and yet the money has not been received. We can only oversight the Executive after they have done development and after we have given them money to use and they have failed to use that money. Mr. Speaker, with those few remarks and judging by the mood of this House, it is that we are supporting this Motion---

(Loud consultations)

(Hon. Issac Ngige rises to his feet)

Hon. Speaker: Order, Hon. Issac, the Leader of Minority is on his feet.

Hon. Samuel Nyangwara: I am requesting that the Majority leader be given time to---

Hon. Speaker: Order, Hon. Nyangwara. The Leader of Minority, please.

Hon. Leader of Minority(Mr. Ali Hassan): Mr. Speaker sir, I think my good friend Nyangwara should understand that the moment the Speaker gives the Minority leader time to speak he should know he is supposed to get seated very fast. Mr. Speaker, as much as I have a lot of queries about this, I will support it. *(Applause)* Mr. Speaker, we know that the lending of 4billion without giving details of what it is going to be used for is not correct. However, we know the County has grounded as we are speaking---

Hon. Chief Whip Majority(Mr. David Mberia): *(Inaudible)*

Hon. Speaker: Hon. Chief Whip, allow the leader of the Minority to speak, please.

Hon. Leader of Minority: Mr. Speaker sir, as we are speaking the County has grounded to a halt. You remember early this year, the National Government went and borrowed 150 because the National Government was lacking money. Mr. Speaker, no Government can work without borrowing, but we are asking the Chair of the Budget Committee and the membership of that Committee to make sure---

Hon. Chief Whip Minority: *(Inaudible)*

Hon. Speaker: Hon. Hashim, please listen. Be attentive.

Hon. Leader of Minority: I think the Whip should know how to respect people when we are speaking, Mr. Speaker. We do not want this 4billion to become another scandal on this County. Mr. Speaker, we want the Chairperson of the Budget Committee to scrutinize--- I know the CFO of this County is good at paying money but he has not devised any mechanism of improving the revenue of this County, Mr. Speaker. However, we do not want this to be a blank cheque to him to pay contractors and not channeling money to a more useful project to this County. With those few remarks, Mr. Speaker, I beg to support.

Hon. Speaker: Hon. Isaac Ngige and then Hon. Karen Wanjiku.

Hon. Member for Mwiki(Mr. Isaac Ngige): Thank you, Mr. Speaker. I need to register my sentiments on this Motion, a supplementary Motion invoking Section 140 and 142 of the Public Finance Management Act. Mr. Speaker, I rise to oppose the Motion and I think my position was clear from the beginning. Mr. Speaker, when I look at the Motion number 8 which is a supplementary Motion. A Supplementary Motion most of the time is an afterthought. Mr. Speaker, on point (a), when are told that we want to raise a sum of 1.5 billion as a revolving overdraft to cater for County monthly personal bills. I think the Assembly of Nairobi needs to be told further that when they talk about monthly personal bills, what are they talking about? We need a breakdown of the County monthly personal bills as they are putting it.

Mr. Speaker, on point (b), when we talk of the County Executive raising 2.5billion for capital projects, we passed a budget in this Assembly and the capital projects in this Assembly have been budgeted for. So, Mr. Speaker, we need to be told, in our budget, the 2.5billion is going to capital projects will cater for this and that particular project within the budget that we passed in this Assembly. Mr. Speaker, moving forward, as I continue to oppose, this is a matter that should be taken to the Budget Committee, to the Chair who I respect very much.

If at all, from the sentiments that I got, we are passing this to get our mortgages and to get the Ward Development Fund, then this Motion should be rephrased. We should get another Motion here to pass 1.5billion and 2.5billion for our mortgages and the Ward Development Fund so that Members can know clearly that what we are passing here is for our benefit. Let Nairobians know that we are taking a loan to benefit ourselves. Let Nairobians know that we are taking a loan yet---

Actually, we blame the former Town Clerk, Mr. Kisia. We blame him because of having taken a loan. We now want to taint our good Governor Kidero on the basis of taking another loan? Mr. Speaker, as I conclude I want to propose that the fact that we now have a Supplementary Order Paper to discuss the issue of getting a loan, which is 4billion, I propose that the same Finance County Executive to table before us the revenue books for Nairobi City County.

Mr. Speaker, we need to know every Market in Nairobi, how much money they collect, how much they were collecting two years ago and how much they are collecting today. We need to go back to parking and every other revenue avenue in the County of Nairobi. Let us first be able to know that this is the amount of money we collect.

This is the amount of money we get from the National Government and that is why we are stuck and we are telling Nairobians that Nairobi City County is collapsing and it needs 4billion to revive. Mr. Speaker, finally, I want to now go back to the Standing Orders that I believe in. The Budget and Appropriation Committee on which I sit, actually it is the one which should have brought this Motion on the floor. Mr. Speaker, the Budget Committee, my Members are also here and I did not say my Chairperson is here---

Hon. Chief Whip Minority: Point of Information.

Hon. Speaker: There is a Point of Information from Hon. Hashim Kamau.

Hon. Chief Whip Minority: Thank you, Mr. Speaker. I want to inform my good friend *Mweshimiwa* Issac, that even yesterday you directed that the Chair of the Budget Committee to bring a report today about the same issue, Mr. Speaker. Actually, Mr. Speaker, I was not there yesterday. I was serving my suspension. The Speaker had ruled on the same so I find no reason to debate further on the

issue but I think I have made my point very clear. The Budget and Appropriation Committee should sit down and meet with the CEC, Finance.

Every time we meet them they tell us they are getting money, so we cannot again proceed today in a sort of panic yet we have been mandated to plan for Nairobi County Development. So, Mr. Speaker, I strongly oppose and I want it to go on record that I will not be among the MCAs who were there when this Motion was passed. It will be a shame for Nairobi City County. Thank you, Mr. Speaker.

Hon. Speaker: Hon. Manyala and then Hon. Mumo.

Hon. Elizabeth Manyala: Mr. Speaker, I rise to support the Motion and I wonder what the Members are thinking about when they are opposing this Motion. You remember that Nairobi's population is by day is 3.6 million and by night it is 4 million. The cost of living has risen and also the collection of revenue that you keep on singing like a solo and tenor is not utilized at source. It goes to the Treasury and after that is when it comes back and it is given to the County. As such, the County cannot cope and owing to the fact that we even inherited a huge debt and a bloated workforce. When the Governor wanted to streamline the same Jubilee Government hit it.

Hon. Members: Which Jubilee Government?

Hon. Elizabeth Manyala: They said that the Governor has no powers to remove the ghost workers when he wanted to streamline the bloated workforce.

Hon. Karen Githaiga: Point of Information.

Hon. Speaker: There is a Point of Information, Hon. Manyala.

Hon. Karen Githaiga: Thank you, Mr. Speaker. I want to tell the Hon. Member that she should respect the Government of this country. When she is talking about Jubilee, that is the Government of this country. So, I will tell her to withdraw her statement.

Hon. Samuel Nyangwara: Point of Order.

Hon. Speaker: Very well. Point of Order from Hon. Nyangwara.

Hon. Samuel Nyangwara: Mr. Speaker, I am drawn to the Hon. Member who has just risen and I am wondering whether the dressing code of this Assembly changed. We want to know whether she is properly dressed, Mr. Speaker. *(Laughter)*

Hon. Elizabeth Manyala: Mr. Speaker, even the first world countries, the way they have developed there is no country that can develop without borrowing. Even Kenya had to borrow from the World Bank--- So, for development to take place and I go by what Rusto is saying--- He is saying that we have to outsource and a good Government or a good Governor must look for funds. Members, I think it is prudent that we pass this Motion so that we are able to take care of the Nairobian. Nairobian are suffering, the cost of living has skyrocketed and you know why.

I do not have to tell you why it is skyrocketing, you already know why. The revenue which is being collected is not being realized. Nairobian are overstretched and that is why we are coming up with other mechanisms to ease the burden on the Nairobian and at the same time undertake development which we are supposed to have done in tandem with the 4th Schedule of the Constitution. Thank you, Mr. Speaker.

Hon. Speaker: Hon. Karen.

Hon. Karen Githaiga: Thank you, Mr. Speaker sir. Without any intimidation I want to say what I think is right. Mr. Speaker, we understand that it is good for the County to borrow money but it is the procedure we are asking about. What are we borrowing this money for? From what I know, the Ward Fund is in the budget, mortgage is in the budget, all those things are in the Budget, we passed the budget here and I read through the budget very carefully. Mr. Speaker, I do not know why we are being told that this money is for mortgage. If it is for mortgage, Mr. Speaker, that is our own self-interest, it is not for development.

Mr. Speaker sir, we already have other debts and as we understand, Nairobi County is a County that collects a lot of money, a lot of tax. If Nairobi County will be borrowing money every now and then, what will Kisumu or Migori Counties do? This is the capital city of Kenya and I do not want to be counted as a MCA who when she was in the Assembly all she did is borrow money for her own interest. Mr. Speaker, the law is very clear. The Constitution of Kenya, I do not know if you have the Constitution. Article 2(12) Borrowing by Counties. It starts by saying that;

“A County Government may borrow only;

(a) If the National Government guarantees the loan;

(b) With the approval of the County Government Assembly.

With the way things look, Mr. Speaker, the County Assembly is not agreeing. Most of us are not agreeing with this and we shall follow the law to the letter. We shall not be intimidated. We took the Constitution and the Bible and swore. I was alone, Karen, saying I swear I am not going to break any laws. I am a law maker and I am going to follow the law and if this is not going to end here we are going to court. There are many avenues. Thank you, Mr. Speaker.

Hon. Speaker: The last one, Hon. K'Otieno and then the mover of the Motion replies.

Hon. Member for Sarangombe(Mr. Pius Otieno): Thank you, Mr. Speaker sir. Although I have come a little bit late, but---

(Loud consultations)

Hon. Speaker: Order, Hon. Members! Continue, K'Otieno.

Hon. Pius Otieno: Mr. Speaker, thank you. I am happy with the way Members are ventilating and the way they are also contributing to this Motion. Mr. Speaker, just as other Members are saying they do not want to be intimidated, I will also say that I do not want to be intimidated and that is why I hereby stand to support this Motion. Mr. Speaker, if you look at this County Government Act well, section 6 reads;

'As an entity exercising Constitutional authority, a County Government shall be a body corporate with perpetual succession and shall have all the powers necessary for the discharge of its functions'

Without prejudice of generality of Sub Section 1;

"A County Government may;

- (a) Enter into a contract;*
- (b) Acquire, purchase or lease any land..."*

Then, if you open up the next page.

'(4) All contracts lawfully entered into under this section shall be valid and binding on the County Government, its successors and assigns'

That is where I want to begin. All along we have been hearing that this County Government owes a lot of money to many banks and to many institutions and any time soon it can be auctioned. Mr. Speaker, that is very true because of the section of the law that I have read, that this County Government is a corporate body with perpetual succession. This means--- I just want to give you an analogy. If you are pleased with the wife or the lady, fortunately or unfortunately, this lady happens to be having baggage, she has a child. You will not say that I only want the lady but I do not want the child. You either accept the lady with the child or you reject all of them.

So, if we happen to have taken over from the defunct Nairobi City Council there is no way you can run away again from the responsibility of either paying or servicing these debts. I am also at pain to explain if the right procedures have been followed. However, having understood what Hon. Karen was reading, I have come to realize that indeed the County Assembly is now passing a Motion that would now allow the County Government to borrow money.

Mr. Speaker, if you read the spirit and the letter of this Motion, it has not said anywhere that this money is meant for our mortgage. It has not said that this money is for Ward Development Fund. It has not said anything about what the Members are saying, but this Motion is clear. If you read part (b), *That the County Executive Member for Finance to borrow a sum of 2.5billion to cater for capital projects for the financial year, 2014/2015*. These capital projects are now what in layman language I would call infrastructural projects.

These would be roads, projects to do with water, electricity, all those things. All along the people living in Nairobi say that they are not seeing any tangible results. They are not seeing any tangible development. That has been necessitated by the fact that either our revenue collection has gone down or we do not have money or we are not attracting enough money that would service this. I would urge Members, in as much as we could be speaking today, that because we are on the other side of the divide--

Sometimes it would even call for patriots to eat the humble pie and come down the ladder. In as much as people will be frustrated and angered, this money is not going to our pockets. This money is meant to benefit the people living in Nairobi. I would urge Members that in as much as we are infuriated let us pass this Motion. After passing this Motion let us now ask the Budget Committee and this House, if it is a regulation that needs to be passed why do we not pass that regulation so that in the future we are not going to be caught in these shenanigans.

We are not going to be caught in this catch 22 situation where Members now feel that they should oppose because they are opposers or they should propose it because they are just proposing for the sake of it. I am urging Members, let us be patriotic, let us eat that humble pie and pass it. Let us not reject it because we are not on this side of this House because the argument---

(Loud consultations)

Hon. Members: Time!

Hon. Pius Otieno: Just give me time. It is still my time, I am within my time limit. There is a maxim in law. This maxim says, in as much as you may not like what I say, please defend my right to say it even unto death. I am not the founder of these words but these words were founded by great philosophers. So, when I am talking and some other guys are clicking or are retorting back, it does not make sense. It is a House of rules and procedures. If you do not like what I am saying you just keep quiet your time shall come, but for now it is my time, Hashim. Thank you, Mr. Speaker.

Hon. Speaker: Okay, the time is up for the Motion. The Mover of the Motion to reply.

Hon. Leader of Majority: Thank you, Mr. Speaker. I will take this opportunity to thank all Members because I can see the mood of the House. Almost 85% are supporting the Motion. The 15% is either Hashim Kamau and Karen who are going to court but I know, Mr. Speaker--- *(Laughter)*

Hon. Karen Githaiga: Point of Order.

(Loud consultations)

Hon. Speaker: Can you finish, Hon. Leader of Majority.

Hon. Leader of Majority: Why don't you just give me time because I am like---

Hon. Speaker: Order, Hon. Leader of Majority.

Hon. Leader of Majority: Okay. Mr. Speaker, I want to finish this by thanking all the Members because even my friend Isaac here, when he went outside there he has changed. He has seen the sense of supporting this Motion. So, that is the reason why I am saying that the mood of this House--- On this side, I know it is about three or four people who are going to remain opposing it. The rest are supporting the Motion.

So, Mr. Speaker, you people must understand where I stand. For me, whether it is good or bad and it is coming from the Governor's office, it is my duty to bring it here. *(Applause)* Also, today it is a battle between the Majority Leader and Hashim Kamau in this House. Today I am going to see who is who in this House, Mr. Speaker. *(Laughter)* We will see who is winning. Thank you, Mr. Speaker.

Hon. Speaker: Hon. Members, I now put the question.

(The question is put)

Hon. Members: Division!

(Consultations between the Speaker and the Clerk)

Hon. Speaker: Hon. Members, the 'ayes' have it.

(Loud consultations)

Hon. Members: Division.

(Consultations between the Speaker and the Clerk)

(Loud consultations)

Hon. Speaker: Order, Hon. Members.

Hon. David Kairu: The Majority Member is threatening Ngugi that he will be removed from the Committee of Water---

Hon. Speaker: Order! Hon. Members, can the 'ayes' stand to be counted.

(The House goes into division)

Hon. Speaker: Clerk can you count the ayes.

(The Clerk counts the 'ayes')

Hon. Speaker: Clerk, have you finished counting?

Hon. Clerk: Yes.

Hon. Speaker: Okay. Can the 'nays' stand up to be counted.

(The Clerk counts the 'nays')

Hon. Speaker: Hon. Thuo.

Hon. Member for Karura(Mr. Kamau Thuo): Thank you, Hon. Speaker for this opportunity. Whatever we are doing here is not illegal, it is very legal. We would want to legitimize this process, Mr. Speaker but a process has to be followed. Order number 69 give out the procedure to be followed when you are doing the roll call. That has to be followed strictly.

Hon. Speaker: Hon. Member, thank you very much. Hon. Members, interpretations. Again, *'The decision made in paragraph 1 shall be based on the Constitution of Kenya status law and usages forms precedents'*. The other day we used the same procedure.

Hon. Isaac Ngige: But we complained.

Hon. Speaker: Order, Hon. Isaac. I think you still want to be home. As the Speaker, we used Standing Order 2 last time. *'usage form precedent'*. Therefore, I am satisfied with what has been done and these are the results;

Ayes: 31

Nays: 22

Hon. Speaker: The House is adjourned until Tuesday, 2.30 p.m.

The House rose at 5.30 p.m.

