



NAIROBI CITY COUNTY ASSEMBLY

OFFICIAL REPORT

First County Assembly – Second Session

Thursday 24th July, 2014

The House met at 2.30 p.m.

(Mr. Speaker in the Chair)

PRAYERS

PAPERS

Hon. Speaker: The Hon. Leader of Majority.

**SESSIONAL PAPER NO. 1 OF THE NAIROBI CITY COUNTY INTEGRATED DEVELOPMENT
PLAN 2013 TO 2017**

Hon. Leader of Majority(Mr. Elias Otieno): Thank you, Mr. Speaker. It is my humble pleasure to welcome the Chief Kadhi to the House. Mr. Speaker sir, pursuant to Section 126 of the of the Public Finance Management 2012 I beg to lay the following papers on the Table of the Assembly, today Thursday 24th July, 2014.m Sessional Paper No.1, 2014 of the Nairobi City County Integrated Development Plan of 2013/17. I beg to lay the papers.

Hon. Speaker: Thank you Leader of Majority. The Sessional Paper No. 1 of 2014 of the Nairobi City County Integrated Development Plan of 2013-17 stands committed to the Budget and Appropriation Committee to look at and report back to the Assembly in the next two weeks; the Chairman for the Budget and Appropriation Committee to report back in two weeks. Hon. Chairperson of the Sectoral Committee on Water and Sanitation.

**THE 9TH REPORT OF THE COMMITTEE OF WATER AND SANITATION ON BENCHMARK
VISIT TO THE REPUBLIC OF RWANDA**

Hon. Member for Njiru Ward(Mr. Kenneth Thugi): Thank you, Mr. Speaker sir. Pursuant to Standing Order No 180(6), I beg to lay the following Papers on the Table of the Nairobi City County Assembly, today 24th July 2014; 'The 9th Report of the Committee of Water and Sanitation on benchmarking visit to the Republic of Rwanda, 20th to 28th April 2014'.

Hon. Speaker: Very well.

**THE REPORT OF THE WATER AND SANITATION COMMITTEE ON THE SITE INSPECTION
VISIT TO KAWANGWARE AND KABIRO WARDS**

Hon. Kenneth Thugi: Mr. Speaker sir, I have another Paper to lay on the Table. Pursuant to Standing Order No. 180(6) I beg to lay the following Paper on the Table of the Assembly today, 24th July 2014, the Report of the Water and Sanitation Committee on the site inspection visit to Kawangware and Kabiro Wards.

Hon. Speaker: Very well. The Chairperson of Public Accounts Committee.

(Applause)

Hon. Speaker: Hon. Members, the Chairperson of the Public Accounts Committee will seek leave of the Assembly to Table the Special Report of the Auditor General on the financial operations of Nairobi City County.

**TABLING REPORT OF PAC ON SPECIAL AUDIT REPORT OF THE AUDITOR GENERAL OF
THE NAIROBI CITY COUNTY FINANCIAL OPERATIONS**

Hon. Member for Embakasi West Ward(Mr. Robert Mbatia): Thank you, Mr. Speaker. I wish to request for leave from the Assembly on behalf of PAC to Table our report on the Special Audit Report of the Nairobi City County financial operations during the transitional period. Mr. Speaker, I also wish take this opportunity to first give my gratitude on behalf of the Committee for the assistance that we have been granted as a Committee during the scrutiny process and also by the Auditor General. I would also like to extend the Committee's gratitude for the extension that we were given to finalize the report. I want to inform the Assembly that the Report is now complete and ready for tabling before the Assembly. Therefore, the Committee would like to request the Assembly to grant it leave to table the report on the next sitting day of this Assembly. Thank you, Mr. Speaker.

(Applause)

Hon. Speaker: Hon. Members, the report of the Public Accounts Committee (PAC) on the Special Report of the Auditor General. Hon. Members, as you are aware the Public Accounts Committee has been scrutinizing the Special Report of the Auditor General and is supposed to have tabled its report within 90 days. However, the Committee has sought extension on more than one occasion in order to thoroughly work on the report before tabling it. The Committee has since prepared the document which is due for tabling in the Assembly. Hon. Members, pursuant to Standing Order 229(2), the Committee has requested to table its report today 24th July 2014, with the leave of the Assembly. I will propose the question.

(Question is proposed)

Hon. Speaker: Hon. Nyangwara.

Hon. Member for Viwandani Ward (Samuel Nyang'wara): Indeed, Mr. Speaker, this is the same question I had asked yesterday as to why the Chairman has never actually tabled the report on the floor of this House and it is long overdue. Mr. Speaker, this particular Committee has spent a lot of money from the public coffers so that it can prepare this report, we cannot tell them not to table the report yet they have spent a lot of money to prepare it. Mr. Speaker, I support that the report be tabled and I want to request the Members of this House to grant them permission to Table the report. Thank you.

(Applause)

Hon. Member for Mlango Kubwa Ward(Mr. Andrew Mbau): Thank you, Mr. Speaker. I would say that, 'justice delayed is justice denied and if we continue delaying the tabling of this report we will be doing a lot of injustice to the Nairobianians. I am in support of tabling this report. Thank you.

Hon. Member for Kwa Reuben Ward(Mr. Elkana Mauti): Thank you, Mr. Speaker. I am in support of tabling the report because even the Motion for today is to sabotage the report. So we want if it to be tabled today because even the Motion for today will not be discussed because it is an audit query. This is a sabotage which we want to counter attack.

(Laughter)

Hon. Speaker: Order, Hon. Members, order!

Hon. Chief Whip of Minority (Mr. Hashim Kamau): Mr. Speaker, the mood of the House is very clear so perhaps you should just put the question. Thank you.

*(The question is put and agreed to)
(Loud consultations)*

Hon. Speaker: Hon. Chairperson you can proceed to table the report.

(Applause)

Hon. Robert Mbatia: Mr. Speaker, first I want to extend my gratitude on behalf of the Committee for the leave granted. In my request I had said I would table the report by the next sitting but the mood is that I table it right away. We are set and so I will proceed. Pursuant to Standing Order No. 180(6), I beg to lay the following paper on the Table of the Assembly today, the 24th July 2014. This is the report of the Public Accounts Committee of the Special Audit Report of the Auditor General on the financial operations of the Nairobi City County. Thank you, Mr. Speaker.

Hon. Speaker: Hon. David Njoroge Kairu.

REQUEST FOR STATEMENT ON THE ALARMING DEATH RATE OF CITY ASKARIS

Hon. Member for Woodley Ward(Mr. Njoroge Kairu): Thank you very much, Mr. Speaker sir. Pursuant to Standing Order No. 41(2C), I wish to request a statement from the Sectoral Committee on Justice and Legal Affairs regarding the rise in the death rate of County *askaris* in the Inspectorate department. The death rate of the aforementioned department is alarming. Hon. Speaker, in the Statement the Chairperson should enquire into and report on:-

1. The number of askaris who have lost their lives in the last two years,
2. The cause of their death and measures put in place to reduce the death rate,
3. Whether the County has enough enforcement officers,
4. The number of askaris due to retire and what the department is doing to replace them.

Thank you.

Hon. Speaker: The Hon. Chairperson for Justice and Legal Affairs.

Hon. Leader of Majority: Mr. Speaker, on behalf of the Chairman, because as you know right now these people are in Mecca, most of them are not here in Kenya---

Hon. Leader of Minority(Mr. Hassan Abdi): Point of Order, Mr. Speaker.

Hon. Speaker: Point of Order. Hon. Minority.

Hon. Leader of Minority: Mr. Speaker sir, why is the Leader of Majority using that derogatory statement against the Hon. Member and the Muslims who are just doing their obligation of fasting and going to Mecca? Those words, 'those people' should be withdrawn and he should apologize, Mr. Speaker sir.

Hon. Leader of Majority: Mr. Speaker, I think it is very bad to call them 'those people' it only that I confirmed from the Chief Kadhi that right now most of them are in Mecca but Chief Kadhi, I apologize for that. So, Mr. Speaker, I think the Chairman has gone to see how they are going to open eating. I think the report is ready so by next week on Wednesday--- We are not going to have a Session on Tuesday because we are going to have a holiday, we are going to eat together with our brothers, so on Wednesday, they are going to give the report.

PROCEDURAL MOTION

Hon. Speaker: Hon. Ngaruiya Chege.

Hon. Member for Kahawa West Ward(Mr. Chege Ngaruiya): Thank you, Mr. Speaker. I don't know why people are communicating in loud tones. **That** aware that section 110 of the Public Finance Management Act 2012 provides for the establishment of the Emergency Fund for the County Government. **Further** aware that recent months have witnessed a marked increase in the number of infernos, floods, fire outbreaks and other emergencies in many parts of the Nairobi City County. **Acknowledging** that most residents of Nairobi County live in informal settlements that are poorly planned with inadequate basic infrastructure and which are prone to such calamities leading to massive loss of life and property. Deeply **concerned** that the victims of the calamities are not given the proper support they need to recover from the losses. **Noting** that loss to businesses and property by many residents of Nairobi City accelerates the level of poverty and crime rates in the County and its environs. This Assembly **resolves** that the County Executive Committee moves with speed on establishment of an Emergency Fund provided for under section 110 of the Public Finance Management Act in order to facilitate faster response to urgent and unforeseen needs within the County.

Mr. Speaker, this is a Motion or a provision that we want to bring in this County to ensure that areas that are affected by floods, fire outbreaks are taken good care of. In the recent past we have witnessed outbreaks of fire especially in areas like Gikomba, Pumwani Ward, Mathare, Kariobangi North and South and Dandora and not forgetting Soweto and Kahawa West. These are areas that have really suffered and the business communities in those areas have really incurred losses because of these problems. There is no kitty to cater for these particular situations or risks. In areas like Mabatini and Kibera which are also prone, it would be prudent that this particular Motion passes so that at least the County see sense and ensure that this kitty assists in areas where there is an outbreak.

Mr. Speaker, I have realized that you have also been faced with many difficulties trying to assist Members who come from these particular areas. It has come to the attention of this House that we will not be removing money from our pockets to assist our people. It is better the little that we remove we also get something from the kitty so that at least we can be in a position to assist our people.

So many areas have floods and many other calamities that have befallen them. It is prudent that we see the sense in this particular Motion and we pass it overwhelmingly. I remember the other day the Member for Laini Saba was here complaining that we are not seeing him and he is suffering in his Ward. It is at this particular point that we can assist our brothers and be our brother's keepers. I rest my case and I want Kamau Thuo to come and second the Motion. Thank you, Mr. Speaker.

(Hon. Kamau Thuo bows)

(Loud consultations)

Hon. Speaker: No, you don't support by bowing. I don't know whether you are---

Hon. Member for Karura Ward(Mr. Thuo Kamau): Mr. Speaker, I have just seconded that Motion. It is in the tradition of Parliament, kindly. You can confirm from the Clerk.

(Loud consultations)

Hon. Speaker: Order Hon. Thuo! Hon. Members, I now propose the question.

(The question is proposed)

Hon. Speaker: Hon. Members, Hon. Nyang'wara Nyang'wara.

Hon. Member for Viwandani Ward(Mr. Samuel Nyang'wara): Mr. Speaker, I stand on the floor of this House to oppose this Motion for very simple reasons. An allegation was made on the floor of this House that this particular Motion---

(Loud consultations)

Hon. Member for Embakasi West(Mr. Robert Mbatia): Point of Order.

Hon. Speaker: Yes, Point of Order.

Hon. Robert Mbatia: Thank you *Bwana* Speaker. I stand on Point of Order number 81 seeking your indulgence. This issue of an account is part of the audit query that was raised by the Auditor General

and in the report we've just tabled - as much as I do not want to divulge any information from it until it is given to the Members - I will say that we've dealt with that issue. In the audit report it was clearly indicated that there were some accounts that had not been closed and some were opened. I seek your indulgence and guidance on whether we are in order in discussing this matter at this point yet we might discuss it in the audit report. Thank you, *Bwana* Speaker.

Hon. Thuo Wakarindi: Point of Order, Mr. Speaker sir.

Hon. Speaker: Yes, Hon. Nyang'wara was on the floor.

Hon. Samuel Nyang'wara: Thank you, Mr. Speaker. I want to thank the Chairman and actually that is what I wanted to raise and that is why I was opposing this Motion. An allegation was made on the floor of this House a bit earlier that this Motion is already captured in the report that has been tabled.

Hon. Speaker: Order Hon. Nyang'wara, how do you know it is captured?

(Loud consultations)

Hon. Samuel Nyang'wara: Mr. Speaker, we have Members on the floor of this House who are in the Public Accounts Committee and they are the ones who have alleged on the floor of this House that--- Hon. Ngaruiya, I am told, is sitting in that particular Committee, Mr. Speaker.

(Loud consultations)

Hon. Speaker: Hon. Ngaruiya.

Hon. Chege Ngaruiya: Mr. Speaker, thank you for giving me this opportunity. I want to inform the Hon. Member for Mabatini that I am not a Member of that PAC Committee.

(Loud consultations)

Hon. Speaker: Very well, thank you. Hon. Jack *Wetu*. Sorry, Hon. Jack, he has not finished his contribution.

Hon. Samuel Nyang'wara: Indeed, Mr. Speaker, the sympathizer of COTU has alleged that he is not a Member of this Committee---

(Loud consultations)

Hon. Speaker: Order! Order Hon. Nyangwara.

Hon. Samuel Nyang'wara: But, Mr. Speaker---

Hon. Speaker: Order! Order! What did you say? Sympathizer of what?

Hon. Samuel Nyang'wara: He came here in the morning and when I sat here, Hon. Ngaruiya told me he is in a COTU sympathizer mood that's why he's in a purple shirt. I have just used the same words he used me in the morning---

(Loud consultations)

Hon. Speaker: Order Hon. Nyang'wara! Order, Hon. Jack *Wetu!* Order!

(Loud consultations)

Hon. Speaker: Hon. Ngaruiya, there's nothing wrong with you being a COTU sympathizer. The only problem is when you come without a shirt, a buttoned shirt.

(Laughter)

Hon. Speaker: Order Hon. Nyang'wara! Order! That will be the only problem that we shall have. You can support COTU but you have to come with your shirt. I can see you are properly dressed, thank you.

Hon. Samuel Nyang'wara: Thank you, Mr. Speaker. Actually that is why I stood on the floor of this House to oppose this particular Motion, because maybe next week we are going to discuss this particular issue in the report that has been tabled on the floor of this House.

Hon. Chege Ngaruiya: What is in the report?

Hon. Jackson Ngare: Point of Information.

Hon. Speaker: Hon. Jack *Wetu* what is eating you up?

(Laughter)

Hon. Jackson Ngare: Thank you, Mr. Speaker sir. As I oppose the discussion of this Motion, I would also like to put it to every Member that the Auditor General's report is in the public domain. It is not a report that is owned by a few, it is everywhere. These Members know that the opening of accounts has been an audit query and if we discuss this matter here and we ratify, we are going to be rubberstamping

something that has been done illegally and that may backfire on this House. I beg to oppose this vehemently.

(Loud consultations)

Hon. Speaker: Hon. Members, Order. The report despite having been tabled today is not in the possession of the Members yet. It will be unfair to the Mover of this Motion since he does not know what is in the report.

(Applause)

Hon. Speaker: The report may pass or be defeated so it cannot stop the Assembly from discussing the Motion. Let the Motion be defeated on merit. That is the ruling, Hon. Leader of Majority.

Hon. Leader of Majority: Mr. Speaker, I have a reason why I want to support this report.

(Loud consultations)

Hon. Leader of Majority: First, I don't know what the report of the PAC carries. This is a Motion from Ngaruiya without any malice. The Assembly resolves that the County Executive Committee move with speed and establish an Emergency Fund provided for under section 110 of the Public Finance Management Act in order to facilitate faster response to urgent and unforeseen needs within the County. Okay even if it is in that report, does it clash with any one of your reports?

(Laughter)

Hon. Leader of Majority: Does it clash? Let us not just oppose for the sake of opposing because you want people to just see you here talking. You PAC people, if you are the people who gave us this---

(Laughter and Loud Consultations)

Hon. Speaker: Order! Continue Leader of Majority.

Leader of Majority: Mr. Speaker, if the PAC Committee are the people who leaked the information to Hon. Ngaruiya, they should name themselves. They should not come here and oppose the Motion just on the basis that the Report is at the Office of Auditor General. I have never seen it so I am supporting the Motion.

Hon. Speaker: Hon. Leader of Minority when he stands everyone else freezes.

(Applause and loud consultations)

Hon. Leader of Minority: Thank you, Mr. Speaker sir, for protecting me. I stand here to support the Motion. I don't see any connection between the Motion and Auditors Generals report and if the same thing is in the Auditors Generals Report I think it is just complimenting the same, Mr. Speaker sir.

Mr. Speaker sir, we need this fund like yesterday some of us are representing the slums, and this Motion is very important to us. I don't see any reason for any Member to stand and oppose such a noble Motion from my Deputy party leader. This motion is not for Ngaruiya, it is for unprivileged members of the public, the slum people. The Nairobi County has no emergency fund and as I understand it, even in the budget and Ngaruiya is one of the Budget Committee member, they have not put constituency measures in the budget which is very serious. My good friend Mr. Nyangwara here comes from Lunga Lunga a slum which has no roads.

(Laughter and Loud Consultations)

Hon. Speaker: Order! Hon. Nyangwara.

Hon. Leader of Minority: I think he should be the first Member to compliment Hon. Ngaruiya, he will be calling us for *Harambee* and we don't need to go for *Harambees* when we can set up an emergency fund to do this, Mr. Speaker sir.

(Loud Consultations)

Hon. Speaker: Hon. Chief Whip, order! Hon. Nyangwara and then the Chairperson of PAC.

Hon. Chief Whip Majority: Mr. Speaker sir, I will neither support nor oppose this Motion.

(Loud Consultations)

Hon. Speaker: Order! Hon. Chief Whip.

Hon. Chief Whip Majority: I am providing information, Mr. Speaker sir.

(Loud Consultations)

Hon. Speaker: Order!

Hon. Chief Whip Majority: I am opposing the Motion, Mr. Speaker sir. This emergency account is currently operational. We want to be told---

(Loud Consultations)

Hon. Speaker: Hon. Chief Whip, Order.

Hon. Chief Whip Majority: Mr. Speaker sir I am providing information

(Loud Consultations)

Hon. Speaker: Order! Hon. Members, I think you are confusing this Motion. Why are you talking about PAC, the Hon. Deputy Leader of Minority? Hon. Ngaruiya brought a Motion to set up a fund. He did not say come and open an account. So please do not confuse the setting up of a fund and opening up of an account. You are talking about an account, this is just a fund as far as Hon. Ngaruiya is concerned.

Hon. Chief Whip Majority: Point of information.

Hon. Speaker: What kind of information will you give and the information is here? Go ahead.

Hon. Chief Whip Majority: Mr. Speaker sir, the Second Schedule provides that emergency fund when it is set up, it is supposed to come here for Members to approve it. However, that particular fund is operational yet it never came to the House for approval. So this Motion is useless because---

Hon. Speaker: Order! Hon. Chief Whip. I will not entertain that kind of language in the House and you have attended school and we are talking about a fund, we are not talking of an account, bear that in mind. Hon. Ogeto, can you bring this information you want.

Hon. Chief Whip of Majority: Mr. Speaker, *sija maliza*.

Hon. Speaker: Order, Hon. Chief Whip.

Hon. Member for Kilimani Ward(Mr. Moses Ogeto): Thank you, Mr. Speaker sir. I want to oppose this Motion on various accounts. This fund, as much as I don't come from a slum area, you know I come from living suburb, I am not opposing this Motion because as you may realize this fund--- I want to inform Members of this House that the fund which we called Ward Development Fund, I want to disclose this information that this account was miscounted without even the approval---

Hon. Speaker: Order! Hon. Ogeto, now you have come with the Ward Development Fund Account.

(Loud Consultations)

Hon. Speaker: Hon. Members, Order! Is the Chairperson for Budget and Appropriation Committee here? Hon. Members, you are misleading the House because I have just told you once again that we are not talking about an account, we are talking about a fund. I now call Hon. Ngaruiya, the mover of the Motion to reply. Hon. Members, before you there is a Motion from Hon. Ngaruiya and it is for you to discuss then you either pass it or reject it. This issue of coming here with a lot of shenanigans--- So I have directed Hon. Chege Ngaruiya to reply.

(Loud Consultations)

Hon. Patrick Ngaruiya: I cannot be coerced by anybody that I withdraw my Motion. Mr. Speaker, I stand my ground and people here cannot come and prevent a report that we have not read and which is not in our pigeon holes, a report that is not even with Hon. Members. The content of the report they are talking about, I am not aware of it and I would say as I conclude, that the area that I represent they are in dire need of this fund. The areas that these Hon. Members represent they are in dire need of this fund and this is the best time for it, Mr. Speaker.

Hon. Samwel Nyagwara: *(Inaudible)*

Hon. Speaker: Hon Nyangwara, last warning.

Hon. Patrick Ngaruiya: This is the best time to have this fund and today 24th of July, 2014 is when this Motion is going to pass or fail. I beg the Hon. Members to support it 100%. Thank you, Mr. Speaker.

(Loud Consultations)

Hon. Speaker: Hon. Members, Order. Hon. Mugo, please let us consult in low tones. What is the fear of the Members of PAC when this Motion is been replied to? We cannot have people moving around. I am disappointed because I am hearing what is going on here and Hon. Members surely, we have a report that is being tabled today, let us wait for its contents. I am the Speaker of this County Assembly and I have not read the report, it looks like there is something sinister going on and don't let reports come and divide the Assembly and as the Speaker, I will not allow that to happen.

Hon. Ngaruiya, did not know that the report of PAC was going to be tabled today. Therefore, as I had earlier ruled it is upon you to say Ngaruiya's Motion is thrown out or it's accepted in the Assembly. However, any other things here and any side shows will not be allowed here.

Leader of Minority: I beg your indulgence, Mr. Speaker sir, before you put the anything, I think we are confused a bit and on---

(Loud consultations)

Hon. Speaker: Hon Mugo, I cannot allow you to rule this House in such a manner.

Leader of Minority: Can I continue, Mr. Speaker sir. What is going on is I think we are confused and we don't want this noble Motion to fail in this Constitution because people are confused and they are being misinformed. I think as we stand now this noble Motion will fail. So I ask the Deputy Minority leader to withdraw the Motion so that we give this information time to clear, Mr. Speaker sir.

(Applause)

Hon. Patrick Ngaruiya: Thank you, Mr. Speaker, for giving me his opportunity. I want to thank my able Leader of Minority and the Majority Leader of this House for supporting this noble idea. Because of what the Minority leader has said that there is confusion in the House I therefore beg to withdraw the Motion.

(Applause)

Hon. Speaker: Hon. Members, we are guided that Hon. Ngaruiya's Motion be withdrawn until a later date. The Assembly is adjourned until on Wednesday, 30th July, 2014 at 2.30.

House rose at 5.00 p.m.