



## NAIROBI CITY COUNTY ASSEMBLY

### OFFICIAL REPORT

#### First County Assembly – Second Session

Thursday, 3<sup>rd</sup> July, 2014

The House met at 2.30 p.m.

*(Hon. Speaker in the Chair)*

### PRAYERS

**Hon. Speaker:** Good afternoon, Hon. Members. I have the following Communication to make.

#### COMMUNICATION FROM THE CHAIR STATEMENTS PENDING BEFORE COMMITTEES

Hon. Members, you will recall that on several occasions the Chair has issued various communications regarding pending Statements. Following the ongoing concern raised by Members in the Plenary regarding pending Statements requested from the Sectoral Committee on Planning and Housing, the Chair yesterday took it upon himself to establish the reason for the delays in response to the Statements from the Committees and wishes to respond as follows;

Hon. Members, the Chair had a fruitful engagement with the Department of Planning which is the most affected Department and why Statements directed to the Department are not responded to as soon as it is practically possible. Hon. Members, after analysis of all Statement requests made to the Department and responses issued by the Department, the Chair did establish that indeed the Department of Planning had gone to great lengths to respond to Members' Statement requests on time. To date the Statement requests made with one exception have been forwarded to the Sectoral Committee on Planning and Housing. Why the Committee has not met its obligation to table responses in this Assembly the Chair

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cannot understand. Hon. Members, I therefore wish to direct that the Sectoral Committee on Planning and Housing table responses to pending Statements during the next sitting of the Assembly.

The Chair will not take lightly delays in responses to Member's Statements especially where certain reports have been forwarded but relevant Committees delay tabling the responses. Hon. Members this goes to all Committees with pending Statement requests. Chairpersons are encouraged to table Statement responses as soon as they are availed by the relevant County Department. It is from tabling these reports that Members can further vent on the matters therein and seek additional clarification or information. The Plenary and the Members who make such requests can then determine whether a response supplied is sufficient or insufficient, in which case the Chairperson can ask the relevant Department for more information or clarification which is sufficient, in which case the matter rests.

Hon. Members, I take this opportunity to ask the Department of Planning to streamline its operations because it is a shame to this County Assembly. I want to ask the leadership of the County Assembly in regard to Membership to take action and further investigate the Sectoral Committee on Planning. We cannot be accusing the Executive whilst the answers are at the table of the Committee itself. There must be something that is not--- that has nothing to do with the Assembly. Therefore, I ask the Clerk to investigate the Sectoral Committee on Planning and its leadership and to take action. It must be severe action so that tomorrow we have Departments or Sectoral Committees which are up to the task in the Assembly. It is so guided, thank you.

*(Applause)*

*(Loud consultations)*

## PAPERS

**Hon. Speaker:** The Chairperson for Trade, Tourism and Cooperation on the vetting of the nominee for the Chief Officer, Trade, Industrialization and Cooperative Development and Tourism, Nairobi City County. Chairperson for Trade.

**Hon. Deputy Speaker**(Mr. Kennedy Ng'ondi): Thank you, Mr. Speaker. On behalf of the Committee on Trade, Tourism and Co-Operative and I as the Chairman, Liaison Committee, allow me to lay the report of the said Committee. Pursuant to Standing Order 180(6), I beg to lay the following Paper on the table of the Assembly today, Thursday 3<sup>rd</sup> July, 2014. 'The second report of the Committee on Trade, Tourism and Cooperatives on the vetting of the nominee for the Chief Officer Trade, Industrialization, Co-operative Development and Tourism'. Thank you, Hon. Speaker.

*(Hon. Deputy Speaker lays the Papers)*

**NOTICES OF MOTION**  
**ADOPTION OF THE REPORT OF SECTORAL COMMITTEE ON TRADE, TOURISM AND**  
**COOPERATIVES**

**Hon. Deputy Speaker:** Hon. Speaker, I wish to give Notice of Motion on the sectoral Committee on Trade Tourism and Cooperatives. I beg to give Notice of the following Motion; **THAT** this Assembly adopts the report of the Sectoral Committee on Trade, Tourism and Co-Operatives on the vetting of the nominee of Chief Officer, Trade, Industrialization, Co-Operative Development and Tourism laid on the table of the Assembly today, Thursday 3<sup>rd</sup> July, 2014. Thank you, *Bwana* Speaker.

**Hon. Speaker:** Very well.

*(Applause as Hon. Daniel Mutiso walks in)*

**Hon. Speaker:** Next, Clerk.

**STATEMENTS**

**Hon. Speaker:** Hon. Shadrack Juma.

**Hon. Member for Baba Dogo Ward**(Mr. Shadrack Juma): Thank you. Mr. Speaker. **Pursuant** to Standing Order 41(2)(c), I wish to request a Statement from the Chairperson of the Sectoral Committee on Children, Early Childhood Education and Vocational Training regarding bursary allocation to special needs schools in Nairobi County. The Constitution of Kenya calls for equality in resource allocation and the special needs children are paying high school fees. Their fee is equivalent to secondary school fees and some even pay higher than that. In the Statement the Chairperson should enquire into and report on measures being put in place by the County Government to secure bursaries for those special needs children if any, thank you.

**Hon. Speaker:** Hon. what do you call him? The Chairperson for Gender, Early Childhood. Hon. Kitavi.

**Hon. Boniface Kitavi:** Mr. Speaker sir, we shall give a response one week after we get back from recess.

**Hon. Speaker:** Very well, one week after the recess. Hon. Kennedy Oduru?

*(No reply from Hon. Oduru)*

**Hon. Speaker:** Hon. Oduru is not in, let us go on. Yes Hon. Waweru.

**Hon. Member for Kasarani Ward**(Mr. Martin Waweru): Mr. Speaker, I want some clarification from the Chair of Education. He said that he will give a response one week after the recess. I just wanted to know whether there is a recess or we have passed a Motion of recess?

**Hon. Speaker:** Very well. A Statement requested by Hon. Kamau Thuo, that is from Hon. Alex Otieno, Chairperson, Water.

### RESPONSE TO STATEMENT REQUIRED BY HON. KAMAU THUO

**Hon. Member for Mugomoini Ward**(Mr. Alex Otieno): Thank you, Mr. Speaker, sir. I rise to respond to a Statement raised by Hon. Kamau Thuo. A response to a Statement required by Hon. Kamau Thuo, MCA Karura. On Wednesday 11<sup>th</sup> June, 2014 the Hon. Kamau Thuo, MCA, rose on the floor of the Assembly pursuant to Standing Order 41(2c) and requested the Chairperson of Water and Sanitation Committee for a Statement. In the Statement the Member sought a reply on the following:

1. The nature of the partnership between Nairobi Water and Sewerage Company and Runda Water Limited.
2. The source of the water supplied by Runda Water.
3. Whether Runda Water Limited has ever had any account with Nairobi Water and Sewerage Company.
4. Whether Nairobi Water and Sewerage Company is aware that water infrastructure in most parts of Runda have been vandalized hence the water supply monopoly by Runda Water Limited.

The Committee wrote to the County Executive Committee Member responsible for Water, Energy and Natural Resources on 12<sup>th</sup> June, 2014 requesting they be furnished with a written response to the Statement sought by the Hon. Member. In this regard, I wish to report to this Assembly as follows;

#### 1. **Historical background.**

Runda Water was incorporated as a private company in 1973 and commenced operation in 1975 after being gazetted as a water undertaker under the Water Act cap 372, to serve the then Runda Estate which was developed by Mae Properties (Eliud Mathu and Mrs. Zagoritis

and Eliah Zagoritis). The development of the new estate at the extreme northern corner of Nairobi was driven by the demand for housing for the staff of the new UNEP headquarters in Nairobi. At the time of gazettment of the company as a water undertaker the City Council of Nairobi had no infrastructure to serve the area and hence did not object to the initiative. Over time, operations of the company have expanded as a new estate comes up to the extent that the Company now serves about 1250 households in old Runda and Runda Mimosa all covering an area of about 14 kilometers squared.

The company has also expanded its water supply sources and distribution network. After the enactment of the Water Act in 2002 the Company signed a service provision agreement with Athi Water Services Board and has continued to serve in the areas listed above. It is noted that the Athi Water Services Board did not assume ownership of Runda Water assets but instead opted to lease them. Upon operationalization of the Constitution of Kenya 2010 water and sanitation services are a function of the County Government. Consequently, legal and institutional frameworks with respect to water services provision requires a review to align them with the Constitution. The Runda Water data sheet has been prepared and is contained in the Statement provided, for reference by Hon. Kamau Thuo.

## **2. Services rendered by Runda Water.**

The company provides the following services to old Runda, Runda Mimosa, Runda Mumwi, Runda Evergreen. Water supply, garbage collection, street and road cleaning, street lighting maintenance and security. These services are paid for by the residents through levies charged by the company.

## **3. The Nature of Partnership between Nairobi City Water & Sewerage Co. and Runda Water Company Limited.**

The County Executive Member reported that there is no partnership between Nairobi City Water & Sewerage Co. and Runda Water Company. Nairobi City Water & Sewerage Co. was incorporated as a private company wholly owned by the then City Council of Nairobi in 2004 to align water and sewerage services in Nairobi with the Water Act 2002. Upon repeal of the Local Government Act and dissolution of the Local Authorities the ownership of Nairobi City Water & Sewerage Co. was assumed by the Nairobi City County. On the other hand and as stated above, Runda Water Company was incorporated in 1975 initially to serve development on plot number 7785/10 and later Runda Mimosa and Mumwi estates. The ownership of Runda water has changed over time and it is now owned by Runda Association who own 75% and Panafric Insurance and Mae Property Limited, mentioned above, owns 25%.

Both Nairobi City Water & Sewerage Co. and Runda Water have a signed Service Provision Agreement (SPA) with Athi Water Services Board in accordance with the Water Act,

2002. Whereas the Service Provision Agreement between Athi Water Services Board and Nairobi City Water & Sewerage Co. is still valid up to 2016, the Service Provision Agreement between Athi Water Services Board and Runda Water Company expired in April, 2013 and it's renewal has been deferred to await consensus on the applicable regulatory framework since the Water Act is yet to be aligned with the Constitution. The parties are still consulting on the matter but it is expected that the Service Provision Agreement will be signed between Nairobi City County and Runda Water Company. There is now general consensus that water services regulation will be a shared function between the National and County Governments.

**4. The sources of water supplied by Runda Water Company.**

The main source of water that is supplied by Runda Water Company is Ruaka River on which they have constructed an intake and pumping station on plot number 7785/242 and on plot number 7785/243. The raw water is pumped via DNA 200 pipeline to the treatment works located 200 meters away on plot number 7785/92. The treated water is then pumped to storage tanks located on plot number 77885/794. The production capacity of Runda Water Company is 2000 cubic litres per day. Runda Water Company supply is also supplemented by bulk water supply from Nairobi City Water & Sewerage Co. at a rate of 800 cubic metres per day for which they charge KShs.700,000 per month.

**5. Whether Runda Water Limited has ever had an account with Nairobi City Water & Sewerage Co.**

The Runda Water Company account with Nairobi City Water & Sewerage Co. is under account number 1891881 which was opened on 13<sup>th</sup> January, 2012. The Runda Water account is serviced regularly.

**6. Whether Nairobi City Water & Sewerage Co. is aware that water infrastructure in most parts of Runda has been vandalized hence the water supply monopoly by Runda Water.**

The County Executive Committee Member stated that Nairobi City Water & Sewerage Co. is not aware of infrastructure vandalized or any vandalism in areas under Runda Water Company. There were allegations that Runda Water had illegally tapped into Nairobi City Water & Sewerage Company system at Runda Mimosa but investigations including laboratory tests did not provide evidence of such illegal tapping. The Runda Water and Nairobi City Water & Sewerage Company are separate and distinct and their only connection is at the bulk metering point. The Runda Water infrastructure has hitherto not been shared with Nairobi City

Water & Sewerage Co. or Nairobi County. The new dispensation requires data sharing among service providers to allow integrated planning.

Mr. Speaker, I beg to lay this response. The Statement was discussed with the Member concerned and we are in agreement. Later on, the Member sought for a petition which we have agreed upon and which we have started--- As I said earlier, we are going to give our response in not more than thirty days but the Standing Order requires a maximum of sixty days. We can be assure that the Assembly is going to have our response within the thirty days because we have to interrogate the stakeholders plus make a site visit to the Company so that we can give a comprehensive answer. Thank you.

*(Applause)*

**Hon. Speaker:** Thank you Hon. Alex Otieno. Hon. Thuo.

**Hon. Member for Karura Ward**(Mr. Thuo Kamau): Thank you, Hon. Speaker. I want to acknowledge that that was my Statement on behalf of the residents of Runda. There was also a petition on the same. The petition belongs to the members of the public and the Statement belongs to the Member. We have agreed with the Chairman to come and read out the Statement as a formality and through the petition they will have more time to investigate the matter and give a comprehensive report to this Assembly. To the Chairman I say thank you, the residents of Runda want a solution. One of the solutions is that they can access water that is affordable to them. Thank you, Chair.

**Hon. Speaker:** Thank you very much, Hon. Thuo and Hon. Alex Otieno. We expect a report on Runda Water as soon as possible and we are delighted that you have guaranteed us that you will do it in thirty days, thank you.

**Hon. Member for South C Ward**(Ms. Diana Kapeen): Mr. Speaker, I stand to respond to a question by Hon. Isaac Ngige, MCA Mwiki. On the 13<sup>th</sup> of May, Hon. Isaac Ngige rose on the floor of the Assembly pursuant to Standing Order number 41(2)(c) and requested the Chairperson on the sectoral Committee on Transport for a Statement regarding planned decongestion of the Nairobi CBD by the Department of Roads and Public Works. He further asked the Chair to enquire into:

1. What is the County Government's plan to decongest the CBD,
2. The number of interested partners in the planned Nairobi City County Transport Service or the BRT,
3. Whether there exists an agreement or MOU between Nairobi County and Diamond Coaches Limited.

4. Whether there is any money that has been paid to a Public and State officer of the County Government by a Mr. Gulleid Kunow Mursal with respect to the planned City County Transport BRT system.

The Committee wrote to the County Secretary and copied to the CEC Member for Roads on the 14<sup>th</sup> of May, 2014. A copy of the same was sent to Mr. Gulleid Kunow Mursal and Tom Tinegar in charge of parking, Mr. Calvin the Marketing Manager for Foton, Mr. Khamid Gababa and Mr. Paul Mogotio, First Finance Manager.

In our response, on the first question;

- A. The County Secretary stated that the following are plans and initiatives the County Government is taking to address the decongestion;
  1. **Enactment of the Nairobi County Traffic Management Bill, 2014** - The draft Bill has been done and is waiting for stakeholders' consultation before it's brought to the Assembly for enactment;
  2. **Training and deployment of Traffic Marshalls** - The initial fifty officers have been trained, deployed while recruitment of the officers is ongoing.
  3. **Signalizations of junctions** - Twenty three junctions are being signalized and there are plans to signalize more junctions and synchronize all of them to ensure they are centrally operating.
  4. Setting up of a traffic management center from where traffic will be controlled and managed.
- B. **The number of interested partners in the Nairobi County Transport Service** - The County Secretary informed that enquiries have been received from the following local and international companies: Kenya Bus Services, Foton, VDL, Local *Matatus* and bus owners including SACCOS, Ashok/Leyland, Volvo and General Motors and China Civil Engineering Construction Company is also included.
- C. **Whether there is an existing MOU between the County Government and Diamond Coaches** - The County Secretary through a letter to the Committee informed that there is no agreement or MOU that has been executed between the County Government and Diamond Coaches Limited. This contradicting information within the public domain on the same prompted the Committee to make further enquiries into the matter pursuant to Standing Order 191(5).

The Committee invited Mr. Gulleid Kunow for a meeting since he was mentioned in the alleged agreement. The Committee also resolved to invite the County Secretary, the CEC for Transport and the Director, Legal Services, as mentioned by one Mr. Gulleid. County officials were invited to clarify on the allegations leveled against them and these include Calvin Thuo the Market Manager for Foton East Africa. All witnesses invited appeared before the Committee apart from the Director for Legal Services and one Ms. Veronica Kariuki. The Committee also received documents pertaining to the alleged agreement.

In his testimony while on oath, Mr. Gulleid asserted that he is a long serving business man and used to own a company known by the name Maslah which operated a fleet of public buses operating between Nairobi-Mombasa and Nairobi-Garissa. The company had offices in Eastleigh's 4<sup>th</sup> street and River Road in Nairobi. In September, 2013 he was approached by one Mr. Evans Ondieki who previously had acted for him as an Advocate, informing him that Mr. Ondieki himself had been appointed by the Governor of the Nairobi City County as the Executive Member responsible for Roads.

To this end, the County Government had decided to offer him an investment opportunity with his 8 buses and 3 Lorries which would offer public transport in the City as a joint venture between his company and the County Government. However, he was advised by the CEC to register a new company under the name Diamond Coaches Limited. The new company was therefore registered to comply with the Ministry's instructions. The CEC informed him that the Governor was well aware of the venture and would launch the project on February 2014 with the Deputy President. The CEC delivered a letter to him dated 31<sup>st</sup> January, 2014 confirming the same, the evidence is attached.

Mr. Gulleid stated that a Memorandum of Understanding was thereafter drafted to formalize the agreement as indicated in evidence 2. The MOU, which was tabled by Gulleid before the Committee, provided that under the proposed investment DSL would own 40% shares while the Nairobi City County would own 51% of the shares. Further, under the MOU, 8 buses owned by Mr. Gulleid would be used for provincial services while 3 top notch Lorries would be used for emergency road repairs. DLC would arrange for low interest facilities with First Community Bank to finance an additional 92 buses. The same was confirmed by the Finance Manager of First Community Bank in a meeting with the Committee where he tabled the said MOU.

Mr. Gulleid further testified that the CEC went ahead and informed him that since most of his buses were not in good operating condition he had to refurbish them and brand them with the County colors and logos. He had also to install air conditioning and TVs to make them comfortable. The buses were valued at 126 million, though he still owes the bank 39 million as the bank had initially financed the purchase.

*(Loud consultations)*

**Hon. Speaker:** Order Members! Order! Can you repeat that again, Hon. Chairperson?

**Hon. Diana Kapeen:** Mr. Gulleid further testified that the CEC went ahead and informed him that since most of his buses were not in good condition befitting to serve the County, he had to refurbish them and brand them with the County colours and Logos. He had to also install air conditioners and TVs to make them comfortable. The 8 buses were valued at 1.26 million although Mr. Gulleid still owed the First Community Bank 39 million as the bank had initially financed their purchase. The log books of the buses were registered jointly between him and the bank and they were to be transferred to him once he finishes repaying the loan.

In addition, in order to fulfill the demands by the CEC, Mr. Gulleid informed the Committee that he took a loan of 12.8 million from First Community Bank which he used to refurbish the buses with Mr. Ondieki promising that the County Government would clear the loan once the project begins. Mr. Ondieki, acting in his capacity as the CEC of Road and Transport---

*(Loud consultations)*

**Hon. Speaker:** Consult in low tones please.

**Hon. Diana Kapeen:** Mr. Ondieki, acting in his capacity as the CEC of Transport and Public works accompanied Mr. Gulleid to the bank and gave his assurance. This was confirmed by a letter (evidence number 3) and by the testimonies of the Financing Manager, First Community Bank, Mr. Paul Magoto in a meeting with the Committee held at the First Community Bank's boardroom.

Mr. Speaker, during the meeting with the Finance Manager, he disclosed to the Committee that early this year, Mr. Gulleid and Mr. Evans Ondieki visited the bank and Mr. Gulleid informed him that he had been offered an investment opportunity by the Nairobi City County in which his buses would be used to offer transport within the City in a joint venture with the County Government. To this end, the County Government through the CEC had requested Mr. Gulleid to refurbish the buses. Mr. Gulleid and the CEC tabled the MOU to conform to the same. Further, he requested that he be offered a loan of KShs.12.8 million for the said refurbishment.

Based on the MOU, the assurance of the CEC and the good relationship it had with Mr. Gulleid in term of loan repayment the bank went ahead and disbursed the loan. The buses were then refurbished to the standard requested by the CEC. Unfortunately, the grace repayment period elapsed and Mr. Gulleid could not service the loan since the project had not begun. After further indulgence the bank, which is based on Islamic ethics, decided that the buses be towed by Mr. Gulleid himself to Leaky Auctioneers so that the bank could recover its money as the loanee was unable to repay. To this end, the buses are on

the verge of being auctioned unless the loan is repaid. This can be confirmed by the Minutes of the Committee dated 30<sup>th</sup> June 2014, the Financing Manager and the Hansard recordings.

Mr. Speaker, Mr. Gulleid further informed the Committee that upon finishing the refurbishment of the buses he contracted the CEC regarding the launching of the buses on February 2014. However, the CEC responded that due to the busy schedule of the Governor the same will not take place. It is important to note that since the buses had been parked and were no longer generating revenue and the grace repayment period of the loan had already elapsed, the bank demanded that he start repaying the loan irrespective of whether the project had commenced or not.

Mr. Speaker, in March 2014, the bank contacted Mr. Gulleid demanding the money loaned since the promise made by Mr. Ondieki on behalf of the County Government had not been fulfilled. Upon informing the CEC of the matter, the CEC advised him that since the County Government was delaying the launch of the project, he would bring on board Mr. Abdi Hamid Isaack Gababa and Ms. Veronicah Kariuki, who would buy 20% of DCL's shares amounting to 6 million (KShs3m each) of which 1 million would be used for the maintenance of the buses while the rest would be used to start offsetting the bank.

Another MOU dated 13<sup>th</sup> March (evidence number five) was subsequently drafted by Ondieki and Ondieki Advocates signed on to operationalize the new shareholding. The shareholding decision was further communicated to the bank. The new shareholder, Gababa, paid Mr. Gulleid Kshs.1 million as part of his share which was to be used in servicing the vehicle and acquisition of TLB's Certificates with the help of the County Parking Officer, Mr. Tom Tinegar. They later went to the bank where Mr. Gababa promised to pay the 10% shares amounting to KShs.2 million on 19<sup>th</sup> March, 2014, to service the loan. They further sought the rescheduling of the loan through a letter dated 18<sup>th</sup> March 2014 (Evidence 6).

Mr. Speaker, on 13<sup>th</sup> March 2014, Mr. Gulleid was called by Mr. Ondieki informing him that they would no longer continue further payment since they had realized that DCL did not own any buses and the logbooks were registered in Mr. Gulleid's name. It is important to note that Mr. Ondieki was aware all along that the buses were indeed registered jointly in the name of Gulleid and First Community Bank and it would be transferred once they cleared the outstanding loan with the support of the County Government. Indeed in his testimony, Mr. Ondieki confirmed having made the communication on grounds that he discovered through the registrar---

**Hon. Chief Whip of the Minority:** It is a movie and a half.

**Hon. Speaker:** Order! Hon. Chief Whip.

**Hon. Diana Kapeen:** Mr. Speaker, Mr. Ondieki having confirmed, made the communication on the grounds that he discovered through the registrar of Companies that DSL did not own any buses. The Committee having analyzed testimonies of the witness and the evidence tabled it out as follows:

That the County Government had an intention of introducing high capacity buses through the Bus Rapid Transport System (BRTS). The CEC responsible for transport, being aware of the initiative, used this privileged information to convince Mr. Gulleid Mursal whom he had known for a long time as his client and as a businessman in the public transport sector, to bring him on board as a partner with the County Government without following proper mechanism as provided for by the Public Procurement Disposal and Act. The motive behind this action must have been due to personal interest through misrepresentation of the County.

Mr. Gulleid, either due to ignorance or the trust he had in the CEC, went ahead to provide a proposal without following the proper procedures and drafted an MOU that was developed by Ondieki and Ondieki Advocates, although never executed, they convinced him to go ahead and borrow money from First Community Bank with the assurance that in his capacity as CEC the firms were to be used for refurbishing the buses as per the standard proposed by the CEC and the drafted MOU. The failure of Mr. Gulleid to repay the loan since he had stopped his business led to the bank auctioning the buses to recover its monies.

That the CEC having realized that the initiative would not materialize either because of legal technicalities or public concern went ahead and discontinued engagement with DCL. The lack of legislative framework to govern public transport within the County specifically the proposed Rapid Bus Transport System is one of the reasons behind the illegal ventures by County Government indeed.

In view of the foregoing the Committee recommended the following;

- a) That the relevant Government Authorities especially the Nairobi City County Assembly, Public Accounts Committee (PAC), Ethics, Anti-corruption and the Police should take up the matter and investigate whether crimes related to corruption were committed.
- b) The Governor should take disciplinary measures against the Executive Member responsible for Roads and Public works for misrepresenting the County Government in the venture that he knew was illegal.
- c) The County Government should fast-track the enactment of a legislative framework to govern public transport within the County. The Committee supported any initiative to reform the public transport system in the County.

On the last question, whether money has been paid to any public or State officer of the County Government by Mr. Gulleid with respect to the planned Nairobi City Transport Service or Bus Rapid Transport System. Mr. Speaker, sir, the County Secretary stated that there has been no payment made to any public officer of the County Government in respect to the planned Nairobi City Transport Rapid System. However, this was contradicted in the testimony provided by Mr. Gulleid who alleged that he gave the CEC responsible for Works and Transport Kshs.300,000 plus another Kshs.1.5 million as funds which were allegedly used to facilitate the execution of the agreement.

Mr. Speaker sir, I beg to lay the response. I would also like to inform the Members that when we went to the First Community Bank for our investigations it was very sad. The Finance Manager said that any time they see any document with the logo of the City County they will never honour anything even if it comes from His Excellency the Governor.

*(Applause)*

**Hon. Speaker:** Very well thank you, Hon. Kapeen. Hon. Ngige.

**Hon. Member for Mwiki Ward**(Mr. Isaak Ngige): Mr. Speaker, sir---

*(Consultations between the Speaker and the Clerk)*

*(Hon. Benson Amutavi walks towards mic)*

*(Loud consultations)*

**Hon. Speaker:** Order, Hon. Members! Sergeant at Arms, can you ask the Member to come here and say what he wants to say? Why are you coming here without the notice of the Speaker? Excuse me, do you want to go out now. Why are you coming in front?

**Hon. Member for Upper Savannah**(Mr. Benson Amutavi): I apologize.

**Hon. Speaker:** Thank you, you are a good citizen.

*(Laughter and Loud Consultations)*

**Hon. Isaak Ngige:** Thank you, Mr. Speaker. I think I watch many movies and one category of movies that I prefer is what is commonly known as conspiracy movies. I need not say much about this report. I want to thank the Committee in charge of transport for the job they have done. I usually do not stand here to speak but sometimes I choose to pick my fights carefully. I think this is one fight that I picked and from what I can see its bearing fruits.

Mr. Speaker, from the questions that I asked the Committee through the Chairperson, question number one was about the County plan to decongest the CBD. I think all Members can bear me witness that the County indeed has a plan to decongest the Nairobi CBD.

On question number two, the number of interested partners in the planned Nairobi City County Transport Service or the Bus Rapid Transport (BRT) system; I think the answer has been well quoted by the Chairperson. We have Kenya Bus Service, Foton, VDL, Local Matatus and Bus Owners Including SACCOS, Ashok/Leyland, Volvo, General Motors and China Civil Engineering Construction Corporation.

Mr. Speaker, on question number three, whether there exists an agreement or MOU between the County Government and Diamond Coaches Limited. It is evident that through the County Secretary, Madam Lillian, the response was that there was no agreement.

I will go further and thank the Committee. They went further and investigated whether there actually was an MOU between the County Government and Diamond Coaches Limited. I will not repeat much, but there are a few points that I have picked. One, in as much as all this might be wrong or in as much as the Committee may not have done their job as they should have, when I look at page six - the response concerning Diamond Trust Bank - it is clearly put. It says that whatever has been read out here was confirmed by the Finance Manager, First Community Bank in a meeting with the Committee where they were able to copy the same.

So, I want to believe that there is more evidence that will come from the First Community Bank. Of course, coming from the banking field I want to be sure that the Finance Manager or the Bank Manager of this particular Branch may not want to engage in matters that are not being done in the right way. Mr. Speaker, having asked this question I would demand the Committee table in this House the Hansard of First Community Bank from that particular Branch where this meeting took place so that we can get the actual evidence.

Mr. Speaker, again as a banker, I know that all meetings and communications within the bank are recorded. I am sure we can also trace CCTV images to confirm that Mr. Ondieki and Mr. Gulleid were actually in this particular bank to discuss matters concerning the County Government of Nairobi.

Mr. Speaker, on page eight--- In as much as I stood here to support one Mr. Gulleid, I would like it to come out very clearly that this Mr. Gulleid is someone that I do not know. Mr. Gulleid is not my relative or someone we must have sat down with for him to send me to this Assembly. So I would not want to say here that I trust this Mr. Gulleid, he was guilty and Mr. Ondieki was also guilty. The person I know is Mr. Ondieki who is the County Executive in charge of Public Works, Transport and Roads and he is the person that I can only stand here to accuse. The other person is a member of the public who probably has been

conned because, to me, this is a very bright conman sitting within this County Assembly trying to con a member of public. Mr. Speaker, I want to raise something else here---

**Hon. Member for Sarangombe**(Mr. Pius Otieno): Point of Order, Mr. Speaker.

**Hon. Speaker:** On what?

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**Hon Pius Otieno:** Point of Order number 87.

**Hon. Speaker:** On what?

**Hon Pius Otieno:** Let me read it first, Mr. Speaker. I rise on a Point of Order number 87 which clearly states "*Responsibility for statement of fact*". Is the Member in order to allege that Mr. Ondieki is a conman while there is no evidence or exhibit that has been attached to the statement? Take responsibility, if there is no evidence he should withdraw.

**Hon. Speaker:** Order! Hon. Otieno. The Hon. Member who asked a question is reading what we all have. Hon. Isaak Ngige, are you satisfied with this report or not?

**Hon. Isaak Ngige:** I think, Mr. Speaker, this report is huge and I need to comment on the key issues - actually page eight - and I haven't taken much time so in as much as I am satisfied I also need to give my views---

*(Loud consultations)*

**Hon. Speaker:** Order Members!

*(Loud Consultations)*

**Hon. Isaak Ngige:** Mr. Speaker, Protect me.

**Hon. Speaker:** Order!

**Hon. Isaak Ngige:** Thank you, Mr. Speaker for protecting me

**Hon. Isaak Ngige:** Mr. Speaker, in this Assembly I want to believe that there is Hansard. I don't know whether it is recorded or it is written. If someone would actually quote what I said, it is that there is someone, a conman sitting in this Nairobi City County.

*(Loud Consultations)*

**Hon. Speaker:** Order! Hon. Ngige the word conman is not parliamentary language. Therefore, withdraw the word conman and progress with your statements.

**Hon. Isaak Ngige:** Mr. Speaker, allow me to say this. I had to actually check the meaning of conman which mean a man who cheats or tricks someone by means of confidence, then I have missed a---

*(Loud Consultations)*

**Hon. Speaker:** Order! Hon. Ngige, please withdraw, that language is not parliamentary.

*(Loud Consultations)*

**Hon. Isaak Ngige:** Mr. Speaker is the word "liar" allowed within the County Assembly of Nairobi, because, Mr. Speaker, here we are looking at words that can be used to describe this particular CEC Member.

*(Loud Consultations)*

**Hon. Speaker:** Order, Hon. Members! Hon Ngige, why are you using language here which is not proper? Why are you using words that you would not want to be used in your own house? I don't know what agenda you have but that language will not be allowed here. Hon. *Snaich*, you have an agenda that is not for this Assembly.

*(Loud Consultations)*

**Hon. Isaak Ngige:** Mr. Speaker, is it in order for the Member to say that we don't---

*(Loud Consultations)*

**Hon. Speaker:** Order, Hon. Members! Why do you want me to throw you out of the House, Hon. Ngige.

**Hon. Leader of Minority:** *(Inaudible)*

**Hon. Speaker:** No, Hon. Minority, I am not throwing Members of Jubilee out. However, the Members of Jubilee or Cord are not entitled to use language that is not parliamentary. Withdraw those words or you are out of this Assembly.

*(Loud Consultations)*

**Leader of Minority:** Mr. Speaker sir, as much as I do agree with you, unparliamentarily language has been used in this House before and you have never thrown us out as you are doing now. We want fairness in this House. It seems there is no fairness in this House, Mr. Speaker sir.

*(Loud Consultations)*

**Hon. Speaker:** Order Members! Yes, Hon. Minority, I want to answer you once and for all. We are not in a political contest here. It must be understood that we are not here to know who is best in abusive language. You play your politics outside, we have Uhuru Park, Kamukuji where you can go and play your politics. However, Hon. Leader of Minority, as a leader it is indeed wrong for you to say that it is only members of Jubilee who are sent out of this House. However, if you were the Speaker of this House and someone uses the word conman or liar, am I supposed to give him a bottle of water? I will not accept intimidation and what I am asking you--- Hon. Ngige, you have a responsibility as an elected leader to apologize and proceed with you statement.

**Hon. Isaak Ngige:** Mr. Speaker, protect me. I think sometimes when people are coming down you listen. I think the point has been driven home and I withdraw the word 'conman'.

**Hon. Speaker:** Very well, proceed.

**Hon. Isaak Ngige:** Mr. Speaker, allow me to finish.

*(Loud Consultations)*

**Hon. Speaker:** Order Members! The Member has just withdrawn the word.

**Hon. Isaak Ngige:** Thank you, Mr. Speaker.

*(Loud Consultations)*

**Hon. Member:** Point of Order.

**Hon. Speaker:** Order! Please go and sit down. Hon. Members, the Member for Mwiki has withdrawn the words and I don't know why a Member would stand on a Point of Order wasting our time. Can you proceed!

**Hon. Isaak Ngige:** Thank you, Mr. Speaker for your protection. I actually want to conclude this matter. I have been interrupted and I was in the mood to respond to this report fully. However, because of time and one issue that I do not want to get into and involves adjournment, I would like to give my submission.

**Hon. Speaker:** Hon. Ngige, are you done.

**Hon. Isaak Ngige:** I was actually almost done, I think someone interrupted you. Mr. Speaker having read this twelve page report---

**Hon. Speaker:** Go ahead.

**Hon. Isaak Ngige:** Thank you Hon. Speaker, having read the twelve pages, I am actually finalizing it. I think this House is not respecting you, Mr. Speaker, because they need to be quiet. The Majority is well behaved and he is quite---

**Hon. Speaker:** Order! Hon. Ngige, continue with your report, have you accepted your report or not?

**Hon. Isaak Ngige:** Yes with these four points.

1. I would like the recommendations of the Transport, Road and Public Work Committee be adopted as they are.
2. I would like to ask the Governor of Nairobi City County based on this report to ask the County Executive Committee in charge of this department to step aside
3. That having considered that this County Executive Committee Member acted as the executive from this report, acted as a guarantor from this report and acted as a lawyer from this report, I think even before the Governor asks him, he should resign.

*(Applause)*

4. Mr. Speaker being the boss of this Assembly, and being the guy in charge in The Nairobi City County Assembly the---

**Hon. Speaker:** Order Members, order! What is your problem, the ladies?

*(Loud consultations)*

**Hon. Speaker:** Hon. Members, I want the words Manyala used if they are in that Hansard to be given to my office. Honourable Member, go ahead.

**Hon. Isaac Ngige:** Thank you so much Mr. Speaker I was actually finalizing on number 4 and saying that, being the boss of this Nairobi City County Assembly and of course we are behind you and we support you, we would like you to give a directive immediately on the action that should be taken on the said CEC or may be the report or the response of a statement given by the Chairperson of the Sectoral of Transport, Roads and Public Works. Thank you very much and I thank the Committee for that.

*(Applause)*

**Hon. Speaker:** Hon. Members thank you. Hon. Ngige is satisfied with the report from the Chairperson from the Sectoral Committee, and having been a statement as it is, we cannot adopt it until the Committee goes back again and brings it back for the action to be taken against the CEC member.

*(Applause)*

**Hon. Speaker:** Proceed. Hon. Ochola, the bursary statement.

**Hon. Member for Hospital Ward (George Ochola):** Thank you, Mr. Speaker sir. I stand to give a response on the statement requested by the able Hon. Member, Magdalene Mbogoria and Mr. Speaker---

**Hon. Speaker:** Who is Mbogoria?

**Hon. George Ochola:** Hon. Mbogori, I apologize. Mr. Speaker; the statement was requesting on the issue of bursaries. Mr. Speaker as the vice chair of the budget and being a very able Accountant and Auditor member, Mr. Speaker, I want to state as follows; we happened to go through the statement given by the CEC member regarding the bursary issues. Mr. Speaker, what I want to state is that having gone through the response from the CEC Member, Mr. Mwakiongo, not my Committee but the Budget Committee---

Mr. Speaker, we expedited on the comments of this CEC member and we found that the statement given was unfit to be brought before the very eyes of the Assembly. Therefore, we rejected the statement and we ask that we be given 16 days to give a comprehensive response regarding the statement which was asked by the Hon. Member. Mr. Speaker, thank you.

**Hon. Speaker:** Very well.

**Hon. Speaker:** Order, order Hon. Manoah, the Motion was already on so if it is on the contribution, you finished your part. Hon. Leader of Majority. After him Kamau Thuo will proceed because he was on the floor.

**Hon. Leader of Majority**(Mr. Elias Otieno): Mr. Speaker, because of many because I come to support this Motion. Mr. Speaker let us just do this, put the question, the mover to reply.

**Hon. Speaker:** Hon. Thuo.

**Hon. Member for Karura Ward**(Kamau Thuo): Thank you, Mr. Speaker. Let's do the honourable thing and allow the old man to continue with the work. Thank you.

**Hon. Speaker:** Hon. Imwatok.

**Hon. Member for Makongeni Ward** (Peter Imwatok): Mr. Speaker, if it goes unmentioned or unsaid, I beg to move and support Dr. Ayisi to be the Member of the Public Department. When I was less than 5 years old he was my doctor. I did not know that one day in life I would be here to vet him. It is an honour for me to vet my own doctor as the Director of Medical Services, so I ask the mover to reply, Manoah comes here to reply and you put the question. Manoah---

**Hon. Speaker:** Very well. Hon. Manoah Mboku.

**Hon. Member for Nairobi South Ward** (Manoah Mboku): Mr. Speaker, indeed I am very happy. I thank the Hon. Members for agreeing to support the work of the Committee in its efforts to ensure the appointment of Dr. Robert Kangwana Ayisi as the Chief Officer Health Services. Mr. Speaker, there is great need for the County to have an able, experienced, and well versed candidate for the post. I want to assure the members that the Committee will follow up to ensure the implementation of the recommendations. Thank you, Mr. Speaker.

*(Question is put and agreed to)*

## MOTION

**Hon. Kamau Thuo:** Mr. Speaker, thank you and I don't intend to take a lot of time. Mr. Speaker, THAT aware that under the Article 186(1) of the Constitution of Kenya and the Fourth Schedule, the functions and powers of County Government among others covers roads, street lighting, electricity, water and sanitation provision; FURTHER aware that the County Governments can impose taxes and rates under Section 109 (3) of the Constitution, a function which has not been devolved to other entities; DEEPLY concerned that the Runda Residents Association and Runda Water Limited have been

demanding gate passes and charging for them. They have been charging for road use and erecting barriers preventing some vehicles from accessing public roads in Runda Estate.

This is a clear breach of the Constitution and conditions under which Runda Association and Runda Water Limited were allowed to operate the barriers by the defunct Nairobi City Council; this Assembly RESOLVES that the County Government remove or order the removal of all the barriers erected on public roads by the Runda Residents Association and illegal levy of charges by the said Association and Runda Water Limited with immediate effect.

Mr. Speaker as I have said, I don't intend to take a lot of time on this matter and I must say that they have existing barriers on public roads in Runda. Members of the public have been complaining because they are unable to access many areas of Runda where the road passes through Runda. I will just give some incidents where we have experienced death. In particular a prominent death that happened in 2003 when a driver ferrying members to go to a wedding was hit by the barrier and died. Mr. Speaker, some of the conditions that were given by the defunct City Council and are as follows:-

1. That they abide by the agreement of all residents of Runda Estate---

**Hon. Kamau Thuo:** Mr. Speaker, I am reading the conditions that were given by the defunct City Council for the barriers to be erected and most of them have been breached by the said association.

2. The regularization and erection of barriers shall be supervised and sanctified by authorized representatives to make sure that they have been erected to City Council standards for gates and barriers,
3. The road in question being a public road - our Council acknowledges this is one of the conditions - that the road in question being a public road should be accessible to all vehicular and non-vehicular traffic including all public utilities,
4. The barriers should be manned on a 24 hours basis and should there be any reasonable objection to the existence of gates from their members or members of the public, the same shall be removed at their own cost.

With those few remarks, Mr. Speaker, I would like to call the able Majority Leader to come and second this particular Motion. Thank you.

*(Applause)*

**Hon. Leader of Majority:** Thank you, Mr. Speaker. I rise to support this Motion because of so many reasons. These are public roads and some people turn them into private roads. It was not good for the former City Council to give these roads out as private roads. In Lavington, in Muthaiga they are doing the same, in so many places where the who is who live in Kenya. There are so many places like those where they put barriers, it is only the people who come from this side---

*(Loud consultations)*

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

**Hon. Leader of Majority:** Mr. Speaker there is no way you can put a barrier in Umoja or Korogocho---

**Hon. Speaker:** Order! Leader of Majority!

**Hon. Leader of Majority:** Mr. Speaker, there is no way you can put barriers in those places. So Mr. Speaker, I want without taking too much time let the Mover reply. Thank you.

*(Applause)*

*(The question is proposed)*

**Hon. Speaker:** I now call the Mover of the Motion to reply.

**Hon. Kamau Thuo:** Thank you, Mr. Speaker. Indeed we have Hon Members in this House and this being a matter of County importance they have given it the seriousness it deserves and I am pleased that this is an Assembly of people and for the people. Mr. Speaker. I also would like to thank the able Majority Leader who represents the Government in this House and we are now moving from neo-colonialism in Runda. So with those few remarks I move. Thank you.

**Hon. Speaker:** Hon. Members, while I put the question, the Committee on Implementation because many Motions have been passed here and nothing absolutely has been done. When we come back from the recess, we want the Committee of Implementation to give us good news that the barriers in Runda are no more.

*(Applause)*

*(The question is put and agreed to)*

**Hon. Speaker:** The Leader of Majority.

**The Leader of Majority:** Thank you, Mr. Speaker that pursuant to Standing Order No. 25 this Assembly adjourns until Tuesday July 15, 2014 in accordance to the calendar of the County Assembly regular sessions. Mr. Speaker, it is very important for these people because some of them have fatigue. If you noticed yesterday the way Hon. Mumo was very smart, I think she was just gearing for bigger things to come. So I must complement Hon. Mumo, just keep it up, you just do as a normal human being is doing. So thank you Mr. Speaker. I call the Leader of Minority to come and second the Motion.

**Hon. Leader of Minority:** Mr. Speaker, sir I don't want to reply to the Majority Leader because I am fasting and I don't want to soil my fasting. I do second the Motion; we need to rest, Mr. Speaker. I think this one week, we as Muslims will get ample time to devote ourselves to God and I want to ask the Majority Leader--- This House is a House for debate and dialogue not for seducing the likes of Mumo. Thanks, Mr. Speaker sir.

*(Applause)*

**Hon. Speaker:** Hon. Leader of Majority, that was a compliment and that compliment is as best as ever for February 14.

*(Adjournment question is proposed)*

**Hon. Speaker:** Hon. Deputy Speaker.

**Hon. Deputy Speaker:** Thank you, Hon. Speaker. It is only prudent that these Hon. Members finds some time to go and be with their families and electorate given that we normally have limited time to attend to personal needs. Mr. Speaker, given the nature of our job in the Assembly from Tuesday to Thursday and attending committee meetings, I would wish that these Members find the need to go and attend to other related issues away from the Assembly. So I am for the adjournment, Mr. Speaker. Thank you.

**Hon. Speaker:** Hon. Ngaruiya.

**Hon. Member for Kahawa West (Ngaruiya Chege):** Thank you, Mr. Speaker. As I rise to support this Motion, I have several questions that have not been answered. As we are relaxing and going back to our constituents we were promised office furniture. This is an issue that has taken time and we passed the supplementary budget but up to today it has not been forthcoming.

*(Applause)*

**Hon. Ngaruiya Chege:** Mr. Speaker, this is an issue that has taken time and we passed the supplementary budget but up to today we are still waiting. We were also brought letters here, Mr. Speaker--

**Hon. Speaker:** Were brought what?

**Hon. Ngaruiya Chege:** Letters on those people who want to supply the furniture through the office of the Speaker. Mr. Speaker, number two. As we break there is still the issue of bursary so there are issues that have not been answered. It is good because you have always taken responsibility and this responsibility you have always taken you should be very careful as we need answers from you as a responsible leader in this Assembly. Thank you, Mr. Speaker.

**Hon. Speaker:** Hon. Members, to answer to that momentarily. On office furniture Members brought one company each instead of the required five companies. That is the report coming from the office of the Clerk. According to the Procurement Act you all know what it takes. Hon. Members, that is not open to discussion because if you bring one company then of course it is a mistake. Hon. Mumo.

**Hon. Leah Mumo:** Thank you, Mr. Speaker. I rise here to support the adjournment for my fellow brothers and sisters in the opposition, at least they can go and prepare for the *Sabasaba* day.

*(Loud consultations)*

**Hon. Leah Mumo:** I am on the floor. Protect me, Mr. Speaker. I also want to thank the Leader of Majority. It has taken him so long to know that I am always smart, that is my weakness let me drive a point home; I am always well dressed and I dress according to the occasion. Thank you very much.

*(Laughter)*

**Hon. Deputy Speaker:** Thank you Mr. Speaker. Kindly may the Mover reply.

**Hon. Speaker:** Hon. Members, I now call the Mover of the mover to reply.

**Hon. Leader of Majority:** Mr. Speaker, as I reply I want to tell Hon. Mumo, in this House this is the Government, this side is the opposition just play your role of that propaganda, making noise but the Government is doing its work. Also, Mr. Speaker, I took my time to expand yesterday so Madam Mumo you cannot tell me that it is your weakness, because maybe it your weakness every day but yesterday I saw something different and I have been seeing you all the time. Mr. Speaker, let me take this opportunity to wish Muslims a good Idd-fitir. I want to welcome the Members to come and witness what is going to take place in Uhuru Park on Monday *Saba Saba* day. It is a peaceful gathering because when we started this *Saba Saba* day the likes of Karen were still young so they should know what *Saba Saba* is all about. Just

come and witness it is a peaceful gathering even you will get a chance to address the congregation. Thank you, Mr. Speaker.

**Hon. Speaker:** Hon. Members, before I complete I want to ask the Hon. Member to comply by WDF by Tuesday. You all understand what I mean WDF complied by Tuesday, Ward Development Fund.

*(Applause)*

**Hon. Speaker:** Hon. Members, the House is adjourned until Tuesday 15<sup>th</sup> July 2014.

***The House rose at 5.30 p.m.***