



## NAIROBI CITY COUNTY ASSEMBLY

### OFFICIAL REPORT

#### First County Assembly – Third Session

Wednesday 1st April, 2015

The House met at 2.30 p.m.

*(Hon. Speaker Mr. Alex Ole Magelo on the Chair)*

### PAPERS

**Hon. Majority Leader** (Mr. Elias Otieno): I need your attention, Mr. Speaker.

**Hon. Speaker:** Yes, Hon. Leader of Majority.

**Hon. Majority Leader:** Thank you, Mr. Speaker. I beg to lay the following paper on the table of the Assembly today Wednesday, 1<sup>st</sup> April 2015; Report of the County Assembly Service Board on the appointment of the 4<sup>th</sup> Member to the County Assembly Service Board of the Nairobi City County Assembly pursuant to Section 12 (3) (d) of the County Government Act 2012. I beg to lay.

There is another paper to lay. Pursuant to Standing Order No 180 (6), I beg to lay the following paper on the table of the Assembly today Wednesday, 1<sup>st</sup> April 2015; Report of the Select Committee on vetting of nominees for the County Executive Members for the Department of Health Services and Department of Agriculture, Livestock Development and Fisheries.

### NOTICES OF MOTION

**Hon. Speaker:** Notices of Motion? Hon. Leader of Majority.

**Hon. Majority Leader:** Thank you, Mr. Speaker. I was not aware because I was not given the Notice of Motion but it is not too late. I thought Leader of Minority was going to give the Notice of Motion on my behalf but since he cannot do it because today he is one of the smartest in the Jubilee side. So I think may be---

*(Laughter)*

**Hon. Minority Leader (Mr. Abdi Ibrahim Hassan):** Mr. Speaker sir, I didn't know that I am Majority Leader in this Assembly. As far as I am concerned, I am the Leader of the Minority Party in this Assembly. For my smartness, thank you *Bwana* Majority for commending me. Thanks Mr. Speaker.

**Hon. Majority Leader:** Thank you, Mr. Speaker. I was trying to highlight to Jubilee Members to know that their leader is very smart today. I think they are very much aware.

Mr. Speaker I beg to give Notice of the following Motion; THAT this Assembly adopts the Report of the Select Committee on vetting of nominees for the County Executive Members for the Department of Health Services and Department of Agriculture, Livestock, Development and Fisheries, laid on the table of the Assembly today, Wednesday 1<sup>st</sup> April 2015.

Then there is another Notice of Motion, Mr. Speaker. I beg to give Notice of the following Motion; THAT this Assembly adopts the Report of the County Assembly Service Board on the appointment of the 4<sup>th</sup> Member to the County Assembly Service Board of the Nairobi City County Assembly pursuant to Section 12 (3) (d) of the County Government Act 2012, laid on the table of the Assembly today Wednesday, 1<sup>st</sup> April 2015. Thank you, Mr. Speaker.

**Hon. Speaker:** Thank you very much, Hon. Leader of Majority. Yes, Hon. Ngaruiya on a Point of Order?

**Hon. Member for Kahawa West Ward (Mr. Ngaruiya Chege):** Thank you, Mr. Speaker. I rise on a Point of Order under Standing Order No 74. The reason why I rise is because two weeks ago, we received letters from Family Bank advising us to deposit our log books for the Ksh. 2 million that we got from that Bank. On that note, up to that time nobody, not even the Loans Committee has ever taken time to explain to Members of this House why this Bank wrote letters to individual Members of this Assembly. Mr. Speaker on the same---

*(Loud consultations)*

**Hon. Speaker:** Order Members!

**Hon. Ngaruiya Chege:** ---on the same, we need to be advised on the way forward because as we sit here, they have given us an ultimatum of one month of which failure to do so, they are going to take legal action against Members. It is as a result of questioning why they double deducted Members money for insurance. It is a high time that the Loans Committee headed by the Majority and Minority Leaders of

this Assembly tell us exactly. This is our money that we gave Family Bank, why is it giving ultimatum to Members of this House? In future we advise this House never to engage with the Family Bank. Thank you, I think that issue needs to be addressed urgently.

*(Applause)*

**Hon. Speaker:** Order Member! I think the Leader of Majority was the Chairperson of Loans, he can call us for a *Kamukunji* and explain to us all that is happening. I think now that is our in-house business. Yes Hon. Leader of Minority.

**Hon. Minority Leader:** Let me add a rider on this, Mr. Speaker, it is not business as usual, Members have to give their log books. For the insurance, the Majority Leader, as the Chairman of the Loans Management Committee should ask the Bank to refund the insurance. The Auditor General is clear on that and some of us are not ready to go to EACC because of log books. Personally, I will give up my log book. Issue of insurance should be dealt with the Loans Management Committee; the bank should refund the insurance money to the Assembly.

*(Applause)*

**Hon. Speaker:** Very well. As I had earlier said, the Chairperson for Loans can call us for a *Kamukunji*.

**Hon. Majority Leader:** Mr. Speaker. I think it is not under my jurisdiction because as far as I know, Ngaruiya always likes to create a problem where there is no problem. This thing was generated from the Auditor General; it is not from the Loans Committee. So Mr. Speaker, if you want that explanation, let us have a *Kamukunji* tomorrow so that we can explain further rather than Ngaruiya always accusing Committees that they are doing nothing. Right now he is enjoying driving a car through this Loans Committee. Thank you, Mr. Speaker.

*(Laughter)*

**Hon. Speaker:** Very well we can proceed. You call us for Loans Committee *Kamukunji*. Yes Hon. Imwatok, you are rising on what?

**Hon. Member for Makongeni Ward (Mr. Peter Imwatok):** Personal Statement, Mr. Speaker.

**Hon. Speaker:** Yes.

**Hon. Peter Imwatok:** Thank you, Mr. Speaker. I rise on a Point of Order under Standing Order No 80 on a Personal Statement; aware that this Assembly passed 2014/2015 budget and in our allocation as County Assembly, we were allocated money for i-pads. Up to date we have never gotten a clarification. As a professional, I believe anything on development matters, we procure before getting money to pay. My question to you as the Chair of this Assembly is, whether we are still awaiting the procurement of i-pads for these 127 Members or it is becoming a nullity?

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Secondly, I want to inform this House that, as at today 11:15 a.m. I personally resigned from the Public Accounts Committee and become a neutral Member of this House, thank you Mr. Speaker.

*(Applause)*

**Hon. Speaker:** Order! The second one is personal and it has got nothing to do with the Assembly. The first one, the process of acquiring the i-pads is ongoing and very soon you will get your i-pads. Yes Hon. Kambi, what is it?

**Hon. Member for Dandora Area II Ward** (Mr. Stephen Kambi): Thank you very much for the opportunity Mr. Speaker sir, I don't take this for granted. Kindly allow to once more remind you my name is Stephen Kambi, MCA Dandora II Ward. I am not comfortable with you addressing me as *Mheshimiwa* aaah.... Thank you sir, kindly take note of that for future reference.

Back to business sir, yesterday we gave a directive as the House and you gave one as well knowing very well that some of the officials of the Nairobi County Government have been mentioned in corrupt activities both from the National front and the Assembly. Mr. Speaker sir, you have seen the impunity with the officers to an extent of even barring Hon. Members from accessing public offices that are meant to implement whatever we legislate and implement for the good of the people of Nairobi.

According to sources, the said officers are still in office and they are not even in a rush to step aside or even give room so that justice can be served to the Nairobians. Mr. Speaker sir, you gave a very strong directive and we do believe in it as you are the head of the Assembly and whenever your directives are not honoured we feel as though we are also being disrespected as an Assembly.

As for me I am not ready to be disrespected. I am the only Kambi in Government. Kazungu resigned and now in Africa, I am the only Kambi serving in Government. I am a very straight forward and accountable person unlike my counterpart. So Mr. Speaker sir, if the directive was not followed then I do not know what measures you are going to take to ensure that it is followed because we can't have corrupt officials in our offices.

This time we are tasking you as Members of this Assembly, kindly ensure that those corrupt officers are not in offices; those are not their private offices; they are public offices. If senior people in the Republic of Kenya can resign, then I do not see why common secretaries and junior officers in the County level defy resigning. Mr. Speaker sir, kindly give another directive. Thank you.

**Hon. Speaker:** Hon. Members, as you are all aware, last Thursday this Assembly resolved to have several Members of the Executive leave office. Subsequently, we did the letters on Monday which were handed over to the Governor's office by the Clerk of the Assembly of Nairobi. Therefore, further to yesterday's deliberations and directives, the Chairman of the Implementation Committee who is the Leader of Majority is seated with us in the House and he will kindly inform this Assembly whether the named officers are still within the County Government or they have left. The hon. chairperson who is also the Leader of Majority.

**Hon. Leader of Majority:** Mr. Speaker, I am not aware if the Member of *kata squad* doesn't know whether those people are still there. I can say that maybe---

**Hon. Stephen Kambi:** Point of Information!

**Hon. Speaker:** Order! The Member does not want to be informed. You want to be informed?

**Hon. Stephen Kambi:** I, Africa Kambi ceased to be a Member of the dreaded group a month ago. I believe the group---

(Laughter)

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

**Hon. Stephen Kambi:** After my willing resignation from the so-called dreaded group, I hear they rebranded it to--- what is it?

**Hon. Speaker:** Order Hon. Kambi!

**Hon. Stephen Kambi:** ---*Kula hongo* crew, something of that sort. So kindly---

**Hon. Speaker:** Order Hon. Kambi! Order!

**Hon. Leader of Minority:** Point of Order, Mr. Speaker sir. I do not think it is right for you to entertain such issues on the floor of the House. Unless the Majority Leader and Kambi substantiate who are the so-called *kata squad*, we are not going to entertain such language on this floor. This is damaging the reputation of this good institution; we have to be serious sometimes. This floor should not be used as a joking platform; people must be serious. Thank you.

**Hon. Speaker:** Hon. Members, from what you have just heard, the Leader of Majority, who is also the Chairman of Implementation is not aware whether the officers are still in office or not and therefore--- yes Hon. Majority.

**Hon. Leader of Majority:** Mr. Speaker, let us just go and do our investigations today if they are still in the offices, or maybe they are handing over and that might be the reason as to why they are there. If I am not wrong let us not lie to these Members. Let us discuss because I saw a court order from the County Secretary and you want me to bring a report tomorrow which is not possible. As for now, that is what I am aware of. Thank you, Mr. Speaker.

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

**Hon. Deputy Speaker:** Mr. Speaker, maybe this House is gagged by the court because we are not privy to the court order which is being insinuated by the Hon. Majority Leader before the House. It has not been communicated from your Chair. We do not know where we belong now because we have no idea of the court order barring this House. Such has never been communicated to this House, so can you tell this House whether there is such kind of communication?

**Hon. Speaker:** Hon. I. Hassan, Leader of Minority.

**Hon. Leader of Minority:** Thank you Mr. Speaker sir. If you look at the Powers and Privileges Act under the National Assembly, we are tired of being told that we have court orders. We are not going to allow this House to be gagged by the courts. We are not going to allow this House to leave corrupt fellows to hide behind court order. As the leader of Opposition in this House, I want to tell the Majority Leader that if he doesn't know his work, we want to tell him to go and tell his officers who are working under the Governor that if they are not going to leave the office by tomorrow, then we are going to ask Nairobian, because they are given that right by the Constitution, to remove those fellows from office.

I want to put the Governor of this City under notice, the President of this Country is very clear; the writing is on the wall. If you have been named under that list and you are comfortable in your office, still using tea which is being paid by Nairobian, that one will never happen. We are asking the Governor that we do not want to see those officers in their offices before the end of the day. He has to call for a press conference announcing that the said officers that have been named in the National Assembly have been sacked. There should be no stepping aside because these people have been named by two reports; the PAC recommendation is very clear. It has been adopted by this House and the Governor is bound by that report.

If somebody has gone to court so that it can defend him or her from graft allegations and the Ethics and Anti- corruption Commission is following them, then we are going to use the power of the people. The Constitution is very clear. We are here to represent Nairobian. We will marshal them from next week to remove the said officer. The County Secretary, the Chief Officer and the Director of Budget, I don't know the other one whether he is an accountant or not. If they are not leaving the office by today then we will marshal Nairobian to remove them by force because you cannot use the taxpayer's money while it is known that you are corrupt. Go and clear yourself and then tell us that you are clean, but before that, we do not want to see those officers in the office. Mr. Majority Leader, I think the onus is on yourself, go and tell those officers before we bring Nairobian to their door steps. They have to vacate office, thank you.

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

**Hon. Majority Leader:** Mr. Speaker, it is good that the Leader of Minority today realizes that he is the leader of the Opposition in the Assembly. He is the one who makes my work difficult in this House. So, right now he is coming back to where he belongs to. So, I am here as the Government and to protect my officers. If my officer has a court order, I will obey that. But you, as the Opposition, you can just play politics as you want. I will just continue serving Nairobian. Thank you.

**Hon. Speaker:** One more Member. Hon. Mbau.

**Hon. Member for Mlango Kubwa Ward (Mr. Andrew Mbau):** Thank you Mr. Speaker. For the likes of me and you and any Member of Powers and Privileges Committee, we were informed that not even a court of law can gag this Assembly. The court of law should not even stop us from doing our legislative

work. Nobody is above us and this should go down to everyone. If at all the Kambi's of this world are resigning, who are they? They must go.

**Hon. Speaker:** Hon. Bishop and then Hon. Mumo. Bishop, Dagoreti.

**Hon. Member for Waithaka Ward** (Mr. Anthony Kiragu): Thank you Mr. Speaker sir. I would like to concur with the Leader of Majority; we need to respect the rule of law. In the spirit of---

*(Loud consultations)*

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

**Hon. Anthony Kiragu:** Mr. Speaker, it will be wrong for this House to reinvent the wheel. We have closely followed the happenings in Embu and in Nakuru but we have no option but to follow the law. Having said that, I do not in any way and at any time, support corruption. Mr. Speaker, we have an EACC report which is privy to this House and I would also request not just the sacking of officers but the stepping aside of the Governor of Nairobi, he is in that list and the best thing he can do is to lead by example. Thank you.

**Hon. Speaker:** Hon. Mumo and then--- Order Hon. Kambi!

**Hon. Leah Mumo:** Thank you Mr. Speaker. I rise on this floor to ask the County Secretary; who is she? If the Senator of Nairobi has stepped aside, who is a County Secretary?

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

**Hon. Leah Mumo:** I want to answer you, Thuo that the Senator of Nairobi is an elected leader whom you voted in. If the Senator of Nairobi stepped aside, Kidero should also step aside. Lilian and Kiamba should step aside. All I am saying is, if you are in that list, follow the footsteps of Mike Sonko Mbuvi.

*(Loud consultations)*

**Hon. Speaker:** Order Hon. Members! You are making a lot of noise. Order! Please consult in low tones. There is a phone ringing, and if I know who it is, you will walk out. Hon. Elkana and then Hon. Thuo. Hon. Thuo, Order!

**Hon. Member of Kwa Reuben Ward** (Mr. Elkana Mauti): Thank you Mr. Speaker sir. I think Members of this Assembly are in a position to interpret the Constitution; the Constitution is very clear. I think we are not barred by a court order not to perform our duty, privileges and powers. Two, Mr. Speaker, as elected Members, we don't have a word in the Constitution about being suspended and still we are enjoying the privileges and the powers. We don't have a word in the Constitution talking about stepping aside. We only have sacking or interdiction. Any elected Member, especially the Governor of Nairobi, it is us, the Members of this Assembly who can sack and you cannot convict somebody if he has not been proven guilty.



I wonder what Constitution you use. How do you prove beyond any doubt? Somebody has not been taken to court and has not been proved guilty and you are telling us to step aside. We don't have a word in the Constitution about stepping aside. Those are allegations. How do you prove the allegations? It is like in the newspaper. I think you have seen so many processes. You go, reach the end and come back. Be careful. Read the Constitution and interpret it and let us not stand here just to talk. It is us the Members of this assembly, if somebody has been convicted in a court of law, is when you come and sit in this Assembly to say that he should go.

Three, about the public accounts' report. We know that PAC is like the High Court of Kenya. It is given in the Standing Order. We have recommended. It is us to push the Governor of Nairobi to do as the report was saying. So, it will be prudent to come up with a Motion to push the Governor of Nairobi to do the sacking or to do---

**Hon. Speaker:** Order Hon. Chief Whip and Hon. K'Otieno! You can do us an honor to go and talk outside.

**Hon. Elkana Mauti:** It is us, the Members of this Assembly to come up with a Motion to tell the Governor that we want sacking or we want these people to be interdicted; not by a word of mouth. Talking here does not substantiate what we want. Thank you, Mr. Speaker.

**Hon. Speaker:** The last one, Hon. Thuo of Karura and then Hon. Gari, then we close.

**Hon. Thuo Kamau:** Thank you, Hon. Speaker. Indeed this County is under a very big crisis. If you are to go with the list that was presented in the National Assembly, we have a leadership crisis as far as the Executive is concerned. I don't believe that the Governor has the moral authority to ask the likes of the County Secretary and other officers to step aside or even sack them or even resign because he is also in that list.

**Hon. Speaker:** Order Hon. Thuo! Not guy but the Governor.

**Hon. Thuo Kamau:** The Governor of Nairobi is also in that list. The only people or leaders in this County who have the moral authority are Members of this County Assembly. Because I have gone through that list with the help of the Majority Leader, I have not seen your name, the Majority Leader, the Minority Leader or any Member of this County Assembly. So, we are asking the County Executive, starting with His Excellency the Governor, who doesn't have moral authority to tell anyone to go home. What we are urging the Executive is to do the good thing. There is still time. Do the honorable thing, resign or step aside. Give a room for investigation. If you don't have anything to hide, give a room for investigation and when your name is cleared, you come back. I also hear that the Senator of Nairobi has resigned but remember today is fool's day, so we don't agree with that one. Can the Member ascertain that the Hon. Senator of Nairobi has also resigned?

Lastly, as far as the court orders are concerned, most officers in this Country have a habit of abusing court orders. If there is a court order, we need to discuss it in this Assembly. We also need to



understand the content of that court order. It should not be business as usual when we have officers named in various reports in this House and in the National Assembly and they are still serving. We should not continue as a House to discuss any matter until this matter is brought to rest. We need to say; "rest in peace".

**Hon. Speaker:** Hon. Gari and then we go to the next order.

**Hon. Member for Nairobi West (Mr. Maurice Gari):** Thank you. Mr. Speaker, the trend in this County is now becoming worse. I think we should take this seriously and discuss this issue from the directive of the President. If the Governor was indicated in this matter, I think we have a Deputy Governor who has not been named and can do this.

*(Applause)*

**Hon. Maurice Gari:** So, Mr. Speaker, if Members feel that the Governor cannot fire the County Secretary, Lillian Ndegwa, let the Deputy do that to allow the Governor to clear his name. Mr. Speaker, we cannot sit in Nairobi City County Assembly and watch impunity going on. Mr. Speaker, the County Secretary, Lillian Ndegwa, is not much more than the Cabinet Secretary, Ngilu or Kambi or those who stepped aside.

You should walk the talk, Mr. Speaker. We have the County Service Board which is responsible for employment and which is headed by Mr. Kungu. We have a lot of leeway for these guys stepping aside. If this is a matter of discussion we should rest, today we adjourn to discuss this matter and tomorrow we lock that gate. Mr. Speaker, we do not want to see these guys here, they are tainting our names.

Today, we were in class and the lecturer said the MCAs of the entire Kenya have let the Counties down. The buck stops with the MCA's, so it is upon us to take the bull by the horns. Mr. Speaker, a lot has been said but we should swallow our pride and do the exact thing. So, I was asking you if you can guide this House. We adjourn and then we come back here tomorrow and discuss and address this matter once and for all. Mr. Speaker, I beg for your communication.

**Hon. Speaker:** Hon. Members, good afternoon once again. I look at you and I am looking at an angry lot, angry men and women because your development agenda as Members of the County Assembly has not been forthcoming. Hon. Members, I have this to say here. Yesterday we took nearly two hours discussing the issue of the officers whom you sent away last Thursday. We asked the Governor to respect the Public Accounts Committee findings and the Assembly's decision.

No politics was played in that report; it was a report of a very able Committee of the Accounts Committee and the Auditor General. Therefore, if what we said yesterday went into thin air, I want to repeat it here today that the Assembly deeply regrets that the Governor of this County has not honoured

the Assembly's decision. As the Assembly, when what we have done has not been honoured, it means there is no respect for what we have done.

I would like at this particular juncture to inform the Governor that finding these people tomorrow in their offices will mean a declaration of war with this Assembly.

*(Applause)*

**Hon. Speaker:** Therefore, Hon. Members, as a respected Governor of this Country, Dr. Kidero, I want to ask him to respect this County Assembly.

The other point that I want to bring to your attention is that earlier on in the past year when we first came maybe we were greenhorns we were duped into accepting court orders. We have been educated now, we know and we understand that nobody can gag this County Assembly unless you people gag yourselves.

Therefore, any sort of court orders, you can quote the Hon. Alex ole Magelo, the Speaker of the County Assembly of Nairobi that those court orders will not be acceptable to us. Indeed, it is a shame for somebody or even some people to think they can get away with it. The time has come when we say *pole*, you dipped your finger alone, and you take a walk and keep walking alone. What do you do? Keep walking and go.

*(Laughter)*

**Hon. Speaker:** Hon. Members the Leader of the Majority and the Chairman of the Implementation Committee, you have a job to report to us tomorrow and I will personally monitor with the leadership of the Assembly, the movements of those officers. Tell them their court orders are not accepted in the presence of the County Assembly. I thank you. Next Order. Hon. Chairperson on Implementation, and the Leader of the Majority.

**Hon. Leader of Majority:** Mr. Speaker that is the reason I was trying to interrupt because he was talking about the officers whom we sacked last Thursday. Mr. Speaker, they are already arrested and that is the reason I wanted to interrupt when he was talking, they are in police custody right now.

*(Applause)*

**Hon. Leader of Majority:** They have already been arrested, all of them.

**Hon. Speaker:** I want to thank you, Hon. Leader of Majority but we still need you to report to us tomorrow at 2.30 p.m. on the way forward. Hon. Members, I want to thank you. Let us go to the next Order. Hon. Deputy Speaker and the Chairperson of the Liaison Committee.

**Hon. Deputy Speaker:** Thank you, Mr. Speaker. Hon. Members, pursuant to Standing Order number 41(2)(c), I wish to request a statement from the Chairperson of the Select Committee on Public Accounts Committee, Accounts and Budget and Appropriation regarding the Memorandum of Understanding between the Nairobi County and the Foton Company. Hon. Speaker, in the Statement the Chairperson should enquire into and report on:

1. Whether there was a budget allocation for the said MOU;
2. Whether the County Government lost money through the transaction;
3. The extent of implementation of the MOU and whether there was a breach of Constitution or any other law by signing the MOU.

Thank you, Hon. Speaker.

**Hon. Speaker:** Hon. Members, the Chairperson of PAC and Budget, that is the Public Accounts Committee, remember this is a very sensitive issue and we need accurate answers from it.

**Hon. Member for Ngei Ward (Mr. Daniel Mutiso):** Thank you, Mr. Speaker sir. As PAC Committee we shall bring the report in three weeks' time after the recess. Thank you.

**Hon. Speaker:** Very well, Chairperson of Budget.

**Hon. Member of Embakasi Ward (Mr. Michael Ogada):** Mr. Speaker sir, I am hearing for the first time about the Foton thing. As the Budget Committee we were not involved from the onset and maybe we will try as a Committee to find out if such a thing ever existed, who are involved and were due processes really followed. As we speak today my Committee is not aware about anything called Foton.

**Hon. Speaker:** Very well. So, how long do you want the timeline Hon. Chairperson Budget? How long do you want to keep us waiting?

**Hon. Michael Ogada:** Mr. Speaker, because we have been asked together in liaison with my sister Committee we are going to bring our report the same day.

**Hon. Speaker:** Next Order.

## THE NAIROBI CITY COUNTY SOLID WASTE MANAGEMENT BILL 2015

### ASSEMBLY BILL NO. 3 OF 2015; FIRST READING

An act of the County Assembly of Nairobi City to make provision for management of solid waste in the County and for related matters

**MOTION****THE DETERIORATING CONDITION OF COUNTY HEALTH FACILITIES AND THE NEED TO EQUIP THEM WITH MEDICINE, MATERIALS AND TRAINED STAFF**

**Hon. Karen Wanjiku** (Nominated Member): Mr. Speaker sir, I beg to move the following Motion:

THAT, aware that Article 26 of the Constitution of Kenya 2010 gives the citizen of this Country and residents of Nairobi County right to life; further aware that health services including County health facilities and primary health care have been devolved to the County Government, pursuant to paragraph 2 part 2 of the Fourth Schedule of the Constitution; concerned that most of the County health facilities are in deteriorating state with unavailability of enough medicine, equipment and human resource; noting good health contribute to a Country with a future, this Assembly urges the County Government to equip all County health facilities with equipment, materials, enough medicine and enough well trained personnel to ensure that residents of Nairobi County get the required services.

Mr. Speaker sir, as you all know, health is paramount to every human being. We have noted recently that the problems we have been undergoing since health was devolved in this County and in all Counties of this Country. We have witnessed the problems in Pumwani Maternity whereby Jacinta Wanjiku lost her twins and the case is still ongoing. I want to mention that as a Committee of Health, we visited several health centers including Jericho Health Center, Kasarani, Mama Lucy, Mbagathi and what we saw in those health centers and those hospitals is, there are no enough equipment including delivery beds, kits and pads, heaters, incubators, machines for sterilization, ultrasound machines among others.

In Pumwani recently, we noted that there is no linen for mothers giving birth which was very serious. You can imagine a mother giving birth on a bare bed while this County is losing a lot of money in corruption as we have just heard. Linen is very cheap for a County like Nairobi. We are collecting a lot of tax and revenue, but what are we giving back to Nairobi voter and community at large?

Mr. Speaker, I want to urge this County Government to take health issues very seriously and as we give funds, Health Department should be given more money because we have seen the problems we have. Even in drugs, recently we witnessed we did not have any drugs and we had to run up and down City Hall corridors urging the County Secretary, the County Pharmacists and all those included to allocate some money to pay KEMSA so that we can have drugs in our facilities. This is very serious and as we know health is devolved. The mandate of Health lies squarely to the County Government. This is not debatable; County Health Services should be improved urgently.

Mr. Speaker sir, without much ado, I want to call Hon. K'Otieno to second this Motion, thank you

**Hon. Member for Sarangombe Ward** (Mr. Pius Owino Otieno): Thank you, Mr. Speaker, thank you the mover of Motion. First, Mr. Speaker I would wish to dwell---even though Hon. Karen didn't touch on

right to health as illustrated in Article 43, but I would wish to say that this new Constitution puts a lot of premium on the rights of the people and eventual guaranteeing of the same rights.

Mr. Speaker, I want to zero in on the three obligations that can make this right a reality. All human rights come with obligations and the first obligation I want to address is the obligation to respect.

Obligation to respect calls for Government be it National, be it County Government to see to it that its citizens are not injured; neither are the rights of the same citizens not violated either from corporations, from third parties or from any person or from anybody who would be having an intention known to make this right to be fulfilled. So the only way that the County Government can play the role of respecting this obligation is by ensuring that citizens especially the patients who use these health facilities are not injured and injury here simply means not getting the right services in those particular institutions.

Obligation number two that I want to zero in, is obligation that seeks that these rights be promoted. The only way in international law or international discourse that we can ensure that this right is promoted is by introducing health education by informing the populace what does the Constitution entail. What does the obligation to promote entail? This obligation simply means that even those personnel who work in health services, we must actually refresh them, we must raise their awareness, and we must strengthen their capacity to provide services in so far as this sector is concerned.

Last but not least but which is also of very critical importance, is the obligation to fulfill. It calls for the Government to do a proper policy, to do sufficient allocation of resources which is money and when it comes to money this is the role that this Assembly should play by ensuring or lobbying that Budget and Appropriations Committee that so far we have done audit of 10 health facilities that are within this County and these health facilities are in this state; ten of them don't have beds, thirty of them don't have linens, forty of them are poorly equipped in so far as human resource is concerned.

So, from this audit the Committee on Health would have conducted we start lobbying the Budget and Appropriation Committee so that even if not all health facilities have been allocated some money but within the parameters of international law there is what we call gradual realization.

Gradual realization simply means the Government puts a little money into the budget and they say in the next ten years we want to accomplish ABC and D because even us within this parameter we know the Government cannot afford all the resources to do all these things but when we give people a latitude that this will be done gradually that would be on the safe hand; and we should not concentrate on County health facilities but we should train our eyes on the situation of private health facilities. The situation of private health facilities is also as wanting as hospitals that are being managed by County Government. With those many remarks Mr. Speaker, I beg to support.

**Hon. Speaker:** Thank you very much, Hon. K'Otieno. Hon. Members, I propose the question that,

*(Question proposed)*

**Hon. Members:** The Hon. Elkana and then the Hon. Zulfa Hakim

**Hon. Elkana Mauti:** Thank you Mr. Speaker sir, I think the matter of health is not a matter of negotiation because it deals directly with the lives of the people. As the Assembly of Nairobi we are supposed to push the people concerned to the corner so that they can do what is necessary to our health facilities. More especially the Pumwani which is the biggest maternity we have in East and Central Africa is supposed to be well equipped.

Three, on addition to this Motion, we want to see new faces in Pumwani, not the ordinary faces with so many scandals we used to know or hear about.

Four, we need this County, the Executive side, to employ many health workers because with life of people, we cannot argue.

We will give them a leeway to employ the health workers, the clinical officers, the gynecologists, nurses and so forth to enable the health facility to function; we cannot not give out the equipment without the staff. I am supporting the Motion fully because am concerned with the life of people. This being my profession, I know how the people we are leading are suffering; therefore we urge the Executive side to employ health workers and also to make sure that they maintain hospitals in the County. We want to see new faces in Pumwani, we want to hear so many transfers from our health facilities because somebody cannot work in a health facility for 20 years in order for the health facilities to work normally and for people to do what they were employed for, thank you Mr. Speaker.

**Hon. Speaker:** Very well. Hon. Hon. Leader Minority, and then Zulfa.

**Hon. Minority Leader:** Thank you, Mr. Speaker sir for giving me this opportunity, let me take this opportunity to thank my sister, Karen for bringing such a noble Motion to this Assembly. As you are aware health is a primary need to human beings, without good health the Economy of this County cannot prosper. For the economy to prosper we need a healthy Nairobi for them to wake up early and carry out their daily duties. As we are speaking, all County facilities are in a deplorable situation. We are not only urging the County Government but we are asking them to make sure that our health facilities are facilitated with drugs. A health facility without drugs is just a building which has no meaning to Nairobians.

We are asking the Governor of this City to make health his priority. On the same, I want to ask my able Chairman of Budget and Appropriations Committee when they are doing the budget for this County, they should make sure that the health is properly catered for. As we are speaking, In Kayole, for example, when I was Councilor, I facilitated the Kayole North Clinic Health facility to have Maternity wing, the Maternity wing was functioning but right now it is not functioning, which is very sad. By then, women were paying 20 shillings to have delivery in that facility, because there are no Nurses, no drugs, you cannot expect our good people of Kayole, I and my sister Elizabeth here, Migwi and Kiash are leading to go to such facility. The drugs which are there expired four years ago. We are urging the Governor and the CEC, who is going to be approved tomorrow by this House, to expedite the process of bringing drugs to those facilities. With those few remarks, I beg to support.

**Hon. Speaker:** Very well, Hon. Zulfa!



**Hon. Zulfa Hakim Mohammed** (Nominated Member): Thank you, Mr. Speaker Sir, I rise to support this very noble Motion and I want to thank my sister Hon. Karen for having thought of this very important Motion for this House. I would like to urge this County Government to prioritize this recommendation, we have the dispensaries at the Ward level and being a *mashinani* woman so to speak, I can tell you that the state of these hospitals, just as the Minority Leader has said, I can confirm that it is true they are deplorable.

I can also confirm to you, Mr. Speaker, I once rose in this House and said that the Pumwani Maternity the mothers are actually using the curtains as napkins for the babies. You can only imagine what kind of a state that hospital is in. As a House of oversight, I would like to call upon all the elected Members and even the special elect if you have such a facility in your Ward, kindly prioritize it, visit and find out what is happening because we have had situations whereby there have been allocations to such dispensaries and hospitals and yet up to date, there are works, no improvements whatsoever.

Mr. Speaker, on the personnel issue, that is a very adamant issue. It is just the other day when Hon. Karen was assisting women who were giving birth by the roadside, if I am not wrong, due to lack of nurses in such hospitals and I think when it gets to that extent then it means there is a problem. So kindly, let the implementers of this Motion take very seriously this particular one and prioritize it and move with speed to make sure that whatever requirements that are needed down at the facilities are provided for.

You can see, for Members who have this report, I would like to touch on this report from Budget and Appropriations Committee. If you look at the very last page, you realize that the Health sector has been awarded Kshs.5.9 billion and I am not seeing any excuse why these Hospitals should be in those states.

Most of the Members from this House have been to other Countries and they have seen what kind of hospitals and facilities are there. Those people implements their laws. That is where we go wrong, Mr. Speaker, and on that note, I wish to also mention that these facilities within Nairobi should be in state of the art situations because, for instance, if there is an emergency right now, all people struggle to go to Kenyatta Hospital while we have very well structured facilities only that they are run down.

So, I am urging the CEC of this particular sector and the Public Service to move with speed and make sure, because I know the resources are there, they can work on Kshs.5.9 billion if I am not wrong. So, kindly let us move with speed and make sure that we improve the services of these particular facilities. Once again, thank you Karen for this Motion, I support.

**Hon. Speaker:** Hon. Chairperson, Budget.

**Hon. Michael Ogada:** Thank you very much *Bwana Spika*. I stand in support of what our Hon. dear sister has just brought before this Hon. House. Mr. Speaker sir, health, just as K'Otieno has just put it, is a basic human right and any Government that is in place must adhere to the Constitution and they must ensure that health provision is really affordable.



But my challenge goes to the same Committee where my sister belongs to, because, if she has a document from my Committee, that is the Budget Committee, it is not even a matter of urging the Committee now to put resources because my Committee has ensured that at all times, we try to allocate that particular department enough resources. For example, as we speak today, our sister has just talked about it that according to the strategy paper which we are presenting soon to this House, out of a budget of Kshs.28 billion, Health Department is only second to the Public Works Department which deals with developments and it has been allocated around Kshs.7 billion, then followed by Health Department at Kshs.6 billion.

Mr. Speaker sir, what I would like to urge the Members of the Health Committee is to try find out, at every financial year, the full allocation we have been giving to this Department, are they utilizing it to the maximum? At no point have they come back to my Committee and say that the money we allocated them was less, so which means we always give them a surplus. So, it is upon the Public Health Committee to ensure that, that Department does work as pertains to what our Committee does.

Besides that, Mr. Speaker, we have also realized that another thing that might be causing these people is priorities in the particular department, we can allocate them such much money but you realize that what they want to do with this money is totally different from what our sister is really putting forward.

Also it is upon that Committee to ensure that when we are going to work on the estimate of that particular financial year, the Committee takes a lot of seriousness to ensure that priorities of that core Department is giving is geared towards provision of quality Health Services to the Members.

Then the other thing that we need to look at and which I am begging that Committee to look at, is that when I talked to their Chairman recently, I think three or four days ago, we realized in that particular Health Department there are diversion of revenue collection. One, you will realize that we have Nairobi Health Service Board which does collect a lot of money from our clinics and what have you. We fail to understand where they direct this money to. If you collect from these medical facilities, you expect this money to be recouped back and it's supposed to be used to give services to this particular people. But this Committee has never been able to tell us actually what this particular Nairobi Service Board is doing with the money.

Just recently, as we talked, around two months ago, we have Food Handlers Certificate which had been issued from the County Government. From this Department we get almost Kshs.300 million which has really been helping us. Only to learn as a Committee, a few days ago, that this provision has been given to KEMRI to start collecting this money, we are not aware about the Memorandums. Why should KEMRI do the work which we have been doing? Are they collecting the money on behalf of the County Government or why are they?

So you see, we cannot give you services and the little you get, you take it somewhere else. Please try to bring whatever little you get so that we can top it up from the other Department in order for us to ensure proper health provision is given to the residents of this City. So Mr. Speaker sir, I am putting this

ball back to the Health Committee, they need to look at that Department and make sure that things are moving and working positively. Thank you, Mr. Speaker.

**Hon. Speaker:** Thank you. Hon. Magdalene Mbogori.

**Hon. Magdalene Mbogori** (Nominated Member): Thank you, Mr. Speaker, I want to stand in support of this Motion and I want to thank Hon. Karen for bringing a very wonderful Motion to this floor. Like many people have said that Health is a fundamental need, we need to be very vigilant about the way our Health facilities are being operated. My opinion is a little bit different, Mr. Speaker, Health facilities have become white elephant in this County, a lot of money is budgeted to these facilities but they don't prioritize on the things they buy.

I will give an Example, in the last budget 2013/14, when very many Health facilities were opened; one was opened in Dagoretti but the things that are procured and are basically beds. The Members of the Society who come to these Health facilities are not coming to sleep; they are coming to be treated, so when there is no medicine or staff in these facilities then it lacks the reason why these facilities are there.

They are not staffed and a lot of money is spent on the structure of these facilities, the beds are put there but there if there is no linen. Why are the facilities put there for the first place? There are no other sectors in this County that have been given grants like the Health sector.

Mr. Speaker sir, the problem is actually with the legislation of this House. We have not legislated on grants and if we don't legislate on the grants, the Executive is allowed to use this money how they feel they want to use it. So, that is our mistake and we need to come up with a legislation as fast as possible.

Mr. Speaker, I am glad that this Motion has come to the floor of this House, because Committees are busy doing their work but the report that the Committees bring are passed by the Assembly and are not keenly implemented. But as a Motion, am sure the Committee on Implementation is going to do its job and this Motion is going to be implemented. Thank you, Mr. Speaker.

**Hon. Speaker:** Hon. Marion and then Hon. Kamweru.

**Hon. Marion Njeri** (Nominated Member): Thank you, Mr. Speaker, and I would like to thank Hon. Karen for bringing up this Motion and I think everyone has contributed very well. I would like to contribute on the issue of personnel as Labour Committee. We have been accused many times of overs blotted especially when the Public Service Board comes and tell us so, yet we have seen that Hospital such as Pumwani, which on 27<sup>th</sup> March, 2014 was on a go slow because of under-staffing. We have been told that the County Government has too many workers yet we don't have enough nurses. There is no way we can have Hospitals without nurses and medical personnel.

The institutions, particularly Pumwani Hospital, on 27<sup>th</sup> of March, 2014 at night, Hon. Karen called almost all the ladies, going round looking for Hospitals that have Members of staff. We cannot be saying that we have devolved Health Centers and yet we cannot maintain them. If we cannot maintain, can we say

that Nairobi County cannot maintain these devolved Health Services because there is lack of services? Lack of nurses and doctors amounts to murder, because if someone is giving birth and there is no Nurse or Midwife, the child may die and that to me amounts to murder. It is very sad that we take things very lightly in this Assembly, with a lot of sideshows and yet we have very important issues that we should be dealing with.

Things like Health Services and staffing them is paramount and should not be negotiable and we should not be discussing whether we are employing more and what the wage bill is going to be. We need more nurses, we must have more nurses. Otherwise, we give back hospitals to the Government because we are not able to do it. Thank you, Mr. Speaker.

**Hon. Speaker:** Thank you very much. Hon. Kamweru.

**Hon. Rachael Kamweru** (Nominated Member): Mr. Speaker, I beg to support this Motion. The sanctity of life is paramount even to God Almighty and we shall be held accountable as legislators of this County if we take these issues without the seriousness that they deserve.

Mr. Speaker, having looked at this, I am a victim of circumstances. A month ago I gave a lady lift who wanted to give birth. So, the first thing I thought was to take the lady to Pumwani Maternity. On reaching there, the Ultra Sound machine was not working and I had to call the Chairman of Health and the rest of the Members and I realized this lady might die in my car. The only option to do was to take this lady to a private Hospital known as Jamaa. I called up the Members of the Assembly to come and donate blood and help me at least put deposit for this lady because we had to save her life.

Mr. Speaker, what was astonishing, out of this Motion I see equipment but next to, for example, Pumwani Maternity, if you want the Ultra Sound there is a private hospital next and you will be told go to next door, there private hospital which has Ultra Sound. I really wondered and I asked myself if the equipment there are by design or have they been put down, so that you are told to go to the next door. Actually, next to Pumwani, there is private hospital which has all these facilities and I kept on wondering what is happening, I think this needs to be investigated.

Mr. Speaker, the other issue I realized is that the workers are understaffed but even if these workers work, they don't have overtime. Even if you have workers and they are not paid overtime the system will be the same. I am looking at them doing overtime, just like they do for the guys who clamp cars; on Saturday and Sunday they are given an extra shilling for carrying that hard iron clamp on their backs. Why can't we have overtime for these workers who are in our Health facilities?

Mr. Speaker, at times we may not have enough money but we have issues of PPP (Private Public Partnership) whereby equipment are brought to these hospitals and am looking at this on the Health Sector. Looking at the issue of our Health, do we have a Health School whereby we train our people for this training or we wait for them to come from KMTC or from Kenyatta, Nairobi Hospital or Mater?

It is a high time we remember the rallying call of this Government was on Health. Mr. Speaker, it is wanting and I support this Motion with the vigor that it deserves and I thank Karen for that. Thank you.

**Hon. Speaker:** Hon. Manyala and then Hon. Bishop William.

**Hon. Member for Kayole South Ward** (Ms. Elizabeth Manyala): Thank you, Mr. Speaker, I want to support this Motion but it is also good to know the situational analysis where Health sector is coming from and also the devolved system of Government and the bottlenecks that it has faced since its inception especially the one geared towards health. I have been a Member of Health Sectoral Committee and I am aware there are bottlenecks.

Number one, as you are aware that meager pay of the nurses led to a mass exodus of nurses who left this County and went to work in overseas Countries. That left a skeleton of nurses around and at the same time when devolution took shape there was still a contentious issue whereby the National Government was still feeling that the Counties are not of age to handle Health matters.

It was just now given a fully-fledged that proportion last year as I may say, because in Nairobi County we have levels. They are called Level 1, Level 2. Level 3 up to Level 4 and I think that the County has scored very well in a short time frame and the Referral is left at National Level.

The challenges that we are facing as Nairobians is that there's a lot of traffic. If you check, even today the census, Nairobi by day we are 3.6 million, by night we are 4 million. Actually I am calling upon the Health Committee to come up with a Bill. A Bill that if any person will be coming from the neighboring County, then they should pay for services they will get in the County. Otherwise, this is where we are having these challenges because everybody coming from upcountry or from these other Counties whereby they are also given a portion of their health sector money but when they feel they want proper and quality healthcare they all come to Nairobi and then our facilities become congested and we cry foul because we cannot cope.

At one time, I asked Dr. Suleh of Mbagathi Hospital that why don't you behave like the sons of thunder? Remember Jesus, when he was with his disciples and he wanted to cross through Samaria and Sabbath was approaching. The Samaritans refused that they will not allow them access because during the building of Jerusalem they offered a hand to help them in the construction and they shunned them because they were heathens. They said master why don't you call fire from heaven so that it can kill these Samaritans?

What I am trying to say here is that the challenge we are getting at the moment is that we have a lot of traffic visiting our facilities, coming from the neighboring Counties and also challenges of nurses. In Labor Committee when we had a meeting with the County Service Board about hiring because we were equally concerned about the bloated workforce in the County. We have seen that very soon in fact next week they will start hiring nurses for this County. Yesterday you heard we have stopped them from

executing their mandate. I wonder where this will now leave them if they leave these health workers from being employed because the situation on the ground is wanting.

You cannot talk about health and you leave the solid waste management. When we talk of solid waste management we are talking of crematoria. Langata is full to the brim. Now bodies are being piled. When you bury, you do it on top of another. Very soon we will lack where to bury our loved ones. This is why I am calling upon the Health Committee to come up with a comprehensive Bill that will factor in the crematoria solid waste. In fact even petition this County Assembly because I know that solid waste was erroneously mutilated from your Committee. It should be brought back so that you work and you have a one stop shop whereby when you are coming up with a budget then it is a budget that is encompassing and is giving service delivery to Nairobians otherwise I beg to support.

**Hon. Speaker:** Hon. Mwaura.

**Hon. Member for Clay City Ward (Mr. Erastus Muiruri):** Mr. Speaker, The Standing Order allows me to say something under number 80. I am worried that someone might rise on the floor to say that we don't have a quorum and I have a question I want to put to the Chairman of Labor. Anybody who might be having that idea doesn't come to the floor to dismiss the House. Deputy Speaker, kindly with all the respect---

**Hon. Speaker:** Order Hon. Member!

**Hon. Deputy Speaker:** Just sit, just sit. Mr. Speaker the Hon. Member here is misleading the House. It is not his duty to know whether there is quorum or lack of it. Let's proceed, Mr. Speaker.

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

**Hon. Karen Wanjiku:** Thank you Mr. Speaker sir. I want to thank all the Members who have contributed to this very important Motion and even others who have not spoken because we cannot all speak. I don't want to waste more time but I want to say that understaffing is a very serious matter even if our wage bill is very high. When we went to Pumwani we learnt that 2 nurses help 80 mothers to give birth per night and one doctor. It is very serious, thank you Mr. Speaker sir.

**Hon. Speaker:** Hon. Members, I put the question that,

*(Question put and agreed to)*

**Hon. Speaker:** Next Order.

**Hon. Erastus Muiruri:** Point of Order.

**Hon. Speaker:** Yes Hon. Mwaura.

**Hon. Erastus Muiruri:** Mr. Speaker, I am not Mwaura I am Erastus Muiruri.

**Hon. Speaker:** Hon. Muiruri, Clay Works.

**Hon. Erastus Muiruri:** The sad thing is that Mwaura was my worst competitor so---

*(Loud consultations)*

**Hon. Speaker:** I beg your pardon.

**Hon. Erastus Muiruri:** ---try to avoid that name. Mr. Speaker, last week I sought a statement from the Committee on Labor about our brothers and sisters who were suspended; fifty one of them from the Department of Car Park and those people who clamp. We might proceed on recess most likely from tomorrow and it will be bad for us to go and leave our brothers having been suspended. I would like to get your guidance about their fate. To date they have not been reinstated and they are still hanging around. They have been barred from even accessing the County premises.

**Hon. Speaker:** Hon. Members, you'll recall yesterday I issued an order that we get the list of the mass sackings by the County Government. Is the list with us? Labor.

**Hon. Elizabeth Manyala:** Mr. Speaker sir, we are working on it. Tomorrow the report will be here and the good news is that the letters are being written back to them because it was erroneous. As we undertake the job seriously as Members of Labor Committee of overseeing, we have also cracked the whip by asking whether due process was followed and whether there are tools that they have adhered to. When I talk of tools, I mean the HR manual, Employment Act which is not even factored in there which we could use to synchronize or check to be a benchmarking one. Tomorrow you will get a comprehensive report and it will be tabled. The good news which I don't want to preempt on tomorrow's report is that you hold your horses. The carrots are being dangled.

**Hon. Speaker:** Very well thank you very much Chairperson Labor. Next Order.

## MOTION

**Hon. Speaker:** Hon. Adow, Eastleigh.

**Hon. Member for Eastleigh South Ward (Mr. Osman Adow):** Thank you Mr. Speaker. I had written this Motion such a long time ago---

**Hon. Speaker:** Yes Hon. Leader of Majority is on a Point of Order.

**Hon. Leader of Majority:** Mr. Speaker, if I am not wrong today it is only that the Motion was for Karen. I think Karen must know very well that we don't have a quorum right now. I don't know how we can continue with our business when we don't have a quorum.

**Hon. Osman Adow:** Mr. Speaker I did not want to him to---

**Hon. Speaker:** Hon. Majority actually he had important information to ask.

**Hon. Osman Adow:** I wanted to defer it until after the recess because I had written it such a long time ago and I forgot about it. I was only informed about an hour ago that I have a Motion. I request that it be deferred, thank you.

**Hon. Speaker:** Very well. Clerk can you ring the bell.

**Hon. Deputy Speaker:** Mr. Speaker before the bell is rung, allow me kindly to request for the adjournment of the House for lack of time and again Members here are very exhausted.

**Hon. Daniel Mutiso:** Thank you Mr. Speaker sir, I second the Deputy Speaker for adjournment until tomorrow, thank you.

**Hon. Speaker:** Yes, Hon. Members, thank you Hon. Chairperson Liaison Committee and Deputy Speaker. Actually we have dispensed off with today's business and there being no other business the House is adjourned until tomorrow 2.30 p.m. I thank you.

***The house rose at 4.43 p.m.***