



## NAIROBI CITY COUNTY ASSEMBLY

### OFFICIAL REPORT

#### First County Assembly – Third Session

Thursday, 26<sup>th</sup> March, 2015

The House met at 2:30 p.m.

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

### PRAYERS

*(Hon. Osman Adow's phone rings loudly)*

**Hon. Speaker:** Hon. Adow! Serjeant-At-Arms, ring the bell for ten minutes.

*(Phone rings)*

**Hon. Speaker:** Hon. Members, please control your telephones. Okay, Hon. Members, Order! Can we start Order of the--- Yes, Hon. Masiga!

**Hon. Member for Eastleigh South Ward** (Mr. Nelson Masiga): Thank you Mr. Speaker sir. Yesterday, you put forward that you are going to communicate to the Assembly about the finances of the County Assembly. So, I was waiting to see the communication. We are going through the Order Paper but we haven't got communication from your Chair.

*(Applause)*

**Hon. Speaker:** Vey well, Hon. Members. After yesterday, we had a long meeting this morning with the officers concerned. The Chief Secretary, the CEC Finance and the acting Chief Finance Officer, and we have been promised that by Monday, we will have our finances in a very stable condition. So, we are meeting again on Tuesday after they have put the money by Monday in our accounts. Thank you.

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## STATEMENTS

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

**Hon. Member for Karura Ward** (Mr. Kamau Thuo): Thank you Hon. Speaker sir for the opportunity this afternoon to request a statement on behalf of Karura residents and by extension, Nairobi County. Hon. Speaker, pursuant to Standing Order 41 (2 c), I wish to request for a statement from the Chairperson of the Sectoral Committee on Culture and Community Services regarding the rehabilitation of City Park. Hon. Speaker, it is in the public domain that the County Government of Nairobi signed a contract with the Aga Khan Development Network to rehabilitate the City Park. In the statement, the Chairperson should inquire into and report on the following:

1. Area to be rehabilitated by the AKDN
2. Content of the contract between the County Government of Nairobi and the AKDN,
3. Status of implementation of the contract between the County Government of Nairobi and the AKDN and when the rehabilitation process will start.

Mr. Speaker, allow me to also add that City Park area is a prime area in Nairobi and some plots were annexed some decades ago. So, I also want the Chairperson to shed light on the acreage of City Park. I would say 'City Park' Park because there is a City Park Market. So, I would direct that this statement be answered soonest possible. Thank you.

**Hon. Speaker:** Very well, Chairman of Sectorial Committee on Culture and Community, Hon. Milare.

**Hon. Member for Harambee Ward** (Mr. Ronald Milare): Thank you Mr. Speaker. I will give response when we are back from recess. That is the first week of May.

**Hon. Speaker:** Very well. Hon. Isaac Ngige? He is not in. Hon. Mburu of Clay City? Chief Whip will read the statement on behalf of Ngige and Mburu.

**Hon. Kamau Thuo:** Mr. Speaker, in the earlier request, the Chairman had admitted that the soonest possible he can answer that statement is the first week of May. Kindly intervene soonest possible. Mr. Speaker, I know you understand the situation of City Park and this is an issue that has dragged. If this Sectoral Committee can give this matter a priority, because the land grabbers of Nairobi are watching. We need to do something before they annex more land in City Park. Thank you sir.

**Hon. Speaker:** Hon. Chairperson.

**Hon. Ronald Milare:** Thank you Mr. Speaker. We appreciate the concern of the Member but honestly, we need at least two weeks minimum because we need to engage the Government, the Aga Khan Foundation. We need to do our due diligence. So, we kindly request for at least two weeks.

**Hon. Speaker:** Yes. Two weeks it is. Hon. Chief Whip, Minority.

**Hon. Chief Whip of Minority (Mr. Hashim Kamau):** Mr. Speaker, on behalf of Hon. Isaac Ngige, pursuant to Standing Order no. 41 (2 c), he wishes to request for a statement from the Chairperson of Sectoral Committee on Transport and Public Works regarding road projects that are under Kenya Urban Roads Authority. Hon. Speaker, the Kenya Urban Roads Authority is responsible for the management, development, rehabilitation and maintenance of all public roads in the Country pursuant to section 10 (1) of the Roads Act 2007. Hon. Speaker, the Chairperson should inquire into and report on:

- 1) Whether the Kenya Urban Roads Authority (KURA) is working in Collaboration with the Nairobi City County Government on roads projects.
- 2) Whether the Kenya Urban Roads Authority does conduct public participation when awarding roads project.
- 3) Programs and budget for KURA during the financial year 2013/14 and 2014/15.
- 4) Plans by KURA to work with the County Government in its preparation of projects of Financial Year 2015/16.

**Hon. Member for Lucky Summer Ward (Mr. Kennedy Oduro):** Thank you Mr. Speaker sir. We will reply to this after we resume in a week's time.

**Hon. Speaker:** Very good. Hon. Mburu, Clay Works.

**Hon. Chief Whip of Minority:** Again, Mr. Speaker, on behalf of Hon. Erastus Mburu, pursuant to Standing Order no. 41 (2 c), he wishes to request for a statement from the Chairperson of Sectorial Committee on Labor and Social Welfare regarding the suspension from office of 51 County employees. Hon. Speaker, the County Executive has suspended 51 Members of staff from different departments within the last one week. This has been done without any reasons given to the affected employees. Hon. Speaker, in the statement, the Chairperson should inquire into and report on reasons behind the suspension of the 51 County employees.

**Hon. Speaker:** Very well. Hon. Chairperson of Labor, that is a very serious thing.

**Hon. Member for Utalii Ward (Mr. Wilson Ochola):** Thank you Mr. Speaker sir. We are going to report, because this is a serious matter and as a Labor Committee, we are doing something on it. Next week, we are going to report that they are going to return back to work. Thank you. Next week, on Tuesday, Mr. Speaker.

**Hon. Speaker:** Hon. Members, response on statement sought by Hon. David Mberia from the Chairperson of Sectorial Committee on Planning and Housing regarding the grabbed land LR no. 1159/70 belonging to Karen Health Center by PCEA Church in Karen.

**Hon. Nelson Masiga:** Thank you Mr. Speaker sir. On 24<sup>th</sup> April, 2014, Hon. David Mberia, MCA, rose on the floor of the Assembly, pursuant to Standing Order no. 41 (2C) and requested the Chairperson of the Planning and Housing Committee for a statement regarding grabbed plot LR no. 1159/70 belonging to Karen Health Center by the PCEA Church in Karen Ward. He further asked the Chairperson to inquire and report on the owners of plot LR No. 1159/365, the owners of plot LR o. 1159/290, to provide copies of title deed which PCEA Church claims to have, to provide the County title deed of LR No. 1159/70, the people who approved the plan number CPFAE182 for the construction of a boundary wall on public property and what action is being taken against them.

Who allocated the public utility to private individuals and the steps taken through the EACC to prosecute the culprits?

1. Measures being put in place by the County Government to secure the particular public utility and fence it off ready for construction of a modern district hospital and a maternity wing for our women.

Mr. Speaker sir, the Committee wrote to the County Secretary on 30<sup>th</sup> April, 2014 requesting they be furnished with a written response to the statement requested by Hon. David Mberia. Mr. Speaker sir, in this regard I wish to report to the Assembly as follows:

### **Reports on LR no. 1159/70 Karen Ward**

The County Secretary responded via letter reference SGD/LS/003812/BMK/ZNR dated 16<sup>th</sup> May, 2014. A summary of the response is as follows; The National Land Commission and the Ethics and Corruption Commission were being engaged for further information. The County Executive Committee Member of Lands, Planning and Housing through the County Secretary requested for more time to gather more information from the various parties concerned.

Further, the County Secretary responded via letter reference SGD/LS/0014366/PW/ZNR dated 4<sup>th</sup> March, 2015. A summary of the response is as follows---

*(Loud consultations)*

**Hon. Speaker:** Order! Can you get the people by the door outside to leave please, there is a lot of noise there.

**Hon. Nelson Masiga:** Records of the County indicate that the plot is a public utility land accommodating the existing Karen Health Center and a proposed Fire Station. The County Executive has written letters to the Chairmen of the National Land Commission and the Ethics and Anti-Corruption Commission with the aim of repossessing the land from the PCEA Church.

Mr. Speaker, the Committee visited the Land in question on 25<sup>th</sup> February, 2015 and observed as follows: There was ongoing construction works at the site and there was no construction site signboard and the four men on the site had no construction approval document on site.

Mr. Speaker sir, the Planning and Housing Committee reviewed the response and established that the subject plot is indeed County property and there is need for it to revert back to the County Government for public use. Mr. Speaker, copies of the response from the County Secretary has been attached herein for ease of reference. Mr. Speaker, I beg to lay this response. Thank you.

**Hon. Speaker:** Hon. Imwatok, you will not be in this Assembly today because of your unbecoming behavior and you are therefore asked to leave this Assembly.

*(Applause)*

**Hon. Speaker:** Hon. Petronilla, she is laying documents.

**Hon. Petronilla Achieng** (Nominated Member): Mr. Speaker, pursuant to Standing Order number 180(6), I beg to lay the following Paper on the Table of the Assembly today, Thursday 26<sup>th</sup> March, 2015.

“ The report of the Select Committee on Budgets and Appropriations Committee of the Nairobi City County, Fiscal Strategy Paper for the year 2015/2016 and over the Medium Term”. I beg to lay.

*(Hon. Petronilla Achieng lays the Papers)*

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

**Hon. Petronilla Acheing:** Mr. Speaker sir, I beg to given Notice of the following Motion. That this Assembly adopts the Report on the Select Committee on Budget and Appropriations, Nairobi City County Fiscal Strategy Paper for the financial year 2015/2016 and over the Medium Term laid on the Table of the Assembly today, Thursday 26<sup>th</sup> March, 2015. I beg to lay.

*(Hon. Petronilla Achieng lays the Papers)*

**Hon. Speaker:** Hon. Members, it is very unfortunate that we have to send Members out of this Assembly due to gross misconduct. It is unfortunate when a Member mocks the authority of the Assembly as in the Mace. The Mace is the authority of this Assembly and nobody including the Speaker has the right to mock it. Therefore, I order that the Member be named subsequent to the Powers and Privilege Committee to deal with him accordingly.

*(Applause)*

**Hon. Speaker:** Yes, Hon. Nyang'wara.

**Hon. Member for Viwandani Ward** (Mr. Samuel Nyang'wara): Mr. Speaker, I want to thank you for the ruling you have just made on the floor of this House. Mr. Speaker, we need to know whether once you have chased a Member from the Floor of this House, should he actually go to the public galleries?

**Hon. Speaker:** He should be out of the precincts of the Assembly and Sargent-At-Arms---

*(Loud consultations)*

**Hon. Speaker:** Order Members!

**Hon. Chief Whip Majority:** Thank you, Mr. Speaker for this opportunity. For the first time this Committee on Planning – I used to call it the notorious Committee – however, Mr. Speaker, for the first time they have done a good job. Mr. Speaker, I think the people of Karen can now rest assured that this particular parcel of land will revert back to them for public use, not for private use.

Mr. Speaker, now that the Committee has concluded that this particular parcel of land belongs to the County Government and for that matter, to Karen Health Center and whatever development has been happening on this particular plot is illegal. Mr. Speaker, it is now upon the CEC Member for Lands to ensure that the site is cleared of any development.

Mr. Speaker, I am capable now that I have the authority of the County to mobilize the people of Karen to go and clear that site which belongs to the public. Mr. Speaker, it is now upon the Committee to write to the CEC Member to send enforcement officers to clear the site.

Secondly, Mr. Speaker, the Health Department was supposed to fence off the entire property belonging to them. Mr. Speaker, I hope this time they are going to fence it off. There is no way a church where we go to pray and give thanks can grab---

Mr. Speaker, the other day we saw a church in Eldoret being demolished because of grabbing of public land. I believe this particular church will not wait for either the enforcement officers to clear this site or the power of the people of Karen to go and remove what is illegal on that particular site. Thank you.

**Hon. Speaker:** Hon. Diana Kapeen.

**Hon. Member for South C Ward** (Ms. Dianah Kapeen): Thank you, Mr. Speaker. I would like to support the work that the Planning Committee has done regarding the health facility in Karen. I am just concerned that the Hon. Whip--- I want to be guided by the Speaker's Chair if the recommendations of the Planning Committee should be pursued by the CEC Planning or it is the Implementation Committee that should take it over from there, Mr. Speaker.

**Hon. Speaker:** I will need two interjections so that I can make a ruling on that.

**Hon. Kamau Thuo:** Thank you, Hon. Speaker. On this matter of the Karen land and also the Gigiri Fire Station, it was a twin issue for the Committee--- Hon. Speaker, I must say that I am very happy by the report that has been given by the Planning Committee. Mr. Speaker, I want you to hear this because Hon. Mberia and myself, we have stood here countless times, the Hon. Member pursuing the Karen issue and I was pursuing the Gigiri issue.

Mr. Speaker, I humbly request that as you give direction as far as this matter is concerned because it is a matter that has been investigated. Mr. Speaker, the facts are well known and the only thing that is remaining is the repossession of that particular utility. I would like to refresh your mind, Hon. Speaker, that two weeks ago the Planning Committee, because it has now been redeemed as a result of the reports they are giving this House; they brought a report on Gigiri Fire Station---

Mr. Speaker, I want that as you give direction you join these matters together. However, that report was not accompanied with a survey map of the area. Hon. Speaker, as you rule kindly also incorporate the issue of Gigiri Fire Station because it is a public utility that must revert back to the people.

**Hon. Speaker:** Hon. Ngaruiya and then we close shop. Hon. Members, consult in low tones.

**Hon. Patrick Ngaruiya:** Thank you, Mr. Speaker. The issue at hand on the Karen land, it is not an issue that should again be taken to other Committees. Mr. Speaker, this is an issue for you to make a ruling and let us have a ruling on the two that is the Karen land issue and also the issue to do with the Fire Station in Gigiri. Mr. Speaker, I think we need to set a precedent that in this House we can do something and act promptly. Thank you, Mr. Speaker.



**Hon. Speaker:** Last, Hon. Mberia.

**Hon. Chief Whip Majority:** Mr. Speaker, I think as the Chair, you need to give direction just as the Members said - because it is now a very able Committee of this House – that you give a ruling on these two matters, the Karen and the Gigiri one. Mr. Speaker, we do not want to take things back to the Executive now that the Committee has recommended their own solutions so that these two public plots belong to respective Wards and their electorate. So, Mr. Speaker, give guidance and make a serious ruling which will set a precedent in this County Assembly. Thank you.

**Hon. Speaker:** Thank you, Hon. Members. Indeed, we want to say thank you to the Committee of Planning and I want to make the following rulings in this regard. First of all, the representatives of the people of Nairobi brought here, as trustees and protectors of their land, I want to warn the land grabbers in the City whether protected by whomever, that the County Assembly of this City will now take its rightful role in combating the land grabbers themselves.

Hon. Members, I want to say this without fear or favor, notwithstanding the fact that I know that we are going to step on very high people's toes but it is your right to do that. First, the land in Karen and Gigiri, I want to do this very blindly momentarily, the Implementation Committee--- listen to me very carefully, Chairman of Implementation. That land should be cleared of any people or buildings on those plots and revert them back to the County Government for the rightful use of the fire station and the clinic in Karen. I thank you. When we come back from the recess, Chairman of Implementation and Planning, we want a report on this floor that you were threatened and you do not come out of your house anymore because of doing what is right for the people of Nairobi. I thank you.

**Hon. Leader of Majority:** Thank you Mr. Speaker. I think I know about that land in Gigiri. It is near police stations and there is another petrol station near it. I think the part of it that was grabbed--- even the remaining one I think is occupied by Chatur if I am not wrong. They even got approval to construct I think a five star hotel there.

I think we should move very fast to take it away from them but also in conjunction with the Executive side if they give us support

**Hon. Speaker:** Very well. Any Executive who refuses to cooperate with you, you bring him on the floor and we will deal with him or her accordingly. Next Order



**MOTION****REPORT OF PUBLIC ACCOUNTS COMMITTEE ON ACCOUNTS OF DEFUNCT CITY COUNCIL OF  
NAIROBI FOR PERIOD ENDED 28<sup>TH</sup> FEBRUARY 2013**

**Hon. Member for Embakasi West Ward** (Mr. Robert Mbatia): Thank you Mr. Speaker, I beg to request the Assembly to adopt the Report of the Select Committee on Public Accounts on the Report of the Auditor General of the City Council of Nairobi now defunct for the 8 months period ended 28<sup>th</sup> February, 2013 laid on the table of the Assembly on 25<sup>th</sup> March, 2015.

Mr. Speaker as I begin the Public Accounts Committee and pursuant to provision of Standing Order number 186 has the privilege and pleasure to present to this House the Report of Public Accounts Committee findings on the Report of the said period ended 28<sup>th</sup> February 2013.

The Committee derives its mandate from the Standing Order 186(2) (a) and the main objective of the Committee is to ensure the Nairobi City County public funds are prudently and efficiently utilized. The basis of the Committee execution of its mandate is annual and special audits reports prepared by the Auditor General.

The Committee comprises of the following Members:

1. Hon. Andrew Mbau
2. Hon. Alex Otieno
3. Hon. Rose Ogonda
4. Hon. Margaret Sewe
5. Hon. Tabitha Juma
6. Hon. Julius Mwaniki
7. Hon. Stephen Murathi Kambi
8. Hon. Jackson Mwangi Ngare
9. Hon. Martin Waweru Gichuhi
10. Hon. Njuguna Mwangi
11. Hon. Martin Mugo Kanyi
12. Hon. Ronald M. Milare
13. Hon. Benson Amutavi
14. Hon. Elkana O. Mauti
15. Hon. Peter Isuha
16. Hon. Morris Otieno Gari
17. Hon. Peter A. Imwatok
18. Hon. Daniel K. Mutiso
19. Hon. Robert Mbatia

Mr. Speaker, allow me also thank the entire Membership of the Committee for its hard work and commitment which made the taking of evidence and production of this report a success.

Very fast Mr. Speaker I would like to highlight a few things and the very first item that I have seen and might send wrong signals--- I would like us to go very fast on item 31 on investment.

Mr. Speaker there are some recommendations there which are for the auditors', the Committee recommends that the said, on page 26, the said accounts of Nairobi City Water and Sewerage Company should be consolidated with the accounts of Nairobi City County.

My reference to this is, the Auditor did not mean that the Public Accounts Committee be overlooking both the funds and investments. It only meant that this is an investment that is fully owned by Nairobi City County, so it should be reported in one document to know the net worth of the County. So Mr. Speaker, after the accounts have been consolidated we still know there is still one investment oversight Committee which is Public Investment Committee (PIC) and there is one Public Accounts Committee that oversees funds so this did not mean we were doing away with one oversight Committee for the other so that is one explanation I needed to clarify before this House to allay any fears of a dissolution of any particular Committee.

Mr. Speaker this report contains findings and other relevant details of the financial statements of the City Council of Nairobi audit conducted by the Auditor General which comprise of the statements of the financial position as at 28<sup>th</sup> February 2013 and the statements of the financial performance, statement of changes in net assets and capital and reserves and statements of cash flow for the year that ended and summary of significant accounting policies and other explanatory information in accordance with provision of Article 229 of the Constitution of Kenya and Section 14 of the Public Audit Act 2003.

Mr. Speaker I would also like to highlight the Auditor General's adverse opinion. In the Auditor General opinion the financial statement did not fairly present the position of the Council as at 28<sup>th</sup> February 2013 and its financial performance for the year that ended in accordance with the International Public Sector Accounting Standards and Public Audit Act 2003.

The reason for this adverse opinion is:

1. Not all the information and explanation required for the purpose of audit were received
2. The accounts were not properly maintained
3. The financial statement did not comply with the Local Government Act cap 265

Mr. Speaker finally we touched on few areas:

1. Accuracy of financial statement
2. Non-current asset

3. Value of land and buildings and supported values, cash equivalents, debtors and receivables, payables, creditors, accruals and provisions, long term loans, contingent liabilities, housing fund and other fund reserves, financial position of the defunct Council, fire damage at one facility the market, equity bank loan facility, bank overdrafts, renewal funds

**Hon. Speaker:** Order Hon. Member! The person whose phone is ringing can you please get out of this Assembly? Can you get out of this Assembly? The person whose phone please you have to withdraw from the Assembly, this is 2015, no joke. I said the person whose phone was ringing to withdraw from the Assembly from the rest of the day. Sergeant-At- Arms!

I said the person whose phone is ringing is suspended from the Assembly for the rest of the day and from the precincts of the Assembly. Sergeant-At- Arms could you get the Member out of the Assembly and precincts of the Assembly

*(Hon. Janet Wala walks out of the Assembly)*

**Hon. Robert Mbatia:** Thank you Mr. Speaker we also dealt with renewal funds and investments and I have noted that the disclosure by Auditor General did not mean dissolution of one oversight Committee over the other.

After a very lengthy period from when this report was committed to us which was on 2<sup>nd</sup> December 2014 to date we have managed to invite several witness, we have asked for information and we want also to thank your office, the office of the Clerk and the entire Assembly and also note that Mr. Speaker we have had several frustrations from the Executive, we have postponed meetings, some never appeared before us, some documents were never submitted to us and that is by the end of this we have recommended severe disciplinary actions on some senior officers. I would not like to move much because Members already have the report, I beg to move and I request Hon. Mutiso my able deputy to second. Thank you Mr. Speaker

**Hon. Member for Ngei Ward** (Mr. Daniel Mutiso): Thank you Mr. Speaker, I arise to support this Motion, to second this Motion, Mr. Speaker as we know this is the first report of the Public Accounts Committee to see this floor since its inception and we know we are fighting for our people who elected us and I request all the Members to support this Motion to see whether we can change our City, thank you Mr. Speaker sir.

**Hon. Speaker:** Very well Hon. Members. Hon. Members I now propose that,

*(The question is proposed)*

**Hon. Speaker:** Hon. Members, Hon. Thuo ex *gathundo*.

*(Applause)*

**Hon. Member for Dandora Area III Ward** (Mr. Charles Thuo Wakarindi): Thank you Mr. Speaker and indeed the whole Assembly, today we are embarking on a very serious issue because we are interrogating a report that talks about the integrity of people who have been mandated to be safeguards and custodians of public money.

Mr. Speaker I have some reservations on this report and my conscience does not allow me to support it. I stand to oppose this report in all terms possible because the integrity of this House is at risk. We are guided by the Standing Order. The Standing Order determines what is going to happen on this floor and when we came to this Assembly we amended the Standing Order and provided for a Public Investment Committee.

A Committee that is supposed to look into the accounts of the investments of this County; that is a known fact.

*(Applause)*

**Hon. Charles Thuo Wakarindi:** Mr. Speaker the Public Investment Committee is leaving today evening to go to Naivasha to look into the audited reports of Nairobi City Water and Sewerage Company up to the year ended 2012.

Mr. Speaker when I see a report that seeks to claim that the Public Investment Committee, a Committee that public money has been invested and this County has paid a lot of money on this County Committee that is should be consolidated with PAC report, that is fallacy, an abuse of the process and it is abuse of intelligence of Members of this Assembly.

*(Applause)*

**Hon. Charles Thuo Wakarindi:** It is on this basis that I stand to oppose this report and it should be rejected in totality if Members of this Assembly have any respect of themselves. If Members of this Assembly have any respect for laws they pass on this floor then we must reject this report and it must be forgotten so as to set the record straight. Next time a Committee goes to make a report we must have a clear boundary and we must never go against--- protect me Mr. Speaker--- I don't want to be informed Mr. Speaker, I'm perfectly informed, and I'm not one of the people that are easily intimidated---

**Hon. Member for Dandora area III Ward** (Mr. Charles Thuo Wakarindi): .....As I was saying I thank you Mr. Speaker, I am not ready to be informed.

*(Loud consultation)*

**Hon. Speaker:** Order! Order Members! The Member does not want your information.

**Hon. Charles Thuo Wakarindi:** Thank you Mr. Speaker sir, so Mr. Speaker---

*(Loud consultations)*

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

*(Loud consultations)*

**Hon. Charles Thuo Wakarindi:** As I sit down I urge the Members of this Assembly to vote for the stopping of this report and it must be brought down. Thank you Mr. Speaker sir.

**Hon. Speaker:** Hon. Chief Whip and then Hon. Kapeen.

*(Loud consultations)*

**Hon. Member for Karen Ward** (Mr. David Njilithia Mberia): Mr. Speaker I believe the Chairman of the Public Investment Committee which is an oversight Committee in this House is trying to mislead this House. We want the Chairman of Public Investment Committee to declare his interest, protect me Mr. Speaker.

*(Loud consultations)*

**Hon. Speaker:** Order Members! Hon. Milly this is the last warning! Hon. Members I don't know what heat you guys are on, this is a Motion like any other Motion of the Assembly do not come and confuse the Members of Nairobi City County Assembly, listen to each other, you are a family at the end of the day. I will not hesitate to take action against any Member who is erratic, it is unfortunate that you cannot listen to each other, we are not in a contest of who can talk best and who can sound best, listen to what has been brought into the floor, if you want it or you don't want it is up to you, it is unfortunate for you to come and bring shenanigans here. Consult in low tones please.

**Hon. David Njilithia Mberia:** Thank you Mr. Speaker I believe this one page---

**Hon. Speaker:** There's a Point of Order here Hon. ---

**Hon. Nominated Member** (Hon. Karen Wanjiku Githaiga): Mr. Speaker sir Point of Order under Standing Order number 74, I want to address you Mr. Speaker,

**Hon. Speaker:** Yes!

**Hon. Karen Wanjiku Githaiga:** I think why there's a lot of heat, is because we've just been given this report, in fact I can't even comment because I don't know what's in this report.

**Hon. Speaker:** Then if you have nothing to comment why don't you let others comment?

**Hon. Karen Wanjiku Githaiga:** I just want to talk, we should be given enough time, this's a very important report to Nairobians we should be given enough time to read the contents of this report, it should not be sneaked to us, we should know what we are passing here or what we are not passing. We have just been given this report and we have the right, even what is in the Order Paper today has not been updated in the website, so we shouldn't be rushed.

*(Applause)*

**Hon. Speaker:** Hon. finish please!

**Hon. David Njilithia Mberia:** Mr. Speaker: I believe the integrity of this House is at stake---

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

**Hon. David Njilithia Mberia:** Mr. Speaker the Chairman of Public Investment Committee is trying to mislead this County Assembly.

*(Loud consultations)*

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

**Hon. David Njilithia Mberia:** This page, the entire 26 pages are reports collected by the Public Accounts Committee, 26 pages.

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

**Hon. David Njilithia Mberia:** One page which was brought by the Auditor General questioning, because it is about finances that's why this paragraph was included in this 27 page report, the Chairman of PIC should not mislead the House. Let us ventilate this report and do a resolution as a House. You have heard what has been happening in Parliament, we have never seen a report from Public Investment Committee for the last two years.

*(Loud consultations)*

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

*(Loud consultations)*

**Hon. David Njilithia Mberia:** The Public Accounts Committee has done a good job, we want to know the interest of Public Investment Committee, let them compile their report and table in this House for adoption, let this Chairman not mistreat this House. Thank you sir.

**Hon. Speaker:** Hon. Thuo and then Hon. Kapeen!

**Hon. Kamau Thuo:** Hon. Speaker, ---

*(Loud consultations)*

**Hon. Speaker:** Order Members! Hon. Thuo Chairman PIC listen please and sit down.

**Hon. Kamau Thuo:** For the first time I must say I am very hesitant---

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

**Hon. Kamau Thuo:** My point is, I am very hesitant to comment or give my views or opinion on this report, because we must respect jurisdictions. PIC has a mandate and it must carry that mandate. The issue of contention is page 26, we might make a precedent, and you need to give us direction on that particular page Mr. Speaker, because if we go ahead we can as well close shop as the Public Investment Committee, because this Committee is eating into our mandate. Kindly give us direction and some of us will be very free to contribute to this matter. Thank you.

**Hon Speaker:** Ok Hon. Members Hon. Diana Kapeen and then Hon. Mumo!

**Hon. Member for South C Ward, (Ms. Diana Kapeen):** Thank you Mr. Speaker. While I want to support this--- Mr. Speaker sir, I would like to support this good work that the PAC Committee has done but again it is only in order to appreciate the functions and mandate of each Committee. We should not set a precedent in this House where the Committees overlap each other while rendering their services. In this regard, I want to support this very important document that the PAC Committee has taken their able time to do and I also would love if this House would support the Committee and expunge number 31 since the bone of contention is only paragraph 31. Instead of us holding ourselves and not debating such an important document, I think with the support of my fellow colleagues, we adopt this report and expunge paragraph 31 Mr. Speaker sir. Thank you.

*(Loud consultations)*

**Hon. Speaker:** Order Hon. Members! I need to make a decision on this ruling. On this document which you have, Order Members! You have asked questions, can we answer you. Hon. Members, this is what it is, there is a difference between finance and investment. From my reading on 31, they are talking about finances of Nairobi water, they are not talking about the investment.

*(Loud consultations)*

**Hon. Speaker:** Hon. Mumo! There is a Point of Information from Chairperson, then you. Order Members Order!

*(Loud consultations)*



**Hon. Robert Mbatia:** Mr. Speaker, this is a comment by the Auditor General and the Auditor General while reporting said that there are two accounts that are always reported.

*(Loud consultations)*

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

**Hon. Robert Mbatia:** Then it was the Nairobi City Council and the Nairobi Water and Sewerage Company. He was requesting that because this is one entity, it be reported as one. This is a fully owned investment by the Nairobi County Government now *Bwana* Speaker. They only meant that in accounting terms, you have to consolidate the accounts, but when oversight is being done, there are investments and there are funds. Funds to be dealt with by Public Accounts Committee, investments should always and only be dealt with by Public Investments Committee.

I repeat it in Kiswahili, *mimi nikiwa ng'ombe, iko Gichagi nyumbani kule na hapa Nairobi niko na gari, wakati network yangu yote inatangazwa, inatangazwa ile ng'ombe iko nyumbani na ile gari iko Nairobi. Huyu ndiyo Hon. Robert Mbatia. Lakini Yule mtu ambaye anaenda kuangalia ng'ombe ni veterinary, Yule anaenda kuangalia gari ni mechanic.* So in this case, PIC deals with Investments, Public Accounts deals with the funds. Thank you Mr. Speaker.

*(Loud consultations)*

**Hon. Speaker:** Hon. Mumo. Order Members, you have already talked. Order! The Member is on the floor.

**Hon. Leah Mumo** (Nominated Member): Thank you Mr. Speaker, Hon. Kambi I need Speaker's audience. I stand in this House to fully support this report. This report has been long overdue and I want to tell those Members who are opposing it to declare their interest in this report. So I stand in front of this House fully supporting it and I want us to be working. It is high time, in 2015 we are supposed to be working, not to have sycophants in this House. Thank you.

**Hon. Speaker:** Thank you. Hon. Ngaruiya and then Hon. Kagiri.

**Hon. Member for Kahawa West Ward**, (Mr. Patrick Ngaruiya): Thank you Mr. Speaker. Mr. Speaker, the chicken has come home to roost and time is of essence. We have been doing things round here, time has come for this House to act. We cannot allow finances of this County to go to few individuals of this particular County, we are not going to allow that this County will go down just because of a few people Mr. Speaker.

Auditor's report, this one, has it touched on anything even if it is Nairobi water? Nairobi water is a cash cow and everybody knows that. It is a cash cow whereby even collecting money from the customers has become a problem and the Chairman of PIC should not have the authenticity to stand in this particular

Assembly and start complaining that Nairobi water has been attacked. We do not care, Nairobi water is a company that its finances should also be investigated because its finances are missing.

Mr. Speaker, I remember the Chairman PIC brought a report here on Nairobi water and within three days, the report was removed. We do not know with that particular report, today we know what happened, I know what happened Mr. Speaker and I do not want to say in this particular House.

*(Loud consultations)*

**Hon. Speaker:** Order Members!

*(Loud consultations)*

**Hon. Patrick Ngaruiya:** We know that people were compromised here, money exchanged hands.

*(Loud consultations)*

**Hon. Speaker:** Order Members!

*(Loud consultations)*

**Hon. Patrick Ngaruiya:** Yes, we know what happened and we are not going to allow a few individuals to control this particular House.

*(Loud consultations)*

**Hon. Speaker:** Order Members!

**Hon. Patrick Ngaruiya:** Give me time. So Mr. Speaker, on this report--- I want to thank the Committee of PAC for taking this bold step. The Chairman having courage that this particular time, the Committee, even most of its Members were not compromised and they have come up with a very comprehensive document here. How can we as an Assembly--- I know corruption is fighting back, but we are not going to allow corruption to invade this House the way it has invaded the National Assembly.

*(Loud consultations)*

**Hon. Patrick Ngaruiya:** The Acting Chairman, you have refused to be like the Chairman of PAC in the National Assembly and you have brought a report that is very touching, that is going to remove individuals from their offices. Let them use what they have but time has come Mr. Speaker, that we are going now to put our feet here and say enough is enough. Let that particular Treasury be overhauled, time has come and we are not going to waste any more timer. Thank you Mr. Speaker.

*(Loud consultations)*

**Hon. Speaker:** Hon. Kagiri and then Hon. Majority.

*(Loud consultations)*

**Hon. Speaker:** Order Members! Hon. Millicent it is the last warning that I have given you.

*(Loud consultations)*

**Hon. Leader of Majority:** Mberia you don't need to campaign because it is-----

*(Loud consultations)*

**Hon. Speaker:** Order!

*(Loud consultations)*

**Hon. Leader of Majority:** What do you want me to do? You want me to support?

*(Loud consultations)*

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

*(Loud consultations)*

**Hon. Leader of Majority:** Thank you Hon. Speaker, ---

*(Loud Consultations)*

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

*(Loud Consultations)*

**Hon. Leader of Majority:** Thank you Mr. Speaker I think it is a small misunderstanding between the PIC and PAC. I don't think PAC is taking work, away from PIC it is noted that there was no disclosure in the Financial Statement of the net worth of this investment under long term investments that is Nairobi Sewerage Company.

They are talking about the finance and are not talking about the buildings or what they invested in water, so what I think Mr. Speaker we are just going to take too much time here for nothing because as far as I am concerned, whoever is opposing they are just wasting their time. This is because Mr. Speaker---

*(Laughter)*

**Hon. Leader of Majority:** It is high time these billions of Shillings which are stuck in an individual's accounts, you can take see it clearly. I know that there are some people who are feeling aggrieved because of this reason that is why I always say, that if you want a Chairmanship you get a competent Chairman, like the Chairman of PAC. This is because if I am not wrong all PAC Committee Members signed, expert one.

May be the one who did not sign he was trying to see how he can get something out of it, but it is already overtaken by events and he will not get it now because you cannot fight alone out of 18 Members. So Mr. Speaker, I would like to request you to call the mover of Motion to reply because this Motion has already passed and we don't need to hear voices of many people. Thank you, Mr. Speaker.

*(Loud consultations)*

**Hon. Speaker:** I will take only two from here and the other side. Hon. Kagiri and Warutere. Order! Hon. Members!

**Hon. Member for Pipeline Ward (Mr. Samuel Kagiri):** Mr. Speaker, I want to thank you for giving me this opportunity to contribute in this important Motion and before I go through the report, I want to say that the Members are raising issues of PIC and PAC to bring diversion so that we don't concentrate on issues that are on this report.

Mr. Speaker, I remember that when we had a function in Naivasha and I rose to ask a question concerning the corruption that has been going on in this City and I also remember my learned friend Hon. Akuk, was able to clearly put the situation as it is in the finance docket in this County.

Mr. Speaker, this is the Auditor General's report that is put on this paper, where accounts were audited for the defunct City Council by the Auditor General of the whole County and they have given their facts why they have given their recommendations on what they are talking about.

Mr. Speaker, if you allow me just to mention a few of the issues they have raised here, and in part 7, of the report allow me to read a few of the parts. In the Auditor's General Opinion the Financial Statement did not fairly present the position of the Council as at 28<sup>th</sup> February, 2013. And its financial Performance and Cash flows for the year that ended in accordance with the International Public Sector Accounting Standard and the Public Auditors Act 2003 the reasons for this adverse opinion was that:

1. Not all information and explanation required for the purpose of audit were received;
2. The accounts were not properly maintained;
3. The financial statement did not comply with the Local Government Act Cap 265.

Mr. Speaker, for anybody who is in the Accountants Department and any Public Office there are standards or qualifications which these people must have and I don't understand people who cannot be able to prepare financial statements. I don't understand what they are doing in the offices.

*(Loud consultations)*

**Hon. Speaker:** Order Members! Listen to Hon. Member.

**Hon. Samuel Kagiri:** Mr. Speaker I am saying those people who cannot be able to prepare ledgers, cashbooks and so on---

*(Loud consultations)*

**Hon. Speaker:** Hon. Mark!

**Hon. Samuel Kagiri:** Mr. Speaker, what I am trying to say is that those people who cannot be able to prepare Financial Statements I don't understand what they are doing in the offices. All the people who are mentioned in this report are people who are qualified to do accounts and they cannot be able to deliver accounts to this County that is why we are suffering in the County because we don't know what happened in our Finances. Mr. Speaker, I beg to support the report in full. Thank you.

**Hon Speaker:** Hon. Chairman. Order Hon. Karen Wanjiku!

**Hon. Member for Roysambu Ward (Mr. Peter Warutere):** Mr. Speaker, I rise to support this very Motion. I am both sad and excited, Sad that those five people have taken us for granted for far too long and excited that today the majority of Members in this House have spoken. Minority will have their say but majority of our Members will carry the day,

For far too long, we have allowed these people to give a bad image to this County, for far too long we have sat down, forgotten our loan and through mischievous means they have misused this House. The Hour is late and the time is now we must make a decision. Nairobi as a County has never Spoken. We have a moment to write our History today to show the world and indeed to show the National Parliament there is a big difference between the PAC that is out there and the PAC of Nairobi Assembly.

Therefore, there are few things that I have noted about this report that have persuaded me to support it, basically because I strongly feel that it is time to act and exert our authority is today. I am not ashamed to be part and parcel of this great report and I want to commend the good work that has been done by Chairman Mbatia. We know that they have taken very long time and we thought that they had maybe shared the chicken, but we are excited that, it didn't happen they have written a creditable report and the best that we can do is to support this report and let the people to go home. We have able men and women out there who can replace them and be equal to the task for this I support.

**Hon Speaker:** Okay Hon. Elikana and Hon. K'Otieno then we close.

**Hon. Member for Kwa Rueben Ward** (Mr. Elkana Mauti): Thank you Hon. Speaker, I think we as the Committee have been blamed even the Governor blamed the PAC. Today, I think the Majority, Minority and the Speaker should present this report to him so that he will act. There have been a forest of fruits which was made for Nairobians, but very small monkeys have destroyed the forest or the fruits of the Nairobians.

According to the report Mr. Speaker, when we sit in that Committee we did not see a Cash books or a Ledger books of the Nairobi County and we were not served with the Financial Statements. It is time for Nairobians to see how most of us Members want them to survive. We were crying here about the Financial problems in our Assembly these are the very people who are frustrating even the Assembly of Nairobi and carry the money of Nairobi County and use as it is not been planned for.

Mr. Speaker sir, you have been hearing that the defunct City Council had an Equity bank loan of 5 billion which has greatly affected this County. We were asking for----- Mr. Speaker please, protect me.

*(Loud consultations)*

**Hon Speaker:** Sit down, Order Hon. Thuo and Mark!

**Hon. Elkana Mauti:** Nobody intervened when you were talking. Mr. Speaker, we had been asking for the loans statement and we have never been given, we had even written to the Bank and the Executive gave out instructions that no other Bank Statements should be availed to our Committee, because of the investigation that we have done we have come up with 5 Members of the Assembly of Nairobi. Remember this is just a drop in the sea much is coming.

There is no way that you will defend thieves and at the same time you are suffering and crying about the development of Nairobi. We were asking money for development from the very people who cannot even produce a Cashbook in a Government institution.

Mr. Speaker I think from today the Governor is going to act on this report which you will present to him with the Majority and Minority Leaders, so that he can see what type of people he has in the office and how they are in the positions whereby they cannot prepare a Cash books, Ledger books and even produce bank statements. I don't have much to say because much has been spoken about in the report. I now urge the Assembly of Nairobi to pass the report and not divert to PIC and PAC.

As we have seen in our daily News we had lost 8 billion from Nairobi Water. As we are arguing about Nairobi Water and PAC am worried because I have seen where our 8 billion went. So Members you should support the report.

**Hon Speaker:** Hon. K'Otieno and then mover of the Motion to reply.

**Hon. Member for Sarang'ombe Ward** (Mr. Pius Otieno): Thank you Mr. Speaker, while I acknowledge there has been some discrepancies but allow me also to share my opinion that to some extent the report as well been done and also the report as also missed some serious sections that I was thinking they will come along with this document.

One of the things Mr. Speaker, I don't want to contest your ruling on the issue of Public Accounts Committee verses the Public Investment Committee, but probably in due cause time history will prove that, if there would be clear separation of powers and mandates that each Committee is supposed to be doing, then probably that is the first step that we could have started but since you have given a ruling I will not dwell into that.

Mr. Speaker, I am also looking at section 33 of this report that is in the last page 27, that says section 164 of the PFM marked 2012 stipulates blah, blah, blah. Which then it goes ahead and says that in the Audit report prepared by Kenya National Audit Office for the Financial year 2010-2011, 2011-2012 and 2012-2013 it is saying in the Finance of February. Therefore the Committee recommends that the accounting officer, who is the County Secretary Mrs. Lillian Ndegwa, should be sacked for her gross incompetence and dereliction of her duties and gross violation of the Constitution and the PFM Act section 41 (a) 4. Then, it goes ahead and says the County Secretary should furnish the County Assembly with the reports mentioned in this report within 14 days after adoption. It goes ahead in section 35 which says that the County Secretary should submit a comprehensive report to the County Assembly on the implementation of the recommendations contained here within 6 months after the adoption of the this report by the County Assembly.

Well Mr. Speaker, I want to bring to your attention that the nature of these reports are very important and everything is always arranged or put in a sequence in the order of importance meaning, whatever appears in section 1 is as important as compared probably in the last stage.

So when we say that we sack people whom we vetted in April and by then these people were not employed by County Government and they were not in the payroll. We should not sacrifice people. In as much as I may not like you but I should defend your rights, even sometime when you are in the opposing side.

I am opposing this not because I know these people, but it is because by the year 2010/2011 Lillian Ndegwa, was not employed by this County.

*(Applause)*

**Hon. Pius Otieno:** By the year 2011/2012 Lillian Ndegwa, was not working for this County by the year 2012/2013 Lillian Ndegwa, was not working for this County. If Public Account Committee was serious and it was investigating some of the violations, misappropriations and any misdemeanor that could have arose as a result of accounting they could have told us that by then so that we interviewed the former Town



Clerk even if it was somebody who was called blah, blah, blah because by then, that was the accounting officer of the Nairobi City Council.

You see. It is also important that they could have told us that by then we interviewed the Clerk who was here for only 6 months. I remember there was a Clerk who was here for only 6 months and now probably he is an MP somewhere. Those are the kind of people whom I was expecting to have been interviewed. But when you say you want to punish somebody, you want to send somebody home and I even know that the High Court gave a ruling. In the spirit of separation of power, MCAs have no power anywhere to recommend to the Executive to sack anybody. These are the kind of things I was expecting. Either---Listen, you were given your time. This is my time. And I am not sitting.

*(Loud consultation)*

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

**Hon. Pius Otieno:** This is my time and I am not sitting.

*(Loud consultations)*

**Hon. Pius Otieno:** I don't want to be informed.

**Hon. Speaker:** Order! Order Hon. K'Otieno! Order Hon. Mumo! Order Members! Order! Hon. K'Otieno, order! Hon. Members allow the Member to finish.

*(Loud consultations)*

**Hon. Speaker:** Leader of Majority. There is a Point of Order here. Order Members!

*(Loud consultations)*

**Leader of Majority:** Game short. Mr. Speaker we are not here to sack anybody, we are just recommending what is in this report and it should not be taken outside there that the Members of the County Assembly of Nairobi plan to sack any officer. We are not sitting here to sack anybody. We are just recommending.

*(Loud consultations)*

**Hon. Speaker:** Order Members! Let him finish

**Hon. Pius Otieno:** Mr. Speaker these are not my own words; these are words that are coming from this report and it is saying Lilian Ndegwa should be, meaning should be sacked already. I do not want to be informed. It is one man against 124 Members and that is the nature of K'Otieno. I have not eaten any money from any contractor nor am I for any contractor!

*(Loud consultations)*

**Hon. Speaker:** Order Members!

**Hon. Pius Otieno:** Thank you Mr. Speaker. What I was expecting probably as an addition in this report is that--

*(Loud consultations)*

**Hon. Speaker:** Hon. Mark and the Chairman of PIC. Last warning!

**Hon. Pius Otieno:** What I was expecting was that this Committee was to recommend to us some of the specific reforms, either immediate, short terms or those that would bring meaningful changes in that particular sector.

*(Loud consultations)*

**Hon. Speaker:** Order Members!

**Hon. Pius Otieno:** You either throw him out Mr. Speaker or--- Mr. Speaker my time is not yet, the hour clock is not even there. Mr. Clerk where is the hour clock?

**Hon. Speaker:** Order! Go ahead.

**Hon. Pius Otieno:** Mr. Speaker I am opposing this report because it has not factored in some of the most serious things that I expected it to bring out and I am not speaking for any contractor whatsoever.

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

**Hon. Robert Mbatia:** Thank you Mr. Speaker. I want to thank the entire Assembly and your leadership. As we close debate on this, I want to highlight something from Hon. K'Otieno. I fully respect him for his arguments and in that he gave me a very beautiful girl from their village.

On our item number 33, that section of the PFM Act 164 clearly stipulates that sacking is also an alternative when an errant accounting officer negates the duties. Mr. Speaker I also want to say that Lilian Ndegwa also notified this Assembly that the County Government inherited a Government that had not been audited for the last four years. I hope Hon. K'Otieno is listening. That is 2009-2010, 2010-2011, 2011-2012 and then 2012-2013.

The reason why the County Secretary was mentioned is that the County is the successor of the office of the Town Clerk and these accounts had not been audited. We could have exonerated her *Bwana Spika* if she cooperated with the Auditor General. Actually she came to our Committee and said that she had warned the officers not to cooperate with the Kenya National Audit Office but from the officers those that she said she had already warned, no officer had ever received a warning letter or a phone call informing them to cooperate. That is why this audited years from 2009 to 2013 when they were audited, Madam Ndegwa was in office and she failed to comply and that is why her name has been dragged into this report.

I would also like to recommend that the leadership of the Assembly have a sitting with the PIC and PAC Committees so that our mandates are clearly spelt out so that nobody can feel infringed on their mandate. So I thank you Mr. Speaker.

**Hon. Speaker:** Very well. No point of Order as we close. Order Hon. Members!

*(Question put and agreed to)*

*(Loud consultations)*

**Hon. Speaker:** Order Members! Order! Hon. Chief Whip! Chairperson PIC and PAC. Hon. Members I told you there was no contest. It is a decision of the Members of the County Assembly and the majority have it.

*(Loud consultations)*

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

**MOTION**

**Hon. Speaker:** Hon. Members the Chairperson is not in and therefore Hon. Deputy Speaker

**Hon. Deputy Speaker** (Mr. Kennedy Ngondi): Hon. Speaker as the Chair of Liaison I am here to report that the Chairman who was supposed to move the Motion is not in the House and on his behalf I am requesting that the Motion be carried to the next business that is coming up on Tuesday 2:30pm.

**Hon. Speaker:** Very well Hon. Deputy Speaker. Thank you very much for the information.

**Hon. Deputy Speaker:** Speaker if you may allow me because Members have done a wonderful job for the House today, allow them to rest for the better part of this evening. Thank you I request for adjournment.

**Hon. Speaker:** Very well. Chairman of Liaison Committee thank you very much for taking care of us as our Chairman and also the Deputy Speaker. Hon. Members the Assembly is adjourned until Tuesday 2:30pm. I thank you.

***The House rose at 4:50PM***