



## NAIROBI CITY COUNTY ASSEMBLY

### OFFICIAL REPORT

#### First County Assembly – Third Session

Wednesday 4<sup>th</sup> March, 2015

The House met at 2.30 p.m.

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

### PRAYERS

#### COMMUNICATION FROM THE CHAIR

**Hon. Speaker:** Hon. Members, I have the following Communication to make on Parking, Security and Offices. Hon. Members, yesterday Tuesday 3<sup>rd</sup> March, 2015 the Chair committed to issue a communication on issues raised by the Hon. Alex Otieno, among other.

Hon. Members, I wish to direct as follows regarding parking at the front of the Assembly and the threat of the same to security. Henceforth, there shall be no parking at the front entrance of the Assembly and any such vehicles found parked at the said entrance shall be towed. Serjeant-At-Arms are therefore advised to enforce this directive without fail. This is due to the security of Members.

Hon. Members, on the issue of Members carrying guns into the Chamber, the Chair has previously issued a communication in this matter in which he gave directions pursuant to Speaker's rules and Standing Orders on Firearms.

However, I wish to remind Members of the provisions of Standing Order 97. Henceforth, a breach of the said Standing Order shall be severely dealt with. Members must at all times surrender their guns with the Serjeant-At-Arms when entering the Chamber. Serjeant-At-Arms are again reminded to heighten their vigilance and ensure compliance with this directive.

Hon. Members, on offices for Special Elect Members, the Chair is very aware of the Challenges of office space for not just Special Elect Members, but all Members and staffers of the County Assembly. But to remedy the situation, the County Assembly Service Board has currently seized of the Matter and is working toward finding a lasting solution.

Hon. Members and especially in regard to the issue of parking at the front, for your own security it is paramount because as your own security when you park, double parking is always dangerous to you. If you have any enemy, that is best time for him/her to attack you.

Hon. Members the front of the other side of the shops especially the owner of the shop have complained because they have been attacked by gangstars walking in and out and are covered by our vehicles when we park so the business community have also asked in earnest, especially the Hon. Members to Kindly not to park in front of the Shops this is an appeal to you people also to be able to help your people because they have lost their businesses. Therefore, Hon. Members it is important for you to be mindful of other people.

Therefore, from tomorrow no vehicles should be parked in front of the shops and I want to thank you most sincerely. Hon. Alex Otieno.

**Hon. Member for Mugumoini Ward** (Mr. Alex Otieno): Thank you Mr. Speaker sir and the message is home, I would like to plead with my fellow Members let us lead by example please because of our own security and let us not complain in future if our vehicles are towed simply because we are after our security.

The Security is paramount let us try our level best and park at our parking spaces. Thank you.

**Hon. Speaker:** Hon. Karen Wanjiku.

**Hon. Karen Wanjiku** (Nominated Member): Thank you Mr. Speaker sir, and thank you for the address which you have given us and it's very good, but without timeline nothing is done. Please can you give us the timeline for our offices Mr. Speaker sir?

**Hon. Speaker:** Hon. Members please put your phones off. It is true Hon. Karen timeline I just want to say to you that we have already issued an eviction notice to the Equity Bank. But we got letters asking us to give them another three months so that they can leave as per Central Bank regulations. So we are talking about 4 months because they said because of their customers we cannot--- but we had given them 30 days.

I can also bring letters to show you what we did. We had given them 30 days and because of Central Bank regulations they have to be given that time.

So Hon. Members we are in process and also we had issued quick notice to all strangers so on behalf of the County Assembly Service Board we are actually looking into the Special Elect Members welfare. Thank you. Next Order please.

### PAPERS

**Hon. Deputy Speaker** (Mr. Kennedy Ngondi): Thank you Mr. Speaker sir, allow me to lay the following papers. I beg to lay the following papers on the table of the Assembly today Wednesday 4<sup>th</sup> March, 2015 this is County Fiscal Strategy paper for the financial year 2015/2016. Thank you.

**Hon. Speaker:** Thank you very much Hon. Deputy Speaker. Hon. Kambi we beg you please, Hon. Members please.

### NOTICES OF MOTION

**Hon. William Abuka** (Nominated Member): Thank you, Mr. Speaker I beg to give a notice of following Motion that aware that article 27 of the Constitution of Kenya (2010) provide the Citizens of this Republic comprehensive equality and freedom from discrimination further aware that the article 56 (b) of the Constitution of Kenya provides that there be put in place affirmative action and programs designed to ensure that minorities and marginalized groups are provided special opportunities in economic fields.

Concerned that people with disabilities have not been given priority in allocation of business spaces within Central Business District and noting that there are many disabled youths with potentials to do business effectively for the betterment of the County, this Assembly urges the County Government to give special consideration to people with disability when allocating spaces for the traders to put up modern Kiosks for business in Nairobi County. Thank you.

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

### STATEMENTS

**Hon. Speaker:** Hon. Samuel wa Kagiri. Not in. Hon. David Mberia, not in. Hon. Shadrack Juma from Babadogo.

**Hon. Member for Baba Dogo Ward** (Mr. Shadrack Juma): Thank you Mr. Speaker.

**Hon. Speaker:** You have two statements

**Hon. Shadrack Juma:** Yes, pursuant to Standing Order No. 41 2 (c) I wish to request for a statement from the Chairpersons of the Sectoral Committees on Water and Sanitation and Agriculture Environment and Natural Resources regarding the waste water leaks from East African Breweries.

Hon. Speaker the East African Breweries Limited's waste pipes seep the waste water to Ruaka River, contaminating water and potentially food supplies. This carries great risk for disease outbreak.

Hon. Speaker, in the Statement, the Chairperson should inquire into and report on:

- i. Measures being taken by the County Executive to ensure East African Breweries Limited put a stop to the harmful leakages. Thank you.
- ii. Pursuant to Standing Order 41(2c) I wish to request for a statement from the Chairperson of the Sectoral Committee on Health Services regarding the bedbug infection in the County particularly in slums such as Kasabuni---

*(Laughter)*

**Hon. Shadrack Juma :** --- Kariadudu, Korogocho, Mugure and suburb areas such as Lucky Summer and California. The bedbug menace has invaded the County City slums and suburb areas including the public service vehicles. For example, Kenyatta University bought two machines to control the menace in the institution.

In the statement, the Chairperson should inquire into and report on,

1. Action taken by the County Health Sector to combat the menace
2. Measures the County Government is taking to salvage the residents from bedbugs and,
3. Plans by the Health Sector to control similar or related pest infections in the City.

Thank you, Mr. Speaker.

**Hon. Speaker:** Hon. Chairperson Water and Sanitation.

**Hon. Alex Otieno:** Thank you Mr. Speaker. The question lies under Environment. That is waste water. It's not from---

**Hon. Speaker:** Waste water?

**Hon. Alex Otieno:** Yes, waste water from Kenya breweries. That one is under the Committee of Environment, not Water and Sanitation.

**Hon. Speaker:** What about the sewers?

**Hon. Alex Otieno:** Sewer is under Water but according to his question, it's Kenya Breweries--- the waste water that comes from Kenya Breweries.

**Hon. Speaker:** Hon. Chairperson Water and Sanitation, take up this and if you find that it's not in your docket, you report it back to us.

**Hon. Alex Otieno:** Thank you Mr. Speaker. I beg to be given two weeks.

**Hon. Speaker:** Very well Hon. Chairperson. Hon. Chairperson for Health

**Hon. Member for Nairobi South Ward (Mr. Manoah Mboku):** Thank you Mr. Speaker. I am aware of the situation of bedbugs in the City. Of late actually, residents of Nairobi have been complaining. I reported this matter to the Chief Officer of Health about a month ago and he instructed fumigation to be done. It was just done in one area that was Mathare and not the whole of Nairobi. However, on the strength of this statement, I promise to deliver a report in this Assembly in the next two weeks, thank you.

**Hon. Speaker:** You need to find out whether there are bedbugs around the County Assembly. Yes Hon. Mumo.

**Hon. Leah Mumo (Nominated Member):** Thank you Mr. Speaker. I wish to rise on a Point of Order under Standing Order 74, addressing the Speaker. As this House recalls sometimes last year the Planning Committee was disbanded after going for a site visit at Babadogo. Then the Hon. Member from Babadogo Ward came back again with the same, same statement because he was not satisfied only for the Planning Committee to go there and be told that the Speaker of this Assembly knows the history of that land. Kindly, I want the Speaker to address this House and tell us what interest you had then and now what interest you have for that land of Babadogo, thank you.

*(Loud consultations)*

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

**Hon. Deputy Speaker:** Mr. Speaker, sometimes it attracts at least a laugh---

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

**Hon. Deputy Speaker:** I am standing on a Point of Order please. Mr. Speaker, it is only good if the Member could direct this to someone who is not presiding over in the Assembly so that we are able to handle it in a different way or in a legal way. As you are seated there, the House knows your hands are tied and you are not able to comment on such kind of allegations. I am pleading with my sister, maybe you can direct it to the relevant Committee so that we may take a statement from the Speaker but not here in the House, thank you.

**Hon. Speaker:** Very well Hon. Deputy Speaker. Yes, Hon. Mumo.

**Hon. Leah Mumo:** Thank you Mr. Speaker. I wish to tell the Hon. Member that I am a Member of that Committee and if I stand here, I am standing in the interests of the Members of the Planning Committee.

**Hon. Deputy Speaker:** Thank you Mr. Speaker. Under Standing Order number 192(d) it is required that any issue to do with Committee issues to be directed to the Liaison Committee for interrogation. For that reason maybe the Member should forward it to the Liaison Committee.

*(Applause)*

**Hon. Speaker:** Yes, Hon. *Hebu nipatie kitabu changu* please.

**Hon. Member for Kwa Reuben Ward** (Mr. Elkana Mauti): Yes, thank you Mr. Speaker sir. I thought the Hon. Member was defending the people of Babadogo. Fortunately he is defending the Committee of Planning. We can come down and ask what intention or interest did you have in that plot so that the Speaker said we should have to disband this Committee. Automatically you had an interest as a Committee. According to me or according to my understanding, the Planning Committee had an interest over this land. Right now you have said you are not defending the people of Babadogo. You are defending the Committee which means it is the Committee which has an interest.

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

**Hon. Member for Makongeni Ward** (Mr. Peter Imwatok): Mr. Speaker, I think as we speak as the Members of this House we must also observe the rules and procedures of the House because this seems like an emotive Motion. For us to move forward I request your Chair maybe to give directives because it is counter accusations. If this issue can be referred to the Liaison Committee to deliberate on it and bring for us a conclusive report that the Committee of the whole House can debate about it. Kindly, give your direction for us to move forward because it is very important---

**Hon. Speaker:** Hon. Member, I think the Chairperson, the Deputy Speaker rose on that and gave proper information of what should be done. Traditionally, I cannot stand here and start arguments. Next Order. Yes Hon.

**Hon. Zulfa Hakim** (Nominated Member): Thank you Mr. Speaker, I rise on Standing Order number 74. I wish to bring to your attention again that---

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

**Hon. Zulfa Hakim:** Some time ago, the Members of this House were promised that---

**Hon. Speaker:** Order Members!

**Hon. Zulfa Hakim:** --- they are going to be provided with ipads by the Assembly. Since that time there is no communication on the same. I am concerned about the environmental impact that these many papers have. Today we have been given around 5 reports. I think that it's almost not practical for all the Members to go through the reports. The papers will again get lost. Kindly guide the Members on when they are going to receive their ipads so that we stop wasting too much paper like this.

I am sure many Members will not be able to go through all these reports. It's good to have the ipads so that we can have reports in soft copy. It will ease our job Mr. Speaker, thank you.

**Hon. Speaker:** I think we will give an answer to that next Tuesday 2:30 p.m. in regard to the laptops.

**Hon. Zulfa Hakim:** Thank you Mr. Speaker. It better be a positive answer because we have two years down the line. Other Counties have the ipads and we are only working on promises. I believe you are going to make good to your promise, thank you.

**Hon. Speaker:** Hon. Members, Hon. Deputy Speaker, the Chairperson of Liaison. Please make sure that the statement that has just been attributed to Hon. Mumo is dispensed off as quickly as possible. Yes Hon. Imwato.

**Hon. Peter Imwato:** Mr. Speaker can I stand on Point of Order number 80? Today as we were in the PAC Committee, this morning as you are aware our new Assembly is under construction. Maybe, just a clarification through your Chair, it is now almost 3 days, I've been going to the new ablution block in that area. It is newly done but so far already the flushing unit is not functional. I wonder if the same units are going to be used when the Assembly opens.

**Hon. Speaker:** Which Assembly?

**Hon. Peter Imwato:** The new Assembly because at the end is the ablution block. So far the material being used in that ablution block is not fit for a County Assembly. It seems the toilet area is just---

**Hon. Speaker:** Can you take me after the Assembly and show me.

**Hon. Peter Imwato:** Mr. Speaker I'll take you. They are so substandard.

**Hon. Speaker:** Okay. Hon. Members, there were responses one from the Planning Committee in regard to the dispensary in Karen and Karura grabbed land LR number 91/56 in Gigiri. Hon. Maurice Akuk for the Chairperson of the Sectoral Committee on Planning, all these questions--- Irungu Mwangi for the Chairperson of the Sectoral Committee on Trade, Tourism and Cooperatives.

**Hon. Member of Eastleigh South Ward** (Mr. Nelson Masiga): Thank you Mr. Speaker sir, we have been following up the matter, up to 2 pm I had not got the answer.

**Hon. Speaker:** Which one is that?

**Hon Nelson Masiga:** About the Karen land, we haven't got the answer.

**Hon. Speaker:** So what are you telling the Assembly?

**Hon Nelson Masiga:** I think there is laxity at the Executive. I am very sure of what I am saying, Karen.

**Hon Speaker:** So can you give us a timeframe please? Especially on Karen land, Gigiri and— because Planning has about 4---

**Hon. Nelson Masiga:** Thank you Mr. Speaker sir I believe if you give us ample time on Tuesday next week at 2.30pm we shall come with sufficient answer.

**Hon. Speaker:** Very well. Hon. Members the County Fiscal Strategy Paper laid today is hereby committed to the Budget and Appropriation Committee for further action, thank you. What about the Trade, Tourism and Cooperatives Committee?

**Hon. Patronila Achieng** (Nominated Member): Thank you Mr. Speaker sir, response to a statement requested by Hon. Kenneth Irungu Mwangi MCA from the Chairperson of Sectoral Committee on Trade, Tourism and Cooperatives.

Hon. Speaker sir on Wednesday 18<sup>th</sup> February, 2015 Hon Kenneth Irungu Mwangi MCA rose on the floor of the Assembly pursuant to Standing Order 41(2)(c) and requested the Chairperson of Sectoral Committee Trade, Tourism and Cooperatives for the statement regarding

1. Reason for the delay in the repair of the market
2. The plans in place to repair Gwarim road market block A

Mr. Speaker sir the Committee wrote to the County Executive Committee Member responsible for Trade, Tourism on 23<sup>rd</sup> February 2015 requesting to be furnished with a written response to the statement by Hon Kenneth Irungu.

In this regard I wish to report to the Assembly as follows: The County Executive Member for Trade responded via letter NCC/TRD/TRA/3 as follows:

The block was razed down by fire on 13<sup>th</sup> May, 2014 and immediately that happened the matter was reported at Kamkunji police station and the in charge of fire services. The plan for reconstruction was communicated to the Chief Architect to come up with designs for the market block to be rebuilt.



Preliminary designs have been done, however the artist impression has not been finalized by the architect. When the design is complete a tender will be floated for construction of the market. I beg to lay this response, thank you.

**Hon. Speaker:** Hon Irungu!

**Hon. Member of Pumwani Ward** (Mr. Kenneth Irungu): Thank you Mr. Speaker, first of all is to commend the Committee for taking a short time to respond to the question but the response is not satisfying and therefore I request you to direct the matter to be referred to the Trade Committee and that the traders of the market be called to that Committee to give their part of their story and the way they would want the market to be reconstructed, because the idea of the Director and the Minister and the other people involved; their idea of coming up with a mega market will inconvenience the traders who were displaced by that fire, so this project should not be combined with the one that they are proposing.

That is why I'm suggesting you to direct the Committee to summon all the relevant departments involved to that Committee, also to call me to that Committee; the department involved that is department of Planning, Trade, traders and myself to be called to that Committee so that we can harmonize the reconstruction process, thank you, Mr. Speaker.

**Hon. Speaker:** Very well Hon. Irungu, Order! Order!

**Hon. Petronila Achieng:** Thank you Mr. Speaker sir, we had brought the statement according to what he asked, now that new things are emerging we will do as he is requesting, thank you.

**Hon. Speaker:** Very well, very well, next Order!

*(Hon. Speaker consults with the Clerk)*

**Hon. Speaker:** Hon. Members these responses once again are required: Which is Planning in regard to the Karen land, two Planning and Housing in regard to Gigiri/Karura ward, three Planning and Housing in regard to the illegal structures in Riara University, Highridge estate. Planning and Housing---, as the Members walk out the leadership of the Planning and can we---

**Hon. Member of Woodley Ward** (Mr. David Kairu): Yes thank you very much Mr. Speaker sir, let me undertake that by next week we will bring the full information but as the Committee of Planning we are facing some challenges because like that of Riara University, we invited the area MCA to go with us to that area so that we see where the problem is, but he didn't turn up as we went there and people were ready to fight us.

So sometimes we are facing some challenges and you need to address your office so that we can know what to do. We have a lot of problems,

**Hon. Speaker:** What problems?

**Hon. David Kairu:** The problem we are having Mr. Speaker sir, is Members of this House are asking questions knowing very well that they are very harsh, tough and hot ones. And when we ask them to go to the ground they don't join us, they refuse completely.

**Hon. Peter Imwatok:** Mr. Speaker kindly you just ask the Chair of Planning Committee to give an undertaking, not to give the challenges they are facing. The Member has no moral authority because within a twinkling of an eye the Chair has not designated him to explain more than that. Kindly, it was just to make an undertaking and to notify the Chair when to give the report.

**Hon. Leah Mumo:** Point of Information.

**Hon. Speaker:** The Member does not require your information, Order! Hon. Members there are two responses here from the Planning Committee, I think Members are not aware that they are here, one for Hon. Maurice Akuk and the other from Hon. Kamau Thuo but nevertheless the Members are not here themselves so we leave this until next week. Next Order please.

#### **NAIROBI CITY COUNTY REGULARISATION OF DEVELOPMENT BILL 2015, ASSEMBLY BILL 1/2015**

An Act of the County Assembly of Nairobi City to provide for regularization of approved developments and for connected purposes, First Reading

**Hon. Speaker:** Yes Hon. ---

**Hon. Elkana Mauti:** I'm concerned about regularization. It is a mentality of deviating the Bills to the Assembly; we say that one should go back; we sit down and know its content it is when it should be brought here. And right now it has been deviated in, Mr. Speaker I would like to get your direction over that because the Regularization Bill, we have not yet finished as we sat down and said.

**Hon. Speaker:** Yes Hon. Masiga.

**Hon. Nelson Masiga:** Thank you Mr. Speaker sir, I think the Hon Member is misleading the House simply because this is the first reading and after first reading he is going to be given to the Committee; so he should be waiting until it is brought by the Committee back for the second reading.

**Hon. Speaker:** Very well.

**Hon. Member for Roysambu Ward** (Mr. Peter Warutere): Mr. Speaker sir, on the same, we sat in the House Business Committee yesterday. What we agreed on was to let the Bill come to the First Reading, go through then it will be given window of 21 days. Within the 21 days, the Members can now bring all the amendments they have on that particular Bill. Otherwise as it is, let it go through the First Reading, from there, if they have any query, they can now go to the respective Committees.

**Hon. Speaker:** Very well Hon. Members that is committed to the Planning and Housing Committee.

### MOTIONS

**Hon. Member for Embakasi West Ward** (Mr. Robert Mbatia): Thank you, Mr. Speaker sir, I beg to move the following Motion; THAT, this Assembly adopts the Report of the Public Accounts Committee of the Report of the Financial Statements of the defunct City Council for the year ended 30<sup>th</sup> June 2010, 30<sup>th</sup> June 2011 and 30<sup>th</sup> June 2012.

Mr. Speaker, the Select Committee of the Public Accounts finalized and compiled its findings of this Report from the Auditor General. In brief, I would like to highlight the following. I will not miss to say of the composition of the Membership. This includes:

1. Hon. Andrew Mbau, MCA
2. Hon. Alex Otieno, MCA
3. Hon. Rose Ogonda, MCA
4. Hon. Margret Sewe, MCA
5. Hon. Tabitha Juma, MCA
6. Hon. Julius Mwaniki, MCA
7. Hon. Stephen Murathi Kambi, MCA
8. Hon. Jackson Mwangi Ngare, MCA
9. Hon. Martin Waweru Gichuhi, MCA
10. Hon. Njuguna Mwangi, MCA
11. Hon. Martin Kanyi, MCA
12. Hon. Ronald Milare, MCA
13. Hon. Benson Amutavi, MCA

14. Hon. Elkanah Mauti, MCA
15. Hon. Peter V. Isuha, MCA
16. Maurice Gari, MCA
17. Hon. Peter Imwatok, MCA
18. Hon. Daniel K Mutiso , MCA Vice Chairman
19. Hon Robert Mbatia (Chair) , MCA Chairman

The background, Mr. Speaker, this Report contains findings and other relevant details of the Financial Statements of the defunct City Council of Nairobi audit conducted by the Auditor General which comprised of the statement of financial position of the years I have mentioned, ended 2010, 2011 and 2012 and the statement of financial performance, statement of changes in net asset/capital and reserves and statements of cash flows for the years that I have stated.

In brief, I would also like to mention the responsibility of the Auditor General in this process:

The Auditor General was to express an opinion of these Financial Statements based on the audit and report in accordance with the provisions of Section 15 (2) of the Public Audit Act of the year 2003. The audit by the Auditor General was conducted in accordance with International Standards on Auditing. The audit involved performing procedures to obtain audit evidence about the amounts and disclosures in the Financial Statements. The procedures selected depended on the auditor's judgment including; the assessment of risks of errors in the financial statements.

Mr. Speaker, the Auditor General had an adverse opinion in his Report. In his opinion, the Financial statements did not fairly present position of the Council as at year ended 30<sup>th</sup> June 2010, 30<sup>th</sup> June 2011 and 30<sup>th</sup> June 2012, and its financial performance and cash flows for the years that ended in accordance with International Public Sector Accounting Standards and Public Audit Act 2003. The reason for the adverse opinion by the Auditor General was that:

1. Not all the information and explanations required for the purpose of audit were received
2. The Accounts were not properly maintained
3. The Financial Statements did not comply with the Local Government Act, CAP 265.

The Committee noted with concern that the management of the defunct City Council of Nairobi shirked their responsibility of preparing proper Financial Statements in accordance with the International Public Sector Accounting Standards and for ensuring that there was internal control to enable the preparation of the Financial Statements that were free from errors, and in accordance with the provisions of Section 13 of the Public Audit Act, 2003.

While taking evidence, the Committee held one sitting during which we interrogated the Accounting Officer and various Chief Officers and Departmental heads on audit queries raised by the Auditor General. Oral and documentary evidence was obtained during the interrogation, the minutes of the Committee sittings are attached to the Report. While taking evidence, the Committee was guided by the existing procedures and modalities of the operation of Nairobi City County Assembly derived from the Constitution of Kenya, the Act of National Parliament, Nairobi City County Standing Orders, convention and common practices of Parliament

Article 226 (1) (5) of the Constitution clearly stipulates that 'if the holder of the public office, including a political office, directs or approves the use of public funds contrary to law of instructions, the person is liable to any loss arising from that use and shall make good the loss, whether the person remains the holder of the office or not.'

Mr. Speaker, in summary I would like to note the following: Section 163 of the Public Financial Management Act 2012 clearly outlines the responsibilities of the County Treasury in regards to consolidating the annual financial statements in respect of all the County Governments entities in the format to be prescribed by the Accounting Standards Board. Section 164, further outlines the responsibility of an accounting officer. Section 164 (4) of the same Act, clearly stipulates that within 3 months after the end of each financial year, that is every 30<sup>th</sup> June, the Accounting Officer of the same entity shall:

1. Submit the entity's financial statements to the Auditor General
2. Deliver a copy of the statements to the relevant County Treasury, the Controller of Budget and the Commission on Revenue Allocation

Mr. Speaker, finally, I would like to note that the Committee observed the following: the Kenya National Audit Office could not make any informed position because there was defiance or non-compliance by the Executive of this Assembly. As I close---

**Hon. Speaker:** Order! Hon. Chair, the Executive of this Assembly?

**Hon. Robert Mbatia:** Sorry, the Executive side of this Nairobi City County Assembly, which is the other wing; not the Assembly, those people that are trying to cripple us, Mr. Speaker.

I would like to appreciate the services rendered by the Kenya National Audit Office, Office of the Clerk of this County Assembly and your Office and the commitment and devotion of the Members. *Bwana Spika* as I request Hon. Maggie Sewe to second me, I would like to request this Assembly to take stern action. These are the financial statements of the defunct City Council but the audit, though it is for those years the County Government was not in place, the Executive were still obligated to hand over the necessary documents to the Kenya National Audit Office which they never did.

In the other consequent Report that we have now received from the Kenya National Audit office, the same adverse opinion has been continuously repeated by the Kenya National Audit office. So I would like to request this Hon. House to take stern action and request--- to give and propose which stern action we can take on the Members of the Executive. They might claim that they were not in office but compliance is not for a holder of the office. Compliance does not call for a past office but the current office. Let me call Hon. Maggie Sewe to second me, thank you, Mr. Speaker.

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

**Hon. Margaret Sewe** (Nominated Member): Thank you, Mr. Speaker sir, I stand to second the Motion in support of my Chairman and my Committee. Mr. Speaker, you can see we have done a very elaborate and comprehensive Report. I wish to second, thank you.

*(Applause)*

**Hon. Speaker:** Chairperson for Public Accounts please approach the Chair Hon. Members, Hon. Chairperson please.

**Hon. Robert Mbatia:** Mr. Speaker, I beg your protection, yesterday while the Deputy Speaker was Chairing actually why we deferred this Motion to today was that we had one combined report on the three and we sought direction that we table it together because it is in arrears, we still seek your directions on this because they were tabled as one document for those financial years, as much as we did separately but the same opinions are replicated on each and every report, that's why I have done it in summary but if you allow I will repeat what I have just said and I believe we need to save on time, so I need your direction on this.

**Hon. Speaker:** Hon. Members, I propose the question,

*(Question proposed)*

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

**Hon. Peter Imwatok:** Mr. Speaker first of all allow me to say thank you for giving me this chance to register my history in black and white that today. I have a privilege as a Member of the Committee for PAC to contribute towards a report and that will ever go into history that I was part of this report.

Indeed Mr. Speaker and the office of the Clerk we must first of all say thank you for the support you have given the PAC Committee for the time were running through this report. Mr. Speaker, neither have we had any interference from your office nor the offices of the Clerk and the leadership of the Assembly.

As my Chair says this report if Members could take their time to go through, it will show how much time and dedication the entire Members have taken to scrutinize every bit, though aware that this report we are looking unto is not a report that we are looking when we are there as Members of this Assembly, is a report we are looking unto when these malpractices and all challenges in this report were being impropriated during the defunct City Council regime, but I want also to thank the Chairman for the patience, because in this Committee it is so acrimonious a times, disagreements counter disagreements.

We've had witnesses some would not correspond, some would not collaborate on what we want from them but we have been patient with the Members to get the deep details of this report. Just to emphasize on two or three issues, according to the PFM Act it is so bad if the County Executive officials whether then or now can not comply with the Constitution under article 195 which stipulates a Committee has the powers like that of the high court, meaning the Committee can give orders, in the process of making this report the Chair had to direct even the Serjeant-At-Arms to go and bring some officers from their office in particular the Legal office of this County.

It will be wrong today if we have to table this report without mentioning the particular offices which have given us challenges in this County, it is the same Legal Department office that has accrued pending bills of more than 1.2 billion, but when we called upon the Chief Officer in charge of this department to come to explain the occurrences that has brought all this discount he didn't even bother to come to appear before us.

It is wrong Mr. Speaker if this Assembly in particular the most important oversight Committee because as Members of PAC Committee we exercise as Committee but now it is upon this Assembly to adopt this report as we exercise our fundamental believe that we are Members of Nairobi County Assembly under article one of the Constitution representing the people, it is up on this House to decide as Nelson Mandela said *"then it was in my hands now it's in your hands."*

So Mr. Speaker, then it was in hands of a 19 Committee Members now it's before you Mr. Speaker and the entire Assembly of 127 Members, the child is here we either decide to kill it or to make it live. I therefore beg this House to pass this report. So, that we give the ball back to the Executive to make decisions as per the recommendation of this report.

Prior to that, we still look forward to your support because we have a lot to do. As you know, if the Ward Development Fund was to go through without proper up to date Auditor's Report, there is no way it could be legal. Now our Committee, we have done our part, we are now up to date.

Upon passing of this report, we are sure this County is now up to date as far as Auditor's Report is concerned apart from the year 2013 and 2014 which I believe KENAWA and our Chairman soon will table before this Assembly. With those few remarks, I want to say thank you so much and may you Members help us to pass this report. Thank you.

**Hon. Speaker:** Hon. Mauti, please.

**Hon. Elkana Mauti:** Thank you Mr. Speaker sir, I being one of the Committee Members in the Public Accounts Committee, I have the following statements to make; we have got so many challenges, I think the special report which was brought, is still in court.

We were taken to court and we are still here, that is one of the challenges. Two, in the production of the documents from the Executive side has become like a nightmare. So it is upon this House to compel the Executive side to produce all bank statements, loan accounts statements that we are demanding, more so especially for Equity loan whereby we need all the loan accounts statements which has become a nightmare.

Number three, we had challenges as my colleague has said. The Legal Department which is like everything because when we go for negotiations, it is the department which should sign for the County of Nairobi, but they do not adhere to any instructions which were given by the Committee, If possible, the Assembly of Nairobi should stop the Legal Department budget and not be given any money by this Assembly because they do not adhere to what we want. It is this Legal Department which has made this County to lose a lot of money.

For example, recently we heard about the Mariakani estate, it is the same, same people, we heard about anti-corruption here it is the same, same people and they do not adhere to what they are supposed to. Mr. Speaker, on the Executive side, my request is that, authority should come out of this House, to serve as a lesson for the years to come. We needed all financial statements or records whereby most of them were not produced and I hope if possible the summons will go to the Treasury Department.

Finally, Let the Treasury Department be devolved. Let every department to have its own accounting sub department so as to erase superiority complex within the Treasury. Let it be that if the money comes to the department we know that if it is education, its money has been surrendered to the Treasury of that department.

That is why most of the irregularities in the treasury comes out because they know they are the total people, you can request a statement may be from education department and they will tell you that they do not know, ask the treasury, now we want every department to be held responsible as far as financial matters are concerned.



So, Mr. Speaker, I beg this House to pass this report and also to put some sanctions and even compel some of the departments and even stop some of the department's budget so that they will tune the music and know that we are very serious in this Assembly. Thank you Mr. Speaker.

**Hon. Speaker:** Yes Hon. Mbau.

**Hon. Member for Mlango Kubwa Ward** (Mr. Andrew Mbau): Mr. Speaker, it is an open secret the reason as to why we did not table our report in good time. This is because we are frustrated, there is a case that was put forward and the reason as to why that was done was to delay justice and as they said, "*justice delayed is justice denied*" so as being one of the Committee Members, I am kindly asking you to write to the Chief Justice advising him to expeditiously conclude the matter on the case so that we can be in a position to discuss the report that was taken to court; that was the transition period where a lot of dirty deals were done. Mr. Speaker I can see the mood in this House and everybody is in support of this report because PAC has done a wonderful job. May you put the question Mr. Speaker?

**Hon. Speaker:** Hon. Carol then Hon. Ngaruiya and Hon. Isuha

**Hon. Carolyn Muga** (Nominated Member): Thank you Mr. Speaker for the opportunity to support this Motion to adopt the report of the PAC Committee. Indeed it is sad to see the dire state of the financial operations during the defunct City Council and my belief is that as we go through these papers that we rope in discipline because I am eager to see the report for 2013 when Nairobi City County was operational and I hope it will be a better report than this one.

Mr. Speaker what I am saying is that we need to bring in discipline in financial management. The people of Nairobi expect us and have brought us to this House to ensure that the revenue collected in this City and the monies given by the Central Government are properly utilized. I believe even though the sins happened in the past year, when we follow this up, people are punished; you know we have this culture in Kenya where if things happen we say nice words and talk big things but nothing really happens, but I am really hoping that this time round we are going to see the quick implementation of the recommendations that this Committee has made.

It will be very sad to see this report go to waste, nothing happening and indeed they have done a good job in bringing forth to light the ills of the former defunct Council. So Mr. Speaker the fraud and financial mismanagement that we see in this report, I urge that even as we pass this Motion that we are going to follow up. I don't know if this report goes to the Implementation Committee? We need to see heads roll, not just because we want to see heads roll but because we want to send a clear message to public officers that they must comply with the PFM 2012 Act in terms of financial management. Thank you Mr. Speaker.

**Hon. Speaker:** Hon. Ngaruiya and then Hon. Isuha

**Hon. Member for Kahawa West Ward** (Mr. Patrick Ngaruiya): Thank you Mr. Speaker for giving me this opportunity to respond to this Motion. I support and I want first of all to thank this Committee for doing a wonderful job. They carried out their duty expeditiously and were even bold enough to table this report in this particular House. This time round there was no court order to overrule whatever has been done by this Committee led by their very able Chairman Hon. Mbatia Mr. Speaker.

Mr. Speaker I know there comes a time especially when we want to deal with issues concerning money, we have always faced obstacles. This is a County that is being run by individuals that do not want to listen and follow the rule of law. I am a Member of the Budget and Appropriation Committee and in the year 2013/ 2014 I remember the County Executive wrote a letter through their CEC Finance requesting the Committee to allow them transfer the loan facility and the Committee deliberated on the issue thoroughly and refused.

This is a County that is led by people who do not want to respect the rule of law. They went ahead Mr. Speaker and transferred without the approval of this particular Assembly. They also went ahead and opened an emergency fund that is removing money, not even little money but a lot of money that is exchanging hands without the approval of this particular Assembly.

I have gone through the report and have found billions and billions of money missing and around Ksh. 884 million are missing in 2010 report and so many others meaning that they are spending money or looting with a lot of impunity. When you look at the report of 2011 Mr. Speaker, also millions and millions are missing without any explanation.

I want to cite an example of Nairobi Water and Sewerage which is an institution that is owned by this County Mr. Speaker and when you find that their financial statements cannot be accounted for then there is a very big problem; that more than eight billion is missing from that particular company and so many other queries that are being reported by the Auditor General Mr. Speaker.

I want to ask will this report after deliberating and passing it in this House Mr. Speaker go to the drain and these people running Scott free having looted billions and billions of this County at the expense of Nairobians? We have one problem, we recycled the same persons into these offices. From the treasury we inherited the same people and those we brought new entered into the same bad things that are happening. We cannot allow a lot of money going un accounted for and I want this particular Committee if possible that after deliberating these individuals who have looted and who have assisted in looting that they be held accountable for every cent Mr. Speaker. I believe that we should propose this to the Ethics and Anti-Corruption Commission; I do not know whether they are going to hold onto these reports so that they can further investigate and probably they be prosecuted and after prosecution, they be declared unfit to hold any office in this Republic because this is bad and we cannot allow and sit here while Nairobians are suffering and yet there are no services for them Mr. Speaker. Thank you Mr. Speaker.

**Hon. Speaker:** Thank you. Hon. Isuha

**Hon. Member for Kangemi Ward** (Mr. Peter Isuha): Thank you Mr. Speaker sir for giving me this time to support this Motion. It is high time this House embarks on the oversight role and not allow themselves to be controlled by the Executive Mr. Speaker sir. We have been raising so many issues in this Assembly but the Executive comes and interferes with it. It was only last week when Members were complaining about the transfer of Ksh. 70 million without the knowledge of this Assembly.

I am glad that for the first time this Assembly did not allow the Executive to transfer the Equity loan to KCB account but to my surprise, the Executive further went ahead and transferred the same to KCB with their ill motive. It is today Mr. Speaker sir that we discovered that during that transfer Ksh. 500 million was embezzled by this Executive.

**Hon. Speaker:** What? Can you be specific?

**Hon. Peter Isuha:** Mr. Speaker sir during that transfer the Executive claimed that after transferring the loan to KCB they paid them Ksh. 3.3 billion.

**Hon. Speaker:** Three point?

**Hon. Peter Isuha:** Ksh. 3.3 billion Mr. Speaker sir but during today's interrogations with Equity bank officials, it was revealed that it is only Ksh. 2.8 million which was transferred and paid to KCB account meaning that Ksh. 500 million has been stolen by the Executive. That is why I am saying Mr. Speaker sir that this Assembly must stand with the PAC Committee so that these culprits are brought to book. Thank you.

**Hon. Speaker:** Hon. Tabitha

**Hon. Tabitha Ndigirigi** (Nominated Member): Thank you Mr. Speaker sir. My question is that you can see that there are no Members in this House and if we continue discussing---

*(Loud Consultations)*

**Hon. Speaker:** Order Hon. Tabitha!

**Hon. Peter Imwatok:** Can you kindly Mr. Speaker because the Member rose according to the mood of the House, to ask if you can put the question for this report.

**Hon. Speaker:** Hon. Members, Hon. Isuha has come up with a very serious issue that Ksh. 500 million has gone missing during the transfer therefore when do we expect to get that full report so that we do not speculate? Hon. Chairman, it is a very serious thing by the way.

**Hon. Robert Mbatia:** Mr. Speaker, I think I would say that Ksh. 500 million as Hon. Isuha has said, I will only put it in accounting terms; cannot be accounted for and in this report we are still dealing with the Equity loan and so Mr. Speaker we still need your direction. We have asked for a report in detail from the

Executive and only need the RTGS transfer from Equity to clarify that. So they were to furnish us with the information this afternoon and by tomorrow we shall be seeking your directions. Thank you.

**Hon. Speaker:** Very well. Do you want to tell the House so that we give you time tomorrow to get yourselves together so that next week Tuesday 2:30 p.m. you come up with the whole information in regards to that Ksh. 500 million that is unaccounted for.

**Hon. Robert Mbatia:** This is a report, Mr. Speaker. We must compile it in the forthcoming report that we are yet to table. Actually, we are almost ready. It is at a typing level. So, probably by next week, we shall be putting a notice of Motion on the same. We will give more information on that but that is, as Hon. Isuha has said, just a bombshell and it is true that there is some money that cannot be accounted for. Thank you.

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

**Hon. Deputy Speaker:** Mr. Speaker, this is something very serious. The Members here indicate that what the Executive Member for Finance told them does not match what they were told by the Bank and the Chairman of PAC here is concurring with that. Maybe they only need to give us and the House the basic preliminary findings because Members are going to come out very anxious to know. We can't wait for this until next week. It is not possible.

**Hon. Speaker:** Very well.

**Hon. Deputy Speaker:** Margaret Sewe has some little information she is able to share with Members. We can't take this House for a ride anymore, Mr. Speaker. It is wrong.

**Hon. Speaker:** You are right. Very well Hon. Deputy Speaker. Can we have Hon. Margaret Sewe?

**Hon. Margaret Sewe:** Mr. Speaker sir. Indeed, it was a shock for the Committee today when we learnt of this kind of discrepancies within the Finance Department. I concur with the Deputy Speaker that we agreed at a Committee that we wait for the statement. But in the meantime, I am very sure we are able to get a communication from the Bank so that we deal with formal documentation as we pursue this.

Mr. Speaker, the PAC Committee does a lot of good work and we got shocked by the day on the mismanagement and the misappropriation of funds in this Assembly. Those things are grievous. Some of them look more fictitious than real. Mr. Speaker, my worry as a Member of that Committee, and I keep asking every day I go to that Committee, that even as we unearth the findings of yesteryears, what about the things that are eaten today, or the monies that are diverted today? Mr. Speaker, we must stand up and act fast as the Assembly. Thank you.

*(Applause)*

**Hon. Speaker:** Before I put the question, Hon. Members, this is a very serious issue. And as the Deputy Speaker rightfully said, we don't want Members to go with anxiety. I have this ruling to make in regard. Hon. Maggy Sewe, please. First of all, I want to thank the Committee of PAC. And I said earlier, I have a full confidence in you. Now, Hon. Maggy Sewe has just stated here that we don't know what is going on now.

But what we now know is that there is a conflicting report from the County CEC of Finance and the Public Accounts Committee. And the Public Accounts Committee has gotten a report from the horse's mouth; the Equity Bank. I want to say this and send a very strong warning that the moment we get the RTGS, whatever information from the Bank, this Assembly will take very severe actions against the officers involved in that malpractice. I want to tell you without fear or favor that we will meet with them squarely as soon as we get the report on behalf of Nairobians. Thank you.

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

**Hon. Deputy Speaker:** Mr. Speaker, I welcome the report of PAC but I have just noticed that the PAC report has not entailed any form or recommendation on how we are able to recover the lost money. And who is supposed to be surcharged, Mr. Speaker? So, in this case, I find this report--- it is well in order but that bit ought to have been considered. I seriously need your direction on this because if we adopt this report in its form, then I am afraid we don't have recommendations on how to come out of this.

**Hon. Speaker:** I think, Hon. Deputy Speaker, you are right because the PAC has not given us the terms of engagement in regard to action to be taken, because you have not given us the direction. Can we have it from the chair, please?

**Hon. Robert Mbatia:** Mr. Speaker, I thank you and the Hon. Deputy Speaker for the concern. We want to notify this Assembly that we had four reports which are very similar. At this point, we are dealing with year ended February 2013 that we are tabling next week. So, on that, Hon. Deputy Speaker, actually it is when we will put the recommendations, which actions should be taken and on who. Thank you, Mr. Speaker.

**Hon. Speaker:** Very well. Hon. Carolyne and then we will have the mover to reply.

**Hon. Carolyne Muga:** Thank you Mr. Speaker. Considering the volume and content of this Financial Statement, are we able to get them before and not just when we have come to the Assembly? Because sometimes you need to digest what is written there and ably debate. So, when you get it the last minute, you know, sometimes you are not able to see some of those things. So, I am kindly asking that the next report to come a day or two earlier so that we are able to digest them and process.

**Hon. Speaker:** Can we have Hon. Isuha? He had not completed his--- did you complete? Very well, the mover of the Motion to reply.

**Hon. Robert Mbatia:** Thank you Mr. Speaker. I also want to thank the entire Assembly for the mood of the House. Actually, this has just confirmed that we are one frustrated pack; one lot that is frustrated by other side of the Government, which is the Executive.

I would also seek your guidance on the issue a preliminary report on the allegations that Hon. Isuha has said and probably say that we have the HANSARD recordings. We also have the letter that sought approval of this Assembly for the Equity loan to be transferred to KCB (Kenya Commercial Bank) and ---. So, if we are allowed, we can just table a preliminary report on that and if it is permissible, we can also make recommendations on the same.

Otherwise, I want to thank you, Mr. Speaker and the entire Assembly, for supporting this Motion and assure you that once we adopt this, the next report is coming and very soon, be assured, "*some dust must blow and some heads must roll*". Thank you, Mr. Speaker.

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

*(Question put and agreed to)*

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

**Hon. Robert Mbatia:** Thank you, Mr. Speaker. As I said that I move again on item no. 10 of this and request that this Assembly adopts the report of the Public Accounts Committee on the report of the Financial Statement of the defunct City Council of Nairobi year ended 30<sup>th</sup> June, 2011.

So, in my report, it is what I would just like to highlight and say that whatever I had highlighted is what actually is still in this report. So, I want to request our Hon. sister, Maggy Sewe, to second this Motion. Thank you.

**Hon. Margaret Sewe:** Mr. Speaker sir, I rise to second this Motion.

**Hon. Speaker:** Order Hon. Karen! Do you want to come and sit here and do this thing? Please.

**Hon. Peter Imwatok:** Mr. Speaker, according to the mood of the House, and knowing very well that this is a report preceding 2010, it is more or less when you speak about Equity Bank. It is still the same report. Can you just put the question, Mr. Speaker? Kindly.

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

**Hon. Robert Mbatia:** Thank you for the wonderful reception, Mr. Speaker. On behalf of the Public Accounts Committee I want to thank this Assembly for supporting this report. Thank you.

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

*(Question put and agreed to)*

**Hon. Speaker:** Hon. Chairperson, Motion number 11.

**Hon. Robert Mbatia:** Thank you, Mr. Speaker. I would like to request this Assembly to adopt the report of the Public Accounts Committee on the report of the financial statements of the defunct City Council of Nairobi for the year ended 30<sup>th</sup> June, 2012. Mr. Speaker, also, as I request this Assembly to adapt the same, I would like to answer my sister, Hon. Muga and indicate that---

**Hon. Speaker:** Hon. Chairperson, can you go a little faster please.

**Hon. Robert Mbatia:** Yes. Mr. Speaker, this indicates that we tabled this report and that we handed it to the Assembly on the 3<sup>rd</sup> December, 2014. It has not been with us, we have already forwarded it to the Assembly. So as per her request I would also like to forward it to your office so that the Members can be given copies well in advance. Thank you, Mr. Speaker.

**Hon. Speaker:** Who is seconding? Sorry, we are on which one now?

**Hon. Robert Mbatia:** We are on Motion number 11. I would request my sister Hon. Margaret Sewe to second me. Thank you, Mr. Speaker.

**Hon. Margaret Sewe:** Mr. Speaker, I stand once more to second.

**Hon. Speaker:** Hon. Members I will propose.

*(Question is proposed)*

**Hon. Peter Imwatak:** Mr. Speaker, once again I am delighted to have a chance to close the dark era, as I will put it. Aware that these 3 reports that the Chair has tabled here are proceeding each year, I believe as the Chair and Hon. Members have said here we are now near 2013/2014 and as the Chair said the wind must blow and heads must roll.

As the famous speech writer Malcom X said, “*The chickens have come home to roost*”. Mr. Speaker, I believe after the passage of this report for the defunct City Council or as we normally say “*the defunct City Council way*”, we are now on the Government way and I believe as the Chair says the preceding report which is 2013/2014.

We want to thank the Members of the Assembly for passing these other reports. 2013/2014 is coming next week as the Chair said so kindly assist us to clean the system. Mr. Speaker, as per the mood of the House, Hon. Karen has said County Rep, it is time to move to 2013. Kindly put the question, Mr. Speaker.

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

**Hon. Deputy Speaker:** Mr. Speaker, I am on the same. This is in regard to what I read. The Clerk is raising an issue here which may be pertinent or crucial. He is saying if it so happens that the names will be captured in the report of 2013 then the people who will be implicated may move to court and say that in the original report there is nowhere that they have been indicated.

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

**Hon. Peter Imwatok:** Mr. Speaker kindly, allow this Committee of PAC to exercise its Standing Order right, that you are tabling a report, 2010, 2011 and 2012. In no way are we speaking about 2013/2014, Mr. Speaker.

The speakers who have just stood here quoted a preceding precedent that is coming from 2011 to 2012 and the only item being captured in this debate this afternoon here was the issue of Equity Bank which has been a rollover project from 2010 to 2015, last year September 2014, Mr. Speaker.

As the Deputy Speaker said, nowhere is there any name depicted precedents from 2010, 2011, 2012 and 2013. It was just a part of the contribution by the Members concerning what is taking place today. Mr. Speaker, in the mood of the House kindly put the question we pass this report 2012.

**Hon. Speaker:** Very well but as the Deputy Speaker is saying as you sit down I want you to take note of what the Deputy Speaker is alluding to. Nevertheless, when you bring us the other report, even when you bring the preliminaries we also want to know who is going to roll.

So, we need all those things there so that we do not have speculations. Hon. Members, I now put the question--- Sorry, it is the Mover to reply.



**Hon. Robert Mbatia:** Thank you, Mr. Speaker. I thank you and the Assembly and also want to assure the Hon. Deputy Speaker, we do not want to mudsling anyone the threshold will be very high. If we are bound to punish or to take or recommend any action, it will be for that particular year. Now we are moving on the years 2012/2013. Thank you, Mr. Speaker.

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

*(Question put and agreed to)*

**Hon. Speaker:** Next Order. Very well, Hon. Members, the Assembly is adjourned until tomorrow, 2.30 p.m.

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

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