



## NAIROBI CITY COUNTY ASSEMBLY

### OFFICIAL REPORT

#### First County Assembly – Third Session

Tuesday, 9<sup>th</sup> June, 2015

The House met at 2.30 p.m.

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

### PRAYERS

**Hon. Speaker:** Serjeant-At-Arms ring the bell for ten minutes. Serjeant-At-Arms ring for a final five minutes. Order! Hon. Members can we proceed?

### PAPERS

**Hon. Member for Kwa-Njenga Ward** (Mr. Alex Mulatya): Thank you. Pursuant to Standing Order number 180(6), I wish to lay the following paper on the table of the House today Tuesday 9<sup>th</sup> June, 2015. The 14<sup>th</sup> report of the Sectoral Committee on Agriculture, Environment, Natural resources on the consideration of Nairobi City County Solid Waste Management Bill 2015.

*(Paper laid)*

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

**Hon. Member for Parklands Ward** (Mr. Jaffer Kassam): Mr. Speaker sir pursuant to Standing Order 180 (6), I beg to lay the following papers on the table of the Assembly today Tuesday 9<sup>th</sup> June, 2015.

*(Papers laid)*

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**Hon. Member for Utalii Ward** (Mr. Wilson Ocholla): Pursuant to Standing Order 180(6), I beg to lay the following paper on the table of the Assembly today Tuesday 9<sup>th</sup> June 2015. The eighth report of the Committee on Labor and Social Welfare on Committee workshop held on the 12-15<sup>th</sup> February 2015 at Kisumu Royal City Hotel. Thank you Mr. Speaker.

**Hon. Speaker:** Thank you Hon. Chairman

**Hon. Jaffer Kassam:** Mr. Speaker sir, apologies. Pursuant to Standing Order 180 (6) I beg to lay the report of the following papers on the table of the Assembly today Tuesday 9<sup>th</sup> June 2015. The reports of the Sectoral Committee of Justice and Legal Affairs on the consideration of the Nairobi City County petition to County Assembly procedure Bill 2015, Bill number four. Thank you Mr. Speaker.

**Hon. Speaker:** Very well Hon. Chairperson Justice.

## STATEMENTS

### Request for Statements

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

**Hon. Member for South C Ward** (Ms. Diana Kapeen): Thank you Mr. Speaker sir. Pursuant to Standing Order 41 (2) (c), I wish to request for the following statement from the Chairperson Sectoral Committee of Planning and Housing regarding a construction of a building on a Kenya Power way leave in South C. Hon. Speaker Benta Investment Building is constructed on a leeway which is registered as LR No. 209/11/NRBSOUTH C.

Hon. Speaker in the statement the Chairperson should inquire into and report on;

1. How the building was approved on a leeway
2. How and when the approval of the construction was done and;
3. Action taken by the Chief Executive to restore the leeway.

Mr. Speaker thank you.

**Hon. Speaker:** Very well Hon. Diana. I would like to ask the Chairperson for Planning and also because the way leave is indeed Water and Sanitation if I am not wrong. I would like Planning Chairperson

and Chairperson for Roads and to jointly bring us a report on this building that is on top of a way leave in South C. Can we have an undertaking from both the Chairpersons?

**Hon. Member for Eastleigh South** (Mr. Nelson Masiga): Thank you Mr. Speaker sir. We need to have a site visit so that we make an undertaking. Two weeks will be enough for us.

**Hon. Speaker:** Hon. Chairperson for Roads or is it Planning? You cannot have two weeks for a building that is on top of a way leave, you only need five days to bring the report from the respective offices on the first and second floors. I am making a ruling that you have until Tuesday for the report to be on the floor of this Assembly.

**Hon. Nelson Masiga:** Mr. Speaker sir, you know how things are done in the County and so when you say five days then we will be lying to ourselves. Kindly give us two weeks so that we can have a comprehensive response on that.

**Hon. Speaker:** Order! If you are not able then we can get other people to get the job. I want that report. Chairperson for Liaison that report should be here in five days. That is a building that is on a leeway, we do not want to wait until people are dead then we can say we have taken two weeks, thank you Hon. Members.

**Hon. Deputy Speaker:** Thank you Hon. Speaker let me have the undertaking that the report will be here by Wednesday next week.

**Hon. Speaker:** So be it. Thank you. The Chairperson for Works?

**Hon. Member for Lucky Summer Ward** (Mr. Kennedy Oburu): Thank you Mr. Speaker sir. We plan to do the same with my comrade as stated by Wednesday next week. Thank you.


**Hon. Speaker:** Thank you. Hon. Diana Kapeen

### **ILLEGAL SAND AND BALLAST SELLING ALONG POPO AND OLSHAPALA ROAD IN SOUTH C**

**Hon. Diana Kapeen:** Thank you Mr. Speaker. Pursuant to standing order 41 (2)(c) I wish to request for a statement from the Chairperson of Sectoral Committee of Agriculture, Environment and Natural Resources regarding illegal sand and ballast selling along Popo and Oleshapala road in South C. Hon. Speaker there has been illegal sale of sand and ballast in the middle of roads in South C.

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Hon. Speaker in the statement the Chairperson should inquire and report on the following;

1. Who authorized sand to be sold in the middle of roads?
2. What measures the County Government is taking to restore the roads being taken over by the sand, quarry and stone dealers in South C
3. Efforts being made by the department of Environment to help the residents of South C maintain a clean environment and;
4. Plans to get rid of the sand business along the two major roads of South C?

Thank you Mr. Speaker.

**Hon. Speaker:** Chairperson Environment?

**Hon. Member for Upper Savannah Ward** (Mr. Benson Amutavi): Thank you Mr. Speaker sir. I will give a report on the same in two weeks' time. Thank you

**Hon. Speaker:** Very well. Thank you. Hon. Samuel Kagiri?

#### **RECONSTRUCTION OF TRANSAMI PLOT 10 ROAD IN PIPELINE WARD**

**Hon. Member for Pipeline Ward** (Mr. Samuel Kagiri): Thank you Mr. Speaker for this opportunity. I have three statements to put forward and the first statement goes to the Transport Committee. Pursuant to Standing Order 41 (2)(c) I wish to request for a statement from the Chairperson of Sectoral Committee on Transport and Public Works regarding the Transami Plot 10 road in Pipeline Ward.

Mr. Speaker the above mentioned road has been impassable for the past one month and the situation is the same for most roads in that Ward. Hon. Speaker in the statement, the Chairperson should inquire into and report on;

1. The reason as to why the request from the residents to drain the water and murrum the roads has not been effected?
2. The measures the County Government is taking to prevent the roads in pipeline Ward from further degradation and repair the damaged roads?

Statements number two or should I go one by one?

**Hon. Speaker:** Go ahead

### **SANITATION IN CITY HALL ANNEX BUILDING**

**Hon. Samuel Kagiri:** Pursuant to standing order 41(2)(c) I wish to request a statement from the Chairperson of Sectoral Committee on Health Services regarding the sanitation in City Hall Annex building. Hon. Speaker the said building is filthy and looks like it has not been cleaned for quite a while. It hosts important offices of the County which serves the public with different facilities. The building is therefore a health hazard to the public and Members of the staff occupying it.

Hon. Speaker in the statement the Chairperson should inquire into and report on;

1. The people responsible for cleaning the building
2. The reasons as to why the building has been neglected

### **AUTOMATION OF REVENUE COLLECTION BY JAMBO PAY LIMITED**

Finally Mr. Speaker pursuant to Standing Order 41 (2) (c) I wish to request a statement from the Chairperson of the Sectoral Committee on Budget and Appropriations regarding the automation of revenue collection by Jambo Pay Limited. Hon. Speaker Jambo Pay Limited was tasked to carry out cashless payment system to stem revenue pilferage in manual collection.

Hon. Speaker in the statement the Chairperson should inquire into and report on;

1. Provide the cash collection records six months before the introduction of the cashless system and records since the introduction of the system to date.
2. The financial implications of the cashless system.
3. Enlightenment on how the cashless system works.

Thank you Mr. Speaker.

**Hon. Speaker:** Very well. Roads Chairman?

**Hon. Kennedy Oduru:** Thank you Hon. Speaker once again. He will get the response in two weeks' time because it involves site inspection. Thank you.

**Hon. Speaker:** Very well. Where is our very able Chairman Health and on behalf of the Assembly I want to thank you for the good job you did the other day on Kenyan television. You came out very strongly and defended the Assembly. I thank you.

*(Applause)*

**Hon. Member for Nairobi South Ward** (Mr. Manoah Mboku): Thank you Mr. Speaker. The statement requested by the Member goes to the Department of Environment because issues to do with cleanliness and toilets fall under that Mr. Speaker.

**Hon. Speaker:** So can we amend that to the Chairman of Environment? Hon. Kagiri the Chairman Environment will handle your---

**Hon. Benson Amutavi:** Thank you Mr. Speaker sir. As we all know it has been a menace in City Hall Annex and also some corridors of City Hall on the far end towards the Chief of Staff's office. The toilets are pathetic and I spoke to the Chairman who has just come here and I asked him why he is sleeping on his job and he knew I was going to ask the same question and so he has come before me. We want to know what the Health Department is doing to the toilets at City Hall Annex and also those at the Assembly. They need to give someone a contract to try repair and modernize the toilets. Thank you, Mr. Speaker.

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

**Hon. Deputy Speaker:** Mr. Speaker, I think the Hon. Member is running away from the responsibility because the mandate of solid waste management lies squarely under his docket as the Chairperson for Environment. It has got nothing to do with public health. So, let the Chairperson should not run away from his responsibility.

**Hon. Speaker:** Can Hon. Kagiri read the statement again?

*(Loud consultations)*

**Hon. Samuel Kagiri:** *Hii ni ya Health sio Environment.*

*(Loud consultations)*

**Hon. Speaker:** Hon. Members, the request for statement goes squarely to the Chairperson of Health not Environment. So, can you undertake to give us an answer?

**Hon. Manoah Mboku:** Thank you, Mr. Speaker. We will have a look at it as a Committee and recommend in the next two weeks.

**Hon. Speaker:** Very well.

**Hon. Elizabeth Manyala:** Point of Information.

**Hon. Speaker:** Is it a Point of Order or a Point of Information?

**Hon. Elizabeth Manyala:** It is a Point of Information, Mr. Speaker. I think if we revisit the 2<sup>nd</sup> Schedule of the Standing Orders, there were so many roles that were erroneously removed from Sectoral Committees and they are really creating confusion. For example, you can see solid waste which falls under Public Health was erroneously mutilated and transferred to Environment to an extent that Environment sometimes thinks – because these issues are now cutting across.

When it comes to Labour issues, child labour and welfare was erroneously mutilated and taken to early childhood who do not even know or have the technical know-how of welfare. So, it is high time that the Assembly sits again and looks at the 2<sup>nd</sup> Schedule and then harmonize the 2<sup>nd</sup> Schedule of this mandate, otherwise we will keep on pushing blame and we will not move anywhere. Thank you, Mr. Speaker.

**Hon. Speaker:** I think I agree with Hon. Manyala and it is important for us to sit down and correct that anomaly. Hon. Diana.

**Hon. Diana Kapeen:** Mr. Speaker, I was going to raise the same concerns as Hon. Manyala has brought forward. I am just concerned whether your able Service Board will have it in its heart? We need to go back and go through the Standing Order again. Mr. Speaker, as she has said, we have contradicting clauses in this Standing Order. Thank you.

**Hon. Speaker:** Thank you, we will look into that. Next, Chief Whip.

**Hon. Chief Whip Majority (Mr. David Mberia):** Thank you, Mr. Speaker sir for this opportunity. Hon. Speaker, pursuant to Standing Order 41(2)(c) I wish to request for a statement from the Chairperson of the Select Committee on the Wards Development Fund regarding progress in the implementation of the Fund.

Hon. Speaker, the gazette of the Members of Nairobi City County Ward Development Fund Committees was supposed to kick off the operations of the Fund. Mr. Speaker, the gazette notice dated 1<sup>st</sup> August, 2014 clearly states that the elected Members of the respective Wards Fund Committees with each of the 85 Wards having 7 members tasked with administration of the 20 million shillings per Ward. Mr. Speaker, in the statement the Chairperson should enquire into and report on;

1. The progress of the activities and milestones the County Ward Development Fund Management Committee has undertaken since the inception of the Fund.
2. The current state of the Nairobi County Ward Development Fund Ward Committees;
3. Whether any payment in respect of our allowances for the Ward Committees Members has been paid to date and how much and;
4. The progress on the proposed training of the Ward Development Fund Committees.

Thank you, Mr. Speaker.

**Hon. Speaker:** Hon. Gari.

**Hon. Member for Nairobi West Ward (Mr. Maurice Gari):** Thank you Mr. Speaker. I will respond in a weeks' time.

**Hon. Speaker:** Very well, that is next Wednesday, 2.30 p.m. Next Order. Hon. Chairperson, Budget, you have not undertaken on the issue--- This is in regards to the Jambo Pay Ltd. Hon. Kagiri, can you read the statement again.

**Hon. Samuel Kagiri:** Thank you, Mr. Speaker. Pursuant to Standing Order 41(2)(c) I wish to request for a statement from the Chairperson of the Select Committee on Budget and Appropriation regarding the automation of revenue collection by Jambo Pay Ltd. Hon. Speaker, Jambo Pay Ltd was tasked to carry out a cashless payment system to stem revenue pilferage in manual collections.

Hon. Speaker, in the statement the Chairperson should enquire into and report on;

1. Provide the cash collection records 6 month before the introduction of the cashless system and the records since the introduction of the cashless system to date.
2. The financial implications of the cashless system;
3. Enlighten on how the cashless system works.

Thank you, Mr. Speaker.

**Hon. Speaker:** Thank you. Chairperson of Budget.

**Hon. Petronilla Achieng (Nominated Member):** Thank you. On behalf of the Chairperson, give us one week after which we will give you the report.

**Hon. Speaker:** Very well. That is Wednesday, 2.30 p.m. Next Order. Hon. Members, there will be a response to request for statement by the Hon. Issac Ngige from the Chairperson of the Sectoral



Committee on Transport and Public Works regarding the road projects that are under the Kenya Urban Road Authority.

**Hon. Kennedy Oduru:** Thank you, Mr. Speaker sir. On Thursday, 26<sup>th</sup> March, 2015 the Hon. Issac Ngige, MCA, pursuant to Standing Order 41(2)(c ), requested the Chairperson of the Sectoral Committee on Transport & Public Works for a statement regarding the road projects that are being undertaken by the Kenya Urban Roads Authority(KURA). He further asked the Chairperson to enquire into and report on;

1. Whether the Kenya Urban Roads Authority is working in collaboration with Nairobi City County Government on road projects.
2. Whether the Kenya Urban Road Authority does conduct public participation when awarding road projects.
3. Programs and budget for KURA during the financial year 2013/2014 and 2014/2015;
4. Plans by KURA to work with the County Government in its preparation of projects for the financial year 2015/2016.

Hon. Speaker Sir, the Committee wrote to the County Secretary and copied to the County Executive Committee Member responsible for Roads, Public Works and Transport on 30th March, 2015 requesting to be furnished with a written response to the statement requested by the Hon. Member. The County Secretary furnished the Committee with a written response reference number CEC/0513/KW/MWM dated 8th April 2015. The Committee interrogated the response from the County Secretary and found it unsatisfactory.

The Committee further wrote a letter to the County Executive requesting for clarification on the plans by the Kenya Urban roads Authority to work with County Government on its preparation of projects for the financial year 2015/2016. The County Executive Committee Member responsible for Roads, Transport and Public Works responded through a letter 4th June 2015. In this regard I wish to report to the Assembly as follows:

- a) Whether the Kenya Urban roads Authority is working in collaboration with Nairobi City County Government on roads projects.

The Committee was informed that the Kenya Urban Roads Authority is working in collaboration with the Nairobi City County Government on roads projects. KURA does invite County Government Engineers and other Technical staff to projects meeting such as site visit meeting. It also does engage in

consultative meetings pertaining planning, drainage and maintenance issues as well as harmonization of maintenance programs.

b) Whether KURA does conduct Public participation when awarding roads projects.

Mr. Speaker sir, the County Secretary stated that KURA does engage in public participation especially with respect to major road infrastructure projects. However for the maintenance program they have not engaged public participation. The County Secretary further stated that the omission has been brought to the attention of KURA.

c) Programs and Budget for KURA for the financial year 2013/2014 and 2014/2015,

Attached are the programs and Budget for KURA for the financial year 2013/2014 and 2014/2015.

d) Plans by KURA to work with County Government in its preparation of projects for the financial year 2015/2016.

The Committee was informed that the County has received the work plan for KURA for the financial year 2015/2016 and has analyzed it against the County work plan to avoid overlaps. The CEC further stated that a memorandum of understanding is being prepared to define the working relationship with a view of having KURA as an agent of the Nairobi City County Government. Hon. Speaker, I beg to lay the response. Thank you.

**Hon. Speaker:** Thank you Hon. Chairman. Hon. Ngige!

**Hon. Member for Mwiki Ward** (Mr. Isaac Njoroge Ngige): Thank you Mr. Speaker, I want to thank the Chair for the response. Probably what I need to add is that I have received a very big document that I may not be able to go through in details, but when I asked this question Mr. Speaker about the Kenya Urban Roads Authority, I was not asking because of Mwiki, but on behalf of Members of this Assembly and probably because it may not be in my interest to go through the whole document. I want to urge the Chairperson and his Committee to go through the work plan and confirm whether KURA is indeed working with the County Government and secondly, whether the distribution of resources is as required by law.

This is because Mr. Speaker, when you look at the Eastland's area of this Nairobi, we are not seeing the presence of Kenya Urban Roads Authority. We see the presence of KURA in the leafy suburbs

of this County. I think this should be upon the Chairperson and his Committee to further interrogate and actually work towards having KURA as an Agency of Nairobi City County Government. As I finalize I would like you also to put more emphasis on this matter. Most Members here I am sure are using the Kasarani-Njiru road on one or two occasions and right now that road is in very bad state.

I think I am speaking on behalf of the Members of the County Assembly coming from Kasarani Constituency, it is an issue that is hurting all of us and probably the Kasarani Sub County would like the Chairperson to also probably visit the site and urge either the Kenya Urban Road Authority or Nairobi City County Government to do something on Kasarani– Njiru road. Otherwise thank you so much and thank you Chairman for this report.

**Hon. Speaker:** Very well Hon. Isaac Ngige, it is true the sentiments are in order but to add the Chairperson of roads, indeed the pathetic status of the roads in Kasarani area to say the least is unacceptable. The road to Mwiki which is less than two kilometers, what does the CEC have to say? But I want you as the Member has asked, right from here, go back and ask them, we are seeing here there are a lot of things to do on the budget. This budget, where are they covering, have they covered the eastlands, other areas or where do they cover? This financial year 2014/2015 what has it done? What do they intend to do? And then our CEC for Roads should be told to wake up.

We know they have the capacity to do the roads, it is just to coordinate themselves so that they can deliver a few roads in the City. So it is up to you the Hon. Chairperson Roads to give us a report soonest as we are going now to the end of heavy rains, we want to see that our roads are taken care of. We also understand that there is a lot of money that has been given out for the emergency funding which is not for buying tents or cholera tablets, it is also part of the roads that are bad or are worse.

Thank you Hon. Members, Chairperson Works, can you in conjunction with the Clerk and the Hon. Member, Isaac Ngige sit and bring us a comprehensive report next week. You have to read this huge volume of papers and bring us a good report on Thursday and tell us the work the CEC is doing, if he is not able to do the work, we can close shop. Thank you.

Hon. Members, the following Statements are due for response today, the Statement requested by Hon. Ngaruiya Chege from the Chairperson of the Sectoral Committee on Agriculture Environment and

Natural Resources regarding the cost of the working tools procured by Water, Energy, Forestry, Environment and Natural Resource Sector, the Hon. Chairperson.

**Hon. Member for Upper Savannah Ward** (Mr. Benson Amtavi): Thank you Mr. Speaker sir. We are still compiling the number of tools that were collected because there are some tools that have been uncollected up to date and we request that you give us one more week and we will bring a report to the House.

**Hon. Speaker:** Very well, I think on Wednesday you can bring us that report.

**Hon. Benson Amutavi:** Yes Mr. Speaker sir.

**Hon. Speaker:** Thank you. Hon. Ngaruiya.

**Hon. Member for Kahawa West Ward** (Mr. Patrick Ngaruiya): Thank you Mr. Speaker, I think this issue is not about collection of working tools and the Chairman does not understand the Statement kindly Mr. Speaker I think he should interrogate the Statement that I requested before coming in front here and stating that there are some Members who have not collected their tools. We do not need those tools, kindly Mr. Chairman that is why I requested the Statement.

**Hon. Speaker:** Very well Hon. Chege, let us give him the benefit of doubt until Wednesday next week so that he can bring us a report, I understand where you are coming from.

## MOTION

### **Report of Sectoral Committee on Transport and Public Works on the site visit to Embakasi Sub County**

**Hon. Kennedy Oduru:** Thank you Mr. Speaker sir, I beg to move the following Motion: That this County Assembly adopts the report of the Sectoral Committee on Transport and Public Works on the site visit to Embakasi Sub County to assess the state of ongoing road works repairs laid on the table of the Assembly on Wednesday 22nd October 2014.

Introduction;

Hon. Speaker following complaints raised by Embakasi Sub County residents on the poor state of the road allegedly occasioned by delayed completion of road construction or repairs, the Committee had a site visit to the said Sub County on 11th September 2014 to ascertain reasons behind the state of the roads particularly those under the jurisdiction of the County.

The Committee visited the Imara Daima Ward, Kwa Njenga Ward, Kwa Reuben Ward and Mihang'o Ward. Members had the opportunity to witness the ongoing road repairs where a majority had stalled. No contractors were on site despite the same having been budgeted for in the current financial year. Some roads were completely impassable since they had large potholes filled with stagnant water. The drainage system was blocked posing a health risk to area residents. Residents complained that some of the roads repairs commenced by the defunct City Council of Nairobi but had not been finalized.

#### Committee Findings and Observations;

However Hon. Speaker during the site visit the Committee found the following: Imara Daima, Kwa Njenga and Kwa Reuben Wards.

While inspecting the state of the roads and ongoing construction repairs the Committee found out as follows:

i. That most roads in the Wards are earth roads and no efforts were being made to upgrade them to bitumen standards. This has contributed to their destruction especially during rainy season making them completely impassable.

The residents complained they always have a hard time to commute during rainy season.

ii. A few roads which are tarmacked have been damaged due to lack of maintenance. Most of them had potholes which were filled with stagnant water making it impossible for motorists and to other road users to navigate through.

iii. That the drainage system is completely blocked leading to stagnation of storm water. This further contributes to destruction of the already damaged roads.

iv. Most of the road repairs had stalled and no contractors were on site. There was no evidence that repairs were ongoing particularly Kwa Njenga Ward.

Mihang'o Ward;

While inspecting the state of the roads and ongoing road constructions and repairs the Committee found out as follows:

i. That despite majority of the roads being graveled, they are not maintained by the County Government. Due to the non-maintenance the roads have potholes which are likely to enlarge and make the roads impassable. That the construction to bitumen standards of the major roads linking to Kayole referred to as Mihang'o Estate Link Road has stalled. The area Member of the County Assembly tabled documents regarding the said roads and further stated as follows:

a) The construction of the road was commissioned by the defunct City Council in the year 2010, MS Junjo commercial agencies were awarded the tender to construct the road at a total sum of Ksh. 300,776,232 and were expected to complete the works within 20 months.

b) The contractor commenced the works and then completed 70% of the construction; however the defunct City Council of Nairobi did not honor its payment to the contractor amounting to Kshs. 19 million of the completed work hence the contractor halted further construction.

c) Attempts by the contractor to seek assistance from the County Government have not been fulfilled despite the County Government having made budgetary provisions for the said roads in the current and previous financial years

Committee recommendations;

Hon. Speaker, following the site visit the Committee urges the County Assembly to resolve that:

1. The County Government should prioritize repairs and construction of access roads within residential areas particularly densely populated areas to ease mobility of residents. The County Executive should ensure that all earth roads are upgraded to bitumen standards within reasonable time frame.

2. That the sector of Roads, Transport and Public Works should immediately commence construction of drainage system on County Roads to stop further destruction of the said roads.

3. The County Government should fast track payment of pending Bills to contractors with priority being given to those who have already completed their work, MS Junjo commercial agencies should

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be facilitated to finish construction of Mihang'o estate link road as there is budgetary allocation of the said road in the current financial year.

4. That all contractors on site whose work is due should be given reasonable notice to complete their construction failure to which legal action should be taken against them as per the respective tender agreements. Thank you Mr. Speaker sir.

I therefore call upon Hon. Martin Waweru to second the Motion.

**Hon. Member for Kasarani Ward** (Mr. Martin Waweru Gichuhi): Thank you Mr. Speaker, I beg to second the Motion

*(Question to the motion proposed)*

**Hon. Member for Eastleigh South** (Mr. Nelson Masiga): *Shukrani Bwana Spika kwa fursa hii ambayo umeweza kunipatia kuweza kuchangia katika ripoti hii. Hivi kwamba tunapoangalia maswala haya ya mambo ya usafiri na barabara katika Wadi zetu unapata ya kwamba barabara zetu sio barabara tena, zimekuwa kama vidimbwi za maji ambavyo watu wanatumia kuogelea; hivyo basi...*

**Hon. Speaker:** You said what?

*(Laughter)*

**Hon. Nelson Masiga:** *Bwana Spika ni kumanisha ya kwamba kwa lugha sanifu ile tunajua ni kwamba vidimbwi ni kama swimming pool, zimekuwa vidimbwi vya watu kuogelea ambapo barabara hizi hazifai tena kwa wananchi wa kawaida ambao wanaishi hasa maeneo yale ambayo tunatoka kama kwangu huko Eastleigh Kusini juzi walikuwa wakiandamana wakisema Masiga tunaitaka barabara, nikauliza ya kwamba barabara nitatoa wapi, wakaniambia kama Kaunti mumelala.*

*Walienda kutembelea Ward Administrator akawaambia ni MCA ambaye amelala katika kazi yake na kama Ward Administrator ambaye mimi najua kazi yake ni kutekeleza majukumu ya Kaunti yeye badala kusema ameshindwa kazi amesema MCA ameshindwa na kazi.*

*Hivi basi mimi naunga sana mkono Mjadala huu ambao tunaongea mambo ya urekebishaji wa barabara na inahitaji njia ambapo tunaweza itumia haraka iwezekanavyo kuokoa Wadi zetu tunazoakilisha wananchi. Hivyo basi kama hatutafanya sasa hivi mambo ni sasa hivi ambapo tunahitaji kinara*

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*anayeongoza Kamati ya Ujenzi na Barabara aweze kwa haraka na kuharakisha ya kwamba barabara zetu zinaweza kuwa safi. Shukrani Bwana Spika.*

**Hon. Speaker:** Thank you very much Hon. Masiga. What Masiga is saying here is that--- and it should be made in plain English that the CEC Roads is sleeping on his job, and to the Chair of Roads and Works, you have too many cooks in that department. Give the right people the jobs they know to do. I have been around here for many years so I understand what I'm saying because if you go out right now and call the office of CEC Roads, Works he is touring Nairobi 24 hours so where does he go and what does he do?

*Bwana* Chairman Roads, actually the Member for Mihang'o is very polite in requesting for the contractor to return back to the area. Why would he not be paid his money? So what Hon. Masiga is saying about *vidimbwi*, it is really indeed *vidimbwi*. And don't only think it is you who is down there. Even those who live on the other side in Kibra, in Dagoreti, even in Lavington itself, the roads are in pathetic conditions. So it is up to the CEC to give the qualified men and women engineers to do the jobs. Thank you. Hon. Alex Mulatya.

**Hon. Member for Kwa Njenga Ward** (Mr. Alex Mulatya): Thank you, Mr. Speaker. I first and foremost congratulate the Chairman for Transport for tabling this report and also thank him for visiting especially the area I represent i.e. of Kwa Njenga Ward. Chairman you passed the AA Driving School down to Vision and you proceeded up to Vietnam where you left your vehicle at Alhamud Mosque in my Ward.

Mr. Speaker what Masiga just said, infact Kwa Njenga currently especially in Vietman area are swamps and swimming pools. As a result of their visit, yesterday Engineer Bob was sent there and he toured the area on foot and found exactly the CEC Member is actually sleeping. It is in this report whereby most of the ongoing filling of potholes in Embakasi South Constituency especially in Imara Daima, Kwa Njenga and some parts of Kware and Pipeline, that the work is actually done by our youth, in fact if it were not for the youth within my Ward, the roads would have been so pathetic such that no person can even pass there when walking.

Mr. Speaker, by adoption of this report, it means that the Budget Committee should consider especially those Wards without a single tarmac road or Wards without any inch of road. Kwa Njenga is one of the most populous Wards in Embakasi South Constituency without any defined single road, yet majority of the pathways, if I can say, are being constructed by my youth, through my efforts and the efforts of my



youth to make sure that they access Kwa Njenga which has a stretch from Airport North Road down to the Railway Station bordering Kwa Reuben Ward. Vietnam is a very well---

**Hon. Speaker:** Hon. Alex, are you talking about Vietnam?

**Hon. Alex Mulatya:** No I am talking about the roads. Vietnam Road can be constructed within the shortest time possible. So Mr. Speaker I beg to support the Chairman and ask the Committee to support---

**Hon. Speaker:** Hon. Kiguathi, Vietnam. Order Hon. Kados! Order!

*(The Hon. Speaker leaves his Chair and Hon. Deputy Speaker takes over)*

**Hon. Deputy Speaker** (Mr. Kennedy Ng'ondi): Proceed, Hon. Kados.

**Hon. Member for Mihan'go Ward** (Mr. Paul Kiguathi): Thank you, Mr. Speaker. In supporting this Motion I might not be very happy with the response of the Chairman because as you can see Junjo Construction was given this contract at a period of 20 months. So I don't know whether Junjo is still on site because if there was no extension, then this statement might be duping us. So I would like the Chairman to take an undertaking and please tell us if Junjo is still on site because as per what the response is stating, the contract was supposed to end after 20 months and so I am supporting but I would want Mr. Chairman to go further, deeper and give an undertaking if this Junjo Construction will still come to site.

**Hon. Deputy Speaker:** Hon. Chairman I hope you are taking notes. Hon. Petronilla.

**Hon. Member:** Was he supporting or opposing the Motion?

**Hon. Deputy Speaker:** Thank you for the reminder. Hon. Kados, are you for the Motion or against?

**Hon. Paul Kiguathi:** I am for the Motion but I would want the Chairman to take an undertaking.

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

**Hon. Petronilla Achieng :** Thank you, Mr. Speaker sir. I would want to thank the Committee of Transport for the work well done. However, as they talked about the City County looking at what the Kenya Urban Roads Authority is doing and as well as these roads, we know that long before the County Government came into being, the money for roads was coming to the then City Council of Nairobi.

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However due to transparency and accountability issues, this money was given to Government agencies to rehabilitate and construct the roads on behalf and construct roads of the County of Nairobi.

Right now they are reviewing the roads that belong to Nairobi City County, how much is supposed to be used and I do feel that the Chairman can go further and ask the department to have a meeting between Kenya Urban Roads Authority (KURA), the Ministry of Roads, the Nairobi City County, including Kenya Rural Roads Authority (KERRA) because it is rehabilitating some of the roads in the County. We can have a meeting, some of us like me and Ngaruiya will attend as friends and we ask them questions, we need more money for roads and I am sure we can do better if this money can be returned to us.

It is our duty to demand it, it is our rights the services have been devolved and we cannot keep on begging for services, if you go to the entire Nairobi things are bad, even Waiyaki Way which is under KeNHA, right now from our area, it is also bad, we need to advocate because this is what is causing accidents. Recently I think all of you know that we had an accident in Uthiru, it was because of a pothole. If the Chairman can do that, we can save Nairobians and we will be happy. Thank you.

**Hon. Deputy Speaker:** Thank you. Hon. Wahinya.

**Hon. Member for Ngando Ward** (Mr. Peter Wahinya Kimuhu): Thank you very much Hon. Speaker, I wish to support this particular report by the Chairman of Transport and clearly state that this report as far as I am concerned is well authored particularly the recommendations and I must say congratulations Bwana Ken, because what Ken has done is that he has brought in recommendations that are generalized in the sense that the constructions that he is talking about in his recommendations are touching all the works and all the Wards here in Nairobi. He has collectively said that the repair works and construction going on in all parts of residential areas the County.

The statement itself which was written in respect to the description of the Motion was talking about a visit to of Embakasi Sub-County. Well that Embakasi Sub-County as it may has been overtaken by events. It is necessary that we take notice that these recommendations that we are now proposing and are supposed to be communicated to the Governor.

The Governor must read very clearly what the recommendations are indicating. It is a total repair of all the roads in Nairobi County. There is a special comment on Mihan'go in as far as Junjo Commercial

Agency is concerned. But again nevertheless the Chairman in his good wisdom has recommended that every work that was ongoing and has not been paid, should be paid before other projects can commence. So I just wanted to make it very clear so that when our technical department is communicating to the Government they should know that these recommendations had nothing to do with Embakasi. Embakasi was just a site visit to create an impression of what is going on in Nairobi. The repairs are required everywhere in Nairobi. Mr. Speaker sir, thank you very much.

**Hon. Deputy Speaker:** Hon. Bishop Abuka

**Hon. William Abuka** (Nominated Member): Thank you very much Mr. Speaker for noticing me. I would like to start by congratulating and appreciating my able Chairman for a job well done, this is a very comprehensive and timely report. I was of course with my Committee when we went down to the respective areas. Mr. Speaker I have lived in Kibera and ministered the word of God there and there are a lot of issues and a lot of things that people are saying outside there. But if I can compare the roads in Kibera and those of Kwa Reuben, I would say that Kibera is a first world. Some of these roads are terrible you would think that you are driving on gulleys not just swamps, oceans and swimming pools.

Some of them are rocks and you would think you are driving on top of Mt. Kilimanjaro and Mt. Kenya because it is rocky and has potholes everywhere. However my reason for wanting to speak Mr. Speaker is to confirm and agree with the Hon. Speaker that the Transport and Public Works sector has been invaded and not only invaded, it has been terrorized to the extent that I think we need the attention of this Hon. House to really come, support and stand by our officers.

We have so many people outside there and around the corridors of this County who are all eying the projects of the Transport sector. They are not giving our officers good time to work they don't have it easy. They are implementing projects that are the imagination of outsiders with no recommendation of the County Assembly or the Committee that is charged with that responsibility. I think this is a very serious issue so we keep bashing our officers, we keep hitting them and some of them have given in to pressures from outside.

I think it is high time this Assembly really grows teeth to really call for order in that sector. Who is doing what and what is their level of efficiency so that what is being done can be seen on the table. Otherwise as things stand now the level of invasion and terror on that sector is mind boggling.

We have had so many occasions to interrogate the issues and the projects that are been undertaken and you can see even from the body language, that somebody has been answerable to somebody else and that is not to support the CEC and I think I will not agree with the Speaker more that somebody somewhere is sleeping on the job. Indeed we need to call for report and the output and how that resonates with the resolutions of the County Assembly. Thank you, Mr. Speaker.

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

**Hon. Karen Wanjiku** (Nominated Member): Thank you Mr. Speaker sir, I want to support this report on site visit to Embakasi Sub-County we know the situation of our roads in Nairobi County as a whole. It is a shame even as I stand here as an MCA in Nairobi County. I want to give an example of the road that I use every day and it's not Kagundo road it is called Komarock road, I usually use Juja road because Jogoo road is full of Jam. So if you take from Dandora Roundabout I don't know if you can get that picture, and inform me if that is a swimming pool or a farm, I don't even understand. In fact I saw some frogs there, it's not a road.

Therefore, we don't have roads in Nairobi County because most of them are--- I really don't have the right word to say. But it shows the importance of giving more funds especially now that we are doing our budget for our roads Mr. Speaker sir. I want to say that you cannot divorce the drainage system and the roads because, if I take an example of Tassia for example I don't know whether the Member is here, the drainage system there is that the sewerage is ever there, even I don't know what to say because I lack the words to describe it.

The sewage is everywhere leaking and the drainage system is awful so as we construct our roads, we must make sure that we make our drainage system because without that they will come and spoil the good roads. I also want to say that currently we saw in the newspapers that the Nairobi County have employed a thousand youth to unblock the sewerages and I don't know where they are if you have seen them you can tell me. If they are there let them come to the grass root and start unblocking those sewerages so that our roads can be better thank you.

**Deputy Speaker:** Hon. Mwalimu, I think we will have Hon. Ngaruiya to be the last Speaker and then the Mover to respond.

**Hon. Member for Kahawa West Ward** (Mr. Patrick Ngaruiya): Thank you Chairman and I want first of all not to support this particular document because I am opposing it because of various reasons. In the report it is not comprehensive this is because there are several loopholes in this particular document that has been presented by the Chairman, and it is very important that when you are presenting a document in this particular House, it must be true to what it is saying Mr. Speaker.

Mr. Speaker, when you see in the document that was presented to Junjo by City Council of Nairobi in 4th February, 2010. There is a contradiction with the document that Junjo Commercial Agencies are talking about, whereby the City Council recommended Junjo to work 20 months and the document that Njuju is writing to County again they are saying there were given a period of 30 months.

Mr. Speaker, when you look at who was to fund this particular project it was through Kenya Roads Board initially that was in 2010. Later Kenya Roads Board funding was then left to be implemented and given to KURA. That is what the creation of Kenya Urban Roads Authority in late 2010 assumed the Kenya Roads Board funding for Nairobi Urban Roads. On that case Mr. Speaker there is nowhere the County of Nairobi entered into Memorandum of Understanding. There has to be an MOU between the KURA and the then County when it comes to the construction, of this particular road.

If it lacks I think it is the high time the Chairman and his Committee should visit these particular offices to see whether there was an agreement or transfer of this particular project from Kenya Roads Board KURA to the County of Nairobi. Reason been these roads have not been budgeted for ever since 2013/14 it was not there also in 2014/15/16.

So as we speak here and even if we recommend the Construction of this particular road even continues Mr. Speaker, then we will be doing an illegality. Another question that lingers is how many Kilometers were to be constructed with 300 million. It is not highlighted in any of this particular document, are we talking about one road or the whole of Mihang'o to be rehabilitated with 300 million.

Kindly, the Committee should go back to the ground and come up with a comprehensive document so that it can at least be approved and apprehended by this particular House. Thank you, Mr. Speaker.

**Deputy Speaker:** Is it crucial that it has not been captured? Hon. Manyala.

**Hon. Member for Kayole South Ward** (Ms. Elizabeth Manyala): Mr. Speaker, I want to concur with the Deputy Minority, that the report is not comprehensive, with the following reasons because what they did is just a sample and they did not do a comprehensive job because the road in question or the report needed to have come up with a situational analysis and a conceptual frame work or where by the investigation they were going to carry out and prior to the rehabilitation and the present status of the road.

This road in question, is called Kayole Spine road which is linking the adjacent Wards among them is Komorock, Kayole Central, Kayole South up to Mihang'o and I think that is why a lot of money was pumped into that. In the Situation Analysis they ought to have told us, whether it was KURA who was mandated to undertake the job and between which and what period? So that it is guiding the reader or informing the Members on where we are and what we need to do. With that if we see they are only concentrating on that sample road then what about the adjacent Wards because we are also stakeholders of that spine road, so are we going to do duplication. Thank you, Mr. Speaker.

**Deputy Speaker:** Hon. Weche!

**Hon. Member for Kasarani Ward** (Mr. Martin Waweru): Thank you Mr. Speaker I just want to call the mover to reply because---

**Deputy Speaker:** Order you are not allowed to call the mover to reply!

**Hon. Martin Waweru:** Not to call you call the mover to reply Mr. Speaker *(laughing)*

**Deputy Speaker:** Thank you one more contributor Hon. Irungu as the last speaker.

**Hon. Member for Komarock Ward** (Mr. Samuel Irungu): Mr. Speaker, I rise to support this report.

**Deputy Speaker:** Order Members! Can you converse in low tones?

**Hon. Samuel Irungu:** I think Mr. Speaker; it would be in order if I suggest that the Committee mandate is very clear. When we visited the Embakasi Sub-County our belief was very clear and simple. We wanted to go and inspect the nature of the road and ascertain what the County Government should do to that regard.

Mr. Speaker, if you look into that report for example this Committee which I am privileged to be a member, we went to Mukuru Kwa Njenga that is in Embakasi Sub-County and also we went to Mihango.

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We were not going to inspect roads at Embakasi Sub-County Where I and my Colleague Hon. Manyala belong.

Mr. Speaker, if you look at what *Mheshimiwa* the Deputy Leader has said is not factual because if you go to the budget of 2013/2014 this road was factored and it is not a duplication, it would be in order for me to say the Committee of Transport and Public Work doesn't have the capacity look at the Contractual issues. The issues of tendering and procurement belong to Procurement Department.

If there are issues, to do with KURA and KERRA and the County Government that is not the work of this Credible Committee. Mr. Speaker, I support it fully.

**Deputy Speaker:** Thank you as the Hon. Chair communicated before then Hon. Members, it is only good for you to concentrate your efforts on the Motions because if you kind of outstretch your energy on the entire Nairobi then that makes us to become irrelevant in any way, but maybe the mover you can reply.

**Hon. Kennedy Oduru:** Thank you Mr. Speaker sir, I thank those who have supported the Motion in the real sense if we referrer to this contract which was awarded by the defunct City Council of Nairobi whereby it was signed and authorized and it was signed by then the Clerk, Bwana Kisia and it is here, it was not roads as it was been said-----

**Hon. Kennedy Oduru:** It was under City Hall and all the correspondences which are appearing as appertains to this contract are being addressed to the City Council. Thank you Mr. Speaker sir. I thank all those people who have supported it, thank you very much.

**Hon. Deputy Speaker:** Thank you Hon. Members. Allow me now to put the question that,

*(Question put and agreed to)*

**The Nairobi City County petition to the County Assembly procedure Bill 2015 Assembly Bill Number 4 of 2015.**

**Hon. Member for Sarang'ombe Ward** (Mr. Pius Otieno): Thank you Mr. Speaker, thank you Hon. Members. First of all I stand to acknowledge the efforts of the Committee on Justice and Legal Affairs for the good work that they did while they were scrutinizing this Bill. Secondly I also want to extend my gratitude to Members of the Delegated Legislations Committee who also helped me to come up with this Bill.

It is important just for us to understand what a petition is. I wish to inform Hon. Members that as at this second reading of this Bill, or any Bill what basically we are required to do is to give out our merit or the demerits of the Bill that is before us. I wish to inform the House and Hon. Members that a petition is just a written request from one or more persons either to the Government, to the sovereign--- to the Assembly or to the Parliament or any state agency and while Members of the public or a group of persons are presenting their petition basically what they want that petition to address is either to bring to the fore or before the Assembly some of the issues that they think have not been tackled.

It is important for us to know that the history of petitions dates back to the 19<sup>th</sup> century at the period of King Edward, King Henry. By then they were kings. Even in that monarchical system citizens had a right to petition the king whenever they thought t or felt that there are some matters they wanted the king to address. We are coming from a rich history. We are coming from a very, very strong tradition that has been there in the Commonwealth practice and this practice has even found its way in the current Parliamentary practices. Mr. Speaker, what basically we are trying to do is that we are not reinventing the wheel. We are only trying to further the advancement that has been made so far as people who cherish and adore Parliamentary or Commonwealth practices.

Mr. Speaker, you will also understand that if you clearly look into your history as a result of the kings adopting the system of petitions, they later on went ahead and enacted a piece of legislation in the famous instrument known as the Magna Carta. This instrument is still in force today despite the fact that it was initiated more than 500 years ago. Magna Carta is in use and it is one of the instruments that is used in the United Kingdom or Great Britain for the purpose of just providing legal basis in as far as petitions and other legislations are concerned.

Mr. Speaker, it is also important for us to understand, then why is it at this particular juncture we are doing this petition? If you look at the Constitution of Kenya 2010, the first article says that all sovereign power belongs to the people of Kenya and shall only be exercised in accordance to the Constitution. This sovereign power basically means the people of this Country, County, seventeen Constituencies and eighty five Wards of Nairobi have a right to participate in County matters or matters at the national level.

The Constitution at sub section 2 clearly says that the people can either directly participate or indirectly participate. By virtue of us having a Bill that seeks to provide a framework or prescribe a framework on how we are going to be dealing with the business of petitions, we are simply giving members of Nairobi City County an opportunity, an enabling framework, an environment that is going to ensure that they participate in matters of this House.

Mr. Speaker, It is also important--- protect me from the noise----

**Hon. Deputy Speaker:** declined, give the mover time please.

**Hon. Pius Otieno:** Mr. Speaker, whoever has no business transacting on behalf of Nairobians---



**Hon. Deputy Speaker:** Please can you proceed?

**Hon. Pius Otieno:** Thank you so much Mr. Speaker.

*(Loud consultations)*

**Hon. Deputy Speaker:** Hon. Gari can you take your seat please.

**Hon. Pius Otieno:** Mr. Speaker, the Constitution article 37 clearly states that every person has a right to peacefully and unarmed to assemble, demonstrate, picket and present petitions to public authorities and Assembly in this particular matter is an authority. One of the functions of the Assembly is to legislate. The other one is oversight and another is to represent. Those three functions are very dear to the people who are walking in the streets of Nairobi. Those three functions are very dear to the citizens who live in Nairobi. Those three functions are very dear to the civil society be it *bunge la wanachi*, change champions that are here today in this House, even any other *vugu vugu* of young people or women who feel that they need to bring a petition to this House, this is the only chance and this is the only way that we can as well give them. Probably I am using the wrong word. We are not giving them because this is their right. We are only facilitating an enabling framework that is going to ensure that people across Nairobi and this County are going to have that opportunity to engage with us, interact and bring matters that they think are dear and near to their hearts to our attention.

Article 10 of this Constitution---

**Hon. Deputy Speaker:** Hon. Member can you call someone to second your Bill.

**Hon. Pius Otieno:** I call upon Hon. Manyala to second this, thank you.

**Hon. Deputy Speaker:** Hon. Manyala please.

**Hon. Elizabeth Manyala:** Thank you Mr. Speaker.

**Hon. Deputy Speaker:** Order! Are you ready to be informed? There is a Point of Information from the Hon. Wahinya. So you don't need the information? Thank you. It is declined. Order Hon. Member! Are you to inform the House or you want to inform the Member?

**Hon. Peter Wahinya:** Mr. Speaker, I am actually informing the House on a friendly note. The reason is because if you look at the Motion that is being presented by K'Otieno, it is talking about second reading which ordinarily within the second reading we are supposed to retire to the Committee of the Whole House. Given the time that we are in today, I found it necessary to ask your intervention and the understanding of Mr. Otieno we move it to a period when we can be able--- he can be able to present it and within the same sitting we can undertake the sitting of the Committee of the Whole House.

**Hon. Deputy Speaker:** Out of order Hon. Member. Hon. Manyala can you proceed? Declined.

**Hon. Elizabeth Manyala:** Thank you Mr. Speaker, owing to the trend that we have seen during the past few days is that even if you are given extra days it will still be the same. Anyway, having stood here, I stand here---

**Hon. Deputy Speaker:** Order! Can you second the Motion Hon. Member?

**Hon. Elizabeth Manyala:** Mr. Speaker, I stand to second the Motion and citizen participation is one of the principles of devolution and under article 15 of the County Government Act it actually says that a person has a right to petition a County Assembly to consider any matter within its authority including enacting, amending, or appealing any of its legislation. As we talk about the principle of devolution, it is actually a statutory transfer of power from the Central Government to the Sub-County or from the National to the Counties and to the grassroots level and this gives them an opportunity to articulate issues and matters that affect them. It is democracy which makes the people or is giving them a right where they can also voice themselves on matters that are affecting them day to day.

If I refer to article 88 of the County Government Act, section 1 citizens have a right to petition the County Government on any matter under the responsibility of the County Government. Citizen petition shall be made in writing to the County Government. Anyway I don't need to read all that because of time. It is prudent because it goes back to even during the commonwealth as Hon. Otieno has said during the Magna Carta in 1938 the British Government during King Edward, the same applied. When John Stuart Mill came up with the---

**Hon. Deputy Speaker:** Thank you Hon. Member for seconding the Motion.

**Hon. Elizabeth Manyala:** John Stuart Mill and John Locke came up with the principle of---

**Hon. Deputy Speaker:** Thank you.

**Hon. Elizabeth Manyala:** ---public participation.

**Hon. Deputy Speaker:** Thank you Hon. Member.

**Hon. Elizabeth Manyala:** Without much ado I wish to support the Motion.

**Hon. Deputy Speaker:** Thank you, thank you Hon. Member. Hon. Members, I now propose the question that,

*(Question proposed)*

**THE NAIROBI CITY COUNTY PETITION TO COUNTY ASSEMBLY PROCEDURE BILL, 2015 (A BILL FOR AN ACT OF THE COUNTY ASSEMBLY OF NAIROBI CITY TO GIVE EFFECT TO ARTICLE 37 OF THE CONSTITUTION AND SECTION 15 OF THE COUNTY GOVERNMENT ACT ON THE RIGHT TO PETITION A COUNTY ASSEMBLY TO MAKE PROVISION FOR THE PROCEDURE OF EXERCISING THAT RIGHT TO ENHANCE PUBLIC PARTICIPATION IN THE COUNTY ASSEMBLY MATTERS AND FOR CONNECTED PURPOSES**

(Second Reading)

**Hon. Deputy Speaker:** Hon. Members, Mswahili.

**Hon. Nelson Masiga:** Thank you, Mr. Speaker sir. With the magnitude and the mood of the House, may you please call the mover?

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

**Hon. Alexander Mulatya:** Mr. Speaker, this is a very important Motion in this House or even a Bill but as a matter of concern, there is no enough quorum to discuss this.

**Hon. Deputy Speaker:** Can the Clerk of the Assembly confirm whether the House has a quorum or not? Okay, thank you Hon. Members; I am advised there is enough quorum in the House. Can we proceed?

*(Loud consultations)*

**Hon. Deputy Speaker:** I am the Speaker and I have been told by the Clerk there is quorum, can you proceed, Hon Kitavi.

**Hon. Member for Laini Saba Ward (Mr. Boniface Kitavi):** Thank you, Mr. Speaker for making that very Solomonian decision that there is quorum in the House. Indeed, as I stand here, I want I want to congratulate my colleague, Mr. Otieno for bringing this Bill. For far too long, the people of Nairobi have been crying to be listened to, the voice of the people needs to be heard. This is very timely that indeed public participation is very key. We have seen very many ongoing projects that don't take into consideration the voice of the people.

Through this Bill we anticipate that the people of Nairobi will have an avenue where their concerns, their cries and their demands can be listened to. I think it has now come a time when collaborative efforts need to be made in terms of scaling up public participation. What we have seen in the past is what we call tokenism; forums are organized and they are meant for the public but when you look at the quality of the participations of the citizens is quite wanting. So, through this Bill, it gives a legal backing where the voice of the people can be heard and their issues taken into considerations on a more serious note. For that matter, I urge all Members of this Assembly to candidly and solidly support this Bill until we see its enactment. Thank you, Mr. Speaker.

**Hon. Deputy Speaker:** Thank you. Hon. Last born.

**Hon. Member for Kilimani Ward** (Mr. Moses Ogeto): Mr. Speaker, as of the urgency of this House, I want to be guided. I thank you for overruling that there is no quorum in this Hon. House. I would wish to confirm that the Clerk can lie before this Assembly and say there is quorum. I want this to go on record; is the Clerk confirming the seats as quorum or the Members who are present as quorum?

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

**Hon. Moses Ogeto:** This is---

**Hon. Deputy Speaker:** Order, Hon. Member! What is supposed to be the quorum in the House? Give us terms of reference.

**Hon. Moses Ogeto:** Mr. Speaker, I do understand that a third of the whole House--

**Hon. Deputy Speaker:** Which Standing Order is that?

**Hon. Moses Ogeto:** Mr. Speaker, I understand the quorum even in our Committees--- what is being done in our Committees, we do understand that---

*(Hon. Elizabeth Manyala stands on a Point of Order)*

**Hon. Deputy Speaker:** Order granted, Hon. Manyala.

**Hon. Elizabeth Manyala:** Under what Standing Order is the Hon. Member rising on?

**Hon. Deputy Speaker:** Order, Hon. Member! Last born can you take your seat? Please we need to go by the rules of the House and at least give us terms of reference when you rise on a Point of Order. May the mover come forward to reply?

**Hon. Member:** Point of Order, Mr. Speaker.

**Hon. Deputy Speaker:** Order! Not granted.

**Hon. Pius Otieno:** Hon Members, I thank you for the undertaking that you have given and probably in our next session, we shall be able to interrogate this Bill. I thank you for having sat all through and see to it that it passes to the Second Reading.

**Hon. Deputy Speaker:** Thank you.

*(Question, that the name of the Bill be read for the Second Time)*

*(Question put and agreed to)*

*(Member stands on a Point of Order)*

**Hon. Deputy Speaker:** Not allowed.

**THE NAIROBI CITY COUNTY SOLID WASTE MANAGEMENT BILL, 2015 (ASSEMBLY BILL  
NO. 3 OF 2015)**

*(Second Reading)*

**Hon. Deputy Speaker:** Thank you.

**Hon. Alexander Mulatya:** Mr. Speaker, I beg to move that the Nairobi City County Solid Waste Management Bill, 2015 (Assembly Bill No. 3 of 2015, be now read a Second Time)

Hon. Speaker, this Bill was committed to the Committee on Wednesday 1st April 2015, following its re-introduction in the Assembly pursuant to the provision of Standing Order No. 143, Clause 3. In the spirit of Constitution, the Committee placed a notice in the Local dailies on 3rd April, 2015, calling for any

representation and amendments from the public. The Committee reiterated memoranda from the following stakeholders;

- i. Waste and Environment Management Association of Kenya (WEMAK)
- ii. Kenya Alliance of Residents Association (KARA)
- iii. Nairobi City County Environment, Sanitation and Hygiene Movement

The Committee also held a meeting with the Chief Officer responsible for Environment and Forestry to seek the views of the Executive on the Bill. All the stakeholders apart from WEMAK supported the principal objective of the Bill but proposed amendments to various Clauses.

Mr. Speaker, from the onset, I wish to make it clear that the Committee is in support of any legislative measures aimed at protecting environmental pollution as long as such legislation measure doesn't infringe fundamental rights of Nairobi residents.

Furthermore, the Committee agrees with the fact the Nairobi City County require Solid Waste Management Laws since the County is in a deplorable state. One of the reasons of this deplorable state is a lack of proper legal framework. The Committee notes the proposed Solid Waste Management Bill in its current form may not cure the inefficiencies in the current legal framework. In fact, it may create unending conflicts among stakeholders within the Solid Waste Management Sector.

Mr. Speaker, some of the provisions of the proposed law require amendments and/or consensus comprising all stakeholders before it is passed. For instance, creation of zones and subsequent adoption of the franchise system as a strategy of waste collection as proposed in the Bill require greater attention when implementing to avoid backlash from Members of the public particularly the youth involved in waste collection. Other areas that the Committee feels that require amendment or consensus before the Bill is passed include;

- i. Commencement date of the Bill
- ii. Imposition of charges and environmental levies without the approval of the County Assembly.

- iii. Determination of mechanisms of waste collection and guidelines of waste recycling, zoning and franchise.
- iv. Harsh penalties especially to the urban poor
- v. Formulation of regulation without the approval of the Assembly.

Going by the number and the substance of the 15 proposed amendments, it is in the opinion of the Committee that the Bill be put on hold for consensus bidding among all stakeholders before the Bill is passed. In the event that the Bill proceeds to the Committee of the whole House, the Committee shall propose amendments in Clause 1, 6, 7, 8, 9, 11, 16, 18, 27, 28, 29, 30, 31, 36 and 38.

With those many remarks, as I move, I request Hon---

**Hon. Deputy Speaker:** May I interject a bit, Hon. Member, before you call for a seconder of the Motion?

**Hon. Alexander Mulatya:** Can I call a seconder, and then you interject?

### ADJOURNMENT

**Hon. Deputy Speaker:** Not really. Hon. Members, I am afraid that with the time left of 20 minutes, we may not be able to dispense off the business of the day for today. This being a crucial Bill before the House, we need to give it a lot of time so that Members may articulate on it. For that reason, I request the House to interrupt the business of the day and bring forth the Motion before the House, Motion No. 10 tomorrow at 2:30 p.m. The Assembly stands adjourned to 2:30 p.m. tomorrow and there shall be a House Business Committee at the rise of the Assembly today. Thank you.

*(The House rose at 4: 30 p.m.)*