



NAIROBI CITY COUNTY ASSEMBLY

OFFICIAL REPORT

First County Assembly – Fourth Session

Wednesday 23rd March, 2016

The House met at 2.30 p.m.

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

PRAYERS

Hon. Speaker: Searjant-At-Arms to ring the bell for 8 minutes.

(Quorum bell was rung)

Order Hon. Members!

COMMUNICATION FROM THE CHAIR

Hon. Speaker: Good afternoon Hon. Members. I have a communication on the request for the extension of the timelines for consideration of the County Fiscal Strategy Paper. Hon. Members on Tuesday 22 March 2016 the Chair of Budget and Appropriations Committee rose on the floor of the Assembly pursuant to Standing Order and requested the Chair to extend time for the Sectoral and Budget Committee to consider the CFFSP and report on the same to the County Assembly. On the 26th February the County Treasury submitted to the Office of the Clerk the County Fiscal Strategy Paper. This was done in line with provision of section 117 of the Public Finance Management PFM Act 2012 and Standing Order 206 (1). However rising from the misunderstanding on the alteration of the budget for the County Assembly Service Board, the submitted Paper was returned to the County Treasurer for clarification.

The issue having been explained, the Paper was laid on the table of the County Assembly on the 8th of March 2016. However Hon. Members as the Committee was getting down to start the scrutiny of the

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report and budget documents, the Assembly realized that the County Treasury was reluctant to honor its obligation of ensuring that the County Assembly is adequately facilitated financially to perform the constitutional functions. In this regard I delivered a communication on the 16th March suspending consideration of all business originating from the County Treasurer starting with the County Fiscal Strategy Paper for the financial year 2016/17.

Hon. Members I wish to confirm that since we have not received a firm communication from the County Executive Committee Member of Finance on his intention to resolve the current impasse, the said suspension remains in force. Hon. Members the provision of section 117 (7) of the PFM Act 2012 and Standing Order 206 (7) requires that the County Assembly must consider and adopt the County Fiscal Strategy paper with or without amendment. The PFM regulation 2015 has explicitly expressed the timelines for approval of the document as 15 March of each year, a timeline that the Assembly was not able to comply with due to the aforementioned reasons.

In this regard therefore I direct the following, as has been mentioned, the earlier communication suspending deliberations on CFFSP still remains in force. However, Hon. Members we hope that the cash flow challenges will be resolved speedily to enable us get back to the budget approval. With these expectations in mind and consideration that the Assembly will be proceeding on recess on the 1st April, 2016. I wish to direct that the Budget and Appropriations Committee prepare and tables its report on this Assembly on the 19th April 2016. It is so directed. Thank you.

PETITIONS

Hon. Nominated Member (Ms. Leah Mumo): Thank you Mr. Speaker. I have a petition on behalf of the residents of Jericho Lumumba regarding illegal change of ownership of House number AD155633. Hon. Speaker please protect me from Hon. Ngaruiya

Hon. Speaker: Hon. Ngaruiya!

Hon. Leah Mumo: Thank you:

We the undersigned citizens of Kenya who are residents of Jericho Lumumba estate in Nairobi City County draw the attention of the Nairobi City County Assembly to the following; that aware that the Constitution of Kenya under article 37 and 118, and section 15 and 88 of the County Government Act, 2012, provide the right for the citizens to petition the authorities or County Governments on any matter. That whereas the residents of the area generally known as Jericho, we wish to express our concern over the illegal change of ownership of house number Ad15/5633 belonging to one Mr. Elias Muthama Kingori

That whereas Elias Muthama Kingori has been a tenant of Nairobi City County for the last four years residing in the said house, that whereas officers of the Executive have changed the ownership of the said house to one Teresa Achieng Otiende without giving notice to Mr. Elias Muthama Kingori, that whereas Elias Muthama Kingori's efforts to get back his house ownership card from the Assistant Director

have proven futile and whereas on 12th October 2015, the tenant went to pay rent as usual but the ownership had been changed from Elias Muthama Kingori to Teresa Achieng Otiende and on confirming with the Director, the Director was equally shocked about the change of ownership.

Now therefore your humble petitioners pray that the Nairobi City County Assembly intervenes to ensure that the County Executive reverts the ownership of the house to Mr. Elias Muthama Kingori who is the rightful owner of the house and your humble petitioners will ever pray.

Hon. Speaker: Very well Hon. Mumo. Hon. Members, due to the changes on the Executive, this goes to the Planning and Housing Committee. You have the normal constitutional days to respond to this. I thank you.

PAPERS

Hon. Member for Viwandani Ward (Mr. Samuel Nyangwara): Point of Order Mr. Speaker

Hon. Speaker: You need to tell me exactly what Point of order you are on

Hon. Samuel Nyangwara: Mr. Speaker you can feel the heat in this house. I was requesting under Standing Order 1 that you allow the male Hon. Members to remove their ties.

(Laughter)

Hon. Speaker: Order Hon. Nyangwara! You are not even properly dressed

Hon. Member for Dandora Area III Ward (Mr. Charles Thuo): Thank you Mr. Speaker. Pursuant to Standing Order 186, I beg to lay the following Paper on the table of the Assembly today Wednesday 23rd March 2016. The report of the Select Committee on Public Investments on the report of the Auditor General on the financial statements on the Nairobi City water and Sewerage Company Limited for the year ended 30th June 2014. Thank you Mr. Speaker.

Hon. Speaker: Very well

NOTICES OF MOTION

Hon. Speaker: Hon. Chairperson Public Investments

Hon. Charles Thuo: Thank you Mr. Speaker sir. I beg to give notice of the following Motion: That this Assembly approves the report of the Select Committee of Public Investments on the report of the Auditor General on the financial statements of the Nairobi City Water and Sewerage Limited for the year ended 20th June 2014 laid on the table of the Assembly on Wednesday 23rd March 2016

Hon. Speaker: Very well Hon. Chairperson. Next Order

Hon. Minority Chief Whip: Thank you Mr. Speaker. I beg to give notice of the following Motion. That aware that section 28 (1) of the Public Private Partnership Act provides that a contracting authority that intends to finance, operate, equip or maintain an infrastructure facility or provide a service may enter into a project agreement with any qualified private party for the financing, construction, operation, equipping and maintenance of the infrastructure or development facility.

Further aware that the Nairobi City County Government has invested heavily in installing high mast lights to improve security in the County. Concerned that most of the installed high mast lights have been vandalized leaving many parts of the County in darkness for a long period of time due to poor and or slow repair and maintenance of the public streetlights.

Acknowledging that the County has plans to light the entire city and turn it into a 24 hour economy. This Assembly urges the County Executive to privatize the repair and maintenance of public/street lights within the County as a way of improving security and achieving a 24 hour economy in the County. Thank you Mr. Speaker.

Hon. Speaker: Very well Hon. Chege Ngaruiya.

STATEMENTS

Hon. Speaker: Yes Hon. Mauti

Hon. Member for Kwa Reuben Ward (Mr. Elkana Mauti): Thank you Mr. Speaker. I had requested for a statement from the Chairperson of Ward Development Fund and it was ruled out that it was---

Hon. Speaker: It was on yesterday's [Order] Paper.

Hon. Elkana Mauti: It was supposed to be responded on yesterday but I have not been given any report.

Hon. Speaker: Can we have that? Because it was in yesterday's Order Paper. Hon. Chairperson for Ward Development Fund, can we have that slated for tomorrow 2:30 p.m.? The Chairman of Ward Development Fund?

Hon. Member for Kariobangi North Ward (Mr. Michael Wainaina): On behalf of the Chair, I want to request the response to be given on Tuesday next week.

Hon. Speaker: Why did you not give it yesterday and it was slated for yesterday?

Hon. Michael Wainaina: Mr. Speaker, yesterday I was not in.

Hon. Speaker: Very well. Hon. Mauti, please approach the Speaker.

(Hon. Muati approached the Chair)

Very well. Chairperson of Ward Development Fund, we have agreed with the Hon. Mauti that it be Tuesday 2:30 p.m. without further delay. Hon. Marion Gethinji will interrogate the response to statement requested from the Sectoral Committee on Agriculture, Environment and Natural Resources regarding the garbage collection which was read in her absence. Hon. Marion. The Chairperson of Sectoral Committee on Agriculture, Environment? The Chairperson of Sectoral Committee on Agriculture, Environment!

(Hon. Speaker on feet)

Hon. Members, I think this cannot be tolerated any further. The Assembly cannot be sitting without Chairmen of Committees. The Assembly of Nairobi meets on Tuesday, Wednesday, Thursday and we only have 3 Chairmen! This is unacceptable. I will be making a statement tomorrow in regard to the Chairpersons who are absent in this Assembly.

I would not hesitate to use Standing Order No. 1 and disband some of the Committees. It's wrong. Right now, in the Assembly, we have about 3 or 4 Chairpersons of Committees. It is a shame. We cannot continue having Members reading statements and nobody is answering them. The Committee on Agriculture and Environment is on my radar in the next 3, 4, 5 days. Go ahead Hon. Marion. Yes. Hon. Samuel Nyangwara.

Hon. Samuel Nyangwara: Mr. Speaker, it is quiet sad that the Chair of that particular Committee is not in but I fail to understand that not even a single member of that Committee that is in could have stood and given a statement on the same.

Mr. Speaker, it is like the entire Committee is dormant. We have a Vice Chairman in that Committee. You might find that the Chair might be engaged somewhere but the Vice Chair should be in. But here there is a case where you find the Chair is not there, the Vice Chair is not there and even Members of the Committee are not in. Something is wrong with this particular Committee. We want that particular Committee under your indulgence be suspended.

Hon. Speaker: Hon. Petronila.

Hon. Petronila Ocheing (Nominated Member): Thank you Mr. Speaker sir. The Committee members are in the House. You asked for the Chair and the Vice to come. You did not ask for the Committee members. So, if it is the issue of Committee members coming, we are here, we are represented. If you are disbanding the Committee it is because of the leadership and not because of the membership.

Hon. Speaker: Hon. Members, the Committee has a Chair and a Vice Chair and the only right thing that can be done is for you to go back to the drawing board and get proper leadership of the Committee. I did not talk about membership of the Committee but a Chair and a Vice Chair are the ones

that would carry their luggage and the luggage is also members. So, when we say the Committee is not up to its task, it is the whole Committee.

Hon. Elkana Mauti: In conjunction with that, the Chairman stood here. He is even captured in the Hansard. He said clearly that he needs an assistance through the Speaker for this Committee. He said it clearly yesterday.

Hon. Speaker: Okay. Can we proceed? Hon. Hellen.

Hon. Hellen Katangie (Nominated Member): Thank you Mr. Speaker. It is quiet out of order when a Member comes and stands here and says the same thing that the Chairman complained about. We cannot separate the members from the Chair. We cannot separate the members from the Vice Chair. So, what is wanting is the leadership of the Committee. Thank you Mr. Speaker.

Hon. Speaker: I want to put it this way Hon. Members. That the Committee on Agriculture and Environment to meet with the Speaker of the Assembly tomorrow at 10 o'clock in his office. Hon. Marion?

Hon. Marion Njeri (Nominated Member): Thank you Mr. Speaker. I would like your directions as to whether the Committee members will answer my question today as we wait for the Chairman. Because I am interrogating the response.

Hon. Speaker: Let me consult the Clerk.

(Clerk approached the Chair)

Okay. I am guided. We will put your interrogation tomorrow 2:30p.m when the Chairman is there. Thank you. Let's proceed. The statement by Kenneth Irungu from the Chairperson of the Sectoral Committee on Trade, Tourism, Cooperatives and the Committee on Agriculture, Environment and Natural Resources regarding Kware Road Market dumpsite in Pumwani Ward. Hon. Mumo, what do you have? That is from Hon. Jacky Nyangala? You wait for that. Do we have the Chairperson for Trade? Is Hon. Irungu in? Hon. Irungu?

Hon. Emmaculate Musya (Nominated Member): Thank you Mr. Speaker. Response to a statement requested by Hon. Kenneth Irungu, MCA, from the Chairperson of the Sectoral Committee on Trade, Tourism and Cooperatives.

(Hon. Imwatok stood on a Point of Order)

Hon. Speaker: Yes?

Hon. Peter Imwatok: Mr. Speaker, it is prudent when somebody gives an answer to this Assembly is not the Chair to clarify. Is it under the instruction of the Chair or as a Committee member? Kindly.

Hon. Emmaculate Musya: Mr. Speaker, I am standing here on behalf of the Chairperson.

Hon. Speaker: Very well. Go ahead.

Hon. Emmaculate Musya: Mr. Speaker, Hon. Imwatoke is trying to insult me. He is asking me if I am responding to the statement as a wife or a Member. Can he withdraw the statement?

Hon. Speaker: I didn't hear that. Go ahead.

(Loud consultations)

Hon. Emmaculate Musya: Kindly let Hon. Imwatoke---

Hon. Speaker: We didn't hear it. You just heard it yourself.

Hon. Emmaculate Musya: Let me continue.

Hon. Speaker: If we hear it, I would send him home.

Hon. Emmaculate Musya: Hon. Speaker, on Wednesday 9th February, 2016 Hon. Kenneth Irungu Mwangi, MCA rose in the floor of the Assembly Pursuant to Standing Order 41 (2) (C) and requested the Chairperson of Sectoral Committee on Trade Tourism and Cooperatives Committee on Environment Water and Energy for a statement regarding:

1. What the County Government is doing to streamline the Market dumpsite issue
2. The Measures the County Government is taking to address the roaming insecurity at the Market by the presence of hooliganism who have demolished a fence erected by a contractor on the ground and
3. Measures that have been taken so far to disband the cartels that are threatening the normal operations of the quarry market road.

Mr. Speaker, the Committee wrote to the County Executive Committee Member responsible for Trade Tourism and Cooperatives Development on 11th February, 2016 requesting to be furnished with a written response of the statement by Hon. Kenneth Irungu Mwangi.

In this regard Mr. Speaker sir, I wish to report to the Assembly as follows:

Mr. Speaker sir, the County Executive Member for the Committee of Development responded vide Letter reference MKTS/8/2014/077 as follows: There has been a problem in the accessibility of the dumpsite within the Quarry road market, with a result of an illegal structure erected around the dumpsite.

However, this was sorted out by the Officer on the ground at the dumpsite and it is now accessible and garbage is now being collected without any problem.

Mr. Speaker, the department has not received any formal complaints from the traders and stakeholders within the market concerning the hooliganism. However, it's appropriate that the contractor is

doing this to uplift the standard of the market and if there is any other kind of vandalism or demolition I request the Hon. Member to report to the relevant trade authority so that appropriate action is taken.

The Chief Officer further requested that, the Member notify their Department on the name of the contractor and the nature of the work he is doing within the market. Mr. Speaker, the Chief Officer Informed the Department, he is not aware of any cartels within the area and the only problem which has been there in the fish area on an issue that is currently under investigation and an appropriate action shall be taken against anybody found to be involved in any malpractice.

Mr. Speaker, finally the Chief Officer recommended that the Hon. Member gets in touch with his office and share the complaint or issue anything to be addressed.

I beg to lay the statement.

Hon. Speaker: Hon. Irungu is not in and he will be given the response and I also understand he is a Member of Trade and Tourism Committee. The part of Agriculture and Environment will have to wait until the Chairman avail himself. Okay! The Chairman is finally here.

You will answer the current one and the other one you will have to answer tomorrow. Therefore go to Hon. Irungu's response. Okay! He will interrogate it tomorrow.

So, on to Hon. Jacky Nyangala! Statement requested by Hon. Jacky Nyangala.

Hon. Leah Mumo (Nominated Member): On behalf of the Chairperson of Planning and Housing Committee I have a response to a statement requested by Hon. Jacky Nyangala.

On 24th February, Hon. Jacqueline Nyangala, MCA, pursuant to Standing Order 41 (2) (c) requested the Chairperson of the Sectoral Committee on Planning and Housing for a Statement regarding the cordoning off and destruction of the pavement usually used by the public along an office building that has been completed along Riverside Drive by Estelle Construction and is up for rent.

She further asked the Chairperson to inquire into and report on:-

1. Whether the developer has authority of the County Executive to encroach on the pavement, and if yes, when the same was issued and by who, if no, measures taken by the Government to deal with the trespass;
2. Whether the developer is redoing the pavement to improve its status and if yes, when will the works be completed and the pavement restored to use; and
3. Whether the developer plans to limit access by the public after the works and if yes, alternative measures put in place to provide a pedestrian walkway on that stretch of the busy road.

Mr. Speaker sir, the Committee wrote to the County Executive Committee Member responsible for Urban Planning and Lands on 2nd March, 2016 requesting to be furnished with a written response to the statement requested by the Hon. Member. The Director Planning, Compliance and Enforcement responded vide letter Ref: UP/PCED/00030 dated 14th March, 2016.

The Committee also visited the affected area on Tuesday 8th March, 2016 to ascertain the issues raised in the statement request. In this regard, Mr. Speaker sir, I wish to report to the Assembly as follows;

That, whether the developer had authority from the County Executive to encroach on the pavement and if yes, when the same was issued and by who? If no, measures taken by the Government to deal with the trespass.

Mr. Speaker sir, the Committee was informed that the developers have got approvals vide plans reg.no. PDR No. M758, REF: NCC/RPW&T/116/MNN/205/38 & 205/27 by the Engineer- Roads Public Works and Transport. The Committee observed that the works included the re-construction of the original walkway hence there was no encroachment. This was also confirmed by the Executive officers who accompanied the Committee during the site visit.

Whether the developer is redoing the pavement to improve its status and if yes, when will the works be completed and the pavement restored to use.

Mr. Speaker sir, the Committee was informed that once the works are completed; the developer will restore the pedestrian walkway for public use. The works were almost complete when the Committee visited the site.

Whether the developer plans to limit access by the public after the works and if yes, alternative measures put in place to provide a pedestrian walkway on that stretch of the busy road.

Mr. Speaker sir, both the contractor and the developer assured the Committee that there are no intentions to limit public access to the walkway. Once the works are complete, the walkway would be restored to its original status. In addition, Executive officials who accompanied the Committee during the site visit informed that the County Government's policy is to provide walkways on all roads within the County.

Mr. Speaker, a copy of the response from the County Executive has been attached herewith for reference.

Mr. Speaker sir, I beg to lay this response. Thank you.

Hon. Speaker: Hon. Jacky Nyangala.

Hon. Jacqueline Nyangala (Nominated Member): Thank you, Mr. Speaker, I have read through the response and I would like to comment as follows:

Mr. Speaker, the development is done and it was done like two weeks ago, however if they say the County Government gave approval it was to redo it and make it better. Yes they have actually put the cabriole bricks but they have caved off the path and now it is a bus stop and that was my concern.

Mr. Speaker, we have hurt some young men who come on motor bikes along Kileleshwa coming through Chase Bank and Prime Bank. If someone is waiting for a matatu even at the mid-day they come out with a gun and they take ever thing from you and that's why I am concerned of this place being a bus stop, in the middle of River side drive which is next to some residential area of Embassies.

Now, if the County Government did not approve it to be a bus stop, because the matatus will stop there as you know there is no bus which goes through this route only matatus pass through here and there is not bus stop on that road, so they will stop here and the entrance of this building it's not even there it is curved from inside.

Therefore, can the County Government confirm that this is not going to be a bus stop, the said constructor is not doing a bus stop and there are no matatus that will stop there because I can assure you that even in the Morning the matatus were stopping there? So, I would like that to be confirmed and anyway when they redid the cabriole bricks they left a piece of place that you cannot walk through, you have to walk on the road. So I am not satisfied I want them to go back and bring another response.

Hon. Speaker: Hon. Chairperson planning could you go back please and make sure that the road is per the respond and the contractor has put back the road the way it was. You should report back on Wednesday at 2.30 p.m. with the satisfaction of the Assembly.

Hon. Leah Mumo: We beg to be given the first week after the recess because we have pending Statements and they are also urgent.

Hon. Speaker: But that now will not be proper, okay after the weekend of Easter, so let it be here on Thursday at 2.30 p.m. because we will be going for recess. Therefore, the report must be here at 2.30 p.m. next week. So it is ordered.

Hon. Jacqueline Nyangala: Sorry Mr. Speaker, if we can get a confirmation that this is not going to be a bus stop please, thank you.

Hon. Speaker: Hon. Jacky you know that the moment it is capped I will also use it for parking. You don't want the parking there so let them confirm that they will restore the road to how it was. That is what you want for the residents of the area. Thank you.

MOTION

Hon. Speaker: The Hon. Chairperson PAC.

Hon. Member for Embakasi West Ward (Mr. Robert Mbatia): Thank you Mr. Speaker. This is a resumption of yesterday's Motion. Just for a recap, I beg to move the following Motion.

THAT, this Assembly adopts the report of the Select Committee on the Public Accounts on consideration of the report of the Auditor General on the financial operations of the Nairobi City County Assembly for the period from 1st July 2013 to the 30th June 2014 laid on the table of the Assembly on the Tuesday 24th November 2015.

Mr. Speaker, I will resume where I was. This is a report of the Assembly's consideration and the Committee would like to thank all the officers who appeared before it and provided valuable insights into the issues raised by the Auditor General.

Hon. Speaker: Hon. Chairperson, I see here the Motion was interrupted at 3:00 p.m.

Hon. Robert Mbatia: Yes Mr. Speaker.

Hon. Speaker: So you had already moved?

Hon. Robert Mbatia: Actually I was starting when we lacked quorum.

Hon. Speaker: Yes, yes.

Hon. Robert Mbatia: So Mr. Speaker, the Committee held one sitting during which it interrogated the Accounting Officer who is the Clerk of the County Assembly and was accompanied by various officers who were there to assist him to respond to the issues. Moreover, oral and documentary evidence was obtained through the interrogation. The minutes of the Committee sitting are attached in this report which was availed to us as early as last week.

Mr. Speaker, on the Auditor General's report there were issues with procurement of goods and services, the maintenance of the car loan scheme funds, accountability of monies disbursed and ownership documents of the car loan scheme fund. There was an issue on the proposed security grills on the pedestrian walkway around old City Hall, the proposed alterations, renovations and remodeling of the conference hall into County Assembly for the City County of Nairobi phase 1, the human resource, especially the Ward staff of the Members, the travel expenses for the Members and the staff, the unaccounted for transport allowances, the site visit by the County Assembly officers and MCAs, the unaccounted for imprest and incomplete imprest surrenders, some payments on legal cases, IT Environment of the County Assembly, unsupported training expenses and finally examination of payment vouchers.

Mr. Speaker, this is a period that we all know was almost when the County Assembly was starting, the beginning of the transition period. We all acknowledge and know that there was a problem with the number of staff working in the Assembly and by the time the accounting officer, the Clerk appeared before us most of the accounting officers were in office, the structures had been put and in most of the issues they

were raised by the Auditor General then acknowledged that the structures were now in place. We want to note that the IFMIS system was fully operational; in place was also an effective imprest surrender system.

As I conclude I want to say that the Committee acknowledges that the audit by the Auditor General was conducted in accordance with the international standards, the County Assembly as I earlier said was in a transitional period when the audit was taking place. The accounting officer admitted and pointed to insufficient personnel, lack of proper procedures and systems. However, it became evident that the accounting officer had taken the initiative to improve the system and strengthen internal procedures to ensure that there was financial accountability in respect to all County Assembly expenditure.

The Committee therefore commends the Auditor General for highlighting these audit queries. We also commend the Assembly led by you Mr. Speaker for the structures that have been put in place. I am not giving a clean bill of health yet. I would like to challenge the Members of the Executive wing of Nairobi County to borrow a leaf from what the Assembly has done in putting up structures in matters of accountability.

Mr. Speaker, so much was flagged then but by the time we were sitting with the accounting officer we even made visits to various offices and it is evident that even on the unapproved foreign travel it was just a matter of documentation. Most of the travels were allowed and approved but it was only the documentation that had not been forwarded to the Auditor General.

Mr. Speaker, as I challenge again the Executive wing, I would like to ask my colleague Hon. Andrew Mbau to come and second me in this. Thank you, Mr. Speaker.

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

Hon. Member for Mlango Kubwa Ward (Mr. Andrew Mbau): Mr. Speaker, I rise to second this Motion.

(Question proposed)

Hon. Speaker: Hon. --- sorry my eyesight is going down.

Hon. Member for Clay City Ward (Mr. Erastus Mburu): Thank you Mr. Speaker. I am on the floor not in support of this Motion. For one, we can't say that we don't have professionals to interrogate this kind of a report. Not all of us are accountants in regards to this kind of a report. Even in their final conclusion, leave alone the whole document they have indicated that it is expressing its displeasure in regards to their findings or rather the feedback they were given by the Executive. So, it would be advisable especially when they mention the likes of ---

Hon. Speaker: Order! Order Hon! There is a Point of Order.

Hon. Robert Mbatia: We welcome *Mheshimiwa* from Clay City but we are discussing the report on the Auditor General for the period ended June 14th for the County Assembly not for the Executive. He has the wrong report and is already contributing to it. He is out of order Mr. Speaker.

Hon. Speaker: Hon. Karen Wanjiku.

Hon. Karen Wanjiku (Nominated Member): Thank you Mr. Speaker sir. I want to support this report and emphasize on where the accounting officer should ensure that all payments are within the approval budget line items that any expenditure not within the budget should be regularized by supplementary estimates. Moreover, all payment vouchers should be properly serialized, supported and authorized.

Mr. Speaker sir, that is correct that we should work according to the approvals but not without the approvals, thank you.

Hon. Speaker: Very well. Hon. Jack wetu.

Edwin take 5 of 23rd March 2016

Hon. Member for Githurai Ward (Mr. Jackson Ngare): Thank you Mr. Speaker I stand to support this Motion and I don't have much to say, being a Member of PAC, I would just like to urge this House to support Public Accounts Committee and stamp your authority because we have realized that there is a lot of misuse of public funds and usage of money outside budget, payments of items undelivered and so on and so on. So without much ado I would like to support.

Hon. Speaker: Very well Hon. Kagiri


Hon. Member for Pipeline Ward (Mr. Samuel Kagiri): Mr. Speaker I rise to support the report and the Motion and at least appreciate the County Assembly and the management of the County Assembly for ensuring that the right structures have been put forward. I wish this would be copied by the Executive to see how we do our things in the Assembly and if they can copy the same and do their things in this format. Thank you.

Hon. Speaker: Hon. Juma

Hon. Tabitha Juma (Nominated Member): Thank you Mr. Speaker I rise to support the report of the Public Accounts Committee. My interest especially directed to recommendation 2. It says the accounting officer should ensure the County Assembly as the administrator of the car loan scheme fund should maintain primary books of accounts showing the outstanding balances for each MCA.

Mr. Speaker I would urge the administrator of the car loan that once this report goes through I would like maybe in a month or two be able to go to him and seek clarification as to how my car loan scheme is running if at all I can be shown how much I have paid, the remaining debt and all of that. That would be a good thing.

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Another thing I would like to commend the work that the Clerk is doing because when we are going through the records there was not a lot of problems that we are having with the Executive whenever we asked for the records to be given to the Committee. We used to have so many problems; there were no records, things were done haywire and am glad that in the Assembly we are doing better than them. Thank you.

Hon. Speaker: Very well Hon. Juma, Hon. Kairu

Hon. Member for Mwiki Ward (Mr. Njoroge Kairu): Thank you very much Mr. Speaker sir, I rise to support the Motion brought before us regarding the expenditures of the Assembly and I want to say this; for one we as Members of this Assembly are happy to see that the Clerk's Office is following all the procedures that are laid down for better accounting of the public resources and again on the Committee observation 2 (10), the sum that has been raised, although down there they are saying they later remitted the receipts of the vouchers, but I want to ask the office of the Clerk, when they are submitting these documents to Auditor General they be making sure that they are forwarding all the necessary documents for better accountability and without much ado I have been humbly requested by Members to call the mover to respond.

Hon. Speaker: Hon. Members thank you very much, Hon. Kairu I now call the mover of the Motion to reply

Hon. Member for Embakasi West Ward (Mr. Robert Mbatia): Thank you, Mr. Speaker I highly appreciate the Member's contribution and also note that since inception we are just three years into this Assembly and there is commendable work that is being done. As PAC we are not giving a clean bill of health on expenditures but we concentrated more on the structures that have been put and it is evident that once the structures are put then there is a way. I want first to continue to support the Assembly leadership in this; we want to commend the Board and the accounting officer and now I know in the next audit report we will look at value for money; value on expenditure that we are expending now.

Mr. Speaker also note that these documents Hon. Njoroge asked the PAC to be forwarding the documents right on time but I'd like to report and say that it is the accounting officer who forwards the documents which is done way in advance, then there is another document, there is a meeting done, then a document written by the Auditor General asking for the various documents that have not been forwarded to them. If they are not given within two weeks then there is another letter that is given that includes this report. So Mr. Speaker I thank this Assembly, I say *twende kazi*; in the next report which has just been forwarded to us as we shall be looking of value for money, thank you.

(Question put and agreed to)

MOTION

Hon. Robert Mbatia: Mr. Speaker, I beg to move the following Motion: That this Assembly adopts the report of the Select Committee of Public Accounts Committee on the report of the Auditor General of

the financial Statements of Nairobi City County for the 16 months period ended 30th June 2014 laid on the table of this Assembly on the 20th October 2015.

Mr. Speaker, allow me to thank the entire Membership of the Committee for its hard work and commitment which made the taking of evidence and production of this report a success. I will mention them by names:

1. Hon. Mbau
2. Hon. Alex Otieno
3. Hon. Margaret Sewe
4. Hon. Tabitha Juma
5. Hon. Julius Mwaniki
6. Hon. Stephen Kambi
7. Hon. Jackson Ngare
8. Hon. Martin Waweru
9. Hon. Njuguna Mwangi
10. Hon. Mugo Kanyi
11. Hon. Ronald Milare
12. Hon. Benson Amutavi
13. Hon. Oscar Lore
14. Hon. Peter Isuha
15. Hon. Maurice Gari
16. Hon. Moses Ogeto
17. Hon. Daniel Mutiso-Vice Chair
18. Hon. Robert Mbatia-Chair

Mr. Speaker, this report contains the findings of the audit report of Auditor General for the financial Statements. This report analyses the financial Statements which comprises of the Statements as upto 30th June 2015, the Statements of receipts and payments, Statements of cash flows, summary of appropriation

for the year ended and summary of significant accounting policies and other explanatory information in accordance with provision of Article 22(9) of the Constitution of Kenya and section 8 of the Public Audit Act.

The Auditor General was to express an opinion of this financial Statements based on the audit report in accordance with provision of section 15 (2) of the Public Audit Act. The audit involve performing procedures to obtain audit evidence about the amount disclosures in the financial Statements.

The Auditor General Opinion

Because of the significance of the matter described in the basis of disclaimer opinion, the Auditor General indicated that he was unable to obtain sufficient and appropriate audit evidence to provide for the basis of audit opinion.

Accordingly he did not express an opinion on the financial Statements. Mr. Speaker I would also like to appreciate and thank all officers who appeared before the Committee and provided valuable insights into the issues raised by the Auditor General. The Auditor General flagged a few issues. One was the accuracy of the financial Statements. Two was the accounting for the revenue inadequacy, the other one was assets and liabilities inherited from the defunct City Council of Nairobi.

The other issue was cash, bank balances, and compensation of employees. Others were pending bills, account receivables, outstanding imprests which is a grave matter in this Assembly by the Members of the Executive. I pointed out earlier in the previous report that Members of Assembly and staff have been remitting the imprests in time and they are only in office for the last three years compared to the Executive who have the structures and have the capacity to surrender imprest and we have found that the imprests that even a Member of staff owes over Ksh. 5 million not surrendered.

Hon. Robert Mbatia: Mr. Speaker, I would also like to appreciate all officers who appeared before the Committee and provided valuable insights into the issues raised by the Auditor General. Mr. Speaker the Auditor General flagged a few issues:

1. The accuracy of the financial Statements
2. Accounting revenue inadequacy
3. Assets and liabilities inherited from the defunct City Council of Nairobi
4. Cash and bank balances
5. Compensation of employees
6. The pending Bills
7. Account receivables
8. Outstanding imprests which Mr. Speaker is a grave matter in this Assembly, the issue of unsurrendered imprests by the Members of the Executive is an issue and that is why I pointed in the earlier report that the Members of the Assembly and the staff members have been remitting the imprests on time and they are only in office for the last 3 years

compared to the Executive who have structures and have the capacity to surrender imprests and we have found that there are imprests that even a member of staff owes over 5 million Kenya Shillings unsurrendered.

9. Outstanding loans. Some of the imprests have been converted into outstanding loans because you find people have hundreds of thousands and some are even the accounting officers themselves.
9. The fund balance
10. The many numbers of accounts that the County is still holding onto.

Mr. Speaker, on behalf of the Committee I want to express our displeasure that the same accounting malpractice and dereliction of responsibilities perpetrated by the former defunct City Council of Nairobi is the same being witnessed in the preparation of the financial statements of Nairobi City County. The Constitution and the PFM Act 2012 and the PFM regulations advocate and provide for accountability and prudence in the management of public funds. However, this has not been exhibited Mr. Speaker by the County Treasury.

As I conclude I will ask Hon. Isuha to come and second me since he was a member by then. Mr. Speaker I would like to report to you that we are up to task as County Assembly of Nairobi and we are charged by the County Assembly of Nairobi, the Public Accounts Committee we want to say that we are up to task. The problem with these officers is that they were not in office. Now what is being audited currently is that these officers have been in office. So we want to assure that we will put them to task, they will have to be accountable and we will take proper action on whoever that has not exhibited proper accounting responsibilities. So, thank you Mr. Speaker.

Hon. Speaker: Thank you very much the able Hon. Chairperson PAC. The Hon. Isuha.

Hon. Peter Isuha: Thank you Mr. Speaker sir, although I have been caught unaware but at that time I was a Member of the Committee. Mr. Speaker sir, I second the report of the PAC Committee in a way that right now when you look at the way the operation is done Mr. Speaker sir, everything has been

streamlined and on the issue of imprests, they have already been rectified and things are now moving. Thank you.

Hon. Speaker: Very well Hon. Members.

(Question is proposed)

Hon. Karen Wanjiku: Thank you Mr. Speaker sir. I want to support this report. We can see from the observations of the Committee and the recommendations that they have made, the impunity that is in the Executive side. We have seen that the Executive have used money at the source which Mr. Speaker sir according to the Committee observations;

1. Cash was being used at the source instead of banking and accounting for the collection using the County Revenue Fund account as specified in Article 207 (i) and (iii) of the Constitution and further as specified by Section 109 of PMF Act 2012.

Mr. Speaker sir this is impunity of the highest order and we cannot let the Executive do what they want because we have the Constitution, the PFM Act and even the County Government Act that guide us and guides the proceedings of the County Government, Mr. Speaker sir. We have seen in their report on Compensation of employees, that the Executive did not avail any documents to support their overpayments, fines and surcharges.

Further as we go to the revenue collection Mr. Speaker sir, we have seen that there have been gaps in revenue collection and they have talked about revenue collection officers. But no action has been taken to reprimand these officials. Are we going to conduct this County this way, Mr. Speaker sir? We need revenue, we collect revenue. But if the revenue cannot go back to the people for services Mr. Speaker sir, we cannot live this way and action should be taken. There is lacuna in this Executive side and it should be changed.

As I sit down Mr. Speaker sir, I want to speak about the impunity in the free maternity that we have seen, changing of vote of the money that is supposed to help poor mothers in Nairobi County just because

of one or two people. We cannot continue this way Mr. Speaker sir we need to support this report for implementation. Thank you.

(Applause)

Hon. Speaker: Hon. My dear friend from Clay City.

Hon. Member for Clay City Ward (Mr. Erastus Muiruri): Thank you Mr. Speaker. I am on the floor once again to oppose the report with the loudest voice. Mr. Speaker we thank the Chairman for the work he did with his Committee but it is like putting the final nail in your own coffin because if you go all the way without reading all those papers, the final conclusion the Committee is saying it is tabling this report with a lot of displeasure. I want to mention one part in the last page item No. 10. For sure Mr. Speaker we are talking about the revenue of this County and we cannot leave these monies to the mercy of a few individuals, these Executive officials.

Mr. Speaker I am opposing it with amongst other reasons in regards to these accounts. Was the Committee informed when these accounts were opened? And how will the Members know when the accounts will be closed? Mr. Speaker it is like leaving our money hanging at the mercy of the Executive. So I strongly oppose this report. Thank you, Mr. Speaker.

Hon. Speaker: Hon. Kagiri. Actually what the Hon. Member is asking you Hon. Chairperson, when are you going to know about the closure of the account. I think that is what the member is---

Hon. Member for Pipeline Ward (Mr. Samuel Kagiri): I want to support the report of the Committee on PAC and Mr. Speaker as I said before if the Executive should emulate what we are doing in the County Assembly things could be running smoothly and we could be seeing some things being done in the right way.

If you look at his report and the recommendations or the observations of the Committee there are no good observations that you can see from the Committee. They just do the opposite of what is right. They are happy doing what is wrong and this has been going on for so long.

I don't know whether they are qualified or not. Because you don't tell me that a qualified accountant will not be able to keep an asset register and this thing has been there since we came in, asset registers are not being kept. How do we know when we lose an asset as a County? We can't tell.

If you look at number two Mr. Speaker, let me not go to number two. If you look at item number 4 Mr. Speaker, the Committee has recommended the previous report they had written but the recommendations they made to the Treasury were not adhered to, issues by the Public Accounts Committee in regards to the closure of the dormant account as has been said by my fellow colleagues. Mr. Speaker I think if you go through this report you will find that nearly 100% of the things are done in the wrong way. Mr. Speaker I think it is a high time the right action is taken against these kind of officers so that the County can be able to move forward and at least we see ourselves moving or doing something for the Nairobians. Thank you. I support.

Hon. Speaker: Very well I think I will call the Hon. Mbau.

Hon. Member for Mlango Kubwa Ward (Mr. Andrew Mbau): Mr. Speaker, I rise to support this Motion because this Motion has comprehensively brought into the light what has been ailing this County and that is impunity and incompetence. Mr. Speaker, if you happen to go to the records there is no single reason as to why the County Executive have never brought to the light the asset register and the liabilities. There is no action, not even one, that has been ever been meted on the culprits, the people who have always been messing us. In a nutshell, what the County Executive side needs to do is just to replicate what has been happening on the side of the Legislature which has been leading. I support the Motion.

Hon. Speaker: Hon. Juma.

Hon. Tabitha Juma (Nominated Member): Mr. Speaker sir, I rise to support the report of the Committee. My concern is, just like I mentioned earlier when I stood here supporting the report that is on the Assembly side, I mentioned the fact that whenever it comes to the scrutiny of the records of the Executive side, there is always one problem that has been consistent, time and time again whenever we have a report that we have to go through.

I do not know if this is by design or something like that. The commission and omission that you witness there is quite appalling and whenever you ask for a record it will never be given. The officers will come bare-handed yet you have done a letter giving them enough time to respond to our queries. You fail to understand what is going on.

One of our Members was asking whether it is a case of not having qualified officers to man those offices but when you look at these things in detail you will realize that Nairobi County is one of the Counties that has the most qualified accountants in this Country. When you look at their profiles they are some of the best accountants so I do not know if this is by design or something like that but it is quite appalling. Another thing is that when they fail to respond to the audit queries in time. Before the Auditor General does a report they normally give you time. They will ask questions and give you time to respond so that if there is something that has not been tackled they will be able to sort it out and omit it from the report.

However, in the Nairobi County, they bring these letters, they follow up with the Executive but nothing happens and this is quite appalling. I am sure we are soon going to witness it again and I do not know whether the Governor is listening but I think he needs to sit with his officers and hold them accountable if we want to take this County to the next level. If we want to give services to this County and give the *Wananchi* value for their money we need to do something. Our officers need to style up. With those few remarks I stand to support.

Hon. Speaker: Very well, Hon. Juma, she is saying style up or ship out. I think, Hon. Juma, the next thing you do as Members of the Public Account Committee is to stop babysitting them, scratch them. *(Laughter)* Hon. Jack wetu.

Hon. Member for Githurai Ward (Mr. Jack Ngare): Thank you, Mr. Speaker. Before you call the Mover to reply I would like to put forward some clarifications. Whenever the Public Accounts Committee makes recommendations we do away with them. We are not supervisors, we do not follow up to see that things are done so nobody should stand and say they do not support this Motion because the Public Accounts Committee has not told us how this will be done.

Actually, once we make recommendations and we do not care how tough or soft the recommendations are the implementation is done at another level and if it is not implemented the Auditor General will come up with the same audit query the following year. So, until our recommendation is fulfilled it will always appear in the following reports. Thank you Chair, I support.

Hon. Speaker: Hon. *Serkal*.

Hon. Member for Lucky Summer Ward (Mr. Kennedy Oduru): Thank you, Mr. Speaker sir. I stand to support the report. This Motion is very well done, the report itself and I take this opportunity to congratulate the Members of this Committee for their good work headed by our able Chairperson.

Mr. Speaker sir, it is okay when I went through it and whatever was expressed by the Chairperson, I have endorsed them and as per that, seeing the mood of the House I request you to call the Mover to reply. Thank you.

Hon. Speaker: Hon. Members, I call the Mover of the Motion to reply.

Hon. Robert Mbatia: Thank you, Mr. Speaker. I want to thank the entire Assembly on behalf of the Public Accounts Committee for the support and moral support that they give us. I want to also thank the Assembly leadership for the support you have given us and also thank the Auditor General for bringing this report in time.

Mr. Speaker, I want to highlight on some things and one is on the issue of the number of accounts. Mr. Speaker, I have Chaired this Committee now for the last 3 years and some Members that have served the same time in the Committee, we are confused on the number of accounts that this County Government holds. Mr. Speaker, it is well spelt out in the PFM Act and also in the County Government Act on the number of accounts that a County Government should hold and if there is any additional on the procedures to be followed.

However, Mr. Speaker, the procedures have never been followed and even the accounts that were supposed to be closed earlier, some are still existing. Mr. Speaker, I would also like to say on the displeasure, as we held those meetings one Member said that some officers came bare-handed with no supporting documents and they were in a hurry.

Most of the officers who appeared before us were in a hurry because they were going to other meetings. This County Government, the Executive Wing are always in meetings. Mr. Speaker, we have never seen them bear any fruit three years down the line. Mr. Speaker, there is nothing evident that can show that these meetings bear fruit.

Mr. Speaker, it is also time, probably the Governor has been held hostage by some officers so I would request the Governor to strike and actually send home some of those officers. Some are just loitering in the offices, just lazing about and doing nothing. Mr. Speaker, these are qualified officers who know what they are doing but their business is elsewhere and not in this County.

Mr. Speaker, we have also noticed when it comes to the imprest surrenders, there is an officer – and we shall deal with that at the appropriate time – we were misled that he is no longer in service after him acquiring so many imprests and we just realized in our very recent meetings that this officer is still on the payroll so we were also misled. These officers mislead us and that is a very grave concern.

Mr. Speaker, we are also requesting this Assembly that these reports when they are brought here let them be forwarded to even other institutions like the EACC for action to be taken because we have a duty to serve the people of Nairobi and we are not serving them because of a few selfish individuals. Thank you Mr. Speaker and I also thank all the Members.

Hon. Speaker: Thank you. I will now put the question.

(The question was put and agreed to)

Hon. Speaker: Hon. Members, the House is adjourned until tomorrow, 2.30 p.m. and I thank you.

(The Sitting adjourned at 4.30 p.m.)