



## NAIROBI CITY COUNTY ASSEMBLY

### OFFICIAL REPORT

#### First County Assembly – Fourth Session

Wednesday 23<sup>rd</sup> November, 2016

The House met at 2.30 p.m.

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

### PRAYERS

**Hon. Speaker:** Order Hon. Members! We have a quorum so we can proceed with the business of the day.

### PETITION

BY THE BABADOGO SLUM RESIDENTS ON DELAY BY THE NAIROBI CITY COUNTY GOVERNMENT TO PROVIDE FREE HEALTH CARE TO ORPHANS AND VULNERABLE CHILDREN, SEVERELY DISABLED PERSONS AND ELDERLY PERSONS FROM THE SLUM

Hon. Speaker: Hon. Members, presentation of a petition on behalf of the Babadogo slum residents. Public petition pursuant to Standing Order 195 by the Babadogo slum residents on the delay by the Nairobi City County Government to provide free healthcare to orphans, vulnerable children, severely disabled persons and elderly persons from the slum.

We the undersigned who are residents of the Babadogo slum draw the attention of Nairobi City County Assembly to the following:



THAT aware that Article 43 (1) (a) of the Constitution of Kenya 2010 provides that every person has the right to the attainable standard of health which includes the right to health care services and that health services is a devolved function of the County Government.

THAT Whereas the estimated number of vulnerable families living within Nairobi City County boundaries is estimated at 327,000 households with an estimated 205,000 households considered severely vulnerable living below Ksh. 100 per day;

THAT Whereas the National Government under cash transfer program from Social Protection Secretariat in the Ministry of Labour and Social Services is currently covering approximately 44,000 households in Nairobi City County by providing them with National Health Insurance Fund (NHIF) card. The Nairobi City County Government can cover additional 150,000 households to ensure all severely vulnerable population in the City slums have free and accessible Medicare towards universal health care in the County, as one of the seven pillars of the Nairobi City County Governor's deliverables is "better health for all";

THAT Whereas the spirit of the National Social Protection Act 2009, requires the County Government to set aside 4 percent of its annual budget towards social protection services of which is given to health care top the list of major expenses vulnerable families in the slums has to incur on daily basis due to overpopulation and environmental conditions surrounding them;

THAT Whereas the Nairobi County Assembly Members have been pushed to succumb to charitable acts like fundraising or cash payment of bills from vulnerable families in slums are unable to afford their medical bills which create dependence on charity;

NOW THEREFORE your humble petitioners pray that;

i). The Nairobi City County Assembly look into the matter with a view to revise the Nairobi City County Health Department budget by providing supplementary budget for the National Health Insurance Fund program that will ensure that 150,000 households and approximately 750,000 beneficiaries are provided with free and universal health care services in the County; and/or

i). That the Nairobi City County Government to establish a special kitty/fund that can be used to implement the health care cover for the vulnerable population through NHIF program to cover 150,000 households and approximately 750,000 beneficiaries.

And your petitioners will ever pray.

This will be committed to the Committee on Labour, thank you.

## PAPERS

Hon. Leader of Majority: Thank you Mr. Speaker. Pursuant to article 228 (6) of the Constitution of Kenya 2010 I beg to lay the following paper on the table of the Assembly today Wednesday 23<sup>rd</sup> November, 2016 annual County Government's Budget Implementations Review Report of the financial year 2015/2016. I beg to lay.

Hon. Speaker: Thank you Hon. Leader of Majority.

## STATEMENTS

Hon. Speaker: Hon. Ogeto, I thought I saw him here?

**Hon. Member for Kilimani Ward** (Mr. Moses Ogeto): Mr. Speaker, pursuant to standing order 41 (2c) I wish to request for a statement from the Chairperson of the Sectoral Committee on Transport and Public Works regarding the closure of Dennis Pritt Road in Kilimani Ward. Hon. Speaker, article 174 (c) of the Constitution 2010 gives powers of self-governance to the people to enhance participation of the people in making decisions affecting them. Further article 184 (1c) provides for participation by the residents in governance of urban areas and cities.

**Hon. Moses Ogeto:** Hon. Speaker Dennis Pritt which is a public road that serves the thousands of residents in Kilimani was closed by a private developer thus affecting the residents who use the road.

Hon. Speaker, in the statement the Chairperson should inquire and report:

1. Reason of the closure of part of Dennis Pritt road in Kilimani ward
2. Whether the residents were involved in the privatization of the public road
3. Measures taken by the County government to deter the private developer from interfering with public roads in the County

Hon. Speaker this road was closed by this private developer and he has inconvenienced many residents in this area. The private developer could explain to us in the articles of the Constitution that have been violated. The closure of the road has caused many accidents since they were not involved. Even the



Head of State uses that road; am not sure if he is aware of the developments. You realize Mr. Speaker the inconveniences caused by the private developer can cause a serious harm to my people who use this road, thank you.

**Hon. Speaker:** Hon. Chairperson, Works

**Hon. Member of Lucky Summer Ward** (Mr. Kennedy Oduru): Thank you Hon. Speaker sir as the Hon. Member has stated this is a serious matter, I promise we will get a response in 10 days' time when the Assembly is on.

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

**Hon. Moses Ogeto:** Mr. Speaker I think 10 days is so long; it is causing accidents and it is inconveniencing the residents of Kilimani. Why can't he just bring it on Tuesday; they have blocked the road and those things can be removed if the County government can intervene and ensure those things are removed. This doesn't need a rocket science. It needs for them to visit the site and ensure this is responded before we go for recess.

**Hon. Majority Leader** (Mr. Elias Otieno): Mr. Speaker I think there are some things even if you want people to know whether you're defending them, something which you cannot succeed. You can't just come and ask here. That road is a private road now because the President has diverted the road and he has compensated with new roads which they have already constructed some few months ago and also that is not a County road. That is KURA road so when you are asking about that road here in the Assembly it is like you want to fight the President of which I know you can't succeed in that fight. Even when Hon. Oduru is answering that he is going to answer by next week I don't know if he is going to State House to ask the President why he closed the road. Thank you.

**Hon. Kennedy Oduru:** Thank you Hon. Speaker sir, am very much happy because whatever the Majority has stated is in order because you see there is a procedure in this House whereby under normal circumstances we have to consult the Executive so that we can know the position and also it is very fortunate Hon. Majority Leader comes with Hon. Ogeto from same constituency so am very lucky. So it stays as per what I had said earlier.

**Hon. Speaker:** However we require the answers for our record purposes and for the Hon. Member for Kilimani where some of us live, we live in the area and understand but maybe he doesn't understand. You could just do it in small piece of paper for him. Thank you.

**Hon. Moses Ogeto:** I have not touched the Head of State Mr. Speaker (*inaudible*)...this is sabotage. Mr. Speaker the Majority Leader has talked about private developer, am not talking about the Head of State, I don't know. Maybe he has never been invited in the same, I know where State House is and the place am talking about is not State House. I don't know who the owner of the land is, he just want

to bring the head of state to this circus. What I am saying is the developer who is doing this business it's a KURA road; even if it is the Head of State...

**Hon. Speaker:** Hon. Ogeto we will get a response in a weeks' time from Hon. Oduru., please.

**Hon. Moses Ogeto:** You are in violation of Article 174 and 184 of the Constitution.

**Hon. Speaker:** You will be answered by Hon. Oduru in a weeks' time, not 10 days. Proceed. Yes Hon. Nyangwara, you are standing on what now?

**Hon. Member for Viwandani Ward (Mr. Samuel Nyangwara):** Mr. Speaker am standing on Point of Order Number 30 the one we discussed yesterday and I just realized something is not in order. We have always been told that Committees are extension of this Assembly and yesterday we passed a resolution not to transact any business with the County Secretary Dr. Ayisi. I was surprised today when we were in our Committee I saw him comfortably seated discharging duties with the Committee of Justice and Legal Affairs. Mr. Speaker are we doing resolutions and passing Motions here in vain? Something is not in order.

**Hon. Speaker:** Order Hon. Nyangwara. The Chairperson for the Committee is sited right here. He will confirm although I received the confirmation but let the Chairperson confirm.

**Hon. Majority Chief Whip (Mr. Jaffer Kassam):** Thank you Mr. Speaker. It is true that Dr. Ayisi appeared in our meeting today and this was as per the invitation sent to him from the Clerk's office a day before yesterday. Just before we began the business we raised the concern and I personally read the Statement from the Clerk requesting him to leave. But there was a very strong objection from my membership Mr. Speaker sir and they demanded for a written resolution from the Assembly.

This resolution was brought and I circulated it and I read it again but it was very unfortunate that there was nothing much that I could do because the members wanted him to remain there. Though he never participated in any discussion and I realized that it was on record what I said and I asked him to leave. So it is unfortunate but it is was something that I must accept that it was beyond my *nini*--- I had to chase him out and we called Kamukunji to adjourn the meeting and we made our resolutions and we attained the goals of what we wanted but it was unfortunate that he kept sitting there on the advice of the County Attorney who was with him, Mr. Speaker sir.

**Hon. Member for Roysambu Ward (Mr. Peter Warutere):** Mr. Speaker it is indeed unfortunate that the Chief Whip of the main coalition and the Chairman of Justice can stand in front of this Honorable House and misinform the House that indeed he didn't have powers to basically adopt the resolutions that were passed in this House. He was indeed in the House when we made these resolutions. He is the Chairman of Justice and Legal Affairs Committee, the buck stops with him and not the Committee members and therefore it is him who has all the authority to tell off the County Secretary. Therefore it is not in order for him to lie to the House that he was being micromanaged or micro-controlled by the members of the Justice

and Legal Affairs Committee. That to me would show a sign of incompetency on the part of the Chairman. That is my take.

**Hon. Member for Umoja I Ward** (Mr. Njoroge G. Maina): Thank you very much Mr. Speaker. I rise here first to support because I am a member of Justice Committee and I was there when the Chair was issuing...but the membership first refused because there was no written submission but when the document came from the Assembly---

**Hon. Speaker:** Order Hon. Member! I am sitting here and you are misleading the House.

**Hon. Njoroge G. Maina:** Mr. Speaker, allow me to finish please. When that came to the Assembly, we adjourned as a Committee and that is the reality of the matter, we adjourned. It is the person who was furnishing us with that information who is giving you half-baked information. But when that written submission came, we adjourned the Committee until we get further clarification from the Assembly.

**Hon. Leader of Minority:** Mr. Speaker sir, I think the Hon. Member for Umoja 1 is trying to mislead this House because he was one of the contributors of the Motion yesterday. I didn't hear him defending the County Secretary here Mr. Speaker sir and the Chairman was also a contributor of the Motion. It contravenes the rule of respect in this House. This House cannot pass resolutions in vain and a Committee cannot purport to be independent of this House Mr. Speaker sir. It is a very sad day Mr. Speaker sir and Members of the County Assembly of Nairobi should stop disrespecting this August House, they are demeaning the stature of this House.

I want to tell Members, if you take *mlungula* from the said County Secretary and you know very well the resolutions of the Assembly was very clear, no transaction shall be done between this County Assembly and the said County Secretary. My good friend here was saying that the Committee adjourned after seeing the communication, Mr. Speaker sir. That perplex me, why should they adjourn the meeting they should have sent way the County Secretary and question the County Attorney. Under whose authority, how can he not look for an alternative resolution mechanism instead of going to court Mr. Speaker sir? Who will compensate for that tax payers money?

Mr. Speaker sir if the Committee of Justice want to subvert the course of justice, I plead with you to dissolve this Committee so that we can reconstitute this Committee and put members who can respect themselves, members who can respect the rule of this House. We are not going to allow this Assembly to be an extension of the Executive, Mr. Speaker sir.

**Hon. Speaker:** Order! Hon. Leader of Minority---

**Hon. Leader of Minority:** Mr. Speaker my friend here Hon. Ogeto is consulting in a loud voice. Can he give me the opportunity, Mr. Speaker sir?

**Hon. Speaker:** Order please.

**Hon. Leader of Minority:** Mr. Speaker sir, this County is losing a lot of money because of the type of people we have in this County. The Acting County Attorney because he is not supposed to be substantive because the law is very clear, has put this County in a lot of litigations. I don't know his interests behind all these litigations maybe he is one of the beneficiaries of these litigations which he is the one pulling the string behind these litigations. As we heard yesterday the lawyer who was acting for the County Secretary was paid upfront 3 million shillings, and we have hospitals with no drugs, Mr. Speaker sir. Mothers in Pumwani don't have soaps, they don't have---- Mr. Speaker sir we have colleagues here who are making loud consultations. Kindly protect me please.

**Hon. Speaker:** Hon. Ogeto please.

**Hon. Minority Leader:** Mr. Speaker sir, this is a very serious matter the House yesterday passed resolution that it cannot conduct any business with the Acting County Secretary. Unless that resolution is reversed by this House, no Committee can transact any business with the said County Secretary. As far as this House is concerned, Dr. Ayisi is a stranger. He cannot purport to write any letter to any institution or any organ in this House.

Mr. Speaker sir, I also want to take this opportunity to thank His Excellency the President of the Republic of Kenya who is also the Commander in Chief of the Armed Forces for coming to our aid, the people of Mihango and Kayole. We suffered for the last one month. Our people did not access medical facilities, our students did not access educational facilities and our business people could not transact their businesses but today we are relieved. I want to thank his Excellency for personally intervening in this matter. Thank you, Mr. Speaker sir.

**Hon. Speaker:** Hon. Members, I gave you enough time to ventilate on that. Order, Hon. Members! This was just a Point of Order. Hon. Members, indeed, we are the County Assembly of Nairobi. This County Assembly is not an extension of the Executive of Nairobi. First of all, I want to warn the Executive of Nairobi, we have 6 months to go, as they are saying, on the corridors of this County but the Constitution shall be followed. It is unfair to treat us like ball boys and ball girls. We deserve respect from the County Executive as we have respected them for the last four years. I remember telling you that we are paying the price of playing good boys and good girls.

Now, we are the bad boys and bad girls but when few of us decide to do the otherwise, then we are left with no alternative but speak regardless of the consequences that will befall some of the Members here. You have done your work without fear or favor and yesterday you resolved here on the floor of the Assembly that we shall not conduct any business with Dr. Robert Ayisi, the Acting County Secretary. Further, you went on to say that the Assembly shall consider any business transacted by the Acting County Secretary, Dr. Robert Ayisi, as null and void and there will be no recognition and no respect to any action by the aforesaid in dispensing with the duty of the office of the County Secretary.



Hon. Members, today, there was a meeting of Justice and Legal Affairs where Dr. Robert Ayisi was given a chance to sit in the meeting in violation of the resolution of the same County Assembly. To make matters worse, Members of the Assembly in that Committee said that they are above; they cannot be questioned by anybody disregarding the Assembly's resolution. Yesterday, the Nairobi City County Assembly resolved to remove the Acting County Secretary from the office following Minority Leader's Motion pursuant to Standing Order No.30.

Hon. Members, Committees are extension of the Assemblies and in this regard it can never work in isolation. It is indeed laughable for the Committee to purport that it is independent, free from the resolution of the Assembly. The Sectoral Committee on Justice and Legal Affairs today at its meeting with the County Secretary and Mr. Gad, illegal representative because I can't use the word Attorney because he is not an Attorney, disregarded the Assembly's resolution which is in contempt and misdirected.

Since the Committee was made aware of the same communication and disregarded the same, in this regard, I have evoked Standing Order No.1 and disband Sectoral Committee on Justice and Legal Affairs and request the Leader of Majority and Leader of Minority Party to constitute the Committee as soon as possible, I so direct.

*(Loud consultations)*

**Hon. Speaker:** Order, Hon. Members! We are on another business. You cannot question the Communication of the Speaker.

*(Loud consultations)*

**Hon. Speaker:** Order! Hon. Members, response of Statements: Hon. Zulfa Hakim from the Chairperson of Select Committee on Implementation regarding the implementation status of Motion passed by the Assembly urging the CEC Member for Education, Children, Youth Affairs---

*(Loud consultations)*

**Hon. Speaker:** Order, Hon. Members! --- Culture, Social Services, ICT and Government, and County Public Service Board to establish a fully pledged department of Children in the County.

*(Loud consultations)*

**Hon. Speaker:** Order, Hon. Members! Order, Hon. Mumo! Chairperson on Implementation.

**Hon. Majoriy Leader:** Mr. Speaker, I brought the Statement yesterday but because of the emergency Motion, I did not read it. So, Mr. Speaker, give me till tomorrow in the afternoon. I will have the whole report tomorrow.

**Hon. Speaker:** Very well, it is so directed.



**Hon. Member for Dandora Area II** (Mr. Stephen Kambi): Mr. Speaker sir, I want to inform you ---

**Hon. Speaker:** Order! Hon. Member, who are you informing?

**Hon. Stephen Kambi:** I am informing the Speaker. Kindly, sir, if you allow me to proceed, I beg your indulgence. Mr. Speaker sir, we have been in this Assembly for three years not four years.

**Hon. Speaker:** Hon. Kambi, you cannot inform the Speaker. You are out of order.

**Hon. Stephen Kambi:** But, Mr. Speaker sir, we have been in this Assembly for three years not four years you had stated earlier.

**Hon. Speaker:** That would have been correction. Not information.

*(Inaudible)*

**Hon. Speaker:** Order Hon. Member! Respond to a statement requested by Hon. Samuel Nyangwara from the Chairman of Select Committee on Implementation regarding implementation of resolution of Select Committee on Public Account Report on the Auditor General's Report of audited financial statement of the County for the year 2012/2013. You also want it to come tomorrow?

**Majority Leader:** Mr. Speaker, I had all those responses yesterday but I forgot them in my office. Just allow me to bring them tomorrow afternoon.

**Hon. Speaker:** Very well Hon. Leader of Majority. Then we go to the Committee of Health regarding the status of Kamiti Prison. This is a response requested by Hon. Ngaruiya from the Chairperson of Sectoral Committee of Health.

**Hon. Manoah Mbuku:** Thank you Mr. Speaker. Mr. Speaker, on 26<sup>th</sup> October, 2016, Hon. Ngaruyia Chege, rose on the floor of the Assembly pursuant to Standing Order 41 (2) (c) and requested the Chairperson of the Health Services Committee for a Statement regarding the status of Kamiti Prison Health Centre.

In the Statement, the Member sought to know the following:-

- i. Whether Kamiti Prison Health facility is recognized as a County Health Facility
- ii. The current status of the personnel, essential equipment and drugs in the said facility; and
- iii. Measures that the County Executive is putting in place to ensure that City residents receive proper care and medication in the various health centres in the County.

Mr. Speaker sir, the Committee wrote to the County Executive Committee Member responsible for Health Services on 26<sup>th</sup> October 2016 requesting to be furnished with a written response to the Statement sought by the Honorable Member.

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

**Whether Kamiti Prison Health Centre is recognized as a County Health Facility**

Mr. Speaker, Kamiti Health Centre is a public health facility situated within Kamiti Prison grounds. It is divided into Kamiti Main (Maximum Security Prison that has 3000 prisoners), Kamiti Medium (short sentences prison that has 700 prisoners), YCTC (young prisoners that has 200 prisoners) and general clinic for the general public. The catchment areas of the general clinic include: Parts of Kahawa West; Kamiti Corner; Kiamumbi; Maziwa; Kamiti Prison staff; Kamae; Parts of Githurai 44 and Mugumaini

Mr. Speaker, these areas have a combined catchment population of between 25,000 to 30,000 and offers the following services:

Family planning, counseling, Prevention of Mother to Child Transmission (PMTCT), immunization, orthopaedics, physiotherapy, occupational therapy, Comprehensive Care, TB, X-Ray, Laboratory services, HIV testing and counseling.

**The current status of personnel, essential equipment and drugs in the health facility**

Mr. Speaker, the staff at the facility consists of 14 nurses, 2 clinical officers, one pharmacist, one occupational therapist, one dentist and one subordinate staff.

**Measures that the County Executive is taking to ensure City residents receive proper care and medication in various centres in the County**

Mr. Speaker, the County Executive has continued to lobby for the payment of the remaining KEMSA debt incurred from the last supply of drugs. The debt has drastically reduced and once cleared, KEMSA will be able to supply the County Health facilities with drugs. The drugs orders for each health facility have already been prepared and submitted to KEMSA.

In addition, Mr. Speaker, the County Health Management Team (CHMT) has organized itself into clusters to ease the supervision of the sub-County Health Management Teams (SCHMTs) that supervise the health centres. This is done on a quarterly basis. The CHMT is always ready to accompany the SCHMT to any facility that may have challenges that surpass their capability to handle. Through this supervision, efficient service delivery to the citizens is ensured.

Mr. Speaker, a copy of the detailed response has been given to Hon. Ngaruyia Chege whom we had discussed this matter with.

Mr. Speaker, I beg to lay this Statement. Thank you

**Hon. Speaker:** Very well. I should commend you. That was a perfect response. Where is Hon. Ngaruiya Chege? Can we proceed?

## COMMITTEE OF THE WHOLE HOUSE

*(Hon. Speaker leaves Chair)*

**Hon. Chairman:** Order Hon. Members! I suspend part one of Motion number 8. We can move to part two. This is necessitated through the communication made by the Chair a few minutes ago.

### Part two

**Hon. Chairman:** Hon. Members we are now in the Committee of the Whole Assembly to consider the Nairobi City County Animal Control Management Bill, Assembly Bill Number 3 of 2016 and we will start with the Bill as from clause 3.

Serjeant-At-Arms we are in the Committee of the Whole House and you should not open any door. The doors are supposed to be closed. The Chairperson!

**Hon. Nominated Member** (Ms. Petronilla achieng): Thank you. I propose that clause 3 be part of the Bill as it appears in the Order Paper.

**Hon. Chairman:** Hon. Members I propose that clause 3 be amended as proposed.

*(Question put and agreed to)*

**Hon. Member for Highrise Ward** (Mr. Maurice Akuk): Point of Order Chairman

**Hon. Chairman:** Hon. Maurice Akuk! We are in the Committee of the Whole House. Can you give him the microphone?

**Hon. Maurice Akuk:** Hon. Chairman, we are all aware that at this level of the Committee of the Whole House we are dealing with matters that are very important to this County. This is the amendment and approval of a Bill. Hon. Chairman if you go back to our training on these issues, you must be aware that quorum is very important for such matters and so I kindly beg that you look into it. Thank you.

**Hon. Chairman:** Indeed Hon. Maurice Akuk as you've said I remember as well. You know how we have been transacting businesses here and it is very difficult reason being Members just clock in and walk out almost immediately. Are we going to stop passing Motions and Bills in this House?

Clerk can you check whether we have quorum?

Indeed we do not have quorum. Can the serjeant-At-Arms ring the bell for the next ten minutes.

*(Hon. Speaker back in Chair)*

**Hon. Speaker:** Good afternoon Hon. Members. Hon. Hashim I understand you are here because there is lack of quorum. Hon. Members as we adjourn because of lack of quorum---

**Hon. Member for Viwandani Ward** (Mr. Samuel Nyangwara): Mr. Speaker I have come to report on what transpired on the Committee of the Whole House and hereby give you facts that we did not actually transact business because we did not raise quorum. That is under standing order number 32 (2) (b). Thank you.

**Hon. Speaker:** Thank you Hon. Nyangwara. Hon. Members, Order Number 8; the Committee of the Whole House will appear on tomorrow's Order Paper. Also under Standing Order Number 32; the Nairobi City County Office of the Attorney Bill Number 2016 Assembly Bill Number 4 Of 2016. Nairobi City County Annual Control and Urban Management Bill 2016. Amendment Bill Number 3 of 2016 will appear on tomorrow's Order Paper.

Hon. Members, there being no quorum, the House is adjourned to Thursday 24<sup>th</sup> at 2:30 p.m. I thank you.

*(The House rose at 4.45 p.m.)*