



## NAIROBI CITY COUNTY ASSEMBLY

### OFFICIAL REPORT

#### First County Assembly – Fourth Session

Wednesday 28<sup>th</sup> September, 2016

The House met at 2.30 p.m.

*(Hon. Temporary Deputy Speaker (Mr. Samuel Nyang'wara) in the Chair)*

### PRAYER

**Hon. Member for Makongeni Ward** (Mr. Peter Imwatok): Point of Order Mr. Speaker as we wait.

**Hon. Temporary Deputy Speaker** (Mr. Samwel Nyang'wara): No. I will give you permission thereafter.

**Hon. Peter Imwatok:** Okay.

**Hon. Temporary Deputy Speaker:** Order Hon. Members. Hon. Jaffer Kassam you can proceed.

**Hon. Member for Parklands Ward** (Mr. Jaffer Kassam): Thank you Mr. Speaker sir. Statement requested by Hon. Mike Obonyo, MCA for Gatina Ward. Mr. Speaker sir, on Tuesday 22<sup>nd</sup> March 2016 Hon. Mike Obonyo, MCA rose on the floor of the Assembly pursuant to Standing Order 41 (2c) and requested the Chairperson of the Committee on Justice and Legal Affairs for a response to a Statement regarding the improper use of the Nairobi City County logo.

According to the Hon. Member Section 5 of the Nairobi City County Flag and other Symbols Act 2013 provides for restricted use of certain symbols, names words and likeness for professional or commercial purposes and for matters incidental thereto. The Member alleged that there are billboards erected on the streets of Nairobi City County bearing images of Senator Mike Sonko and Hon. Margaret

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Wanjiru with the logo of the County. The Member sought to know whether permission was granted by H. E. the Governor for the said use as required by the law.

The Hon. Member further asked the Chairperson to inquire into and report on:

1. Whether there is a written permission from the Governor on the use of the County symbols as per Section 5 (1) of the Nairobi City County Flag and other Symbols Act 2013 by Senator Mike Sonko and Hon. Margaret Wanjiru;
2. The Authority or the consent that the advertising company had on the publication of the Nairobi City County logo as per the Nairobi City County Flag and other Symbols Act 2013; and
3. Measures put in place in line with the law put by the Nairobi City County Executive to ensure enforcement of Section 5 of the Act; and
4. Action taken against those found culpable of misusing the County symbols without authorization.

Mr. Speaker sir, the Committee wrote to the Nairobi City County Attorney on 30<sup>th</sup> March 2016 vide letter ref. NCCA/J&LA/STM/03/2016 requesting to be furnished with a written response to the statement by the Hon. Member. Noting that the delay on the response by the said office despite a long lapse of time, the Committee conveyed a reminder of the same vide letter ref. NCCA/J&LA/STM/06/2016 dated 3<sup>rd</sup> August 2016. The response to the statement was later received on 6<sup>th</sup> September 2016. In this regard I wish to report to the Assembly as follows:

**A. Whether there was a written permission from the Governor on the use of the County logos**

Mr. Speakers sir, the County Attorney responded via a letter dated 5<sup>th</sup> September 2016 on the matter stating that the office has taken the statement raised by the Hon. Member and that action has already been taken and that the Hon. Senator Gedion Mbuvi Sonko was notified on the improper use of the Nairobi City County logo and its consequences there in. The Bill on the authority or the consent according to the Nairobi City County Flag and other Symbols Act 2013; provide for restricted use of certain symbols, names and words.

**B. The authority or the consent that the advertising company had on the publication of the Nairobi City County logo**

According to Section 5 of the Nairobi City County Flag and other Symbols Act 2013, provide for restricted use of certain symbols, names, words and likeness. The section further provides that the County symbols should not be used without the authority of the Governor's office.

Mr. Speaker sir, the County Attorney in his response indicated that there was no consent granted by the Governor on the advert displayed by the Hon. Senator Gedion Mbuvi Sonko and Hon. Margaret Wanjiru. Hence they were in breach of the aforementioned Clause.

**C. Action taken against those found culpable of misusing the symbol without authorization**

Mr. Speaker sir according to the County Attorney, the said advertisement and any other such nature are misleading the public and associating it with the Governor's office, the office mandated under the law to give authority for the use of County symbols, names and likeness. Mr. Speaker this contravenes provision of Section 5 of Nairobi City County Flag and other Symbols Act 2013 and a person shall be guilty of an offense and liable for the same punishment as prescribed by the National Flag and Emblem, and Names Act. Mr. Speaker I beg to lay this response. Thank you, Mr. Speaker.

**Hon. Temporary Deputy Speaker:** Hon. Obonyo.

**Hon. Member for Kayole South Ward** (Ms. Elizabeth Manyala): Thank you Mr. Speaker. He delegated it to me and actually by the words he used was that the logo is an emblem and being an emblem and a sign that is endowed that portrays the organization's identity, it is prudent that the status quo on how it was used that it remains that no any other member like Hon. Sonko should have disputed what it was. So that was what he actually told me to convey to this House. Thank you, Mr. Speaker.

**Hon. Temporary Deputy Speaker:** Hon. Manyala you were to confirm whether you are okay with the statement the way the Chairperson has given or you are not satisfied. Are you satisfied?

**Hon. Elizabeth Manyala:** Certainly I am. Yes.

**Hon. Temporary Deputy Speaker:** Thank you. Much obliged.

**Hon. Chief Whip of the Minority** (Mr. Hashim Kamau): Thank you, Mr. Speaker.

**Hon. Temporary Deputy Speaker:** Is Hon. Erastus Mburu in?

**Hon. Chief Whip of the Minority:** Mr. Speaker on the same issue I want to know from the Chairperson, and I want authority there are matatus plying route 12 from South C that were flagged off by H.E. the Governor and they are using the County logo and was flagged by the Governor himself. What authority were they given compared to what was put on the bill board by the Hon. Senator?

**Hon. Temporary Deputy Speaker:** Order Hon. Members! Hon. Chair, can you respond to that particular one?

**Hon. Jaffer Kassam:** Again we will need to get some guidance though. By the look of the matter it seems to be contravention of the same law and whoever uses this thing is liable for some punishment. So that once we will need some legal guidance from the County Attorney's office and I wish that the concerned Member brings it in form of a request for response which we shall give guidance.

**Hon. Member for Dandora II Ward** (Mr. Stephen Kambi): A point of interjection Mr. Speaker sir. Thank you sir. I don't disagree with my colleague the Chairman for the Justice and Legal Committee but as you refer the Assembly will need guidance from the office of the County Attorney. The question arise, do we

really have a County Attorney? And if there is a County Attorney, did this House participate in the County Attorney Bill? Because I do believe according to the law this House has a part and a role to play before any County Attorney takes the office. So Mr. Speaker sir, my point is very simple. We don't have a County Attorney and so I would like correct my Chair. We don't have a County Attorney.

Can I also speak Mr. Speaker?

**Hon. Temporary Deputy Speaker:** Order! Hon. Member for Dandora II, you are disputing on a Bill that already is on the 2<sup>nd</sup> Reading but I will give you that benefit of doubt because it was the response from the Chair that they are waiting for communication from the County Attorney. Can you clarify whether this County has a County Attorney?

**Hon. Jaffer Kassam:** Thank you Mr. Speaker sir. I was talking on the office of the County Attorney not the County Attorney. I think the Hon. Member for Dandora should pay more attention to what I am saying rather assuming and having a pre-meditated mindset. So I would not like to comment on anything further, may be just for his interest that I will say that we will seek more guidance from the Legal department or from the Director of Legal who happens to be in the office Mr. Speaker sir.

**Hon. Temporary Deputy Speaker:** Thank you very much. Hon. Member for Dandora II.

**Hon. Stephen Kambi:** Mr. Speaker, I would like to thank the Chairman. I did not have any ill motive I just needed a clarification. Thank you.

**Hon. Member for Makongeni Ward (Mr. Peter Imwatok):** Mr. Speaker I was standing but I was not given a chance to speak, I wonder is it because you crossed over or what happened Mr. Speaker?

**Hon. Temporary Deputy Speaker:** Are you standing on a Point of Order? Order Hon. Imwatok! Are you standing on a Point of Order?

**Hon. Peter Imwatok:** Of course

**Hon. Temporary Deputy Speaker:** Can you proceed. What's not in order?

**Hon. Peter Imwatok:** Mr. Chair I was bit reluctant to speak today, but because it is touching on the government of the day, I want to give clarity; that when referring to the Central government in the Constitution speaks about the two arms of the government. Our Excellency the President of the Republic of Kenya has a right to inscribe, to use the arms of government anywhere as he deems fit. That is the symbol of the country. As for the County Government Mr. Speaker, H.E. the Governor or any other officer can use the symbols of the County at any particular moment to see that authority is being vested on him, Mr. Speaker. So this must be correctly guided to all Members of the County Assembly. That this side of the House as the government of the day, we respect what the Governor said and we respect it. I will stand by it. Thank you.

**Hon. Temporary Deputy Speaker:** You are out of order!

**Hon. Member for Roysambu Ward** (Mr. Peter Muriithi Warutere): Mr. Speaker I basically was raising a similar concern going to what the Chairman has said, I would like to know and I stand to be guided whether we are meant to apply rules selectively. I would like to know and I stand to be guided whether there are some rules that are meant for the Governor and others that are meant for probably unequal citizens because to me my thinking is, what is not good for the Senator shall not be applied selectively to mean that it right when it is being done by the Governor. And therefore as a House of rues, my guidance is to know, on what basis that what the Chair says is wrong for the Senator can again be effected by a Governor, the same County, the same Senator, the same Governor. Then don't you think there is selective application of the law. I stand to be guided on the same from the Chair of Legal and Justice.

**Hon. Temporary Deputy Speaker:** Hon. Chair I really want you to clarify on the same issue. Whether those vehicles that are branded with this County government logo are this County government's vehicles. Can you respond to that particular issue?

**Hon. Jaffer Kassam:** Thank you Bwana Spika. Us being the Legislative arm of the government, we usually seek clarification on such matters from the Executive and as I had earlier said that if the Hon. Member does bring a request for a statement, we will seek the indulgence of the relevant County department and table the response here. Through my understanding when we enacted the law because these flag, symbols and so on they have their purpose and a place to be used. They cannot be misused by the Governor or anybody else until and unless it is prescribed by the law. But however to get more guidance, Mr. Speaker sir, I will request the Hon. Member to table a request for statement and we shall definitely respond to it. Thank you Mr. Speaker sir.

**Hon. Temporary Deputy Speaker:** Hon. Jaffer with due respect, we were ventilating on the same issue from Hon. Mike Obonyo and I think the Hon. Members are quite in order to raise such questions because in the Mike Obonyo's statement you were supposed to respond on the same.

**Hon. Jaffer Kassam:** Mr. Speaker sir which I did.

**Hon. Temporary Deputy Speaker:** Order Hon. Jaffer! Hon. Jaffer what they are trying to say here, they are trying to give evidence that there are public vehicles that have the logo of the County when they know very well that sometimes back the bill boards that were bearing the logo of the County for one the Senator of Nairobi were brought down. Can you respond whether there are vehicles?

**Hon. Jaffer Kassam:** Bwana Speaker sir thank you very much. I will say once again that I did respond and it is very clear in my statement and in the law that this is a contravention of County's Flag and other Symbols Act 2013 and therefore if there is any selective application. It is definitely is something that is not in order and requires our department of Enforcement or the Kenya Police Service to take some action. So if the complaint is taken to the relevant department I am sure some action will be taken. However, I am not saying that the usage of the logo on a matatu in any way is lawful, it is definitely not lawful. But in this

particular case we were responding to a case where some Honourable Senator had used the logo to advertise some political agenda. Therefore I still stand that it is wrong, it is contravention of the law and if a statement is brought we shall give some more details.

However it is still like I have said, the law is there, the Act is there if the Hon. Member reads, it is contravention of the law. Thank you, Mr. Speaker.

**Hon. Peter Imwatok:** Mr. Speaker I am talking again. Mr. Speaker I am seeking your guidance.

**Hon. Temporary Deputy Speaker:** Yes Hon. Imwatok.

**Hon. Member for Kahawa West Ward (Mr. Ngaruiya Chege):** Mr. Speaker I think Mheshimiwa Imwatok has contributed too much on that particular issue and it is----

**Hon. Temporary Deputy Speaker:** Order!

**Hon. Ngaruiya Chege:** And it would be in order that you give a chance to another person Mr. Speaker.

**Hon. Peter Imwatok:** Seeking direction Mr. Speaker from you I wonder why this debate is generating a lot of contribution and it was just a tete-a-tete. Can we continue with the order of the day Mr. Speaker unless you have a vested interest on the same? Thank you.

**Hon. Temporary Deputy Speaker:** Hon. Wanjiru. Hon. Wanjiku, I am sorry.

**Hon. Karen Wanjiku (Nominated Member):** Mr. Speaker sir the law is not selective just as the Chair has said. If what Hon. Sonko did was wrong, all the other people including the Governor who are using that logo, the law cannot be selective---

**Hon. Member for Korogocho Ward (Mr. Maxwell Ochar):** Point of Order, Mr. Speaker.

**Hon. Karen Wanjiku:** It is my time to speak. The law is not selective, so all the people who are using it should stop. Again what the Chair has said I beg to---

**Hon. Temporary Deputy Speaker:** On a Point of Order, permission granted.

**Hon. Maxwell Ochar:** Mr. Speaker, I think Hon. Karen should not mislead the House under your watch.

**Hon. Karen Wanjiku:** Point of Order Mr. Speaker!

**Hon. Temporary Deputy Speaker:** Order Hon. Wanjiku! Hon. Mumo with due respect, the Hon. Member rose on a Point of Order--- Order Hon. Member! Can you sit down? Hon. Member for Korogocho you are in order to rise on a Point of Order. Can you state what is not in order? There must be something

which is not in order in your statement. So let--- Can you go back to your Standing Orders? What is not in order Hon. Wanjiku?

**Hon. Deputy Speaker:** You should respect---

**Hon. Maxwell Ochar:** Mr. Speaker, I think it is wrong for the Hon. Member to mislead the House under your watch because there is no way she can say that the Governor of this County cannot use the emblem? Who is the emblem made for? The emblem is made for the Governor, Mr. Speaker.

**Hon. Leah Mumo** (Nominated Member): Point of Information! I want to tell the Hon. Member---

*(Loud consultations)*

**Hon. Temporary Deputy Speaker:** Hon. Mumo, you cannot give yourself permission. As much as you may find that the gadget is not working properly you think you can--- you will not. You will wait till the Chair gives you permission to respond. Indeed Hon. Member for Korogocho, I want to declare Hon. Karen out of order on the same. The CEO of the County Government is the Governor and in all the letters that the Governor uses, there is a County logo and any advertisements made, the County logo must be there. But on the usage of public vehicles, indeed the Governor should not have presided over that function and if actually they pulled down the billboard for the Senator so those matatus ----

**The Leader of Minority** (Mr. Abdi Hasssan): Point of Information Mr. Speaker!

**Hon. Temporary Deputy Speaker:** Order! Those matatus, all of them should actually be impounded and----

*(Loud consultations)*

**Hon. Temporary Deputy Speaker:** Can we proceed?

**Hon. Karen Wanjiku:** Point of Order!

**Hon. Temporary Deputy Speaker:** I have already given directions. Can we proceed Hon---

**Hon. Jaffer Kassam:** Thank you Mr. Speaker sir. I wish to respond to a statement requested by Hon. Osman Adow MCA, Member for Eastleigh North Ward. Mr. Speaker sir, on Thursday 6<sup>th</sup> June 2016, Hon. Osman Adow rose on the floor of the Assembly pursuant to Standing Order 41 (2c) and requested the Chairperson of the Sectoral Committee on Justice and Legal Affairs for the response to a Statement regarding the impounding of motorbikes.

According to the Hon. Members there is a concern, the motorbike riders in the County are having challenges in terms of their motorbikes being impounded for a long time and delay in communicating the fines to the affected motorbike riders. That the County Executive staff in charge of enforcing the compliance



are alleged to be asking for bribes to release the bikes and intentionally holding them to accrue charges when owners refuse to pay bribes.

The Member further asked the Chairperson to inquire into and report on:

- a) The reasons for the delay in processing of the impounding charges and fines for the riders;
- b) How much the County Executive charge as impounding and storage charge for the impounded motorbikes per day;
- c) Areas where impounded motor bikes are stored; and
- d) The measures taken by the County Executive to ensure that the staff do not take bribes from the Nairobi residents and action taken against staff found to have asked and received bribes.

Mr. Speaker sir, the Committee wrote to the Chief Officer in charge of Transport and Public Works and to the Chief Officer in-charge of Security, Compliance and Disaster Management on 3<sup>rd</sup> August 2016 vide a letter ref. NCCA/J&LA/STM/05/2016, requesting to be furnished with a written response to the statement by the Hon. Member.

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

### **1. Reasons for the delay in processing impounding charges and fines for the riders**

The County Secretary responded via letter ref. NCC/CS/RKA/1276/vol/2016 dated 26<sup>th</sup> August 2016 on the matter stating that the reasons for the delay of impounding charge fines is because when most of the motor operators are apprehended, most of them flee in fear of prosecution only for them to appear later to claim ownership. This mostly leads to accumulation of storage fees.

Mr. Speaker sir, when a rider or the claimant of motorcycle is asked to produce documents to prove ownership i.e. logbooks, sale agreement or receipts, they take days and some weeks to produce the relevant documents resulting in delays in their release.

### **2. How much does the County Government charge as impounding and storage charges for impounded motorbikes per day**

Mr. Speaker sir, the Nairobi City County Finance, Act 2013 stipulates that taxes, fees and charges set out in the "charges" column of the schedule applies for the respective item and its amount therein. Mr. Speaker sir, I beg to lay this response, thank you.

**Hon. Temporary Deputy Speaker:** Hon. Osman Adow you can proceed and use the mike on the front.

**Hon. Member for Eastleigh North Ward** (Mr. Oman Adow): Mr. Speaker even though I did not get the copy, I think I am satisfied with the report read here. Only the.. *...(inaudible)...* after the delays sometimes it is not occasioned by the lack of the documents *...(inaudible)...* I had to go to the offices to take a young man who had his documents to see the person for his release. It is very difficult even for someone



who has the documents to go to the offices and get them released...*(inaudible)*..... when they want to. Have them accrue so that they get their motor bikes...and that is two months ago and they had accrued more than 100,000/- which is more than the price of the motorbike. So in such a case what are they going to do so that this young man can get his motorbike and.....*(inaudible)*....Thank you.

**Hon. Temporary Deputy Speaker:** Thank you very much Hon. Adow. Hon. Kitavi what is wrong with you?

**Hon. Member for Laini Saba Ward** (Mr. David Kitavi): Thank you, Mr. Speaker. I would like to make a personal statement Mr. Speaker. I would like to register my frustrations in this Assembly owing to the fact that Members are aware; issues of the bursary have become a thorn in the flesh, Mr. Speaker. As we are all aware, the time that it takes to process bursaries sometimes is very long. The Committee of Education has just come from Naivasha to deliberate on the matter exhaustively where the Executive made a commitment which was recorded at the time of the meeting and that the Hon. Members were to be allocated 6000 forms for bursaries.

Mr. Speaker, today morning there was a meeting again to dissect on the matter. It appears that there is a choreographed plan to deny the Members what is rightfully theirs, 600 forms of bursaries as was in the budget. As we speak, the department of Education has already printed adequate bursary forms for the members. However, it appears they are under instructions from powers from we don't know who, that they only allocate 200 bursary forms to the Hon. Members. Mr. Speaker sir, this is unacceptable. This is a budget that we passed, that each Member should get 600 forms and it is becoming so frustrating Mr. Speaker sir dealing with the Executive on this matter.

Kindly through your indulgence, if we could adjourn this Assembly and discuss this matter which is of uttermost importance to these Members here, it would be prudent Mr. Speaker sir so that the Members can collectively get a way forward on how to dispense with matters of bursaries.

As we speak Mr. Speaker sir, most Members of the County Assembly are being approached by students for bursaries and yet we know the procedure that it takes just to process those bursaries. If this House and the Hon. Members are not careful, we may be in for a very big trouble with the Executive. There are even unconfirmed allegations that right now some of the bursaries are going to be given to the Ward Administrators to issue them out.

Mr. Speaker sir, this is going to be very unfortunate if it happens without our knowledge. So I only found it wise for it to be recorded and that we can be able to discuss on the same and dispense on that matter once for all. So kindly give us direction. Thank you, Mr. Speaker.

**Hon. Temporary Deputy Speaker:** Yes Hon. Muriithi.

**Hon. Member for Roysambu Ward** (Mr. Peter Muriithi Warutere): Allow me to add a rider on the same. I think this Executive is becoming too much for us. Here we find a Governor who stopped issuing

bursaries and starts a matatu business, the same Executive now starts to take what is rightfully ours and gives it to the Ward Administrators.

**Hon. Peter Muriithi Warutere:** So, my urge on this is, Mr. Chairman, why can't we organize for a meeting with all the Members and the Executive tomorrow. If that does not materialize, then we will walk there. What is hard for us to do that?

**Hon. Temporary Deputy Speaker:** Yes, the Hon. Member for Kahawa West.

**Hon. Member for Kahawa West Ward (Mr. Ngaruiya Chege):** Thank you, Mr. Speaker for giving me this chance. I also want to contribute on the same. I think this House where Laws are usually drafted and passed has been ignored by the Executive. It is us who pass the Budget. I can confirm in this House as a Member of that Committee that every Ward was allocated Ksh.3 million which translates to 300 forms for every Member. As I see my Chairman in that particular Committee is lamenting, I know the troubles he has been facing trying to convince the same person who comes from the same village with, that is the Chief Officer, Mr. Mwanthi.

It is on this note that as a House, we should take this thing by the horns. If we don't address it now, this term is coming to an end by the end of next month. We know the process and how long it takes for them to process these particular forms. It takes more than 6 months.

I have heard them complain about the amount of money that has been allocated that when you multiply 85 Wards by Sh.3 million, it amounts to Ksh.255 million. This is the problem the Executive don't want to address. They want to give these particular bursaries in small amounts which we don't want. If they have started ignoring us and yet we have about 9 months to go, what about January, next year? We will not be anywhere.

Look at the doors to access the County Executive, they have been locked. Members are taking a very long way to access the Executive. Why is that happening at the expense of these Members? For you to access that door, security personnel has to get the key from the Leader of Majority's office. Are these Members not supposed to access the Executive? Members have to go round.

**Hon. Temporary Deputy Speaker:** Hon. Member for Kahawa West, you are out of order, we were discussing that particular issue---

**Hon. Ngaruiya Chege:** But that is also an issue.

**Hon. Temporary Deputy Speaker:** Order! Can we dispense one particular issue first? Yes, Hon. Imwatak.

**Hon. Member for Makongeni Ward (Mr. Peter Imwatak):** Mr. Speaker, this is a very important thing that brought me to this Assembly this afternoon. Sometimes I wonder whether the so called Directors of respective Departments or the Chief Officers understand their roles. There is confusion. I am told

nowadays, Ministers are the ones crafting the list of payments. I wonder what A.I.E means in the Public Finance Management Act.

I want to tell the Chair of Education and the entire Committee either to decide whether they are a failure to us. This is the only thing for the last four years that Nairobian especially the poor has benefited from.

Mr. Speaker, the notion that the MCA is the beneficiary is false. The good citizens of Makongeni are the beneficiaries of the bursaries. So, Mr. Chair and the entire Committee, it is time you bring to us because the A.I.E holder of a sector is not the Minister nor the Director but the Chief Officer.

Mr. Speaker, I beg to ask the entire House that we adjourn anything that we are doing in this House and discuss. When we passed the Budget, the first implementation should be bursary to that poor mama in Makongeni. Kindly, Mr. Speaker and the Chair of Education Committee, give us a road map on what to do. When a Chief Officer says I have powers beyond me, then it means he does not know what he is doing. I want to ask both sides of the divide, let us not only unite at the time we are fighting for ourselves, let us also unite when we are fighting for common *mwananchi*. Thank you, Mr. Speaker.

**Hon. Temporary Deputy Speaker:** Hon. Chairperson for Education, it is quite unfortunate you didn't do a Motion on the same but I will give you a benefit of doubt may be you have forgotten. Come up with Adjournment Motion tomorrow so that Members can ventilate on the same. If you are in a position to do the same, I will be very much obliged to approve that Motion. Let us close the chapter for now. Yes, Hon. Dianna Kapeen.

**Hon. Member for South C Ward** (Ms. Dianna Kapeen): Thank you, Mr. Speaker sir. I am a bit sad because of the issue of bursary. We have an able Committee led by able Chairperson, Hon. Kitavi. The problem of bursary has not started now. It is like a pinch of salt, every time there is a bursary issue there is also the delay. We not only get the bursaries, we get the forms, they are filled and the cheques are drawn after three to four months. There are so many issues touching on the same.

I think the Committee is frustrated. The reason I am saying that is, what is the point of giving us those 600 forms if they are going to be ready in March, next year? I concur with you that a Motion of Adjournment be brought to the House, Mr. Speaker because there are more loopholes and frustrations coming ahead. Apart from slashing the numbers, there are many issues and challenges facing people. The issues of files getting lost, like for my case, I had a whole file for South C which was stolen from the accounts and unfortunately, that was done by one of my colleagues but I got it anyway.

We have a lot of challenges, Mr. Speaker. From theft from our own, challenges of pushing them, to the challenges of slashing them. Even if we are given 600, are we guaranteed that we will get the 600 cheques and if they will work, how soon? We have been here before and we know what sabotage is. Already reducing from 600 to 200 is sabotage.

So, if they are giving this 200 or even 400, will they be willing to draw the cheques? Let us not just push for 600 yet we are not sure if they will work for it. Let us go for them and make sure they are also pushed to sign. And please, next time, my colleague, don't steal my file. Thank you.

**Hon. Temporary Deputy Speaker:** Hon. Chief Whip, we bring that particular issue to rest unless you have any other issue. I have already made a ruling. The Chair for Education should come up with Adjournment Motion so that Members can ventilate on the same. Can we proceed. Hon. Chair for Legal Affairs.

**Hon. Member for Parklands/High Ridge Ward** (Mr. Jaffer Kassam): Thank you, Mr. Speaker sir. I wish to respond to a Statement requested by Hon. Erustus Mburu, MCA, Clay City Ward.

Mr. Speaker sir, I beg to respond as follows;

On Wednesday, 3rd August 2016, Hon. Erastus Muiruri, MCA, rose on the floor of the Assembly pursuant to Standing Order 41 (2) (c) and requested the Chairperson of the Sectoral Committee on Justice and Legal Affairs for a response to a Statement regarding the impounding of motorbikes belonging to Nairobi residents stowed at the City Hall precincts.

According to the Hon. Member, there is concern that there are motorbikes that have been impounded and parked inside City Hall area for a while, resulting to riders losing their daily income and no action is being taken for the owners to collect them.

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

- a. Reasons for impounding the motorbikes;
- b. Why impounded motorbikes are not taken to the General Stores impounding yard instead of parking them outside the Governor's office; and,
- c. Measures taken by the County Executive to ensure that the impounded motorbikes get released to the owners.

Mr. Speaker sir, the Committee wrote to the County Secretary on 4th August 2016 vide a letter ref: NCCA/J&LA/STM/05/2016, requesting to be furnished with a written response to the statement by Hon. Member.

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

That,

**a. Reasons for impounding the motorbikes;**

Mr. Speaker sir, the County Secretary responded via letter ref: NCC/CS/RKA/1276/vol/ 2016 dated 26th August 2016 on the matter stating that motorbike operators –“boda boda” have no designated parking area within the CBD hence when waiting or dropping their passengers, the operators normally stop in the

middle of the road inconveniencing pedestrians and motorists and through this, they commit an offence of obstruction which is liable for prosecution.

**b. Why the impounded motorbikes are parked outside the Governor's office instead of the General Stores**

Mr. Speaker sir, according to the Chief Officer in charge of Security, Compliance and Disaster Management, this came after an Executive Order by H.E. The Governor banning "boda boda" operators from operating within the CBD which is in force, hence illegalizing the business.

Mr. Speaker sir, the same Executive Order has been reinforced by the County Secretary which according to the officer had been communicated through a Public Notice.

**c. Measures taken by the County Executive to ensure that the impounded motorbikes get released to the owners.**

Mr. Speaker sir, according to Chief Officer, the Nairobi City County Finance Act provides for the stipulated taxes fees and charges to be paid in such an event, and that the delay in release of the motorbikes is mostly caused by delay in payment by the owner as some often flee in fear of prosecution only to appear afterward.

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

**Hon. Temporary Deputy Speaker:** Hon. Erastus Mburu. We have a problem with our gadgets, Hon. Erastus, you can use the microphone.

**Hon. Member for Clay City Ward (Mr. Erastus Mburu):** Hon. Speaker, I do accept the response but also, I don't think they are doing more harm than those matatus which are allocated spaces along the streets. If a president can pardon somebody who has served in jail for more than forty years, why can't our able Governor stretch an olive branch and pardon the same motorcycle riders? I am saying this because, come next election, majority of us will be rushing to those riders. For a fact, I have seen many with reflective jackets bearing your names like Hon. Irungu for MCA, 2017, Hon. Nyang'wara for MCA, 2017. They are the same fellows you will come running for them next year.

I wish the Committee in their conclusion would have recommended that the Governor pardons all those motorcycle riders whose motorcycles have been lying there idle. By the time they are released, they will be taken to garage for repairs.

I would wish the Committee would further recommend the same. Thank you, Mr. Speaker.

**Hon. Temporary Deputy Speaker:** Indeed, that is a very good concern from the Member. The Hon. Chair, I would like you to exercise the full powers of the Executive as you are the representative of the

Executive in this Assembly. Can you talk to the Executive arm of the Government whether they can extend that olive branch and give back those motorcycles.

**Hon. Jaffer Kassam:** Mr. Speaker sir, the concerns of the Hon. Member and your concern as well has been noted. The Committee will take it up as an agenda as soon as it will be practical. We shall definitely push forward the agenda so that there is this pardoning. Thank you, Mr. Speaker.

**Hon. Temporary Deputy Speaker:** Mr. Chair, those motorcycles come from various Wards of this County. Can you go and talk nicely to the Executive so that you can come with a response on the same. Can you bring that answer tomorrow?

**Hon. Jaffer Kassam:** Mr. Speaker sir, I will not be able to promise you tomorrow, but as from next week, God willing, we should be in a position because I will have a meeting with them and come up with something workable.

**Hon. Temporary Deputy Speaker:** Thank you very much. Next week on Thursday. Yes, Hon. Marion Githinji. Before Marion Githinji, with due respect, can we conclude the Statements first. Hon. Dianna Kapeen, you came late, you can now go back to the Statement request.

**Hon. Dianna Kapeen:** Thank you, Mr. Speaker. I rise to request a Statement from the Planning Committee.

Hon. Speaker, pursuant to Standing Order 41 (2) (c), I wish to request for a Statement from the Chairperson of the Sectoral Committee on Planning and Housing regarding a construction of a motorable bridge at Al Mukaram Estate in South C.

Hon. Speaker, there is an outcry in South C regarding the mushrooming of several car washes and the Ward Administrator is responsible for the allocation of spaces in this instance, promising to secure documents for the said businesses for the car washing.

Hon. Speaker the increase has led to construction of motorable bridge on a road reserve serving as the main storm water drainage. Erecting a bridge on storm water drainage will cause flooding and destruction of property since the area is prone to flooding as witnessed in previous rainy seasons.

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

- i. Whether the Executive is aware of the bridge and who authorized its construction
- ii. How was the parcel of land on which the bridge and the garage allocated
- iii. The measures being taken by the Executive to ensure that the Ward Administrators adhere to their duties and roles assigned to them without influencing and tampering on their operations in the Wards.

Thank you.



**Hon. Temporary Deputy Speaker:** Hon. Chairperson for Planning and Housing, the Vice Chair, any Member of the Committee? Can you take the undertaking to bring the answer on the floor?

**Hon. Member:** In two weeks' time.

**Hon. Temporary Deputy Speaker:** Hon. Dianna Kapeen.

**Hon. Dianna Kapeen:** Thank you, Mr. Speaker. The reason why this Executive are taking us for granted is because of this, Mr. Speaker. The bridge is on a road, you just have to walk. It doesn't need rocket science. It is storm water sewage and the floods are coming soon because of the short rains. So, when you say you are going to take two weeks to look at the bridge that is being constructed instead of the Committee giving instructions that, that thing should be stopped and it is going to affect the whole of Nairobi. If South C floods, there will be floods in Nairobi West. If South C floods, there will be floods in Langata, Mugumo-ini.

Mr. Speaker sir, sometimes we are taken for granted for such small things. That is not in order. Two weeks is a long time and these people will have their bridge completed and it will be business as usual.

**Hon. Temporary Deputy Speaker:** Hon. Members who are Chairpersons of Committees--- I will take it upon myself and direct that the Committee or the Chair to bring the answer on the same by next week on Tuesday. Hon. Chief Whip, the Hon. Chairperson for Planning and Housing is not in and I have given a direction that they bring answer on Tuesday, next week at 2:30 p.m. so you pass over that information to that particular Chair. Thank you very much. Can we proceed? Yes, Hon. Marion Githinji.

**Hon. Marion Githinji** (Nominated Member): Hon. Speaker, I beg to give notice of the following Motion; THAT aware that Article 43 (1) (a) of the Constitution of Kenya, 2010 states that every person has a right to highest attainable standards including the right to health care service; further aware that pursuant to paragraph 2 of part 2 of the Fourth Schedule to the Constitution, the County Government is mandated to promote primary health care including County Health facilities; concerned that the ongoing strike by doctors across the country as paralysed delivery of services in the County Health facilities thus infringing on the rights of health care by residents of the County; acknowledging that the issue of medics have been on strike on different occasions due to various factors such as lack of salary of up to 6 months; this Assembly adjourns pursuant to Standing Order 30 to discuss the challenge of health care services including the ongoing strike as a matter of definite urgent County importance.

**Hon. Temporary Deputy Speaker:** Hon. Members, I draw attention to Standing Order No. 30 for your benefit. It reads;

30 (1) *"Any Member may at any time rise in his or her place and seek leave to move the adjournment of the County Assembly for the purpose of discussing a definite matter of urgent County importance.*

(2) *A Member who wishes to seek leave to move the adjournment of the County Assembly shall, at least two hours before the commencement of the sitting, hand to the Speaker a written notification of the*

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matter but the Speaker shall refuse to allow the claim, unless the Speaker is satisfied that the matter is definite, urgent and of national importance and may properly be raised on a Motion for adjournment of the County Assembly.

(3) If the Speaker is satisfied in terms of paragraph (2) and not less than twenty other Members rise in their places in support, the Speaker shall nominate a time on the same day at which such Motion may be moved.”

**Hon. Temporary Deputy Speaker:** Hon. Members, I have given you time. Clerk can you proceed.

*(Consultation between the Speaker and the Clerk)*

**Hon. Temporary Deputy Speaker:** Thank you very much, Hon. Members. You have raised the number that is required to allow the Speaker allocate time to adjourn the House to discuss this matter. I want to inform the House that I have allocated time to this issue for discussion after Motion No. 9. What is it Hon. Mauti?

**Hon. Member for Kwa Reuben Ward** (Mr. Elkanah Mauti): There is no business that should continue, we should have to go to the matter which we have adjourned directly not to other Motions.

**Hon. Temporary Deputy Speaker:** Hon. Member, can you stand.

**Hon. Member for Kayole South Ward** (Ms. Elizabeth Manyala): It should be upon your discretion to allocate time to any business to be debated upon this House. So, I think the Hon. Member is out of Order. He is biting too much that he cannot chew.

**Hon. Temporary Deputy Speaker:** Hon. Member for Kwa Reuben Ward, Hon. Mauti, you are out of order. I want you to revisit your Standing Orders. I have just read it out to you. Hon. Mauti, Standing Order No. 30 is very clear, unless you want to challenge the Chair. What is not in order, Hon. Karen?

**Hon. Karen Wanjiku** (Nominated Member): Hon. Speaker, it is just a request. Since this is a very urgent matter and people are dying, you can use Article one with all due respect. This is just a prayer, Mr. Speaker.

**Hon. Temporary Deputy Speaker:** Hon. Member, the Motions we have here are for Members. You can approach these Members and request time for that particular one.

**Hon. Temporary Speaker:** In any case, I have already made the ruling that it will be after Motion number 9 unless and otherwise you convince the Chair by approaching the Members who have fronted these Motions. Hon. Manyala is around. You are out of order Hon. Mumo!

**Hon. Jackson Ngare:** .....*(inaudible)*...but the concern of the Hon. Mauti is that as much as the Standing Order..... you should allocate time for it. The question is .....*(inaudible)*.

**Hon. Temporary Speaker:** So, you are challenging the Chair?

**Hon. Jackson Ngare:** *(inaudible)*

**Hon. Temporary Speaker:** Then you are out of order. Sit down. Yes Hon. Ogeto.

**Hon. Member for Kilimani Ward** (Mr. Moses Ogeto): Mr. Speaker, looking at the concern of this adjournment Motion, we are talking about 4 million Nairobian who are seeking these health facilities. Looking at the Motion, and I would wish my learned friend, Hon. Elizabeth Manyala and the Chairperson for Justice and Legal Affairs Committee, because of this urgent matter, our babies are dying, Nairobian are dying, and for this, it is because we have seen the strikes which is all over.

I believe that this Motion was brought so that we can see and indulge Nairobian on the concern of what is happening. I would wish our colleagues who are in the same to approach you and give an indulgence so that we can be able to discuss this important Motion. Thank you.

**Hon. Temporary Speaker:** I get you Hon. Ogeto but I just want to inform you that I had already made a ruling. Unless and otherwise the Hon. Members you have mentioned can approach the Chair and donate that particular time. That is when I will allow it. Can we proceed, Clerk?

## MOTION

### **Drilling Of Public Boreholes in All the 85 Wards to Ensure Availability of Adequate, Clean and Safe Water for the Residents of Nairobi City County**

**Hon. Elizabeth Manyala:** Thank you Mr. Speaker. As much as I empathize with the urgent motion which has been brought on the floor, I still feel that this motion should be dealt with. Members should also learn to sit in this Assembly during the session because Members have a tendency of just coming, making their presence and then going out.

*(Loud consultation)*

**Hon. Temporary Speaker:** Order! Can you proceed Hon. Manyala?

**Hon. Elizabeth Manyala:** That aware that article 4(3), section 1(b) of the Constitution of Kenya 2010 states that every person has a right to clean and safe water in adequate quantities, further aware that paragraph 11(b) of part 2 of the 4<sup>th</sup> schedule of the Constitution stipulates that County Government is to provide County Public Works and Services including Water and Sanitation Services, concerned that most part of the County, especially in the informal settlement lack clean, safe, sufficient and affordable water which has led to introduction of untreated water supply business within the County, acknowledging that the Nairobi City Water and Sewerage Company has continuously rehabilitated various sources of its water to ensure clean and adequate water supply, noting that the increasing population in the County implies increasing demand for basic amenities such as water supply; this Assembly urges the County Executive to

drill public boreholes in all the 85 Wards to ensure availability of adequate, clean and safe water for the residents of Nairobi City County. Thank you Mr. Speaker.

I am looking at the 5 pillars of the Sustainable Development Goals because we did not actually achieve the Millennium Development Goals and water was part of it. And not it has been rolled over to SDGs. Looking at how our County is facing water problems and water crises. Even in developing world, water is a source of life. And when you hear people going to hospitals when they are sick or dying, it is this preventive cure that is a necessity as opposed to even going to be treated. In fact, even this Motion is even intertwined with the urgent Motion which is going to follow this. Because if we don't have running clean water within the County, even in hospitals, our patients are not going to get clean water to drink neither will they get clean water for their basic amenities.

Looking at Nairobi County, we are only having one water company which is water and sewerage. Nairobians are suffering with huge bills. If you check, you will find maybe today your bill is 1000, the next month it will be 20,000. They will bill you for water that you have not even utilized. Apart from that, in my Ward, Kayole South, we didn't even get water for the last one month. Even the hospital facility, which is Kayole 2, has been forced to be buying water frequently because of lack of running water.

So, this is why we are calling upon the Executive that it would be prudent for them to drill boreholes. If we would have at least one or two boreholes in every 85 Wards so that if Water and Sewerage Company which has turned to be oligopolistic to the sense that it is a white elephant which cannot give service delivery to Nairobians, then we can revert to the water boreholes to help the residents so that we can at least practice safe hygiene so that we get clean and safer water. Without much ado, because I know and I am also sensitive to the topical issues that is facing the Nairobi County today, of doctors being on strike, I would ask Hon. Mutiso to second my Motion so that we dispose of it and we move back to that urgent one. Thank you Mr. Speaker.

**Hon. Member for Ngei Ward** (Mr. Daniel Mutiso): Thank you Mr. Speaker. I think this issue of water is not a subject of discussion. Knowing that my Ward is one of the Wards which have gone without water for the last 15 years and I think it is very important. It is a commodity which we cannot live without. I therefore support. Thank you.

*(Question proposed)*

**Hon. Karen Wanjiku:** Mr. Speaker sir, I think we need to go to Mombasa to be taught how to use these things. Mr. Speaker sir, I want to support this noble Motion. Indeed, we need a borehole in every Ward though we also need to put in mind who will be managing these boreholes. It might turn out again to be a problem but I think we should think of who will be managing it. SDG number 6 is very clear that we should have clean water and sanitation for every human being. And especially here in Nairobi County, we witnessed problems of water. Where I come from in Njiru, we have had a lot of problems with water. And

you know, if you don't have clean water, we have diseases like cholera and the likes. That should not happen in Nairobi. This is the Capital City. Mr. Speaker sir, I beg to support. Thank you.

**Hon. Temporary Speaker:** Hon. Marion Githinji?

**Hon. Marion Githinji:** Thank you Mr. Speaker. I beg to give notice of the following Motion.

**Hon. Temporary Speaker:** Order Hon. Marion!

**Hon. Marion Githinji:** Oh, sorry sir.

**Hon. Temporary Speaker:** I think you are not prepared.

**Hon. Marion Githinji:** I am. It is an issue that is involving all of us. I am sure where we come from, we have been affected by this strike of doctors and nurses that has happened from when it was devolved. Sometimes I wonder whether we should have devolved this health. Every time we don't have enough salaries if we don't have medication. For me, it amounts to killing these people because we say that we are able to ---

**Hon. Temporary Speaker:** Hon. Marion Githinji, we are contributing on Hon. Manyala's Motion.

**Hon. Marion Githinji:** I thought it was over.

**Hon. Temporary Speaker:** That is why I said that it is like you are not prepared. Hon. Mulatya?

**Hon. Member for Kwa Njenga Ward (Mr. Alexander Mulatya):** Thank you Mr. Speaker sir. I would like to contribute to this Motion. According to my little knowledge and as a member of the Public Investment Committee whereby we hold the Nairobi Water and Sewerage Company, I would like to oppose this Motion in the sense that Nairobi has got a lot of water. Nairobi Water and Sewerage Company supplies water up to Makueni County and Kajiado County. What I beg this Hon. House is to make sure that water supply by Nairobi Water and Sewerage Company is not channeled to crook zones.

I can give example of Kayole and some parts of Embakasi South whereby we don't pay for water. That money which is collected out of the sale of that water is ploughed back to the Nairobian. If you go to Kitengela which is in Kajiado County, you will get a lot of Mikokoteni ferrying water, supplying to Mavoko, supplying to Kajiado. All that water should be utilized in our Nairobi County and we will not spend even a single shilling to drill boreholes in every Sub-County or Ward. I beg to oppose the Motion.

**Hon. Temporary Speaker:** Hon. Magdalene?

**Hon. Magdalene Mbogori:** Thank you Mr. Speaker. As much as this Motion is a noble one, I stand to oppose it on very simple reasons. One, this Motion is not timely. This Motion should have been brought

before the budget was completed. The 2016/17 budget. This Motion has very huge monetary implications and we do not want to pass Motions for the sake of passing them.

I sit in the Budget Committee, I sit in the Committee on Implementation and even the Motions that have been passed by this House, very good Motions, over the period of years, if they had monetary implications and the members and the various sectors that affect that particular Motion did not lobby for the funds for those Motions to be implemented, they have not been implemented and they will not be implemented in our time in this County Assembly. This Motion can be brought in the next County Assembly or can be taken to the sector that it comes from, the water sector, and it can be put in the supplementary budget.

Number two, Mr. Speaker, sitting in the Budget Committee, I know we passed money for every Ward. Every Ward gave water projects, 4 million shillings per Ward to be implemented in the year 2016/17. So, like I said, let us not pass Motions for the sake of passing them.

Number three, and finally, boreholes are very sensitive things. We have very many informal sectors in Nairobi. Our sewage lines are very erratic. We do not want a case of where we drill and we know the Executive very well. The last time my Committee on Implementation was with them, they were very clear about the kind of contractors they give this work to.

We do not want to pass this Motion, put it in the budget and funny people are given these jobs to do and they will go and drill boreholes right next to sewage lines and we will have a whole new pandemic in this County. So, I beg to oppose this Motion and I hope my colleagues will see the sense of that matter. Thank you Mr. Speaker.

**Hon. Temporary Speaker:** Hon. Mark Ndung'u?

**Hon. Mark Ndungu:** Reading the mood of the House, call the mover to reply.

**Hon. Temporary Speaker:** Hon. Elkana Mauti?

**Hon. Member for Kwa Reuben Ward** (Mr. Elkana Mauti): Thank you Mr. Speaker, I am here to oppose the Motion. Number one, 4 million to each Ward from Nairobi Water and Sewerage Company. So, it is your opportunity to suggest what project you want in that Ward. So, can you put the boreholes so that we cannot be proposing for a borehole from Nairobi Water and already you have been given 4 million, what for?

Number two, for the other Members' information, we don't have enough supply of water in Nairobi. I am very much worried whether you are staying in Westlands or in Kileleshwa. Can you go and stay in your Wards and see what problems they have? More specially, like the Njenga Ward, they are staying in my Ward searching for water. And the Member for Njenga is complaining that there is a lot of supply of water.

Mr. Speaker, let us not cheat ourselves. There is no enough supply of water in Nairobi. We need more resources. That is why the Water Committee suggested that every Ward be given 4 million so that you can propose a project which is relevant to water in your Ward.

Finally, Mr. Speaker, as I conclude, I suggest that you call the mover to reply. Mr. Speaker, this is the time that we are supposed to look for our people. We had proposed tanks in our Wards from Nairobi Water and the Committee on Water. They have done nothing. Then when we propose for the borehole, what will they do for us because they have not done what we proposed for them. I don't see the need for this Motion Mr. Speaker. Because when we propose, the Executive says it gives to the Ward Administrators to carry it out. Mr. Speaker, there is no need of this Motion.

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

**Hon. Elizabeth Manyala:** Let it go to the anisette of this House that this Motion actually was moved before we went for recess and Members went before it was disposed of and that is why it came back. So, it is not a new Motion that has come when the budget has already been passed. But however, even 4 million, when we talk of water and I mean clean water, if you check the population of Nairobi by day is 6 million and by night it is 5 million.

If you do comparative analysis of cities or countries. Like a country in Finland, the populace alone is 5 million. So, 5 million is a country and they are getting adequate clean water. What about Nairobi that has been affected by rural-urban migration. People still coming to the cities to come and look for jobs. In a day to day basis we still get relatives coming to live with us or we still get people from other counties to come and get facilities like service delivery from our hospitals because Kenyatta Hospital is a referral at the National level. So, these people are bound to use water. 4 million is just a drop in the ocean.

Even if you propose a tank, that is zero as compared to the usage of water because we use water for cooking. We use water for drinking. We use water for bathing and all other basic necessities. So, it is absurd if you hear a Member who is coming from an informal settlement saying that this Motion is zero or is untimely or it will not even serve a purpose, it is a food for thought.

**Hon. Temporary Speaker:** Hon. Manyala, we don't have a Member who is coming from the informal settlement. They represent informal settlements in this House.

**Hon. Elizabeth Mnyala:** He represents. I withdraw that. Mukuru kwa Yamba is the one that is even suffering much of that. I spoke of Kayole which is suffering. Even my hospital there, Kayole 2 is suffering. They don't get water. This is why we are saying that when we talk of water, we intertwine it with the preventive measure of curing diseases because if you don't have clean water you are prone to get waterborne diseases which will make you die.

In the developed world, they have invested a lot in clean water and that is why you don't see these problems arising left, right and center. Without much ado, I leave unto you and woe unto you for those who



are in this House that refuse. Even if we transit, the Motions that are in this House will not die. They will move to 2018 for those who will come to this Assembly. Thank you Mr. Speaker.

*(Question put and negatived)*

### THE NAIROBI CITY COUNTY OFFICE OF THE COUNTY ATTORNEY BILL, 2016

**Hon. Temporary Speaker:** Hon. Members, I want to confirm to you that indeed the Hon. Chair for Legal Affairs approached the Chair and requested that he will spend less than 5 minutes to dispense off this particular Motion. I have done that communication so that you may not think that maybe he had donated his time for Hon. Githinji's Motion. So, can we proceed, Hon chair? Can you make a request first?

**Hon. Jaffar Kassam:** Mr. Speaker sir, I have reconsidered my earlier position in the interest of time and the importance of this Motion, I wish to withdraw mine and maybe we reconsider it for tomorrow. Thank you Mr. Speaker sir.

**Hon. Temporary Speaker:** Hon. Members, I just want to inform the Chair that it is not "withdrawing the Motion". You have not withdrawn. You have only donated that particular time to the Motion that is generating a lot of heat and therefore I direct that this particular Motion be dispensed off immediately after Hon. Marion Githinji's Motion or it will appear in tomorrow's Order Paper; whichever will be earlier.

**Hon. Jaffar Kassam:** Thank you Mr. Speaker for the correction. I will wait for whichever way, whether it is today or tomorrow. I have donated the time and will patiently wait. Thank you Mr. Speaker sir.

**Hon. Temporary Speaker:** Hon. Marion Githinji.

**Hon. Marion Githinji:** Thank you Mr. Speaker. I would like to also thank Hon. Jaffar. Thank you for seeing the importance of this Motion. I really appreciate.

Mr. Speaker sir, I beg to move the following Motion. That aware that article 43 (1) (a) of the Constitution of Kenya, 2010 states that every person has the right to higher attainable standards of health including the right of healthcare services, further aware that pursuant to paragraph 2 of part 2 of the fourth schedule of the Constitution, the County Government is mandated to promote primary health care including County Health Facilities, concerned that the ongoing strike by doctors across the County has paralysed delivery of services in the County Health Facilities thus infringing on the right of healthcare to residents of the County, acknowledging that the issue of medics have been on strike in different occasions due to various factors such as lack of salaries, even up to six months, this Assembly adjourns pursuant to Standing Order 30 to discuss the challenge of healthcare services including the ongoing medics strike as a matter of definite urgent county importance.



**Hon. Marion Githinji** (Nominated Member): Mr. Speaker I will be very brief because of time. These issues of doctors and nurses going on strike have been there since we took over the hospitals. It is something that we need to be aware that these facilities were devolved to us and we must take them seriously; it looks like every month they must go on strike, a problem of either doctors going on strike or nurses or there are no drugs. I believe this is an issue that we should have addressed long ago.

As a member of Committee of Labour we have actually spoken to the public service and they have agreed to add staff, because one of the concerns was we don't have enough staff. When we devolved this hospitals we didn't have enough staff and facilities; we actually advertised these jobs and we are waiting to see them being entrenched in our hospitals. I know people of Health Committee have a lot to say and I would like to call upon Hon. Karen to second.

**Hon. Temporary Deputy Speaker:** Yes Hon. Karen

**Hon. Karen Wanjiku** (Nominated Member): Mr. Speaker I want to second the Motion. Indeed as a Committee we have done a lot of job and you have seen from reports we have brought to the House that have been passed and Mr. Speaker you are aware as member of our Committee the job we have done but the County Executive is very disappointing.

You can imagine the doctors whom we are supporting, I must record it here, we are supporting their strikes because how can you stay for six months without food yet you are working; you are being overworked. You have less staff, you are working without equipment. Take for example Pumwani or Mama Lucy, you are working delivering women without delivery kits.

Mr. Speaker they are working without drugs. It is unfortunate that the County Government of Nairobi has a debt of Ksh. 118 million that is owed to KEMSA. What kind of a County is Nairobi that does not cater for the health of its people? The right to health is in the Bill of Rights, this is not something that is debatable. Every person, every Kenyans has a right to health, to the best attainable health.

We want to condemn the County Government and especially the sectors of health and finance that has refused to give priority to health matters even if we have been given money; they are claiming they have given us a lot of money as a sector. They gave us Ksh. 6.5 billion; it's OK but is on paper. Ksh. 1.1 billion was supposed to be for development and Ksh. 5.4 was for recurrent. Recurrent I believe there we have salaries, drugs and all that. The County Government should wake up and I remember when the Governor was coming to this County, when he was looking for votes, he said it very clearly that he was the *dawa* of Nairobi, where has this *dawa* gone Mr. Speaker sir? I beg to second.

*(Question put)*

**Hon. Member for Komarock Ward** (Mr. Samuel Irungu): Mr. Speaker I rise to support this important Motion. I happen to come from a Ward where Mama Lucy is located and somebody might think it is a joke. Pass anywhere around that hospital, go just for walking and you realize that people are suffering.

Any serious government whether County or National Government can only be assessed on the way it treats the poor and vulnerable. I happen to have interacted with nurses and medical practitioners in that hospital and issues that have been raised is the problem of salary harmonization.

I also urge the mover of this important Motion who also happens to be a member of Labour Committee they look at the issues because it is argued, which is factual, that the staff that were devolved from the National Government are paid less salary than the ones that were already employed by the defunct Nairobi city council now the County Government.

Mr. Speaker this is matter that should be taken with a lot of urgency and seriousness because I would not imagine what I would be doing in this Honorable House as Member representing Komarock people if we cannot wait to debate such important Motion; it is upon the Implementation Committee to see to it that tomorrow first thing in the morning that this Motion is taken with a lot of urgency even if need arises that we visit as County Assembly to sample what people are going through Mr. Speaker am ready able and willing. I support.

**Hon. Temporary Deputy Speaker:** Hon. Rachael Kamweru.

**Hon. Rachael Kamweru** (Nominated Member): Mr. Speaker I rise to support this Motion and I start by giving definition of integrity. Integrity is honouring your words. If you don't honour your words you are out of integrity. The reason why I have started with this is the CS of Health and the Governor gave their words that they will look into this matter. They did not. So there is lack of integrity at CEC level.

Mr. Speaker you can imagine these people going without salary and we are expecting Nairobians to be happy. One of the key pillars during the campaign was a healthy people, better life and better city. We cannot have better life better city with doctors who are not paid, no medicine, people are suffering. Mr. Speaker you know the area you are coming from. The suffering that is there at Sinai because the hospitals there are not working and every other Member represented here.

Mr. Speaker how are we going to be healthy here without a healthy County, medicines are lacking, the doctors are not being promoted or being paid. For me this should be the first priority- to take care of the human capacity- and here we are talking about our doctors. It is the highest time that every Member represented here- the 127 Members- to know that this is a serious issue. The Executive is out of integrity and we want to restore this integrity by having the right thing to be done. I support this Motion, thank you.

**Hon. Temporary Deputy Speaker:** Hon. Nancy Luchiri. Hon. Members give us the way forward, just supporting this Motion is not enough

**Hon. Nancy Luchiri** (Nominated Member): Mr. Speaker sir thank you for giving me this opportunity. I am a Nominated Member and in the Health Committee and am really concerned as a mother; it's pathetic and very bad that our hospitals and our health facilities within Nairobi County are not

functioning. Mr. Speaker you are a member in our Committee and it is now 4 years we have been shouting, calling press conferences, informing the whole population about our health facilities through magazines.

Mr. Speaker it is pathetic because even the simplest thing like sanitation, electricity, water and security are lacking in our facilities. Keeping in mind that our Governor is a medic, our County Secretary is a medic that means Nairobi County should not be suffering from such.

I can't be sitting in this County Assembly watching day in and out as our health facilities are being supplied with food, sugar and they are lacking medical items and drugs. That means we are contributing to the mortality that is increasing by day. What we are doing is we want more people dead so that we be collecting money from City Mortuary. Am not comfortable sitting here watch as Nairobians die. Thank you.

**Hon. Temporary Deputy Speaker:** Hon. Elkana Mauti

**Hon. Member for Kwa Reuben Ward** (Mr. Elkana Mauti): Mr. Speaker sir I am here to support the Motion simply because our people whom we represent in this Assembly are suffering. It is very illegal, me I cannot support the strike because when you strike also your integrity is tempered. If possible negotiations can work. Secondly this is the sector which we have allocated a lot of money. Ksh. 6.5 billion sincerely and we see our doctors on the streets! The committee for Health are sleeping. They were to bring the CEC Member's name here so that we can impeach him to go home because he is unable to control the situation. How can we work with someone who is unable to control the situation? They had advertised the vacancies of Clinical Officers and Nurses, we are worried because if they are not in a position to pay those Doctors and Nurses what about when they will add?

My surprise is up to now the clinical officers who applied and passed the interviews have not been given the letters simply because there is no budget that was allocated by the Committee for employment of these Nurses and Clinical Officers. So let us not cheat ourselves that we are going to add. To add from where when you cannot handle the small numbers we have. My solution is, can we start with the Minister for Public Health so that others can see as example, and they won't twist us as the Minister for Education. Thank you, Mr. Speaker.

**Hon. Temporary Deputy Speaker:** Hon. Magdalene Mbogori

**Hon. Magdalene Mbogori** (Nominated Member): Thank you Mr. Speaker for this second opportunity to address this House. This is a very serious matter and we cannot wish it away. I want to thank my colleagues for bringing it forward. Mr. Speaker you were asking for the way forward. The way forward is on your shoulder. It is up to you as the Standing Order we have rules and regulations.

We cannot summon the Members of the Executive to this House and we cannot summon them to the Committee without giving them a letter for 7 days. But the direction Mr. Speaker you will give this House will be followed. It is my request and prayer that you summon the Committees on Health and Labour to a

sitting tomorrow morning and in the same breadth summon the Executive Members of those sectors for a meeting. This issue has been dillydallying for too long.

The Governor promised to sort out the doctors on Friday, today as from news in the morning the doctors said they have not been paid, the vouchers from the Executive that was supposed to pay them and money has not gone to the account. I want to say that these doctors and nurses, as much as it is their duty, they are human beings.

You would not sit on that seat or go to the Ward that elected you if you have not received a salary for 6 months. These people have been going to work for last 6 months, they have families to feed, they have houses to pay and they cannot even go to those offices if KEMSA has not been paid. They cannot even give a Panadol to any of the patients who have been visiting our health facilities. If there is anything this Assembly can do let us deal with this issue. If there is nothing at all we can do then we don't need to wait for these 8 months, we need to go home as soon as possible. Thank you

**Hon. Temporary Deputy Speaker:** Hon. Jaffer Kassam

**Hon Member for Parklands Ward** (Mr. Jaffer Kassam): Thank you Mr. Speaker sir for the opportunity. At this point I support the Motion. I think the Executive headed by Governor should take the lives of Nairobi people very seriously. It sees we have forgotten about the welfare, the healthcare of Nairobi and our attention has been diverted to some other petty things. This is the right time we can build capacity.

Even as the Nairobi city council we were able to deal with our 214 health centers and am wondering with the support of the National Government something is happening which is not right. It is very serious and this is a wakeup call for us as representatives of the Nairobi people. I think we have also failed somewhere if we allow professionals like doctors who are the last people to come to the streets then this is a message that something is wrong.

It is a wakeup call for us and we should take up this matter with the Executive as a priority and even if it is possible today this matter be settled and things normalized. I think someone somewhere is not getting the priorities right. Mine is to support the Motion and ton call upon the Executive to act and respect the sanctity of the life of Nairobi people. Thank you Mr. Speaker sir.

**Hon. Temporary Deputy Speaker:** Hon. Tabitha Akinyi

**Hon. Tabitha Akinyi** (Nominated Member): Thank you Mr. Speaker for giving me this opportunity. I would like to give my voice to this Motion. I as a member of Health Services Committee we have had so many various issues that touch on health. We have called the Executive Members to explain and every time they take us round and round and to be honest we have gone around these health clinics in Nairobi, the hospitals are in dire need of medicine. The working environment is not hospitable for our medics.

You find someone working for long hours and the pay is peanut and someone is not paying you even that peanut you are supposed to be paid. It is quite not fair. And to add insult to injury they have no

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medicine to give to the patients. Someone comes in pain and you cannot help them. It is very wrong and I think it is time the Executive put their acts together and do something about these hospitals.

Another problem we have had in the health sector is the money that is forwarded to the clinics from the National Government that is meant for maternity. That money comes but instead of the County Government channeling the money to the hospitals they use it to pay the debtors in City Hall and leave our mothers who are giving birth in bad state. We need to do something. I support the Motion.

**Hon. Temporary Deputy Speaker:** Lastly Hon. Mumo

**Hon. Leah Mumo** (Nominated Member): Thank you Mr. Speaker I rise as representing the gender in this House. I want to let this House know that the people who suffer when children are sick are the women and the mothers. Two I want to tell the Executive it is not all about the Minister going, it is the CEC and the County Secretary because if they can manage to pay garbage why are they not paying the Doctors and Nurses. We were there and we've been seeing. There is a time we had the Traffic Marshals then after a while what did they do? We saw people on the streets as Traffic Marshals. Now they are saying they are keeping letters, they shortlisted Nurses instead of employing them. If they can manage to pay the garbage let them pay the Health Department first. Thank you.

**Hon. Temporary Deputy Speaker:** Thank you very much. I want to apologize to Hon. Member for Lucky Summer. I have been seeing delegate 139, I have not been knowing who is this but I said I will give Mumo last but since I have been avoiding this particular card time to debate I now allow you to debate, am sorry for that.

**Hon. Member for Lucky Summer** (Mr. Kennedy Oduru): Thank you Hon. Speaker sir for giving me the me the opportunity even though it came as last resort after you have been informed but all the same we are on the same direction. Thank you for the apology also. Hon. Speaker this is a serious issue. It is not something which should be taken lightly. Why am I stating so? You see life is very important. They are the basic things that human beings are entitled to and this is a County Government where the health issues were devolved. So we cannot compromise the life of the electorate because of nonpayment of people who are not doing the right thing.

The Doctors need to be paid because even us ourselves we cannot be here without pay. Can you imagine 6 months without pay and they have their things which they are supposed to use money for. Even the school fees for their people, investments and whatever. These people have been suffering a lot. Can we as County Assembly do something or propose the way forward. It's not joking matter. In my Ward since the beginning of the strike I have lost about 5 lives and these are our people. They are our electorate. We need them. Multiply that by 85 Wards and you will see the damage we are doing to our electorate who will vote for us.

Hon. Members we need to do something and have a way forward to remedy the situation so that Doctors can resume work and not lose more lives. It's quite pathetic. Am not happy with how things are

taking place with County Assembly. A few minutes ago we discussed vital matters and especially the one which the Chair of Education was raising. Hon. Speaker I am not afraid to state that even in our sector there is little development because right now we don't have operational graders, tractors which are supposed to be there. What is happening in our County? I beg to end there.

**Hon. Temporary Deputy Speaker:** I direct as follows: the Labour Committee and Health Committee to convene tomorrow at 11 am, sit down with the CEC Member for Health, Public Service and Finance and the Public Service Board plus the County Secretary in person and have discussion to make sure this issues are well addressed and Doctors go back to work and report back to this Assembly by 2.30 p.m. The Co-Chairs of this Committee to report back to this Assembly by 2.30 pm. Other directions to be given tomorrow after the report by the Chairs. It is so directed. The Clerks of this Assembly were here to communicate to the Clerks of these Committees and Chairpersons so that an urgent meeting is convened tomorrow. And that is the directions from the Chair. Thank you Members. Hon. Githinji, you have something to say?

**Hon. Marion Githinji:** I would like to thank you very much and all the Members who have ably articulated what I would have liked to say. Mr. Speaker I would also like to thank you for your ruling and I would urge you to include the Committee of Labour to work together.

**Hon. Temporary Deputy Speaker:** Indeed I said the Committee of Labour and Health to convene a joint meeting tomorrow.

**Hon. Marion Githinji:** I apologize, I did not pay attention. I would say thank you and thank you again Hon. Jaffer Kassam. I hope tomorrow we shall come up with one solution and we need as members of Labour and Health we need to be candid tomorrow and ask these officers if Nairobi County are able to deal with our hospitals. If they are not able we better return them to National Government otherwise we should not be here killing our people because of lack of medical facilities. Tomorrow we should come up with an answer and they must tell us we should not have issues with our health or the County surrenders its health facilities to the National Government. Thank you.

**Hon. Temporary Deputy Speaker:** Thank you. Clerk can we proceed.

**Hon. Jaffer Kassam:** Thank you Mr. Speaker sir, I beg to move the Nairobi County Office of the Attorney Bill 4 of 2016 for a second reading

**Hon. Temporary Deputy Speaker:** Hon. Chair with due respect you only have 5 minutes to dispense off this Motion and am worried because this is a very important Bill that needs Members to ventilate. You can realize when you were answering some questions here it was touching on this particular Bill and at a certain stage I requested the Member not to anticipate this particular Bill. I would want to request that this particular Bill to appear in tomorrow's Order Paper so that you can have sufficient time to discuss that particular Bill.

**Hon. Jaffer Kassam:** Thank you I agree with you.

**Hon. Temporary Deputy Speaker:** There having noother business this Assembly stands adjourned to tomorrow 2.30 p.m.

*(House rose at 16.57 p.m.)*