



## NAIROBI CITY COUNTY ASSEMBLY

### OFFICIAL REPORT

#### First County Assembly – Fourth Session

Wednesday 9<sup>th</sup> March, 2016

The House met at 2.30 p.m.

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

### PRAYERS

**Hon. Speaker:** Ring the bell for 10 minutes.

*(Quorum bell rang)*

### COMMUNICATION FROM THE CHAIR

**Hon. Speaker:** Order Hon. Members! Hon. Members I have the following communication to make; the Nairobi County Assembly passed the Nairobi City County Public Participation Bill 2015, Assembly Bill No 11 of 2015 on 2<sup>nd</sup> December 2015 and forwarded to the Office of the Governor for assent on 9<sup>th</sup> January 2016. Subsequently Hon. Members, the Chair is in receipt of memorandum from H.E the Governor on his refusal to assent the Nairobi City County Public Participation Bill 2015 pursuant to section 24 (2b) of the County Government Act 2012. However, the said memorandum is undated and therefore raises serious questions when determining whether the refusal to assent is within the legally timelines.

Hon. Members, in light of the foregoing, the Chair wish to inform the Members of the receipt of the memorandum from the Governor for consideration and approval refusal by the Assembly pursuant to Section 24 (3) of the County Government Act 2012.

Hon. Members, in view of the foregoing I will give further directions tomorrow on the admissibility or otherwise of the said memorandum. I thank you.

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## PAPERS

**The Leader of Majority** (Mr. Elias Otieno): Mr. Speaker I want to lay the papers. Pursuant to Standing Order No. 180 (6), I beg to lay the following paper on the table of the Assembly today Wednesday 9<sup>th</sup> March 2016; the report on the Select Committee on selection of the reconstitution of the Assembly committees' membership. I beg to lay.

**Hon. Speaker:** Very well the leader of Majority. Order Members! The ladies today, what's the matter?

## STATEMENTS

**Hon. Member for Kwa Reuben Ward** (Mr. Elkana Mauti): Thank you Mr. Speaker. Pursuant to Standing Order 41 (2c), I wish to request for a statement from the Chairperson of the Sectoral Committee on Ward Development Fund regarding the amendments of the Ward Development Fund by the Comptroller of Budget.

Hon. Speaker a letter was written to the County Executive Committee Member for Finance ref. NCC/CS/Feb/GSM/1/462 to amend the Act regarding the lack of its implementation as regards the lack of financial disbursement. As per the Article 22 (25) (v) of the Constitution, the Comptroller of Budget shall not approve any withdrawal from the public fund unless satisfied that the withdrawal is authorized by law.

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

1. Reason as why the County Executive Committee Member for Finance did not forward the Ward Development Fund amendment Bill as proposed by committee for WDF Act 2014 for consideration to the committee as well as to this Assembly;
2. Measures taken by CEC Member to ensure that the amendments are forwarded to the committee in due time;
3. The role of WDF Management Committee; and
4. How much the management committee has spent in use of the amendment of the WDF Bill?

Thank you, Mr. Speaker.

**Hon. Speaker:** Thank you Hon. Elkana Mauti. The Hon. Chairperson Select Committee on Ward Development Fund.

**Hon. Member for Kayole South** (Ms. Elizabeth Manyala): Thank you Mr. Speaker. We have held a series of meetings with the CEC Finance and the County Attorney and we are still working on it. We will give a comprehensive report by next week.

**Hon. Speaker:** What specific date please?

**Hon. Elizabeth Manyala:** By Thursday because we are compiling and not tabling, we are also going to meet the Comptroller of Budget; our Committee is quite pro-active.

**Hon. Speaker:** Hon. Chairperson of the Select Committee we expect the full report by Thursday 2.30 p.m. Thank you. Yes Hon. Elkana Mauti?

**Hon. Elkana Mauti:** Mr. Speaker mine is not about how they are going to meet the Comptroller of Budget, mine is why the proposed amendment has not been presented to this Assembly or to the Committee, not how they are making journeys to the Comptroller of Budget.

**Hon. Elizabeth Manyala:** Thank you, Mr. Speaker. I think the Hon. Member came up with a lot of questions and that is why I was telling them in due course we have been having a series of meetings. Notably today we had a very serious meeting about that, about the amendment and that is why we are saying we are working on a comprehensive report so that when we meet you will get the full---

**Hon. Speaker:** Order Hon. Chair! What about the issue of amendments of the WDF Act? That is what Hon. Mauti is actually following.

**Hon. Elizabeth Manyala:** The amendment we discussed today. However, we don't want to put the cart before the horse because it has still to go through the due process and due diligence to take place. So that is why we are asking for time so that we don't bring a half-baked report.

**Hon. Speaker:** Okay. What about the Ward Development Fund Management Committee? What do you have about that, are you still going to bring the full report or piecemeal because we want the full report.

**Hon. Elizabeth Manyala:** We have deliberated and that is why I am giving a comprehensive report, we even had a meeting with the CEC Finance today and the County Attorney which has been a bottleneck but things are okay and I think there is light at the end of the tunnel.

**Hon. Speaker:** Okay Hon. Chair, let us have this report on Thursday 2.30 p.m.

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

**Hon. Speaker:** Thank you. A statement requested by Hon. Ngaruiya Chege from the Chairperson of the Sectoral Committee on Planning an Housing regarding the perimeter wall by Kenyatta University. The Chairperson Planning.

**Hon. Member for Korogocho Ward** (Mr. Maxwell Ochar): Thank you Mr. Speaker. The response is ready for the statement requested by Hon. Ngaruiya Chege---

**Hon. Speaker:** Order Hon Members! You listen to your statements.

**Hon. Maxwell Ochar:** Mr. Speaker on Wednesday 17<sup>th</sup> February 2016, Hon. Ngaruiya Chege MCA, pursuant to Standing Order 41 (2c) requested the Chairperson of the Sectoral Committee on Planning and Housing for a statement regarding the construction of perimeter wall by Kenyatta University on road reserve along Northern By-pass. Mr. Speaker sir, he further asked the Chairman to inquire into and report on:

1. Whether Kenyatta University administration has approved to construct a perimeter wall on the road reserve along the Northern By-pass and when was approval granted;

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

2. Measures taken to control traffic jam as the service lane being constructed at the entrance to the referral hospital may create traffic jam along the by-pass; and
3. What measures are being taken by the County Executive to ensure that the road reserve along the Northern By-pass are not encroached by the contractors.

**Hon. Maxwell Ochar:** Mr. Speaker sir, the Committee wrote to the County Executive Committee Member responsible for Lands, Planning and Housing on 18<sup>th</sup> February, 2016 requesting to be furnished with a response to the statement requested by the Hon. Member ---

**Hon. Speaker:** Order Hon. Members! Order that group down there of Hon. Lady Members!

The Chief Officer Planning responded vide letter ref. UP/PCED/00023 dated 25<sup>th</sup> February 2016, Mr. Speaker. In this regard Mr. Speaker sir, I wish to respond to the Assembly as follows that;

**Whether Kenyatta University administration has approval to construct a perimeter wall on road reserve along the Northern by-pass and when was the approval given.**

Mr. Speaker sir, the Committee was informed that County technical officers visited the site and confirmed that Kenyatta University had no approvals for the perimeter wall. To this end an Enforcement Notice S. No. FP 5663 dated 20<sup>th</sup> February 2016 has been issued to the university. The university is requested to comply within 7 days, Mr. Speaker.

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

**Measures taken to control traffic jam as the service lane being constructed at the entrance to the referral hospital may create traffic jam along the by-pass**

Mr. Speaker, arising from the response from the Chief Officer Urban Planning, on-going construction at the facility has no approvals. As such, through the Enforcement Notice No. FP 5663, part of the compliance shall be to ensure that traffic management is addressed.

**What measures are being taken by the County Executive to ensure that the road reserve along the Northern by-pass are not encroached by the contractors**

Mr. Speaker sir, the Chief Officer Urban Planning stated that the Lands department had been requested to inquire whether there is any encroachment of a road reserves along the Northern by-pass for necessary action.

**Hon. Speaker:** Hon. Members, I cannot even hear the Chairperson talking.

**Hon. Maxwell Ochar:** Mr. Speaker, a copy of the response from the Executive has been attached herewith for reference. Thank you. I beg to lay this response, Mr. Speaker.

**Hon. Speaker:** Hon. Chege Ngaruiya.

**Hon. Member for Kahawa West Ward** (Mr. Ngaruiya Chege): Thank you Mr. Speaker, first of all I am so happy by the promptness of that particular department to act on this matter. Mr. Speaker I am happy they even they wrote a letter to the Clerk thanking me for notifying them on time as to that particular perimeter wall. If it could have been constructed in that area, it would have caused traffic congestion in future.

Mr. Speaker, I want to thank the Committee and the department for the good work and the way they responded but these are statements that require a follow-up. Whereby an institution like Kenyatta University should know that it is above the law, it should follow the rule of law especially when it comes to the constructing the children's hospital, a referral hospital or even the wall. Because Mr. Speaker here we had a complaint, just the other day along Kiambu Road the Ridgeway Mall where there was a lot of traffic congestion and traffic jam along that particular area.

Mr. Speaker the reason as to why I had to request for a statement is to ask the same. If we kept quiet, what is going to happen in future? I have been following up about the construction of that wall and indeed Kenyatta University has stopped constructing that wall. I want the County to enforce that one and to ensure that the wall is brought down so that at least they can leave some space for a service lane which will be

used by those motorists who are going to be entering to that particular hospital. And this is not politics, Mr. Speaker. Thank you.

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

**Hon. Member for Korogocho Ward (Maxwell Ochar):** Hon. Ngaruiya Chege has concurred with us hence there are no more answers to give but I would like to ask him to check that other side and keep us informed so that we help each other. Thank you.

**Hon. Speaker:** Hon. Ngaruiya

**Hon. Ngaruiya Chege:** Mr. Speaker sir, there is something that I was forgetting on that particular area where they have erected the perimeter wall. They have enclosed water pipes that lead to one Kiwanja estate which is next to the referral hospital and if they are allowed to continue with the construction of that particular wall, then the people of that area are going to be denied access to water. Therefore prompt action is needed so that they can be advised on where to erect that wall.

**Hon. Speaker:** Hon. Chairperson please take note of that.

**Hon. Maxwell Ochar:** Mr. Speaker this is a serious matter and we want to be empowered to force the Executive to help us. I would also request the Hon. Member to make a request for a statement since it is a new development.

**Hon. Speaker:** Hon. Chege have you understood that? Thank you. Proceed Hon. Chairperson

#### THE ALLOCATION OF LAND FOR PUBLIC UTILITY IN LUCKY SUMMER WARD

**Hon. Maxwell Ochar:** Mr. Speaker. This is a response to a statement requested by Hon. Kennedy Oduru, MCA Lucky Summer. Mr. Speaker sir, on Thursday 15<sup>th</sup> July 2014 the Hon. Member pursuant to Standing Order 41 (2)c requested the Chairperson of the Sectoral Committee on Planning and Housing for a statement regarding the allocation of land for public utility in Lucky Summer Ward Mr. Speaker. He further asked the chairperson to inquire into and report on;

1. Land registration number of land that was reserved including its actual acreage to public utility within Lucky Summer Ward
2. The people illegally occupying public land in the Ward
3. Measures being put in place by the County Government to ensure that grabbed public land in the Ward is given back

Mr. Speaker, the Committee wrote to the County Executive member responsible for Land, Planning and Housing on the 24<sup>th</sup> July, 2014 requesting to be furnished with a written response to the statement requested by Hon. Kennedy Oduru. The County Secretary responded with a letter REF: SGD/15/0014688/PW dated 21<sup>st</sup> August 2015.

Mr. Speaker in this regard I wish to respond to the Assembly as follows;

**Response to the allocation of land for public utility in Lucky Sumer Ward**

Mr. Speaker sir, the County Executive stated that the public utility plot in Lucky Sumer Ward as indicated in the division of LR NO 31 that was approved in the Town Planning Committee at its meeting held on the 12<sup>th</sup> November, 1993 stated that the plots were earmarked to be used as nursery and secondary school lands. The County Executive further stated that theirs is an area between Two Rivers on LR NO. 31/18 referred to as Migingo and on the subdivision plan, the area is part of block 31/24 which was not earmarked for surrender. The said land is registered to Dominik Kinyanjui and is vacant with no ongoing marker related activities.

Mr. Speaker sir, the following are the responses to question one, two and three in the statement. On item one, the County Executive provided the information as contained in the table below. That 31/1 primary school was hectares 10 is in the name of Kariuki Gathecha resources Limited. Mr. Speaker this land has been developed for residential use. Block number 31/37, 31/4 was earmarked for a secondary school and was 8 hectares. It is registered under Dominik Gathecha Kinyanjui and has been developed for residential use. Mr. Speaker the last block is 31/7636, 31/33 which was earmarked for nursery and primary schools. According to the Executive, no records were found and that further searches are being done to determine if land has been subdivided.

Mr. Speaker partly developed with few residential houses, slaughter houses, Administration Police post and the remainder undeveloped and quarry activities taking place. The land is not being used as per the approved subdivision plan since they are pre dominantly under residential use. The County Executive did not indicate the measures they have put in place to recover the grabbed public land.

Mr. Speaker sir, the Committee visited the site in question on 28<sup>th</sup> July, 2015 and observed that some of the lands in question were bare with no structures or ongoing activities while others had residential units built on while some portions of the land had been fenced off by unknown persons. To this end, the Committee has recommended to the Executive to move with speed and repossess all the land that has been identified as grabbed and put to public use as originally intended. Mr. Speaker sirs, copies of the responses from the County Secretary have been attached here with reference. I beg to lay this response

**Hon. Speaker:** Hon. Oduru

**Hon. Member for Lucky Summer Ward** (Mr. Kennedy Oduru): Thank you Mr. Speaker sir. The report as recommended by the Committee is well done but I have to mention some of the damages that it has caused to my people. My third question said clearly that measures be put in place by the County Government to ensure that the grabbed public land in the Ward is given back. A look at the fourth page shows how it is well stated that the County Executive did not indicate the measures they have put in place to recover the grabbed land and bear in mind that this question was raised by myself on the 15<sup>th</sup> July 2015

and to date nothing has been done. We have the lands and planning here in the County hence why the delay in this response and no proper direction?

Mr. Speaker the table indicates the land registration number 31/1 whereby the proposed use of the land was a primary school on 10 hectares of land but the report that we are getting is that it has been developed for residential use. The other is on land registration number 31/4 which was supposed to be for a secondary school on 8 hectares which has also been developed for residential use and the third on land registration number 31/33 meant for nursery and primary schools on 15 hectares, the recommendation says that it has been partly developed. According to me there is no space left for this public utility and that's why I came up with this statement. Our children continue to suffer yet this was passed way back in 1993 as narrated by Executive that the public utility plots in Lucky Summer Ward as indicated in the land subdivision of land registration number 31 that was approved in the town planning committee at its meeting held on 12<sup>th</sup> November, 1993. By then I was still in secondary school and to date the matter has not been resolved.

Mr. Speaker sir, the statement on Migingo market is also wrong---

*(Hon. K'Otieno on his feet)*

**Hon. Speaker:** Order Hon. K'Otieno!

**Hon. Kennedy Oduru:** I was in Form Four in the year 1993. Hon. Speaker sir, the Executive further stated on page two last paragraph that there is an area between two rivers on land registration number 31/18 referred to as Migingo and on the subdivision plan, the area is part of block 31.24 which was not recommended to surrender. The said land is registered to Dominik Gathecha Kinyanjui and it is vacant with no ongoing market related activities. This is wrong because there are some activities there and so the Committee should do more investigation on this matter. Thank you Mr. Speaker and I request that the County Assembly makes a follow up on this issue to enable us recover this grabbed land.

**Hon. Speaker:** Hon. Chairperson you have heard the passionate appeal by the Hon. Member of Lucky Summer

**Hon. Maxwell Ochar:** Thank you Mr. Speaker. I want to inform my best friend Hon. Member for Lucky Summer that the figures I read were not acres but hectares. Secondly, Migingo is not related to the ongoing on a market unless he does not know where it is. Migingo is a land between Two Rivers and not the one he is talking about and that one I know was earmarked for market purposes because it is in between my Ward and his and therefore the Planning Committee Executive member is right. Mr. Speaker the Planning Committee has recommended fully what they were going to do so as to repossess the public land which has been converted into private utility and that is the best that we can do. If they did not do that then we are going to come back here and ask reasons as to why they have not implemented our recommendations. Thank you



**Hon. Speaker:** Very well. Hon. Oduru let us give the Hon. Chair time to bring us a report from the Executive as to when their area will have been cleared for public use.

**Hon. Kennedy Oduru:** Thank you once again Hon. Speaker sir. The Hon. Member is a very good friend of mine but when it comes to legislation, it's not being taken care of. I want to serve my people better. That the issue is not related to market activities happening on Migingo is a big lie. He should revisit the place --

**Hon. Speaker:** Point of Information Hon. Oduru.

**Hon. Leader of Majority:** Thank you Mr. Speaker. We are taking too much time on this issue. The Hon. Member of Lucky Summer is a new comer in his Ward and that is why he is not conversant with the area. I ask that he goes and do his research first.

**Hon. Kennedy Oduru:** Mr. Speaker sir the statement by the Majority Leader is false and he needs to withdraw. How can I be elected there if I am a newcomer? He is a member of the Planning Committee and that is why he is derailing my efforts to finding out the truth. I visited Migingo market with the Trade and Tourism Committee a while back.

**Hon. Speaker:** Hon. Members, I want to make a ruling on that. Hon. Chairperson on Planning on Thursday next week kindly bring us a full report on the repossession and reissuing of the public land to the people of Lucky Summer. Thank you. Proceed please.

Hon. Chairperson Justice and Legal Affairs on the pending claims of legal fee estimated amounts to 5 billion, Nairobi City County. Chairperson, Justice & Legal Affairs?

**Hon. Jacklyn Nyangala (Nominated Member):** Thank you, Mr. Speaker sir. I beg to respond to the following. On Wednesday 10<sup>th</sup> February, 2016, the Hon. Peter Warutere, MCA, rose on the floor of the House of the Assembly pursuant to Standing Order 41(2) (c) and requested the Chairperson of the Sectoral Committee of Justice & Legal Affairs for a response to a statement regarding the total pending claims for legal fees and the total amounts estimated to be in excess of 5 billion in Nairobi City County.

According to the Hon. Members reports submitted to the Task Force by the Legal department on legal fees it was revealed that there is no official policy governing the determination of fees payable to advocates to the detriment of the County and that the County Executive has engaged the services of Prof. Tom Ojienda as legal counsel on a numerous number of high profile cases despite having a Legal Services department. The Member further asked the Chairperson to enquire into and report on;

1. How and why the County appointed Prof. Tom Ojienda as external counsel despite having a Legal Service department,
2. How the specific cases he has handled or is handling allocated to him and why,

3. How many cases involving the County he has handled or is handling since 2013 and the cost benefit to the County,
4. Amount of money he has been paid since 2013 to date and any pending amount due and;
5. Measures taken by the County Executive to deal with the rouge lawyers and County officials who connive to misappropriate County Fund.

Mr. Speaker sir, the Committee wrote to the County Secretary with a letter, reference NCCA LA/012016 dated 15<sup>th</sup> February, 2016 requesting the County Secretary, County Attorney, Director, Legal Services and head of Supply Chain to attend a meeting of the Committee on Tuesday 23<sup>rd</sup> February, 2016 at 11.30 a.m. to respond to the statement. Mr. Speaker, in this regard I wish to report to the Assembly as follows that;

**1. How and why the County appointed Prof. Tom Ojienda as external counsel despite having a Legal Services department.**

Mr. Speaker sir, the Committee met with the County Secretary, Attorney, Director Legal Services and the Head of Supply Chain on Tuesday 23<sup>rd</sup> February, 2016 to deliberate on the response to statement and in that regard the following submissions were given.

The County Secretary gave an overview on how the debt arose stating that; the total amount owed to individuals by the County was mostly on accrued interest as ordered by the court with an interest ranging between 12% to 26.5% per annum. The amounts were pegged monthly on work done, complexity and volume of the services offered. Most of the cases against the County emanated from the other sections of the County mainly Land, Planning & Housing sector.

The County Attorney informed the Committee on the reasons as to how and why the County appointed Prof. Tom Ojienda as external counsel despite the County Government having a Legal Services department in place stating that, the said Prof. Ojienda was initially appointed to the panel of Advocates by the defunct Nairobi City Council as an external counsel in 2011 and the letter of the pre-qualification reference CCNDOP/RO/ABA, minute 27/3399/2001-12 dated 26<sup>th</sup> March, 2012.

In 2013 the provision of services for external lawyers was advertised again by the Procurement department and later the County Government took over leaving Prof. Tom Ojienda and another 100 advocates who have served the defunct Council being pre-qualified to continue offering legal services to the new Nairobi City County Government. He noted that it was common practice among public entities such as Kenya Revenue Authority and other quasi government entities to engage external lawyers despite having internal lawyers. This was necessitated by a number of factors including shortages in the sector, compatibility and specialization. The Nairobi County experienced an acute shortage of internal lawyers outstripping capacity to handle ever rising cases and efforts to hire more were hampered by the poor

remuneration offered by the County and that on average the Legal department receives two to three cases on a daily basis which translated to 720 cases annually hence with the available manpower would equal to 240 cases per advocate per year.

## **2. How the specific cases he has handled or is handling allocated to him and why**

The County Secretary further informed the Committee on how the specific cases handled by Prof. Tom Ojienda together with the current ones allocated to him and why is as follows; that the County Government maintained a tradition borrowed from the defunct City Council where the department had discretion to determine to give to which Advocate as long as the advocate was on the panel. Factors considered in awarding a particular lawyer a case or cases included equity, past performance of the advocate and area of specialization of the lawyer and that the office of the County Attorney does not believe that Prof. Ojienda benefited over and above or in a manner to suggest that he was involved or favoured as there were other counsels with more cases allocated to them than Prof. Tom Ojienda.

## **3. How many cases involving the County he has handled or is handling since 2013 and the cost benefit to the County**

In regard to the question as to how many cases involving the County Prof. Ojienda had handled or is handling since 2013 and the cost of benefit to this County was also responded to by the County Attorney further tabling a document before the Committee Annex I indicating the names and the number of external advocates and the number of the total cases assigned to them, number of settled cases, active cases, inactive cases and dismissed cases for Committees perusal and examination. In the document the Committee made the following observations that the total number of external advocates' companies that were contracted by the County were 57 in number.

There were other companies that had been assigned more cases than Prof. Tom Ojienda, for instance Munika & Company Advocates had a total of 484 cases, E.N. Omwoti & Company Advocates had 183 cases, C.W. Ngala & Advocates had 165 cases, Koseyo & Company Advocates had 137 allocated cases. Munene Wambugu with 124, Momanyi, Musyoka, Mugaka & Co. Advocates had 133 cases and Associates Co. with 99 cases while Tom Ojienda had 107 cases. This was beside the remaining 49 companies getting an average of 15 cases per company in a total of 778 cases.

## **4. Amount of money he has been paid since 2013 to date and any pending amount due**

On the question on the amount of money Prof. Ojienda has been paid since 2013 to date, the County Attorney gave the following remarks that; As a user department his responsibility is to ensure the services were rendered by the external lawyer and the bills forwarded to the Finance Department and hence he was not in a position to respond to the same.

The Committee pointed out that the County Secretary has relaxed on his mandate to coordinate the function of all sectors pursuant to the provision of Section 44(3) of the County Government Act, 2012 which provides that the County Secretary is also the Head of County Public Service. He was not informed on the financial process further requesting the Committee for additional time up to Tuesday March 1<sup>st</sup>, 2016 to forward the financial record and payment voucher issued to Prof. Tom Ojienda. By the time of reporting the County Secretary had not furnished the Committee with the financial records as earlier agreed hence the Committee could not examine if there was irregular payment.

#### **5. Measures taken by the County Executive to deal with the rogue lawyers and County officials who connive to misappropriate County Fund.**

On the measures taken by the County Executive to deal with the rogue lawyers and County officials who connive to misappropriate public funds within the County, the County Attorney and the Governor established a Task Force in 2013 to investigate graft within the County Government and the contents of the report and its recommendations were yet to be made public.

#### **6. The way forward**

Mr. Speaker sir, during the said meeting the Committee had requested the County Secretary and Head of Legal Services to consider the following measures;

1. The Legal Affairs department to come up with ways and measures of enhancing the Legal Departments capacity such as staffing and capacity development;
2. The Committee to be furnished with the Task Force report for further action;
3. The County Secretary to furnish the Committee with detailed financial records showing how payments of all the external advocates were done.

Mr. Speaker sir, in regards to the above the County Secretary has not made any communication or furnished the Committee with the required information. Mr. Speaker sir, I beg to lay this response. Thank you.

**Hon. Speaker:** Hon. Warutere.

**Hon. Member for Roysambu**(Mr. Peter Warutere): Mr. Speaker, going by the last lines of the in-charge of that Committee, that is telling enough.

**Hon. Speaker:** Beg your pardon, Hon. Warutere, what did you say?

**Hon. Peter Warutere:** Going by the very last statement from the in-charge of that Committee, that is telling enough. This is a matter of monumental proportion, it needs to be given ample time to satisfy the questioner and the public. I have briefly scrutinized this response from the Justice and Legal Committee, however through a shallow perusal of the same I find it wanting. I want the Committee to dwell on specifics because when I raised the issue I had specific objectives that I wanted met. I am looking for value for money for Nairobians and therefore, the CEC Finance needs to do a better job than he did.

As it has been rightly put, we had raised enough grounds, there is nowhere the Committee has dwelt on the specifics that I needed done. The report is too academic and shallow. However, I am praying that I be given ample time to internalize the same, issues raised here are weighty and I need to go through them with a clean brush so that it can satisfy me and the people of Roysambu. I had raised another ten similar grounds that need to be tackled as well and therefore, I will probably ask for more time to peruse the same. As you can see it is a voluminous document, let the Chief Officer of Finance do his job because he is paid to do exactly that. For now I think I am not satisfied with that report, let the Committee go back---

**Hon. Member:** *(Inaudible)*

**Hon. Peter Warutere:** That is my take my brother, I am the one who asked the question and you cannot dictate terms. Let the Committee go back and get the specifics of what I requested to satisfy me at the end of the day. Thank you.

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

**Hon. Deputy Speaker:** Mr. Speaker, I do not think the Member is in order to direct the Committee to go back to the same subject which they were mandated to carry out. This is in violation of the Standing Order and he needs to raise where he is getting his sentiments from.

Mr. Speaker, I do not see any reason why the Member could allow the report to come before the Assembly if he had not been given enough time to interrogate the report. Mr. Speaker, him coming before the House to tell us that he needs more time to interrogate the report that is not in order. Mr. Speaker, we are privy to the information of what is actually happening when these kind of questions come before this Assembly and it is very sinful if the can of worms could be revealed on what exactly is happening. It is totally unacceptable. Thank you.

**Hon. Speaker:** Yes, Hon. Warutere.

**Hon. Peter Warutere:** Mr. Speaker, I am disappointed that the Deputy Speaker of this House can rise in this House to probably try to support an illegality. I am an equal Member of this House---

**Hon. Deputy Speaker:** Point of Order.

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

**Hon. Peter Warutere:** I am the one who raised the question and I have a right to be satisfied on the issues that I have raised since they are quite weighty. Therefore, for him to stand in this House and say that I have not raised the grounds whereas he was just comfortably seated there, he has not internalized this statement. For heaven's sake Mr. Speaker, I am the one who raised this statement. I am the representative of the people of Roysambu and he represents a different class of people and I have to satisfy the people that I am calling the public in this matter. Lastly, I did not dwell on this matter other than what is legislative on these matters that I am mandated to do and if he or anybody feels probably I am doing more than I am supposed to do, then I rest my case.

**Hon. Speaker:** Order!

**Hon. Peter Warutere:** Is it right for the Deputy Speaker to infer ulterior motives on my part?

**Hon. Speaker:** Order Members! Now, Hon. Warutere the Hon. Deputy Speaker did not say anything that will contradict you. What he asked you to do is to be specific on what you are not satisfied with.

**Hon. Peter Warutere:** His inference on the same was---

**Hon. Speaker:** Order, Hon. Warutere!

**Hon. Peter Warutere:** We need to be satisfied on this issue because his inference in this statement is what I am raising.

**Hon. Speaker:** Order, Hon. Members. Hon. Warutere, I just want to repeat again that the Hon. Deputy Speaker did not tell you that there is anything wrong with your statement. What the Hon. Deputy Speaker wanted, because it is also long and you have seen the specifics here. Order Members! It is for you to tell us so that the Chairman can go back and do what you want him to do. You cannot have a blanket condemnation of the report, just be specific. For example, let me help you. Where they say the County Secretary did not give them information that is all. I think the Deputy Speaker was right. Hon. Leader of Majority.

**Hon. Leader of Majority:** Mr. Speaker, I am also very disappointed, the reason being Hon. Warutere is the one who asked for the statement about this so if he is not satisfied let the Committee give him a comprehensive report. That is not right, because not everybody in this House asked the same question; it is Hon. Warutere who asked for the statement about it.

**Hon. Speaker:** Okay Members, I want to be specific.

**Hon. Speaker:** .....Order Members! Very well Hon. Leader of Majority, but what I am trying to say here is that Hon. Warutere should tell us what he wants brought back to the Assembly. Order! You cannot be standing when I am standing I will chase you out.

**Hon. Member for Roysambu Ward (Mr. Peter Warutere):** Mr. Speaker, I wish that the Members who were standing up here can raise equal statements on equal grounds. We know where the office of the Deputy Speaker is and his interest, I am not....

**Hon. Speaker** Order! Hon. Warutere! Can you withdraw that!

**Hon. Peter Warutere:** Okay! I withdraw that! I am one person who believes in the Deputy Speaker but today, I must say in this House that I am disappointed because this Deputy Speaker did not have time to read this statement. I agree, I must be late...

**Hon. Speaker** Order! Hon. Peter Imwatok!

**Hon. Peter Warutere:** I agree I might have been late but I have said it again and I repeat, however through a shallow perusal of the same, this is common English. Through perusal of the same this are the issues that I have raised and as you can see it is self-explanatory that the County Secretary and the CEC of Finance did not do their job. All that I am saying is that can they be asked to do their job.

This Committee has a mandate, if I am not satisfied they must satisfy me fully because that is the reason I am here and I raise my ground. That is why probably Hon. Ogeto did raise this grounds and I will not rest until I am satisfied and get to the bottom of this issue.

**Hon. Speaker** Order Hon. Warutere! Okay I need to assist the Members.

**Hon. Peter Warutere:** This Oversight.....

*(Loud Consultation)*

**Hon. Speaker:** Order! Hon. Members! What Hon. Warutere is telling us, is about the report when you are finishing [to read], that the Committee pointed out the County Secretary has relaxed his mandate to coordinate the function of all Sectors. That is a question that needs to be informed in the Assembly. Why is it that the County Secretary has relaxed his mandate section 44 (3) of the County Government Act. Also

why was he not informed on the financial processes? Therefore, these are the things that Hon. Warutere what to be answered.

*(Loud Consultation)*

**Hon. Jacqueline Nyangala** (Nominated Member): Hon. Speaker, Hon. Warutere is in order and what I want to ask is every specification of the question was answered and we said what was inadequate however.

Mr. Speaker, last week I said Hon. Warutere had other concerns when he came with the questions that he had put in the statement and we didn't want to come back this week because we said we are going to answer on Tuesday.

So, we said that we report what we have and then we have said in our report that there are somethings that we have not been given. So, I don't know why we are arguing.

**Hon. Speaker:** That is good, so I want to make a ruling on this. The Chairperson has said they had come with an incomplete report and therefore let us not dwell on this much. Hon. Members, the report must be presented here on Wednesday 2.30 p.m. in full.

*(Applause)*

Let's proceed.

*(Loud Consultation)*

**Hon. Speaker:** Order! Warutere, no we have done that one and I have made a ruling.

## PROCEDURAL MOTION

**Hon. Speaker:** Hon. Leader of Majority!

**Hon. Leader of Majority:** Okay! Mr. Speaker that, pursuant to the provision of Standing Order No. 153 (2), this Assembly approves the appointment of the following Members nominated by the Committee on Selection to be Members of the following respective Committees:-

### A) SELECT COMMITTEE ON BUDGET AND APPROPRIATIONS

1. The Hon. Michael Ogada, MCA
2. The Hon. Herman Azangu, MCA
3. The Hon. Caroline Muga, MCA



4. The Hon. George Ochola, MCA
5. The Hon. Hellen Katangie, MCA
6. The Hon. Jane Muasya, MCA
7. The Hon. Magdalene Mbogori, MCA
8. The Hon. Fredrick Obenge, MCA
9. The Hon. Peter Isuha, MCA
10. The Hon. Catherine Akoth, MCA
11. The Hon. Osman Adow Ibrahim, MCA
12. The Hon. Jackson Kiama Gikanda, MCA
13. The Hon. Kenneth Thugi Muroki, MCA
14. The Hon. David Njoroge Kairo, MCA
15. The Hon. Isaac Ngige, MCA
16. The Hon. Ngaruiya Chege, MCA
17. The Hon. Samuel Irungu, MCA
18. The Hon. Benedette Wangui, MCA
19. The Hon. Victoria Alali, MCA

**B) SELECT COMMITTEE ON PUBLIC INVESTMENTS**

1. The Hon. Beatrice Kwamboka, MCA
2. The Hon. Alexander Mulatya, MCA
3. The Hon. Kingsley Odida, MCA
4. The Hon. Dan Oria Odhiambo, MCA
5. The Hon. Joash Omwenga, MCA
6. The Hon. Ahmed Adam, MCA
7. The Hon. Emmaculate Musya, MCA

8. The Hon. Peter Imwatok, MCA
9. The Hon. Nelson Masiga, MCA
10. The Hon. Alfred Ambani, MCA
11. The Hon. Charles Wakarindi, MCA
12. The Hon. Peter Migwi, MCA
13. The Hon. Kenneth Irungu Mwangi, MCA
14. The Hon. Millicent Mugadi, MCA
15. The Hon. Peter Wahinya Njau, MCA
16. The Hon. Stephen Kamau Thuo, MCA
17. The Hon. Martin K. Mungai, MCA
18. The Hon. Mark Ndung'u, MCA
19. The Hon. Janet Kimondo, MCA

**C) SELECT COMMITTEE ON PUBLIC ACCOUNTS**

1. The Hon. Dan Mutiso, MCA
2. The Hon. Maurice Gari, MCA
3. The Hon. Moses Ogeto, MCA
4. The Hon. Rose Ogonda, MCA
5. The Hon. Maurice Akuk, MCA
6. The Hon. Oscar Lore, MCA
7. The Hon. Asha Sosso, MCA
8. The Hon. Peter Owera, MCA
9. The Hon. David Mberia, MCA
10. The Hon. Shadrack Juma, MCA
11. The Hon. Robert Mbatia, MCA

12. The Hon. Martin Mugo Kanyi, MCA
13. The Hon. Stephen Murathi Kambi, MCA
14. The Hon. Njuguna Mwangi, MCA
15. The Hon. Martin Waweru Gichuhi, MCA
16. The Hon. Jackson Mwangi Ngare, MCA
17. The Hon. Andrew Mbau, MCA
18. The Hon. Julius Mwaniki, MCA
19. The Hon. Tabitha Juma, MCA

Mr. Speaker, those are the people who are going to do the work of Audit, Budget and Water Department and I am not sending them to go and do shady works like for Hon. Wakarindi, since I don't know this person (*Loud Laughter*) I am just saying this because it is very new name in this House. So if there is anybody known as Wakarindi in that Committee let him do his work and not the opposite!

Mr. Speaker, I beg Hon. Mwalimu to come and second the Motion before he does that Kericho Jubilee rigging.....

*(Laughter and Consultations)*

**Hon. Speaker:** Order!

*(Laughter)*

**Hon. Member for Kahawa West** (Mr. Patrick Ngaruiya): Mr. Speaker, thank you and we know our friend from the other side 'rigging' is their middle name and they will continue saying that we are rigging while we are winning Mr. Speaker.

Mr. Speaker, I rise to second the Motion and due to public demand, we demand the office of the Deputy Speaker to be brought on this side because I see he has been compromised by the Executive. As we open the New Assembly we want him on this side.

*(Laughter)*

**Hon. Speaker:** Order!

**Hon. Patrick Ngaruiya:** So, Mr. Speaker, can you defend me.....

**Hon. Deputy Speaker** (Mr. Kennedy Ngondi): I have been given an opportunity; I think that is a very dangerous allegation Hon. Speaker and it is high time Members take the business of this Assembly very seriously.

I am not happy with you as the Chair to allow Members to bring in non-consequential business before this Assembly. We are not here to make Members laugh which is very wrong. If this is the kind of the precedence we are going to set for this Assembly then I am very sorry, because I am not part to it. Thank you.

*(Applause)*

**Hon. Speaker:** Hon. Deputy Speaker, you interrupted me before I could even reply to Hon. Ngaruiya. I would like you to withdraw the word 'compromised' and indeed the office of the Deputy Speaker is going to be 'on this side' of the Assembly and it's not because we have mentioned it, it's because it is in the plan of the Assembly. Hon. Ngaruiya, can you please withdraw.

**Hon. Patrick Ngaruiya:** Thank you and I withdraw the word 'compromised', but due to public demand we shall pressurize him that he has to relocate. So, Mr. Speaker, on the basis of the procedural Motion I beg to second this Motion and I don't know why it has taken a long time for these leaders of both political sides to take their time to bring the names of this particular Committees in this Assembly.

Mr. Speaker, some of the names are the same and this has denied us.....

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

**Hon. Member for Nyayo Highrise Ward** (Mr. Maurice Akuk): Hon. Speaker sir, thank you very much and I stand before you here to remind my colleague that seconding does not allow any debate. Thank you.

**Hon. Speaker:** Very well!

*(Loud Consultation)*

**Hon. Karen Wanjiku** (Nominated Member): Which Standing Order did Hon. Akuk use saying that when you second you cannot debate. You are a Hon. Member when you came here to debate, how can you second what you don't know what you are seconding and you don't put weight on it. Let him quote the Standing Order.

**Hon. Speaker:** Thank you.

**Hon. Maurice Akuk:** Hon. Speaker, there is a procedure that has been there before you and I sit on that desk too and you have not allowed any debate yet, it is wrong for a Hon. Member who does not know the procedure like Karen to come and stand before us here and lie to us Mr. Speaker sir.

The procedure is simple and it has to be followed and you have not allowed us to debate, there is no way Hon. Mwalimu can come here and start debating on this matter, Mr. Speaker sir. Thank you and please help Hon. Karen with the process.

**Hon. Deputy Speaker:** Mr. Speaker, I appear again before you maybe to rule the Hon. Akuk out of order completely. We have the resolution of the Assembly that the mover of the Motion to be given a specific period on which he is supposed to move the same. Even the seconder of the Motion has been given the opportunity to speak.

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

**Hon. Maurice Akuk:** Hon. Speaker, [on] procedural Motion you cannot debate on any seconding. Please correct these Members.

**Hon. Speaker:** Hon. Members! Order Hon. Members! You have the Order Paper of today and if you look behind it says "notice Assembly resolved on Wednesday, February 10, 2016 as follows". You will answer that question by yourselves I don't have to stand here and give you the answer.

*(Question proposed)*

**Hon. Speaker:** Hon. Members! Yes, Hon. Ogeto!

**Hon. Member for Kilimani Ward** (Mr. Moses Ogeto): Thank you, Mr. Speaker sir. I stand to support these Committees which have been appointed, starting from Budget, PAC and PIC Committees. When you look at the names which have been selected in these Committees, they are people of integrity. These Members will ensure that they deliver what they have been mandated to. This Committee on Budget had been missing in the House and some functions of the County have stalled for a long time. I believe all Members will second this Motion. I beg to support, thank you.

**Hon. Speaker:** Thank you. Hon. Peter Imwatok.

**Hon. Member for Makongeni Ward** (Mr. Peter Imwatok): Mr. Speaker, the best thing I will do in life is to try to get some fertilizers so as to grow tall so that you can catch my eye.

Thank you, Mr. Speaker. I rise to support this Motion. First of all, there is an observation, I think when you go into the history of HANSARD of this House, I am the leading Member who has been chased out of this House several times. I also want you, Mr. Speaker, to exercise the same when it comes to Hon. Warutere and the rest.

**Hon. Speaker:** Order, Hon. Peter Imwatok!

**Hon. Peter Imwatok:** I am just requesting, Mr. Speaker. Looking at the list of the Hon. Members, I was conversing with the Chair of Budget and Appropriations Committee and he said indeed we are on our

final lap of our term. I believe it is time, just as Hon. Members are saying, we are winding up. So the Committees are ready and are fired up to make a difference.

Personally, I must say thank you for those I will be working with in Public Investment Committee. When I say that, I can hear Mr. Mulatya laughing, he knows what it means. For those who are in PIC, I welcome you. For those who know themselves, I believe we are going for election of these respective Committees before they start to work. I urge the Majority Leader and the Minority Leader to stay out of this so that we shape the Committees to work for Nairobians and not their stomachs. Thank you, Mr. Speaker.

**Hon. Speaker:** Hon. Manyala.

**Hon. Member for Kayole South Ward** (Mr. Elizabeth Manyala): Mr. Speaker, I want to thank the Committee on Selection for burning the midnight oil to come up with these names, however, I do not support it. I do not support, not that I have any malice towards the Members, but as the Chairperson of women I must ensure that gender parity is followed to the letter. I will read the Standing Order No. 154 (2), it says *"The Committee on Selection shall give consideration to the need for gender balance and shall, so far as may be practicable, ensure that no more than two-thirds of Members of a Committee of the County Assembly, including a Committee established through a resolution of the County Assembly, shall be of the same gender."*

Now, coming to the names, and I will table them chronologically the way they are put here, I have done my calculations using econometrics, statistics, calculus and other methodologies.

Coming to Committee on PIC, I have perused through the names, they should have a total of six women and not four as indicated by both parties of the Selection Committee. That already has violated this section. So, they need to adhere to this and add or know how they are going to maneuver and ensure that there are at least six women in PIC. How they will do it, I don't know. Coming to Committee on PAC, only three women out of 19 have been selected. That also is gender disparity and we are not meeting a two-third gender threshold. So, if you calculate, we need at least six women so that we meet this.

The public outside there is watching. We have to ensure that gender mainstreaming starts from us, but that one has not been captured at all. Even if I now go wider on PAC, you will find that Jubilee has only nominated one woman yet there so many women. I don't know where their people were. Count it and you will see that it is only Hon. Tabitha Juma who is appearing out of nine. Coming to CORD, there are only two ladies, and that is Rose Ogonda and Asha Sosso, the rest are men. Are we really serious with ensuring that we are adhering with the Standing Orders?

Now, going to budget Committee, I want to echo this House because they have seen women can do it. What men cannot do, women can do it better at times. Here, I am giving them 100% because they have met the gender threshold. So, we need six more, thank you, Mr. Speaker.

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

**Hon. Member for Kwa Njenga Ward** (Mr. Alexander Mulatya): Mr. Speaker sir, thank you very much for giving me this opportunity. As much as I support part of the Committees, I also concur with my learned friend, Prof. Manyala, reason being, we have a lot of ladies in this House. It is paramount to mention that we respect our Constitution which is supreme to any kind of legislation in this Assembly.

Mr. speaker sir, with due respect, the leaders of this House especially the Jubilee side should review much on gender parity and make sure that everything is in order, thank you.

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

**Hon. Deputy Speaker** (Mr. Kennedy Ng'ondi): Hon. Speaker, I rise here to support the Motion before the Assembly, but I have reservations to make concerning the nomination of the membership of PIC and PAC. I would kindly ask the Assembly to agree with me to pass the Budget Committee as it appears on the Order Paper but to expunge the other names of the membership of the PIC and PAC Committee. If we can allow this to happen today, then we will be judged harshly. Thank you.

**Hon. Speaker:** Hon. Deputy Speaker, can you repeat your last words?

**Hon. Deputy Speaker:** What I am saying is that, we make amendments on the PIC and PAC Committee to conform to the requirements of the Constitution of the gender disparity on the representation of the Committee membership. So, let us see what we can do to save and salvage the situation because this is totally unacceptable.

**Hon. Speaker:** Hon. Members--- Order, Hon. Members! Approval of nomination, that is 156 (2) says, *"Whenever a Motion for approval of a list under paragraph (1) is moved in the County Assembly, no objection against the proposed membership of a Member in a select committee shall be permitted and objections, if any, shall be formulated against the proposed membership as a whole."* Therefore, what it means is you either reject or approve.

*(Loud consultations)*

**Hon. Speaker:** Hon. Members, take your seats! You cannot stand ten of you. Hon. Karen Wanjiku.

**Hon. Karen Wanjiku:** Mr. Speaker sir, what you have read, I don't think that is not--- it concerns about an individual. 156 (2), the way I understand it is not an individual; it says you cannot remove one individual in the whole list.

**Hon. Speaker:** Order! 156 (2) says, *" Whenever a Motion for approval of a list---*" it does not say a Member.

**Hon. Karen Wanjiku:** Read whole of it.

**Hon. Speaker:** No.

**Hon. Karen Wanjiku:** There is no Member we are rejecting; we are talking of a two-third gender rule. According to the Standing Order which I am standing on, 35, about the order of business, we cannot expunge one Committee and pass the others. Standing Order is our Bible and Koran and we must follow.

*(Loud consultations)*

**Hon. Speaker:** Hon. Nyang'wara.

**Hon. Samuel Nyang'wara:** I just want to request you if you can allow Members to contribute on this so that the Members can make an informed decision. If we reject the lists and they were on the Order Paper today, it will take six months before it comes back to the House. Mr. Speaker, I want to request Members to consider this issue so that we can pass these names the way they are in order for the Leader of the Women Caucus can approach the leadership and have the names she wants to be fixed on the list. If we reject the names here today, we will take six months again to have the Committees in place.

**Hon. Speaker:** Hon. Maggy Sewe.

**Hon. Margaret Sewe** (Nominated Member): Mr. Speaker sir, at such times, we must put intellect ahead of any other thing. Nobody is disputing any particular name; what we are saying, let the gender threshold be met. We have a Standing Order that guides this House. I want to say here that I am one person who will always support the wisdom of the Assembly leadership as long as they do the right thing.

Mr. Speaker sir, the Women Caucus Leader, Hon. Manyala gave a very good breakdown on where there is gender disparity. Let us consider; don't tell us. Let the men shout that 'put the question' can we go by the law that guides all things about gender threshold and gender parity. We are not in contest with any male colleague in this House; we are contesting against illegalities all the time thrashing the gender issues especially when it touches on women.

Mr. Speaker sir, the Budget Committee is well constituted and nobody is in dispute. Why can we have sober minds and get the right directions. I support *Mheshimiwa* Nyang'wara--- Mr. Speaker, please give me your attention. I want to say that Hon. Nyang'wara and Hon. Deputy Speaker have given us a road map. Can we look at these things critically and have a soul search and use our minds but not our tummies or shortsightedness to always pass Motions here. I stand to say that we must be guided by the Standing Orders.

*(Applause)*

**Hon. Speaker:** Hon. Members, as we proceed, first of all, I want to let the Members know that Hon. Karen talked about Standing Order of individuals. Now, listen to me very carefully because you are addressing this to the wrong person.



**Nomination of members of select committees**

154(1) *“Unless otherwise provided by any written law or these Standing Orders, the Committee on Selection shall, in consultation with County Assembly parties, nominate Members who shall serve on a select committee.”*

(2) *“The Committee on Selection shall give consideration to the need for gender balance and shall, so far as may be practicable, ensure that no more than two-thirds of members of a committee of the County Assembly, including a committee established through a resolution of the County Assembly, shall be of the same gender.”*

Hon. Members, from 154 (1), you are actually addressing it to the wrong person. It is very clear that it is County Assembly parties nominate Members who shall serve on a Select Committee.

Hon. Gari.

**Hon. Member for Nairobi West Ward** (Mr. Maurice Gari): Thank you, Mr. Speaker sir. I rise to support this Motion, and if there are any queries with the membership, I think the Members are right to petition their party coalitions but not the Speaker. It is upon Members to lobby on their party affiliations.

Mr. Speaker, these Committees should be passed because we have work ahead of us. We have not come here to discuss the nomination of Members. Nomination of Members depends on Jubilee and CORD coalitions. I urge you to call the move to reply.

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

**Hon. Member for Nairobi South Ward** (Mr. Manoah Mbuku): Thank you Mr. Speaker. I rise to support this Motion. The Committees are well-constituted. However, as you have indicated that the authority to nominate Members to various Committees lies with the coalition. I want to thank the Leader of Majority, especially on CORD's side where he has shown the face of Kenya. Mr. Speaker, see Dan Mutiso, Maurice Gari, Moses Ogeto, Maurice Ogoda, David Mberia and Shadrack Juma. This is the face of Kenya. Mr. Speaker, look at Jubilee Coalition; Robert Mbatia, Martin Mugo, Stephen Murathi, Mwangi, Waweru, Mwangi, Mbau, Mwaniki. Mr. Speaker, this is not the face of Kenya.

**Hon. Speaker:** Order! Order! Order! No! Order! Hon. Manoah, you are out of order. Hon. Jack. Order Members! Order!

**Hon. Member for Githurai Ward** (Mr. Jackson Ngare): Thank you Mr. Speaker sir. Some statements that are made here on this floor are just too tribal. Mr. Speaker sir, as I support this Motion, I want to say that the concern of the Chairperson is very varied but when I look at this, I see a constitutional crisis. We have 16 Committees Mr. Speaker and if we were to put 16 ladies in every Committee then we have to have 16x6 ladies in this House which presents a serious constitutional crisis. We cannot be able to meet this.

**Hon. Speaker:** There is a Point of Information here. Do you want to be informed?

**Hon. Jackson Ngare:** No.

**Hon. Speaker:** He does not want to be informed.

**Hon. Jackson Ngare:** Mr. Speaker sir, I am properly informed.

**Hon. Speaker:** There is a Point of Order from Karen Wanjiku. Order Hon. Manyala, Chairlady of the Caucus!

**Hon. Karen Wanjiku:** Mr. Speaker sir, the Member is misleading us because we don't have 16 Select Committees. We are talking about Select Committees here, not just any committee. He should not mislead the House.

**Hon. Speaker:** Hon. Jack, stick to the point.

**Hon. Jackson Ngare:** Mr. Speaker sir, when I read the Constitution, I don't see anywhere written about the Select Committees. I read and understand that there must be a 3<sup>rd</sup> in every setup that is made under the Constitution. So, here I am giving a wider picture which we cannot meet unless we go to a referendum.

**Hon. Speaker:** Hon. Alex Mulatya, you had already contributed. Akuk, you were also here. Hon. Akuk.

**Hon. Maurice Akuk:** Mr. Speaker sir, I do love your smile. I love your smile because sometimes it is cheeky. Mr. Speaker, I stand here to support this Motion and try to look at this issue critically.

*(Loud consultations)*

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

**Hon. Maurice Akuk:** Hon. Speaker, please protect me so that I can make my contribution for the House to proceed. I am supporting this Motion and to be told of an illegality I don't understand why. Because, Mr. Speaker, my colleague Hon. Jack Wetu has been very clear. Statistically, as I was listening to him speaking, I also wondered the same question. Hon. Speaker, the number of Committees we do have in this House, honestly, if we were to meet this gender rule.

**Hon. Speaker:** Order Hon. Benedette!

**Hon. Maurice Akuk:** Hon. Benedete is never this angry at us. I don't know what is getting into her today.

**Hon. Speaker:** Order Hon. Carolyn Muga! Order!

**Hon. Maurice Akuk:** She is a very respectful Member of this House. I don't know why today she is throwing jabs at me. Hon. Speaker, to be honest, the technicalities of what the National Assembly is facing today because of not passing the Budget Committee will befall this House. Through your wisdom, allow the mover to reply and then we can make the decision with the ayes or the nays. Thank you.

**Hon. Speaker:** Hon. Mulatya, you know you had come here earlier. Sorry, you cannot do that.

*(Loud consultations)*

Hon. Members! Order members! Hon. Members, I now call the mover of the Motion to reply.

**Hon. Leader of Majority:** Mr. Speaker, I am very much happy with these people because they are always making a lot of noise and at the end of the day they will pass the list. Mr. Speaker, as I want to reply, my seconder came and asked the reason why it took too long. If you go to the Clerk's office you will see my letter from 9<sup>th</sup> of February which I gave the names. So, you should not come and lie here that it took long. Not because of me. It is because of people who were busy in Kericho doing some shoddy work there.

**Hon. Speaker:** Order Leader of Majority!

**Hon. Leader of Majority:** Okay Mr. Speaker. Let me take this opportunity to thank Members for accepting the list and we should also pass this list as it is. Mr. Speaker, if there is any problem, I think there are some amendments which will come later. We will just swap some Members from various Committees but for now, let us have these Members to start their work because there are some Members who hold two or one Committee every day.

So, Mr. Speaker, let us pass it today. We are just going to swap some Members like Jubilee's side. And I said it clearly some time back that the Jubilee side should consider these our mothers and sisters. Next time, I will not come and read your list here without considering gender balance.

As I can see, Hon. Mbatia is smiling because the list of PAC is here and if you can see, the Chairman of Budget is here for 3 hours. It is wonderful. So, I thank all Members for contributing. Thank you.

*(Question put and agreed to)*

## MOTION

**Hon. Leader of Majority:** Mr. Speaker, before I move this Motion, I request Hon. Robert Mbatia and Hon. Michael Ogada not to walk out because it is already passed. I am just requesting them just to sit the way they are sitting today. This Assembly approves the report of the Select Committee on Appointment on the vetting of the nominee for the County Executive Committee Member responsible for Environment, Water, Energy and Sanitation laid on the table of the Assembly on Tuesday 8<sup>th</sup> March. Mr. Speaker, direct the Serjeant-At-arm to close that door so that Hon. Ogada does not go out.

So, Mr. Speaker, the Committee meeting held a total of three sitting during which the nominee appeared and was vetted in accordance with the Public Appointment Parliamentary Approval Act No. 33 of 2011 for appointment as County Executive Committee Member. On behalf of the Committee, I have the honor and pleasure to present the Committee's report on the vetting of the nominee. May I take this opportunity to thank all Members of the Committee for their input and valuable contribution during the vetting of the nominee? Thank you, Mr. Speaker.

Mr. Speaker, these are the Committee findings; having considered the nominees curriculum vitae and had his oral submission during the vetting exercise, made the following observations:

- i) The nominee was on 29<sup>th</sup> September 1962 and holds a master's degree in engineering in 1989 from Nairobi University and specialized in highway engineering.
- ii) He also holds a Bachelor of Science degree in civil engineering from University of Nairobi, 1986.
- iii) Attended various other leadership courses such at the Kenya School of Administration, Kenya Institute of Highway and Building Technology, International Labor Organization etc.
- iv) He is currently the director of Sutken International Limiter, Southern Sudan.
- v) He joined the Ministry of Roads and Transport in 1989 as Assistant Engineer from where he rose to become the Senior Superintendent Engineer in 2002 in-charge of contracts section.
- vi) The nominee had previously worked as a Provincial Engineer in the Rift Valley for all roads and works activities within the then the Province.
- vii) He has never been charged in a court of law, has no conflict of interest, has repaid his full HELB loan, and has fully complied with his tax obligations.
- viii) He has never been dismissed from office for contravention of provision of Article 75 of the Constitution which deals with conduct of State Officers.
- ix) He has never been adversely mentioned in any investigative report or parliamentary or any Commission of Inquiry.
- x) The Committee found the nominee suitable and qualified for appointment as County Executive Committee member responsible for Environment, Water, Energy and Sanitation Sector.

### **The Committee recommendations**

At the end of the vetting process the Committee made the following recommendations: That having considered the suitability, capacity and integrity of the nominee and pursuant to Article 179 (2) (b) of the Constitution and section 2 (a) of the Public Appointments Parliamentary Approval Act 133 of 2011, the Committee recommends that the County Assembly approves the nomination and subsequent appointment of Engineer Peter Kimori Maranga as the County Executive Committee member responsible for Environment, Water, Energy and Sanitation.

Mr. Speaker I think we want all Members; let us not take time because this man is overqualified and we should give him this job to work for Nairobians and clean up our County. I call upon Hon. Kagiri to come and second the Motion.

**Hon. Member for Pipeline Ward** (Mr. Samuel Kagiri): Thank you Mr. Speaker, I don't want to add much to what the Majority [Leader] has said but we vetted the nominee and we found he is qualified and has enough experience to undertake the job he has been given and all I would urge is for him to do something for the garbage that is in Nairobi city so at least we can make the City look smart. Mr. Speaker I second.

*(Question proposed)*

**Hon. Member for Makongeni Ward** (Mr. Peter Imwatak): Mr. Speaker thank you so much for giving me this chance. I think the spirits are leading to you why I should support this Motion. I can remember from 31<sup>st</sup> of December to around mid of January I never slept in my house Mr. Speaker. The reason is as a member of Environment committee, who feels what environmental matters are in this County, we have had challenges for the last three years as a Committee ourselves.

When it comes to policy formulation and making of the Executive side we can clearly say as a Committee where I belong that we had no minister because what we used to have is what the sheng language in our *mtaa* called *kipideology yaani* a minister who has no consistency in what he says and what he does. I might not know the guy in question but with the able Committee which has vetted him and confirmed I believe now the Environment committee is going to be led by the two engineers.

Mr. Speaker if you can go back to memory lane on December 23<sup>rd</sup>, 24<sup>th</sup> to 25<sup>th</sup> up to 1<sup>st</sup> Nairobi was so filthy until our bale Governor decided to make a change in this sector, brought in an engineer for public works to lead as a Chief Officer, now he has adding to us an engineer as minister in charge. I believe this is the guy we should approve with immediate effect before this rains ends so that we go give him a job to do tomorrow. Thank you, Mr. Speaker.

**Hon. Speaker:** Thank you. Hon. Ogeto

**Hon. Member for Kilimani Ward** (Hon. Moses Ogeto): Thank you Mr. Speaker sir, looking at the recommendations of the Committee and where Engineer learnt it reminds me where I learnt two years ago, at the only University of Nairobi which is in this republic of Kenya.

Mr. Speaker when you look at this documentation that the gentleman, the Engineer, got his masters in 1989. By then I believe most people, attaining a Master's degree during that time was not something easy to joke with. He has worked with the National Government at the Ministry of Roads and Public Works. When you try to relate the Environment and the person who has worked at the Ministry of Roads, subsequently you can see a correlation between the two ministries since if he had worked at this

Republic of Kenya at the Ministry. This gives a clear indication that when he is going to work for the County since he worked for the whole Republic of Kenya. We believe he is going to support, thank.

**Hon. Speaker:** Hon. Jack Wetu

**Hon. Member for Githurai Ward** (Mr. Jackson Ngare) Mr. Speaker sir I wanted to oppose this but I had instantly changed my mind.

*(Laughter)*

But I cannot sit without saying that let us not use this House to pass things as if we are in a burial ceremony where the eulogy only reads the good things and the bad ones are not shown. Next time we would like to know, when vetting is being done, where these people vote, whether they are voters in Nairobi, whether they live in Nairobi, whether they have failed anywhere like if somebody has tried contesting a certain seat somewhere; if they failed and that would qualify somebody actually to be a true Nairobiian. So may I support this.

**Hon. Speaker:** Hon. Members I call the mover to reply

**Hon. Majority Leader:** Mr. Speaker as Hon. Jack has put it that whether we should know whether this man is a voter in Nairobi or not, on Jubilee side I think there must be a Nominated Member who is sitting here but voting in Kiambu but is here a member of this County. So Mr. Speaker I thank Members for passing this because I know nobody is going to oppose this side [Jubilee] because they are just remaining three of them so I know very well the Motion is already passed, the man is going to be sworn in anytime from tomorrow or any day the Governor would like to swear him in. thank you.

*(Question put and agreed to)*

## MOTION

**Hon. Speaker:** The Hon. Chairperson Sectoral Committee of Agriculture, Environment and Natural Resources. Hon. Alex Mulatya, the debate was interrupted so you are on floor

**Hon. Member for Kwa-Njenga Ward** (Mr. Alexander Mulatya): Thank you Mr. Speaker sir, I wish to move the following Motion,

THAT, this Assembly adopts THE REPORT OF THE SECTORAL COMMITTEE ON AGRICULTURE, ENVIRONMENT AND NATURAL RESOURCES ON THE STATUS OF WASTE MANAGEMENT WITHIN NAIROBI CITY COUNTY, laid on the Table of the Assembly on Wednesday 10<sup>th</sup> February, 2016.

Mr. Speaker Sir,

1. The Committee noted that the City was in a deplorable environmental state with those in charge of waste collection failing to deliver on their mandate. The Committee therefore found it necessary to inquire into the reasons behind the increasingly poor state of sanitation.
2. The Committee conducted site visits to most affected parts of the City and held meetings with responsible County officials as part of its fact finding mission.

**Hon. Leader of Majority:** Mr. Speaker I think this Motion is very important to this House and there is no way we are going to debate this Motion without quorum. So we better just ask Hon. Mulatya if he can bring it because even the remaining time is not enough... (Point of Information) I don't want to be informed Mr. Speaker, I don't want somebody to interrupt me.

**Hon. Deputy Speaker:** Hon. Speaker since when did Majority Leader became Clerk of the Assembly to mislead the Assembly that there is lack of quorum in the House? The Majority Leader is undertaking business which is not designated for him. This is now one of the forms of idleness because there is no way he can rise and tell the Assembly that there is lack of quorum. The Members are present and unless the Clerk confirms what he is saying...

**Hon. Alexander Mulatya:** Thank you Deputy Speaker for being concerned with the report which is very important, I proceed to 3.

3. During the inquiry, the Committee observed as follows:
  - i.) Lack of enforcement of environmental protections rules and practices by responsible officers, and a bad waste management culture by County residents is partly responsible for the increased illegal dumping
  - ii.) Inefficiencies within the Executive particularly the environment and forestry sub-sector has contributed to the ineffective waste collection. The contracted garbage collection firms are unable to effectively deliver on their mandate.
  - iii.) The County Government has not designated waste collection centers hence the rise of illegal dump sites.
  - iv.) Development partners such as JICA are willing to support the County Government's initiatives on proper solid waste management

Mr. Speaker Sir,

4. The Committee recommends:
  - i.) That the County Executive should designate waste collection points and facilities within residential areas and streets to avoid illegal dumping of waste

- ii.) That the antidumping enforcement unit should be re-established to monitor and apprehend individuals engaged in illegal dumping. This should however happen in a humane manner
- iii.) Contracted garbage collectors should be closely supervised to ensure that they deliver on their mandate
- iv.) Appointing authorities should review the performance of officers within the Environment department with a view to sanction or replace them with qualified and dedicated officers
- v.) The County Government should identify and designate a new dumping site since Dandora dumpsite has surpassed its capacity
- vi.) All Sub-Counties should be allocated with Nairobi City County owned waste collection trucks to ensure equity and improved service delivery
- vii.) That the Nairobi City County Solid Waste Management Act, 2015 should be fully enforced once operational

**Hon. Speaker:** It is confirmed there is no quorum. The bell to ring for 10 minutes. When quorum bell is ringing you should maintain order in the House. Hon. Ogeto and Mburu you should maintain order!

*(Quorum bell rang for 10 minutes)*

Hon. Members:

Quorum during the preceding of the County Assembly:

Standing Order 32(1) If at any time after the Chair is taken, or when the County Assembly is in Committee, a Member objects that there is not a quorum present, the Speaker or the Chairperson shall count the County Assembly or the Committee as the case may be.

(2) If on the count under paragraph (1) a quorum does not appear to be present, the Speaker or the Chairperson shall cause the division bell to be rung as on a division, and if no quorum is present at the expiration of the eight minutes-

- (a) if the Speaker is in the Chair, the Speaker shall adjourn the County Assembly until the next sitting without question put;

Hon. Members, the Assembly is adjourned until tomorrow 2.30 pm, thank you.

*(House rose at 16.55 p.m.)*