



NAIROBI CITY COUNTY ASSEMBLY

OFFICIAL REPORT

Second County Assembly – Second Session

Thursday 14th June, 2018

The House met at 2.30 p.m.

(Hon. Speaker (Ms. Beatrice Elachi) in the Chair)

PRAYERS

QUORUM

Hon. Speaker: Serjeant-at-Arms, ring the bell for ten minutes.

(Quorum bell was rang)

PAPERS

Hon. Speaker: Chairperson of Education.

The following Papers were laid on the Table:

The first Report of the Sectoral Committee on Children, Early Childhood Education and Vocational Training on the induction workshop for the Members of the from 16th to 19th December, 2017 at Sawela Lodge, Naivasha.

(By Hon. James Mwangi)

Hon. Speaker: Thank you. Chair, you need to present your report on the table. Hon. Njihia, do you have a report to lay? Proceed.

The Report of the Sectoral Committee on Culture and Community Services on Strategic Planning workshop held on 15th to 18th March, 2018 in Mombasa.

(By the Chairman of Culture and Community Services Committee)

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Hon. Speaker: Hon. Antony Gatune, do you have an issue?

Hon. Antony Gatune: Madam Speaker, it is not an issue, I have a response.

Hon. Speaker: Hold on until we get to order of Statements. We don't have anyone from Planning Committee? Delegated Committee.

The Report of the Select Committee on Delegated County Legislation on the induction, capacity building and Committee mandate held from 30th November to 3rd December, 2017 at Sawela Lodge, Naivasha.

(By Hon. Abraham Njihia)

STATEMENTS

Hon. Speaker: Hon. Antony Gatune.

STATEMENT ON INSURANCE OF EARLY CHILDHOOD DEVELOPMENT EDUCATION CENTERS IN THE COUNTY

Hon. Antony Gatune: Thank you, Madam Speaker---

Hon. Speaker: Proceed, I will use Standing Order No.1. If you have agreed with the Member, then you don't need to read the all thing. Proceed first to tell us what the Statement was.

Hon. Antony Gatune: Okay. Hon. Speaker, on Tuesday December 2017, Hon. Peter Warutere, MCA, rose on the floor of the Assembly pursuant to Standing Order No.45 (2) and requested for a statement from the Chairperson of the Sectoral Committee on Children, Early Childhood Education and Vocational Training regarding the insurance of Early Childhood Development Education Centers (ECDECs) in the County. The Member sought to know whether all ECDECs in the County have been insured against all possible catastrophes and, if yes, by which insurance company.

Hon. Speaker, the Committee wrote to the County Executive Committee Member for Education, Children, Youth Affairs, Gender Affairs, Culture, Social Services, ICT and e-Government on 8th of December 2017, requesting to be furnished with a written response to the Statement sought by Hon. Warutere. The Acting Chief Officer responsible for Education, Children, Youth Affairs, Gender Affairs, Culture, Social Services, ICT and e-Government responded vide a letter REF: GL/NC/147C VOL 11/126 and stated as follows:

That all Nairobi County ECDECs and all public primary schools including swimming pools are insured by CIC General Insurance and notification of award for tender No. NCC/F & EP/T/2016 -2017 for provision of general insurance services for the year 2017/2018 and were effected on April 1st 2017. Attached is a schedule of the description of insured assets.

Madam Speaker, the speaker was satisfied with the report.

Hon. Speaker: Hon. Warutere.

Hon. Peter Warutere: Thank you, Madam Speaker. I am satisfied with the response but there are some few issues that I think we will sit down with the Committee and highlight. Thank you.

Hon. Speaker: Hon. David Mbithi.

STATEMENT ON THE STATUS OF THE SCHOOL FEEDING PROGRAM IN EARLY CHILDHOOD
DEVELOPMENT EDUCATION CENTERS IN THE COUNTY

Hon. David Mbithi: Madam Speaker, I have a response to the Statement requested by Hon. Khalif Osman; I don't know whether he is in the House.

Hon. Speaker: Yes, he is there.

Hon. David Mbithi: Madam Speaker, on Wednesday, 14th February, 2018, Hon. Khalif Osman, MCA, rose on the floor of the Assembly pursuant to Standing Order 45 (2) (c) and requested for a Statement from the Chairperson of the Sectoral Committee on Children, Early Childhood Education and Vocational Training regarding the status of the school feeding program in Early Childhood Development Education Centers (ECDEs) in the County.

The member sought to know:

- i. Status of the school feeding program;
- ii. Whether there were funds set aside for the said program and if yes, what happened to the funds:
and
- iii. What plans has the County put in place to roll out the feeding program that stalled even before taking off.

Madam Speaker, the Committee wrote to the County Executive Committee Member for Education, Children, Youth Affairs, Gender Affairs, Culture, Social Services, ICT and e-Government on 12th February, 2018 requesting to be furnished with a written response to the statement sought by the Hon. Member.

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

The Acting Chief Officer for Education, Youth Affairs and Social Services responded vide a letter REF: GL/NC/147C/VOL II/145 and stated as follows;

That, Nairobi City County is committed to issues related to equity---

Hon. Speaker: Hon. Mbithi, is Hon. Osman satisfied with the response to the Statement?

Hon. David Mbithi: Madam Speaker, we requested Hon. Osman to attend the meeting of the Committee four times but he did not appear.

Hon. Speaker: So, he has not even read the response?

Hon. David Mbithi: Yes.

Hon. Speaker: Okay, proceed, he will read after you have given us.

Hon. David Mbithi: Thank you, Madam Speaker.

Hon. Speaker: But you don't have to read everything, I think you have the recommendations of the same.

Hon. David Mbithi: Yes, I have.

Hon. Speaker: Read for us the recommendations.

Hon. David Mbithi: The Acting Chief Officer for Education, Youth Affairs and Social Services responded that, currently the preschools attached to the public schools were benefitting from school feeding

programs sponsored by UN-World Feeding Program (UN-WFP) and Feed the Children (FEED). That there were 91 No. of UN-WFP schools and 72 No. of FEED Schools.

Whether there were funds set aside for the said program and if yes, what happened to the funds?

The Acting Chief Officer for Education, Youth Affairs and Social Services responded that the schools were under cash transfers to school model where schools received capitation from the two organizations based on enrolment at the rate of Ksh. 9 per child per term and an additional Ksh. 2 for fruits and vegetables.

These food items were brought and managed by School Board of Management (BoM) with the help of School Meals Committees who are involved in the process of tendering for the food items independently with close supervision of both partners and the Nairobi City County Education Officers.

That the School Boards must strictly adhere to the guidelines by WFP and FEED.

That there were 24 No. of stand-alone ECD Centres popularly referred to as Day Nurseries. They were not attached to primary schools.

That their feeding program was managed and financed by parents through ECD School Management Committees and that the menu was balanced and approved by Education Department.

(Hon. Ogeto stood on a Point of Order)

Hon. Speaker: What is the Point of Order, Hon. Ogeto?

Hon. Moses Ogeto: Hon. Speaker, with due respect, this was a Statement which was requested by the Hon. Member. From what I am getting from Hon. Mbithi, he is talking about what they will recommend as a Committee but they have not told us what they established and Education department is going to do about the same. He is telling us that the school Boards are trying to engage and assist--- I am floating, he should guide me where we should be going to.

Hon. Speaker: I agree, Hon. Ogeto. That is why when he read Ksh.9 per child, I was a bit surprised. Can you agree with the Member so that you bring us a good response?

Hon. David Mbithi: Madam Speaker, this is the response we got from the Acting Chief Officer for Education---

Hon. Speaker: I will order that you agree with the Member and bring us a response after--- and I want to order the Member to also make sure you join that Committee when they get the response because four times you have not been there and that is why we are having a wrong response. So, I defer that until you agree with the Member.

(Applause)

Look at the questions and you will be able to get good answers but the member has to be in the Committee. When you come with a response to this House, it should be a response that both sides have agreed.

Hon. David Mbithi: But Madam Speaker, that is not the problem of the Committee but the problem of the Member.

Hon. Speaker: That is why I have ordered the Member to be in the next sitting and your answers to be precise based on the question he asked.

Hon. David Mbithi: Thank you, Madam Speaker.

Hon. Speaker: Hon. Peter Wanyoike.

STATEMENT ON THE STATUS OF ALL OFFICERS IN ACTING CAPACITIES IN THE COUNTY EXECUTIVE

Hon. Peter Wanyoike: Thank you, Madam Speaker. I have two responses; one from Hon. David Ayoi, who requested Statement on:

- i. The status of all officers in acting capacities in the County Executive and their deployment
- ii. Whether the County Executive plans to confirm the affected officers in those positions and if not, when the positions will be filled subsequently, and
- iii. List of the confirmed officers who were previously in acting capacity and for how long they have acted before the confirmation.

Madam Speaker, we invited the Hon. Member and he was satisfied with the response. With that, if you would allow me, I will go to the second Statement which was asked by Hon. Peter Warutere.

Hon. Speaker: Proceed.

STATEMENT ON OPERATIONS OF THE COUNTY PUBLIC SERVICE BOARD SPECIFICALLY ON EMPLOYEE MANAGEMENT

Hon. Peter Wanyoike: Hon. Peter Warutere requested Statement on:

- i. Reasons for the delay by the County Public Service Board in reinstating employees whose appeal was successful, Mr. James Hillary Wambugu of PIN No. 197601234173, Mr. James Muhindi Njogu of PIN No. 199910011595 and Mr. Tom Elisha Odera of PIN No. 19991000930.
- ii. Table the Board's internal procedure documents on disciplinary procedures and measures the board has taken or is taking to ensure smooth handling of all claims and counter claims in work disputes.
- iii. Measures taken against the Board Members of persons flouting labour laws and laid down procedures in handling of the employee repeated disputes.

Madam, Speaker, we called the Board. The Hon. Member appeared and was satisfied with the response.

Hon. Speaker: Hon. Peter Warutere, do you have any issue?

Hon. Peter Warutere: Hon. Speaker, I think this is a matter of great concern and I feel the Chairman should go through the response. As much as he has said he was satisfied, that is not the case.

Hon. Speaker: Let him go through the Statement because the issue of workers is an issue that we cannot discuss under the table.

Hon. Speaker: Proceed, Chair. Give us summary of that Statement.

Hon. Peter Wanyoike: Thank you, Madam Speaker. On 5th December, 2017, Hon. Peter Warutere rose on the floor of the Assembly pursuant to Standing Order No.45 (2) (c) and requested the Chairperson of Labour and Social Welfare for a statement regarding operations of the County Public Service Board specifically on employee management.

In the Statement, the Member requested:

Reasons for the delay by the County Public Service Board in reinstating employees, Mr. Hillary Wambugu, Mr. James Muhindi and Mr. Tom Elisha.

Madam Speaker, the Committee was informed that the above mentioned officers appealed to the Public Service Board but their appeal was not successful as stated. The Committee was further informed that the three officers were issued with interdiction letters from 8th July, 2016 which stated that concerns were raised due to the continued state of lawlessness within the city of Nairobi including certain officers with the County Inspectorate team who were receiving bribes to abet lawlessness and disorder. The wanton dumping of garbage, illegal use of parking bays by *matatus* and continued presence of *boda bodas* within the CBD and the presence of hawkers in the city streets, the officers responded to the interdiction vide letters received on July 2016 denying all allegations leveled against them.

The County Human Management Advisory Board (CHMAB) after much consideration recommended in October 2016 that the interdiction be lifted with effect from 8th July 2016 being the date they were imposed and that Mr. James Hilary Wambugu utilized all the accumulated 55 leave days upon lifting of interdiction. After the computation of the leave days he be issued with a retirement notice under the 50 year law. The CHMAB also recommended that Mr. James Muhindi Njogu and Mr. Tom Elisha Odour utilize their annual leave days upon lifting of interdiction and be deployed to another sector or department and further cautioned to perform their duties with care and utmost diligence. The County Public Service Board considered the CHMAB recommendations and was satisfied that the three officers had committed misconduct for which punishment had to be metted out.

The Board guided by Section 17(6)(4) of the County Government Act 2012 resolved that the officers be retired in the public interest on account of gross misconduct. The officers appealed to the Board and after consideration the representation of the Board noted that the officer did not represent any new evidence to warrant a reversal of its earlier decision to retire them in the public interest. The Board also affirmed that it had opted for retirement in the public interest as it was less harsh than dismissal and therefore the officers' long service has been considered. The officers wrote applications for review on the case for their interdiction and upon the Boards consideration on all facts and law upheld its earlier decision to retire them in the public interest as they did not present any new material evidence to warrant a reversal of the decision.

Madam Speaker, the second question was to table the Boards internal procedure document and disciplinary procedure and measures the Board is taking to ensure smooth haling of claims and counterclaims

in work disputes. Madam Speaker, the Committee was informed that the objective of disciplinary control is to create a motivated and dedicated public service which upholds the rules of conduct and work ethic for optimal service delivery. Madam Speaker, the Committee was further informed that the Boards internal procedures and disciplinary procedures require that in case termination or service is likely and where interdiction or suspension from duty is deemed necessary to facilitate a full investigation into the case, the County Secretary shall issue a show cause letter to the employee through which the employee may be interdicted or suspended depending on the nature of the case. An officer may be interdicted where misconduct which is likely to lead to dismissal is reported or a report that an officer has been charged in criminal proceedings is received.

Any person dissatisfied or affect by the decision made by the County Public Service Board or a person in exercise or purported exercise or disciplinary control against any county public officer may appeal to the Public Service Commission against the decision. Madam Speaker, on question number 3, laws taken against the Board or persons flouting laws and laid down procedure in handling the employee related disputes, Madam Speaker, the Committee was informed that the Board has not heard cases of Board members or persons flouting the labour laws and laid down procedures in the handling of employee related disputes. Madam Speaker, that was the response and as I had earlier said, we had invited the Member and during that meeting the Member was satisfied. Thank you, Madam Speaker.

Hon. Speaker: Thank you. Hon. Warutere.

Hon. Peter Warutere: Thank you, Madam Speaker for giving me this opportunity. Two things are coming out quite clearly here. One, I am depending on his written submission because I do not have a copy of his response. This is a House of rules and I think the Hon. Chairman ought to have supplied me with a copy of that statement so that at least I will be dependent on what he is reading but that is not the case. Secondly, I want to concur that I went for a meeting to that particular committee and the truth of the matter is like that there are a few agreements. He has alluded that the first person that is Wambugu who was supposed to be retired in the public interest, the second and the third who are Oduor and Muhindi were supposed, according to the advisory opinion of the Board, to be returned back to gainful employment. That has never happened, these two young and very competent officers are still languishing out there without any employment.

The advisory opinion as it were, was supposed to return them and they be taken to different departments. Madam Speaker, that is not the case and I think that is an issue and they have been going back and forth on this particular issue. Muhindi and Oduor are in their prime age-wise, I think Muhindi is 48 and the other one is 50 and if there was no issue at all with this particular Board, if there was no vendetta or mischief on this particular matter then I believe that the two should have been returned, not necessarily to where they were but even to other departments as advised. Madam Speaker, why is that not the case? Madam Speaker, lastly, when I went to the meeting with this particular Board, the Board looked quite aloof and it is not the kind of Board that should be serving Nairobi County.

It does not represent the interest of Nairobians, I was stuck there for two hours and nothing meaningful came out of this Board and I stand guided, Hon. Speaker, because I think we really need to refute the issue on the matters of this Board because if the Board is not serving the interest of Nairobians, if it is not

championing the interest of the workers of this great County then I think it is high time we now start rethinking the matters of this particular Board. They are a disservice to this County and to me, they have outlived their usefulness and it is high time that we consider a new Board with a fresh mandate to work on this particular issues.

Otherwise, Hon. Speaker, I want your advise on the same on matters pertaining to the three, whether the person was supposed to be retired because that has not been the case in the issue of Wambugu, Muhindi and Oduor as it is currently. We have been meeting with them in the corridors of Govenor Sonko and I can assure you that whatever opinion was given out here has not been met by those workers of this great County. Madam Speaker, the response as it is to me sounds probably satisfying to the Committee, I believe that is not the way to go, they still need to sit down with this Board and get proper assurance that they are working for the benefit for this Nairobi County. Thank you, Madam Speaker.

Hon. Speaker: Thank you, Hon. Warutere. I will only say two things. One, among the statements that you had requested you wanted to know whether they have a tool for disciplinary so I will ask the Chair, definitely they must have a tool, a tool is a document that you use when you are doing your HR so they must have a document that they use for disciplinary and maybe they can avail that to the House so that Hon. Wartutere can also look at it and see among the issues that were raised to the workers whether they are part of it, maybe that is why. Two, if it is an issue we can also look at the report that they used to interdict the two, maybe that is how the House can help the two members. So, Chair, you will do that for us. Chair, are we done with that?

Hon. Peter Wanyoike: Yes.

Hon. Speaker: Okay. Hon. Whip.

Hon. Chege Mwaura: Madam Speaker, I beg your indulgence to be able to add two or three points on the same issue. Madam Speaker that matter is also with the members who were there last time and it is probably two years since the affected civil servants have been languishing. Madam Speaker, it is important for this House to be taken seriously by the Executive because when the members of the public or members of staff of the Executive feel dissatisfied with the process that they were supposed to undergo and they come to look for solace and support from this end it is usually as a last resort and Madam Speaker, when a competent committee looks into issues and have given a way forward and a process had been taken and these guys... Mr. Wambugu for example as Hon. Warutere is talking about, he is probably remaining to a couple of months before his retirement age.

Why, after having served the county for 30 plus years, why can't we find an amicable way for him to retire in dignity? If they are members of the Executive that went through the process and they were found not culpable, why can't we just advise using this House the proper procedure for them to take otherwise if that Public Service Board is not adhering to its own systems and procedures then we need to relook at that Board in the first place so that we put precedent setting measures that if you have been found wanting and the process has been done and you were acquitted, then the proper processes of returning you should take place. However, if the County feels that it still does not need you then there is also a process of reliving you and paying you your dues you go home with your head high to your retirement and with dignity.

So, Madam Speaker, maybe I have heard your direction and I do not wish to challenge it but I am just hoping that for anything else if the Board cannot be able to come clean on what it wants to do with one person out of 13,000 employees then we should actually constitute a committee to relook at that Board if it is not helping the County and may others. You are aware that we recently also advertised for some positions and things are not very clear and sometimes they put us in awkward positions as people who are supporting Government. So, Madam Speaker, I just hope that the committee has captured this and a stern letter coming from the Secretariat of this House to go to that side and they know that maybe this is the last chance we are going to give them to give us good direction otherwise we will actually form a committee to investigate that Board in the first place. Thank you, Madam Speaker.

Hon. Speaker: Hon. Imwatak.

Hon. Peter Imwatak: Thank you, Madam Speaker. I appreciate my loyal friend Hon. Chege when he says the Executive is in the same situation because of the same Board. I also want to add my voice. Two years ago, Madam Speaker we were in the same Chamber and we discussed at length the latitude upon which this Board operates and it brings us to the same question 6 years down the line that this Board has issues. Madam Speaker, when you read the Public Service Board Act it stipulates the functions of this Board and this Board primary purpose is to create offices, to abolish offices and at the same time to guide disciplinary actions against any officer under them on behalf of the county government of the day. Madam Speaker, in recent months you will realize that the County staff are in a kind of situation, they are on a go slow but they are not ready to speak because as *Mweshimiwa* Chege says, an issue affecting a senior staff like Wambugu for instance, who has given almost half of his years on earth to serve the County cannot be resolved, what about that Clerk in Procurement? What about that Messenger in Legal?

You know, this County as we sit here must take precedent but we cannot sit as a representative of the people under Article 1 of the Constitution and the same people we represent either legally that their offices are not open until now, the Board is quiet. Ask yourselves a question, you are going to pass a budget in a few days to come, my Chair is going to table a budget before this House, but the question is the primary implementation of the procurement plan is vested in the Procurement Department. Currently the County Government of Nairobi has not more than 3 officers in procurement expecting to procure an average of 11 point something billion capital projects. Madam Speaker, it is impossible and they are not blind they are there, they are in the offices. So you ask yourself a question, how can a professional officer be transferred under the very watchful eye of the Board?

One of the procurement officers was taken to the Inspectorate, another one was taken to Mama Lucy, you see these are administrative challenges that even the Government of the day finds itself in but it needs a Board to guide the government of the day. Pursuant to this, this is our job, if there are any complaints about a particular section we relook at that section according to our professionalism. So, Madam Speaker, if we are not careful and I support this without question or contradiction that this Board has to be relooked at because at the end of the day Nairobians want service, they do not care who is in position what they want is service. If Sonko is the Governor today, tomorrow I will be the Governor so I expect a Board that can serve Nairobi. So, Madam Speaker we will not waste our time, Hon. Warutere, on this. Subject to the Chair of the Labour Committee we are going to bring a Motion before this Assembly requesting this Board, if they

cannot perform to pack and go so that we get a Board that can serve the people of Nairobi and the interest of the staff.

Madam Speaker, out of 13000 employees in this County half of them are professionals. I do not expect somebody who is registered as a Procurement Officer under a professional body transferred to Inspectorate, transferred to Finance and the Board is there. Madam Speaker, this is a wake-up call and I ask all the members of the Assembly if it cannot come from the Government side or from this side we will bring the Motion. Thank you, Madam Speaker.

Hon. Speaker: So Chair, I think you need to get us the report that they used so that that report is used by the House to now answer the questions that the Whip has talked about and answer the questions of both Whips on what they have said and what Hon. Warutere had said in the beginning. The report they used to say that at this level we are interdicting and the disciplinary tools they used to say that at least when we see what you have done based on our disciplinary action tool we find you guilty for that. Next order.

Hon. Maurice Gari: Point of Order, Madam Speaker.

Hon. Speaker: Yes, Hon. Gari.

Hon. Maurice Gari: Madam Speaker, I am rising on Point of Order under Standing Order number 56(h) Motion of privilege. Madam Speaker, I beg to give the following Motion pursuant to Standing Order 56(h) of the Nairobi County Assembly, Madam Speaker.

Hon. Speaker: Order! Until you hear me on that order then you can rise. For now I am still on Statement Hon. Gari.

Hon. Moses Ogeto: Madam Speaker?

Hon. Speaker: Yes, Hon. Ogeto.

Hon. Moses Ogeto: Madam Speaker, there was a statement which I requested last Tuesday and it was supposed to be responded by the Hon. Vice Chairman for Budget about the expenditure, and he committed before this House that the same Statement will be tabled.

Madam Speaker, Hon. Majority Whip and Hon. Minority Whip, I have said it is above the systems. This one was communicated by you Madam Speaker and we must respect your ruling always. As you are saying we go to the next order, I would also like to say that I have not received my Statement. I want to be given the status of the Statement because it was supposed to be tabled before this House today.

Madam Speaker, it is not about investigation or a site visit, it is just a document which is to be tabled before this House, about how they have paid Bills. Yesterday, you heard from the President's directives that everything should be working within IFMIS, that is what I want to be explained or unless otherwise you direct otherwise before this House.

Hon. Speaker: No, I will ask the Chair since he is in the House. Chair!

Hon. Robert Mbatia: Thank you, Madam Speaker, we are yet to get the report from the Executive side but they committed themselves to bring the report within the next two to three days. So, I believe by the next sitting of the Assembly, we shall have the report for *Mheshimiwa*. We tried to call him but he was not picking his phone so that we could inform him that. Thank you, Madam Speaker.

Hon. Moses Ogeto: Madam Speaker, that is why I talked about the systems. When I requested about the Statement before this House, it does not belong to Hon. Ogeto, so it is not about him calling me to appear before the Committee.

Madam Speaker, this Statement does not need a site visit, it is information that is a click just the way you are giving me a microphone to communicate before this House. This is the information which they have and how much they have transferred to an expenditure of both recurrent and the current, we don't need a rocket science on this. It is like the last time when we were here when power was switched off because Kenya Power was not paid and again we didn't have any water at our washrooms. So, a statement that needs a click of a computer takes five days instead of three days. Tomorrow we are going for a holiday. He is trying to communicate to this House that the statement which had argued this House to be tabled the same Tuesday but now it is Thursday and again we give another one week? Madam Speaker, we are not concurrent with the rulings which are being given in this House.

Hon. Speaker: Okay, Hon. Ogeto. Chair, I know the dilemma that you are in, but I believe if you cannot get it---

Hon. Robert Mbatia: You have already ruled, Madam Speaker, so we are still labouring on a point that you had made a ruling on.

Hon. Speaker: No I haven't. You have answered now, I just want to make a ruling on it properly. That if you are unable you know very well as the chair of the budget you can be able to get the document from the Controller of Budget, which will be more easier for you because they will give you what they have paid and what is still pending and it is easier. So that we don't believe it so much and I think the power was paid, Hon. Ogeto that is why you see the power is back. So you will get the answers on Tuesday. Is that okay Chair, on Tuesday?

Is there a statement for Jared Akama! Hon. Waithera, are you on a Point of Order!

Hon. Beatrice Waithera: Thank you Madam Speaker, there is a Statement that I asked three months ago that is yet to be given an answer, the status of the road is not worsening the other day I had to visit the place with Hon. Njihia because it actually falls in his Ward. I am just wondering what is happening because even the Committee is yet to invite us for a discussion on the same. Could you kindly give a way forward on the same because the status of the road is now very bad and the drainage system?

Hon. Speaker: Okay! All the pending statements will come on Tuesday, and therefore we will receive them all. Hon. Njihia proceeds!

Hon. Abraham Njihia: Okay Hon. Speaker, mine was to stand on the same for Waithera and also Hon. Speaker, there was some Statements, which I asked from November and I have not received them and also there are others that I requested in February, I have not received. The response.....

Hon. Speaker: Chair I have ruled on that, on Tuesday we should receive all pending Statement. I wanted you to proceed if you are giving us a response on the statement.

Hon. Abraham Njihia: Hon. Speaker, I am going to respond on a statement.

Hon. Speaker: Have you agreed with the Member?

Hon. Abraham Njihia: Hon. Speaker, the Member invited the Hon. Member according to Standing Order 45 (a) and he was satisfied with the statement.

Hon. Speaker: So you don't need to read so much you, you just need to tell us what.....

Hon. Abraham Njihia: Hon. Speaker, with your indulgence I think it is good if I go through because on the statement you had asked us to go further on it and I have the statement on the same. This concerns Safaricom, PCEA, Karen and I have the response with me.

Hon. Speaker: Okay proceed!

Hon. Abraham Njihia: Okay Hon. Speaker, on Tuesday, March 2018 Hon. Jared Akama MCA rose on the floor of the Assembly, Pursuant to Standing Order 41 (2) (c) and requested the Chairperson of Culture and Community Services for a Statement regarding decentralization of firefighting services to the Ward Level.

Madam Speaker, there has been ramped cases of disasters in the County, especially in the informal settlement. He further asked the Chairperson to inquire into and report on;

- (i) Measures being taken to decentralize fire stations and
- (ii) Measures the County Executive has put in place to ensure efficient and effective response to the disasters in the County.

Madam Speaker, the Committee responded on the statement on 6th March 2018 at the Assembly. The Speaker directed that the Committee follows up on a section of the response that highlighted there were plots that had been allocated for fire stations and were grabbed namely Karen turned to a PCEA church and Westlands where Safaricom offices are established.

Madam Speaker. The Committee, therefore, requested the Chief Officer responsible for Security, Compliance, and Disaster Management to furnish the Committee with a written response.

Madam Speaker, the response stated that the Committee the Chief Officer responsible for Security, Compliance and Disaster Management had forwarded the issues to the director Investigations to establish the following:

- (a) The circumstance leading to the alleged re-allocation of fire station land to other entities;
- (b) If anyone was culpable to any illegality;
- (c) Explore possibilities of recovery of the fire station land; and
- (d) Any other recommendations.

Madam Speaker, the Chief Officer attached a preliminary status report on the aforementioned two parcels of land indication that:

- (a) Karen- LR 1159/70
 - The plot measures approximately 2,87 Acres and is in the name of City Council of Nairobi (Defunct).
 - There is a dispensary on the plot.
 - A portion of the plot has P.C.E.A Church onsite
 - The portion occupied by the Church is LR1159/365 which measures approximately 1.4 Acres.

Hon Speaker On Westlands where Safaricom is located on plot –LR 1870/111/284

- The plot was resurveyed with LR 209/11645 to form 209/13263
- The Plot measures approximately 1.0339 Acres.
- LR 209/13263 is owned by Buna Agencies Limited

- LR 209/13253 is a Government lease of 99 years with effect from 1st April 1992.

The Chief Officer mentioned that the investigation is a process and sometimes, may take a longer period depending on the complexities of the matter.

Madam Speaker, the report of the Select Committee on Public Accounts on the consideration of the report of the Auditor-General on the Financial Statements of Nairobi City County Executive for the year ended 30th June, 2016 recommended the following on the Karen –LR1159/70.

- a) The County Government proceeds to survey demarcate and fence the part of the land LR 1159/70 that is not contested pending determination of the Court case No. JR/195 of 2014; and
- b) In the event of the unfavorable outcome of the Court case No. JR/195 of 2014 the County Government should appeal and vigorously defend against the acquisition of the land by the PCEA and seek the intervention of the NLC (National Land Commission) since the parcel of the land is ideally located for expansion of the health facility.

Madam Speaker, the Committee on Implementation key mandate is to ensure that the resolution of the said report is implemented within the minimum time necessary as per Standing Order 201 2 (a) and (b).

The Committee resolutions were: we follow up on the matter. Hon. Speaker, I beg to lay this response. Thank you.

Hon. Speaker: Thank you Chair. Hon. Akama Jared!

Hon. Jared Akama: Thank you very much Madam Speaker, I think when the Chairman says that, am in agreement let me say that I am in agreement with what he has read on your behalf because of that part actually it is I you who gave directives that they go further and investigate, especially when Safaricom was mentioned. Having said that Madam Speaker, am really requesting for your guidance because it is important that these Committees get to understand that when we are asking questions we are not asking them to victimize anyone, but basically with good faith that they may take it up as an idea especially the Executive, so that these ideas can be implemented for the purpose of the welfare of our people.

Having said that Madam Speaker, I am in agreement that they should go further and investigate and maybe reclaim the plots which were meant for firefighting stations. My real question was on the aspect of decentralization of fire stations and last time when they gave us the response it was a virtual response which was not pegged on Commitment.

Therefore, Madam Speaker, let me reiterate again that we need to be given the feedback as soon as possible, but with that substance of ensuring that the fire and its services are centralized. So, I have not heard them speak on that. What they have spoken is about reclaiming this process but the real aspect is decentralization and when are we likely to get this service, at the Sub-County Level or Ward Level Madam Speaker. Thank you.

Hon. Speaker: Yes, Hon. Ogeto!

Hon. Moses Ogeto: Madam Speaker, I am on a Point of Order under Standing Order number 36. After looking and doing my calculation before this House, I have seen that there is no quorum so Madam Speaker, I don't think that we are conducting business in this House without the quorum.

Hon. Speaker: Serjeant-at-Arms can you count. Order! Let us count and see how many Members are there. We are less by two Members whips bring two Members, in the House, we proceed Deputy Minority

Whip can you get us, one person, you know it is your work to ensure the House is function and you have just stood on a point of Order. You need to get us, two Members, that is why you are called the Deputy Minority Whip.

Hon. Moses Ogeto: That is why madam speaker I am saying it is my concerned as a whip to raise that point of order so that we can get the quorum for the business of this House.

Hon. Speaker: Bring us, two Members. Mary, we have no quorum we must get the quorum first. No, the quorum we have already agreed and nobody goes out. Whip we have given you permission, No one should go out. Proceed! Hon. Ariviza! No one should go out even the Whip cannot. Not the Deputy Whip. Proceed, Mary!

(Laughter)
(Loud Consultation)

Hon. Mary Ariviza: Thank you, Madam Speaker, we are on statements and what I am realizing is that most of the Chairpersons and Vice-Chairpersons are from the Majority party and they are the one who are making us not to get the quorum. We need some discipline from that side because even now they are the ones who are making us not to have a quorum. Look at our side we are an almost full house. So give us some directions on what we are going to do about them because most of them they are the ones who.....

(Laughter)

Hon. Speaker: Order Mary! Yes, Majority Whip.

Hon. Chege Mwaura: Madam Speaker, as much as I respect the sentiments of Hon. Member is saying there is no our side and their side. There is only one House and in matters of a quorum, it shouldn't be used as tact's, it should be used to help us move the debate. There are some Members who have gone out for some reasons, let us not cast as persons, maybe a Member is out for a good reason or whatever because it is a free world. Madam Speaker, as I still stand as a Whip I have also been reluctant to air the grievances that the Whips face in trying to conduct serious business of this House. We are seriously under-capacitated to the point that in my position maybe it is a phone call to be installed in my office to be able to whip.

But Madam Speaker, I beg you good office in future the offices of the Whips be equipped to be able to facilitate the House to do its business because over and beyond being a Whip, I also represent a Ward and if there an issue between the Assembly and my Ward, you will know whatever will take precedence and of cause it is my Ward. So if in the event that maybe the Whips who have issues like my Counterpart had an issue yesterday that we were able to dispense very well as Government and know he has a cost to pay. If he had such an issue and I am saying that on a lighter touch that when he is out of a serious business like that that his office by the Deputy is still able to conduct that business. I beg.....

Hon. Speaker: Order!

Hon. Peter Imwatok: I appreciate my Majority Whip we really did a good job and I can see my Member from the other side has acknowledged despite the challenges we have. I can say authoritatively the

checkmate on the government side is always full in the House, there are no apologies to make and I appreciate the sentiments my counterpart has said.

Honestly we need capacity and despite that we have done well, my Members thank you so much for being there for the House and also on the issues of litigation and others we can address that, I can assure you the wheel is rolling.

Hon. Speaker: Hon. Gathundo what is it? I can't see your---

Hon. Charles Thuo: Thank you Madam Speaker. I actually just want to point out that the Office of the Whips is just saying in so many words that you should give them a car, a bodyguard and a secretary. They are just using so many words to ask for those simple things and if they want those things they need to their jobs Madam, I think just go ahead. They should not beat corners, they feel so bad. Their colleagues have cars, secretaries and two offices that is what they are saying in so many words.

Hon. Speaker: Order! He is on a Point of Order so I don't know what is out of order.

Hon. Chege Mwaura: With tremendous respect to my colleague and my age mate, Madam Speaker the Whips and I am saying this knowing that Hon. Speaker Elachi served as a Whip, should not be trivialized to mere cars. If you look at what the Minority Whip is driving, I don't think the Assembly can afford to give him the car he is driving now. For me I am okay I live in Ngara and I do a bicycle and I walk and I am comfortable. But what we are saying is that let the offices be there for posterity. Today I am a Whip and tomorrow I might not be a Whip but we need the office that can support the Whips to function in their own capacity.

Madam Speaker every serious office in this assembly if you want us to spill the beans, has this kind of television that gives you what is happening on the floor of the House including our corridors. Madam Speaker, this same facility is not in my office, so the day I am attending to Ngara issues I do not know that you need the quorum or not.

So Madam Speaker when we are saying we need these things, in fact I don't know what facility I hope you do a research and find out or use your institutional memory in the assembly that you served, to know what capacity we are talking about and give us commensurate capacity for the House to be able to operate in the optimum that you want Nairobi to be taken to. In future Madam Speaker, and the Chairman of Budget has just left, when we were doing our deliberations the Budget Committee can attest, that I said that every Chairman in this House needs an office in this facility. It is a shame that the Chairman of Budget does not have a place where he can take his many papers.

The Chairman of PAC Committee, a very serious committee doesn't have a board where you can take issues and you know these are very critical committees yet every other hullabaloo or any other staffer enjoys those perks Madam Speaker. We want when the Chairman of Budget is speaking Madam Speaker--

(Point of order)

Hon. Speaker: He is on a Point of Order.

Hon. Chege Mwaura: I am on a Point of Order my good friend and I will finish but I am just saying when we finished five years here we were not able to build that capacity. We will not allow ourselves, Madam Speaker I have just looked and I remembered there is a Speaker's Panel, if you walked out and he wanted

to lobby himself to look like a panelist sitting on the Chair, doesn't have anywhere to lobby himself. But I am saying for purposes of posterity, let us create offices that have dignity, let the chairmen whoever they are, I don't know whether we like them or not. But let them have capacity, let us have a House that have dignity Madam Speaker so that when we talk about Nairobi where the other 46 counties are coming to benchmark, they come and benchmark to a House that we have taken a considerable time to build and something that is going to be worth their time.

Madam Speaker, take those sentiments with a lot of seriousness. Thank you.

Hon. Speaker: I agree and I think I will finalize it from there as I will take it on another hat as the Chair of the Board and I know I have received many of your letters and I think I presented to the Board and I am in full faith that everything will proceed as agreed by the Board. There is no guidance I have closed that Chapter. Next order.

(Point of Order)

Hon. Speaker: Jared what is the Point of Order?

Hon. Jared Akama: Madam Speaker I don't want to interfere with this but I know may be the issue of Whips has taken center stage.

Hon. Speaker: I have ruled on that. Give me your Point of Order.

Hon. Jared Akama: My Point of Order is this; I have not heard your guidance and ruling in regard to the statements.

Hon. Speaker: Yes I have heard what you have said and I know your statement is a very weighty statement Hon. Jared and therefore I can see it is under investigation because of the plots that have gone to Safaricom and the PCEA Church, so I will want to just request the Chair to assist us to know whether this case is in court so that we don't prejudice ourselves all these are just investigations going on. He can bring that, that is a very simple question to bring on Tuesday and then we will proceed with it in a proper manner. We agree?

Hon. Jared Akama: Most obliged Madam Speaker. Thank you.

(Point of Order)

Hon. Speaker: What is the point of order Maurice?

MOTION

Hon. Maurice Gari: Madam Speaker, I think I rose before my able Whip whom I respect so much. My Order is on the Motion of privilege. I beg to give the following Motion pursuant to Standing Order 56 (h) of the Nairobi City County Assembly and it has come on a good time.

Madam Speaker, THAT aware that Article 73 (2) (d) and (e) of the Constitution of Kenya provides that the accountability of a state officer for decision and action of the key guiding principles of leadership and integrity; further ongoing investigation of misappropriation of funds in the Nairobi City County Assembly; deeply concerned that the Clerk authorized the Chair of the Public Accounts Committee of the County Assembly to lock out Members of the County Assembly, staff of the committee, auditors and media following the proceedings of the committee; recognizing that the audit query pending before the Committee of this Assembly: I further want to revoke the appointment of the following; Mr. Jacob Ngwele, the Clerk of this Assembly on the following grounds:

1. The gross violation of Section 18 (2) of the County Assembly Service Act. As the provision of this Act, the name of the Clerk, Ngwele was not tabled on the floor of this Assembly for approval. This is despite the appointment of the office bearer was an illegality.
2. Gross violation of the Constitution of Kenya, the County Government Act. 2012, the Public Procurement and Disposal Act. 2015 and the Public Finance Management Act.
 - (a) Unauthorized and irregular spending – The office of the Auditor General has raised audit queries regarding unauthorized and irregular spending by the office of the Clerk as reported in the financial year 2014/2015 of the County Assembly. The renovation of the Conference Hall Phase I was done at the cost of Ksh. 216,119,319. The two work certificates---

Hon. Speaker: Order, Hon. Gari! That is a very serious Motion and because it has names, it has to be a Motion moved properly and tabled well in the House. While I agree you have used Standing Order 56 as your Motion, I will give you the opportunity to follow a procedure of bringing a Motion the way we do so that we table it properly in the House because it has more issues that the Board has to also look at. Right now, we know that the DCI is in our institution and it can prejudice us especially on the issue of gross payments and somebody has to stand and defend himself.

So, I will request you to hold on that, we follow the right procedures and we give ourselves two weeks because I know next week I might be called as the Chair of the Board by the DCI to give a statement. So, let us follow that.

Hon. Peter Imwatok: Point of Order.

Hon. Speaker: Just hold on, Whip. Yes, Hon. Gari.

Hon. Maurice Gari: Madam Speaker, this is not a matter before the court and we will not be cowed to discuss this matter.

Hon. Speaker: I know, Hon. Gari.

Hon. Maurice Gari: Madam Speaker, this Assembly has a Standing Order which is like a bible, it is guidance. I can come with a Motion under Standing Order No. 56 (h) which gives me the privilege because this Assembly is like a High Court. The DCI and the CID are investigatory authorities. I know we are defending and the spirit of fighting corruption, you are defending an illegality. I have a right to move this Motion unless I am not a Member of this House.

Hon. Speaker: Order, Hon. Gari! I have said--- Order! Hon. Gari, I want you to listen to me correctly. One, I have agreed that you are a Member of this House. Two, I will give you the privilege to move that Motion but I want you to move it as a substantive Motion because it has very serious implications. That is

why I have said that I have agreed it is well done, you have a right to move such a Motion. But the way I have listened, at first, I was about to stop you on a point of order to tell you are awaiting my communication on why you were locked out from the meeting and I ruled yesterday that I will give you a full communication on the same.

Third, I appeal to you that when an institution is under investigations, we don't know what they will say and it can bring in other issues that we will not want this House to be taken as if we are already doing our investigation. I agree with all the issues that you have raised and as the Board, I will bring you also, but you have to bring it as a substantive Motion. For purposes of this, I agree with you it's like a High Court and therefore you have to have that member who is a staff to also stand and defend himself, the law allows that Hon. Gari.

(Point of Order)

Hon. Speaker: Let me hear Hon. Gathundo.

Hon. Charles Thuo: Thank you, Madam Speaker. What is being raised by the *Mheshimiwa* here is not exactly something that is strange and the writers of this Constitution had actually envisaged that because the revised County Government Act, Section 23 actually gives a procedure on what should be done in case the Board feels that the Office of the Clerk has violated the Constitution.

Madam Speaker, like you have said it is a very serious issue, and I would not like to respond to sections of media reports because that will be unprocedural but we know that it has been reported in the media that the DCI is investigating the Office of the Clerk, plus the Clerk as a person. And as we follow your ruling Madam Speaker because we respect it, I would wish that you advise the Member to follow the procedure that is laid out in the Constitution and then like you have said have the Motion brought here in the assembly, once approved so that this issue is done with finality. We would like to have a process which is very clearly spelt in the Constitution of the Member and any other person who might have any evidence and the person who is being mentioned in the Motion to be able to be given time to respond to the issues raised.

But then Madam Speaker, some of us now it is the fifth year and the things that happen here don't happen in a vacuum. We are conversant with what goes on here, it is not strange we are going to follow the law. It is very important because like *Mheshimiwa* Chege keeps saying, laws are kept for posterity, but this has been happening here and is not strange to us, we know what has been happening. We can't say that we know what is going to be involved but what the Members of this House expect, the Constitution is very clear Madam Speaker on the appointment of the Clerk. There are no grey areas, it is very clear that the Board shall advertise the post of the Clerk, they are going to interview them, then they are going to appoint and the name is then brought to this assembly. The laws are very clear.

Actually, the revised County Government Act is very specific and says; that the appointment of the Clerk is going to be competitive. It is very specific about that. We have also other issues in the last PAC report on the appointment of the Deputy Clerk. It is a pity when our President is going throughout the country after having a handshake with the Rt. Hon. Prime Minister and the People's President and having agreed to fight corruption and then we have a person who is the Chief Executive Officer of this Hon. House who is not properly appointed. It is wrong, it is an insult to us.

Hon. Speaker: Hon. Gathundo I have gotten your--- and you know you have now entered into that debate. I want us to stop it from there, I have listened---

(Loud consultations)

Hon. Speaker: Hon Ngesa, what is it?

Hon. Francis Ngesa: From the information I am getting from my friend there from Dandora, Madam Speaker you cannot investigate somebody who is in office, that will be*(inaudible)*

Hon. Speaker: It is okay. We have started winter in Nairobi.

Hon. Francis Ngesa: Madam Speaker you cannot investigate somebody, you cannot investigate me if I am a thief and I am still in the office. We have to do something; somebody should step aside so that we can know the truth. We will not come here and rubber stamp things we do not know. Madam Speaker I want to speak in Kiswahili; *"hatutaleta watu hapa kazi kwa Bunge"*.

Dandora people are asking me a lot of questions because they are reading in the newspapers every day. Madam Speaker they read this thing the other day and then this one here. We will not come here to follow unprocedural rules; we have to follow the law. If somebody is a thief, he is a thief and I am not mincing that---

Hon. Speaker: Order!

Hon. Francis Ngesa: Thank you.

Hon. Speaker: Let me give to my Speaker, Hon. Obuya.

Hon. Kennedy Obuya: Thank you Madam Speaker. Hon. Speaker, I am reading the mood of the House and I am seeing there is a lot of interest. I don't want to speculate because I don't know exactly what Hon. Gari wanted to submit that some Members in this House do not want and they are objecting. Hon. Speaker your guidance is paramount and I respect it, and in the interest of time, matters pertaining to corruption Madam Speaker, are grievous and the interest and the mood of the nation and the agenda of the President; corruption must be fought from all angles.

Madam Speaker we must know the borders and the parameters of the institution and person managing quarters of the institutions. It is true we have to protect Nairobi City County Assembly and Nairobi City County government but we cannot agree persons holding offices within the institutions, once like I hear, one I am not aware what Hon. Gari wants to submit but I am hearing something that some people in this House are out to object and gag Hon. Gari, Madam Speaker.

In the interest of fighting corruption please narrow down the two weeks with your wisdom, so that this matter should be settled Madam Speaker. Thank you.

Hon. Speaker: Hon. Patrick

Hon. Patrick Musili: Madam Speaker, let me say that this House is very important and we are all leaders. We cannot discuss a staff on the floor without firm evidence on the allegations.

(Loud consultations)

Hon. Speaker: Order, Hon. Members!

Hon. Patrick Musili: We are all leaders here---

Hon. Speaker: Order! Order!

(Loud consultations)

Hon. Patrick Musili: As a Minority Leader---

Hon. Speaker: Sit down! Order, Hon. Warutere! Hon. Members I agree that as a Board we have failed the Assembly by not bringing the name of the Clerk. I spoke to the Assembly in Parliament and they told me that the Clerk was seconded to this House by the Transition Authority on the year 2013 and later resigned from the Parliament of Kenya on the 1st of August and his letter arrived to this institution on the 8th of September. We know that we have to present him for approval to the House. We have not refused to do that. We are going to do it. As for the Deputy Clerk, we shall bring her credentials and do the same. I assure you. The issues raised by Hon. Gari are with the DCI and people will be going to Kiambu to record statements. That is why I requested him to await the investigations. We are not saying that he has done that. I assure you as the Chair that we will do what is right as an Assembly. Thank you. Next order.

Hon. Maurice Gari: This matter is so weighty and I need to be informed.

Hon. Speaker: I have finished.

Hon. Maurice Gari: Madam Speaker, without speculations---

Hon. Speaker: I have given a very good ruling.

Hon. Maurice Gari: Without speculations---

Hon. Speaker: You have no microphone Hon. Maurice. I have given a ruling and will answer you properly on Tuesday. Proceed Hon. Member.

Hon. Peter Imwatok: Thank you Madam Speaker for your wisdom and acknowledging as a chair of the board that all will be well. I also want to rise on a notice of motion and Standing Order number 36 to say that quorum in the House is wanting. This is a very important ---

Hon. Speaker: Order Hon. Members who are leaving!

Hon. Peter Imwatok: It is clear that there is no quorum in the House and I wouldn't want to put this motion for the sake. I wish that I put it when every member of this House is available. Having said that Madam Speaker, thank you for having a deep root on the County Assembly Service Act and I know that you will apply the same wisdom on it.

Hon. Speaker: So both of you are standing?

Hon. Peter Imwatok: I rose on a point of order already.

Hon. Speaker: Give me your mic.

Hon. Peter Imwatok: Standing order No. 36 *Mheshimiwa* Chege.

Hon. Speaker: Thought it was your Motion? You have brought in other issues.

Hon. Peter Imwatok: Madam Speaker, I have just said that I cannot put this motion for the sake of it.

Hon. Chege Mwaure: Madam Speaker, we have been with him in this House for some time and I wish that he doesn't embarrass the works that we have done for many years. The Minority Whip was moving a Motion and purports to be the Speaker who understands that there is no quorum. We raised this issue last time and disagreed on it. Procedures are very important and I am dismayed that the Hon. Gari has left. You

miss the point by not following on procedure and therefore I plead with the Minority Whip to proceed with his Motion because as the Standing Order is concerned, the Speaker is blind until the Standing Order is raised. He should not purport that Members who have decided to stay and listen to his important Motion are less qualified to discharge the matter. I know that he likes publicity and a lot of emotions but he should not play to the gallery.

Hon. Peter Imwatok: *(Inaudible)*

Hon. Mwaura Chege: I am on a Point of Order my good friend. I withdraw

Hon. Speaker: He has withdrawn.

Hon. Mwaura Chege: I am saying that the few Members who decided to stay must be given the respect to listen to his motion before any procedural adventures that he may want to venture into.

Hon. Speaker: Thank you Whip. Proceed on your Motion

Hon. Peter Imwatok: Hon. Speaker, I wish to seek your guidance because as we speak, the seconder of the motion is not in the House.

Hon. Speaker: Order!

Hon. Peter Imwatok: That is why I was saying that I would wish to move the motion with quorum. I seek your guidance.

Hon. Speaker: There is no guidance.

Hon. Peter Imwatok: Do I move without a seconder even if it is not procedural?

Hon. Speaker: Hon. Minority Whip proceed. You have your Whip to second.

Hon. Peter Imwatok: Madam Speaker, I remember the story of King Solomon when two women went up to him claiming that the child was theirs. Solomon said that a knife be brought and the lady who the child did not belong to decided that she was ready to slaughter but the other lady said no and asked that the child be given to the other lady so that he remains alive. Thank you for the solomonic advice. Allow me to move this motion on premise that we are less than ten in this Assembly; that aware that the Urban areas and cities Act 2011 broadly provides for the classification, governance and management of urban areas in cities. Noting that section 12 of the Act vests all powers to the County Government in the management of the City but the city shall be administered on behalf of the County Government by a board constituted in accordance with section 13 of the Act and a manager appointed pursuant to section 28 of the Act. Deeply concerned that roughly six years since the establishments of the County Governments, the implementation of the Act remains a mirage despite the glaring need for the framework provided by the Act in restoring and regenerating the city and its environs. Recognizing that in cities such as Kisumu, the public has petitioned the High Court to compel the County Government of Kisumu to constitute a city management board signifying the crucial role this board can play in the success of any city as enshrined in enabling law. This Assembly resolves that the County Executive committee urgently take the necessary measures pursuant to section 13 of the urban area and cities Act 2011 and appoint a Nairobi City Management Board.

Madam Speaker, we as legislatures have concentrated on talking about the County Governments Act, Public Finance Management Act, Appointments Act, and County Assembly Service Board Act but fail to look into the acts that enable the counties to run. For six years there has been a lot of challenges. The urban and cities Act spells out who should be in the board. They are professional bodies. I agree that the challenges

we face as a city cannot be dealt with in one day or two. We need a collective responsibility from all of us. That is why Madam Speaker having this board will help us broaden our minds as they sit down to talk issues infrastructure, security, agriculture so as to take the city back to where it was. I am sure that if the County Executive led by the Governor can make this in haste and have this board then some of the challenges we have can be channeled through this board for policy making to help us regenerate Nairobi. I therefore call upon my brother, the Majority Whip Ngara MCA to second the Motion, not oppose as directed by the Speaker.

Hon. Mwaura Chege: I rise to second the motion in the spirit of building bridges. I wish to say that there are very specific laws that provide for governance and the functions of a board. Article 20 of the urban cities Act is very clear on that and in as much as I am supporting, I want to guide myself with the provisions of article 185 of the constitution of Kenya which spells out the work of the County Government and County Assembly as a whole in matters policy development and with regards to how our County should run. Much as I have no objection to the passage of this good Motion, the workability of the same should be put in place as we think of how to implement. As my good friend has cited Kisumu County as his point of reference, we should also be aware the status of Nairobi and its challenges is of very many Kisumu's and are different. It is not good to stifle a thought that the makers of the constitution captured in the urban areas and cities Act. I support and maybe after we pass the motion if members agree, we proceed with a formula that brings visibility. We do not want to create jobs for people to bring about bureaucracy in the city and give us a hard time when it comes to service delivery. At the end of the day, the wananchi want services and the basic ones for that matter. It is a good gesture and a discussion that we need to raise with our counterparts from the Executive to rethink and respond by putting up feasibility on the realization of such a move. Thank you.

(Question proposed)

Hon. Speaker: Hon. Cecilia.

Hon. Cecilia Ayot: Sorry. Didn't know that my mic was on.

Hon. Speaker: Hon. Ndonje.

Hon. Ndonje: Madam Speaker, I want to say that the motion is weighty and needs deliberation of the entire house. It should not proceed when the House is lacking quorum. I am not opposing the Motion but supporting.

Hon. Speaker: Order! Hon. Obuya.

Hon. Kennedy Obuya: Thank you Madam Speaker. I don't know why my party leader is getting disturbed but I feel his reasons behind it. I rise to support the motion and looking at the mood of the House, I beg that you ask the mover to reply.

Hon. Peter Imwatak: Given permission by the Hon. Speaker of this Assembly, I must say thank you to my friend and all the hon. Members who sat here. I have seen you all and when you bring forth a motion I will be ready to support it to the end. Having said that, we must appreciate that this is a way forward for the County. People always think that the Hon. Member of Makongeni speaks contrary to others or criticizes the Government of the day. I say thank you to the entire house and we look forward to the implementation committee to communicate the same through your office so that the County can move forward. Our interest is nothing short of service to the great people who chose me from the hills of Teso to represent them. When

services are delivered in the entire of Nairobi then we will pride ourselves as having done something. Thank you so much, God bless you. Viva viva Nairobi forward.

(Question put and agreed to)

ADJOURNMENT

Hon. Speaker: Hon. Members, we now adjourn until the 19th June 2018 at 2:30 p.m.

(The House rose at 4:10 p.m.)