



NAIROBI CITY COUNTY ASSEMBLY

OFFICIAL REPORT

Second County Assembly – Second Session

Tuesday 16th October, 2018

The House met at 2.30 p.m.

(Hon. Deputy Speaker, Mr. John Kamangu, in the Chair)

PRAYERS

Hon. Deputy Speaker: Clerk, do we have quorum? Proceed.

STATEMENTS

STATEMENT REQUEST REGARDING APPROVAL OF SEEFAR APARTMENTS IN HIGHRISE ESTATE

Hon. Deputy Speaker: Chairperson, Committee of Planning and Housing. There is a request from Hon. Ayugi. Is Oyugi around? Thank you. Chairperson? Vice Chair? Any member of the Committee? Oyugi is the one to request.

Hon. Kennedy Oyugi: Thank you Mr. Speaker. Pursuant to Standing Order no. 45 (2) (c), I wish to request for a statement from the Chairperson of the Sectoral Committee on Planning and Housing regarding the approval of construction buildings in Nairobi City County, in particular, the approval of construction of Seefar Apartments in Highrise estate withing Highrise Ward.

Hon. Speaker, it is alleged that City planners approved the construction of Seefar Apartments in Highrise Ward. The developers had further sold the houses to the innocent buyers who are currently being threatened by NEMA and WARMA who have also given notice for the demolition of the said apartments.

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

- a) If Seefar Apartment is erected on a riparian land; and
- b) Plans put in place by the County Executive to ensure that the innocent buyers get compensated since the City planners approved the construction of the apartments.

Thank you.

Hon. Deputy Speaker: Chairperson, planning? Vice Chair? Proceed, Wambugu.

Hon. Joseph Wambugu: Hon. Speaker, we request for at least 14 days.

Hon. Deputy Speaker: Hon. Oyugi, are you comfortable with 14 days?

Hon. Kennedy Oyugi: Mr. Speaker, I am not comfortable with 14 days, bearing in mind that NEMA and WARMA had given a demolition notice of 14 days. We need answers before the 14 days.

Hon. Deputy Speaker: Hon. Wambugu, any other offer? 14 days not acceptable.

Hon. Joseph Wambugu: 12 days.

(Laughter)

Hon. Deputy Speaker: Hon. Oyugi.

Hon. Kennedy Oyugi: You need to be serious with the business. I am talking of a case where people are going to lose billions of shillings. When you say 12 days, I don't know whether you are listening to yourself. At most, I will agree with one week.

Hon. Elias Okumu: I am a member of the Planning committee. I think the member is part of the Planning committee but he doesn't understand what is going on in the committee. That is the reason why he is giving 14 days. This issue has been in the media for the last 4 days now. The buyers are suffering. As the Planning committee, let us bring the report within 6 days. That is next week, on Wednesday.

Hon. Deputy Speaker: Hon. Wambugu, are you comfortable with 6 days?

(Hon. Peter Imwatok stood on a point of information)

Hon. Peter Imwatok: Mr. Speaker, allow me to inform the Planning committee that the issue is so big. It is high time because demolitions are happening in the capital city of Nairobi. It is high time the committee takes charge. Worldwide, it is only in Kenya where riparian land is identified after a house is on 10 storeys. So, Mr. Speaker, Seefar Apartments with 287 houses occupied and sold, is now under the dam! I think the Planning committee must be very serious. The entire committee should also come up with a new plan for Nairobi. We cannot allow investors building their big houses and when people have occupied, paid land rates and are now told they are building in the wrong place. When this statement comes, we also want to know whether it is true that Taj Mall was demolished outside the beacons. Is it true that South Gate was demolished outside the beacons? It was built within its beacons. It is serious. The Planning committee, kindly open the scope of your work, give us a substantive report. We are talking about AVIC international. Do we have a traffic management system for that area, for the highway? There are things which are happening here. If a new administration came and I became the next Governor I will come and demolish AVIC because the current administration didn't. That is not right.

So, the investors are suffering. I believe the Planning committee, led by the Majority and Minority Leaders, have what it takes to give Nairobi a sense of direction and confidence to investors. Thank you.

Hon. Deputy Speaker: Let me make a ruling. 10 days are okay. Let me give you 8 days.

Hon. Elias Okumu: Mr. Speaker, as the committee of Planning, we should abandon all the other business and we deal with this one. So let us just deal with this one first. Let it come on Wednesday next

week. Those houses were built in 3 years. Where were these people who are giving notices right now? So, it is very serious. Let us just do it.

Hon. Joseph Wambugu: Hon. Speaker, we requested for the time because we do not want to bring a shoddy report. We were asking for ample time so we can bring a comprehensive report. We also need to write to the executive. I am requesting for 10 days.

Hon. Maurice Gari: Mr. Speaker, we need to be informed early enough. We spoke about Nairobi Regeneration and these things are now coming to our doorsteps. Mr. Speaker, I am a beneficiary of that Seefar apartment. Mr. Speaker, this thing will come to everybody's doorsteps. If we cannot form a committee to join these people on demolishing these houses, we are in for a rude shock. We must know what is going on in Nairobi. We cannot be controlled and we are the Assembly. We are the people who make and break laws in this Assembly. NEMA guys are just writing letters without consulting the Executive or the Assembly. This thing must come to a stop and we must stamp our authority and a committee must be formed to join the Nairobi Regeneration committee. We do all these things or we will be in for all this nonsense.

Hon. Deputy Speaker: Leader of Majority.

Hon. Abdi Hassan: Thank you Mr. Speaker sir. I think the matters which are being raised by the Members are of great concern but we need an ample time. As I understand, yesterday, NEMA gave a 30 day notice. So, it will be wise if you give the committee 10 days so that they can do an extensive work because this issue of demolition is a very serious matter. Investors are losing confidence in this city. So it is wise and I will ask my good friend, Oyugi, with his indulgence, to allow the committee to be given 10 days so that they can work out not only on Seefar but any house which is supposed to be demolished by the amorphous body which we don't know. There is an agency which calls itself multiagency and I don't know under which law it is operating. So, it is good for this House to give Planning committee 10 days so that they can come up with a comprehensive report concerning the matter of demolition. Thank you.

Hon. Elias Okumu: I don't know why we need 10 days because we are not going to do technical committee meeting. We are just going to summon the planning department Chief Officer and CECM plus NEMA and WARMA.

Hon. Abdi Hassan: You should know, Mr. Speaker, that NEMA and WARMA are outside the jurisdiction of Nairobi and you need to give them ample notice for them to appear before the committee. 7 days is a very small period of time.

Hon. Elias Otieno: You know my friend, the reason why I am saying it should be 6 days is because we are going to suspend all other business of the Planning Committee just to deal with this one and just to go and visit the site. When you increase with 4 days - okay I do not see how the 4 days is going to make a major difference so I can just allow your 4 extra days for us to get the proper answer. However, Mr. Speaker, I do not know whether somebody is intimidating the developers in order to eat something from them because it has been going on in Nairobi for a very long time. These demolitions were stopped sometimes back. I do not know why it is resurfacing again.

I have a letter in my office saying that we want to form an ad hoc committee to deal with these demolitions and so these demolitions should stop until we form this ad hoc committee and I think you should

also advise your good friend on the other side of Executive that they should just stop these demolitions until we form this ad hoc committee to deal with these cases of demolition. Some of these people took mortgages, where do you want them to go right now? They are going to die Mr. Speaker so please, just go and advice your friend on the other side – I am not saying who it is but I am saying your friend. Thank you, Mr. Speaker.

Hon. Deputy Speaker: Hon. Mark.

Hon. Mark Ndungu: Thank you very much, Mr. Speaker. While the committee is doing the investigation they should come with the list of the members who represent us in the Nairobi Regeneration because I do not think in this Assembly *kuna mtu ata moja ambaye anatu-represent* and we are stakeholders in Nairobi. *Hii Nairobi regeneration ukiangalia ---*

Hon. Abdi Hassan: Mr. Speaker sir...

Hon. Mark Ndungu: Let me proceed. I can even speak in Kikuyu my friend.

Hon. Deputy Speaker: Hon. Mark, please proceed.

Hon. Mark Ndungu: Thank you. So, while the committee is doing the investigation we should be given the list of the members who represent us in that amorphous body because you do not know them. We do not even have one MCA representing us and we are stakeholders in this city and I agree with the Majority Leader, let us be given 10 days to do a very great job. Thank you very much.

Hon. Peter Imwatok: Point of Information. Mr. Speaker, as much as I try to stay seated more ideas come to me. This Planning Committee whether it is given 7, 10 or 15 days we must also be felt as the owners of this city. This city was famously known to be a Maasai city and it therefore befits each and every one of us to fit inside it because as the Minority Leader has said, there is a very good planned strategy [on demolitions]

Because when you talked about Seaford Apartments it is the same person who is going to do the Eastland's construction in this County. Does it mean that if he does a project in Makongeni riparian land will move from Viwandani to Makongeni?

So, Mr. Speaker, we are saying that the good thing about the Planning Committee is that it comprises the Majority Leader, the Majority Chief Whip and the Minority Leader and therefore we want to see that the Majority Leader and the Minority Leader lead an entire contingent even if it means that the Planning Committee leads the entire Assembly so that even those Nairobians who have bought these houses can also feel the strength of their leaders, that we are here as their saviours.

The so called Nairobi Dam now is a sewer reservoir so just because the National Government apportioned some money for the cleanup now the big boys have come out now saying that this construction is within the Dam. We cannot allow this.

Mr. Speaker, I was privileged then when I was the Government Spokesman to travel the world and I visited the Netherlands. Netherlands is a dyke city, water flows everywhere but it is only in Nairobi when a river is next to you about 300 meters you are on riparian land. I think Mr. Speaker, the word riparian must be redefined again because some people do not even know how to spell it and they use it badly on the reserve roads. So, Mr. Speaker, I urge the Majority leader, the Minority Leader to lead a proper contingent of the Planning Committee even those members who are willing to accompany them to this estate. I saw a mother cutting here onions in the house and she is shedding tears, she is not happy. She says, "*I have taken a*

mortgage to buy this house and now three years down the line I am told that it is supposed to be demolished” and the person is ordering the demolition of a house that costs 1.4billion on a hand written notice.

That shows you just how much the NEMA people are not sure about what they are doing. That is the same thing the Minority Leader is saying, maybe somebody is just trying them *chapa shtua* we see how they will behave. This is exactly what is happening in this city, it is ‘*chapa shtua*’ ama ‘*keeping ray*’ as they call it. It must stop and we are asking the Majority Leader and the entire Planning Committee and the Minority Leader that we are ready to accompany you to Seaford Apartments so that Nairobians can also feel that indeed there are elected members of the Nairobi County Assembly who can stand for them. More importantly, I now concur with Waititu, the Governor of Kiambu, we cannot continue demolishing peoples investments, if it is to move the rivers let us move them (*Laughter*) because in the entire world like the Queens Palace in the UK is next to the water tower.

Why is it only in Nairobi there are flags like Southgate. I propose that we wait for the rains and we see if there are no flooding’s in South C and South B because Southgate was demolished because our priorities are not right. Mr. Speaker we must also call upon the engineers of this town, the architects of this town to lead the way, to redefine how development in Nairobi can be done. Therefore, Mr. Speaker, I am urging the Majority, Minority Leaders and the entire Planning Committee, allow us to give a notice through the Clerk to allow us to accompany them to Seaford Apartments so that these Nairobians can see that yes indeed, there are leaders who care for them. Thank you.

Hon. Deputy Speaker: Hon. Kabiru.

Hon. Mbugua Kabiro: Thank you, Mr. Speaker. I would also like to weigh in on the matter. I would also want that the committee while at it, define for us clearly what riparian means because according to the documentations that we have read, riparian is a minimum of 6 to a maximum of 30 meters on either side of a stream or a river and it is calculated by the highest point of that water body or river. So if the stream has disappeared they should calculate the riparian based on that small stream and then tell us whether that stream has disappeared because of man-made activities or natural occurrences. So, when they measure they tell us, “this building is occupying 20 meters of the riparian or 6 meters of the riparian based on the calculation that they have actually done. So, I urge the Planning Committee which is in charge, clearly define for all the Nairobi what riparian means and henceforth we use that definition to comprehensively deal with any other issue that has to do with demolition and riparian land. Thank you very much Mr. Speaker.

Hon. Deputy Speaker: Hon. Ndonji.

Hon. Joseph Ndonji: Thank you. Mr. Speaker, I think the word riparian does not apply in this case. Nairobi Dam is not a natural dam, it is an artificial dam, and it is a man-made dam. In a man-made dam the word riparian does not apply, riparian applies to a natural river or stream so I do not understand why these people are talking about riparian. The word riparian should not be used here and the demolitions are not justified by all standards. Riparian applies to a natural river or stream and here is a man-made dam not even a river, it is not natural so the demolition by all standards is not justified and it has to be stopped. I wonder if a person in NEMA cannot describe the word riparian which applies to a natural lake or river or a natural stream and yet this is a man-made dam. How do you refer to this as riparian? It means that we are not sure about what we are doing, NEMA is not sure. Thank you.

Hon. Deputy Speaker: Hon. Wambugu.

Hon. Wilfred Odalo: Thank you, Mr. Speaker. I have a point of information to Hon. Ndonji. I think from what the notice indicated they did not refer to it as riparian land. Rather it was land that was allocated for Nairobi Dam construction and I understand the Nairobi Dam has not been constructed yet. So, the question we should be asking ourselves is, is Nairobi County aware that NEMA and WARMA...

I believe that if the dam is meant for Nairobi that means the land that was allocated belongs to us as Nairobi. Are we in the know that they are after the land, or else it will be just as Hon. Imwatok has said, maybe it will be the *chapa stua*, maybe because first we need to be informed as Nairobi County that they are after the land since I believe the land belongs to Nairobi County? Just as our Governor was leading the fight in reclaiming the lands that were previously allocated for fire stations. That is my take, thank you, Mr. Speaker.

Hon. Deputy Speaker: Yes, Minority.

Hon. Elias Otieno: Mr. Speaker I think Hon. Ronaldo is just misleading the House. As far as I am concerned all of Nairobi is in riparian land. You know riparian is a wet area. Even where these houses are situated - the insurance ones - that one was riparian area. Do you think that it is going to be demolished because somebody somewhere is talking about riparian land everywhere? I think I agree with Hon. Ndonji because Nairobi Dam is man-made. It is not natural, it was not created by God it is just man made dam.

So Mr. Speaker let the Planning committee move with speed to go and stop whoever gave the notice to the developer to stop with immediate effect because people are crying; they took loan to buy those houses. Even as much as Hon. Ronaldo is talking that the land was designated for the dam, who gave them their title deed? Who gave them the approval? They got the approval and the NEMA certificate; they got the title deed, so they are legally there. I think they should just stop. Mr. Ronaldo and the other members of Planning Committee should move with speed and stop it.

Hon. Mark Macharia: Thank you Mr. Speaker.

Hon. Deputy Speaker: I have not given you a chance! Why are you controlling that microphone? Please sit down. I am only going to give three members so that we can conclude this matter once and for all. So please wait until I gave it to you and not yourself giving to yourself. Hon. Jagero?

Hon. Millicent Jagero: Thank you Mr. Speaker. I just want to make a contribution on the so called riparian land. I differ with my fellow Hon. Member, Hon. Ndonji. Riparian in the dictionary is clearly stated as an interphase between the river or a stream. While in the Kenyan definition it clearly defines on how Hon. Wambugu said it but it has not stated whether it is a man-made lake or a natural lake or a dam. So there is no definition there; we have to work with what is there. Thank you.

Hon. Jeremiah Themendu: Thank you Mr. Speaker. Let me add something there because Nairobians have suffered a lot concerning the demolitions which are going on. It does not matter whether it is a riparian land or whatever; somebody who has all the documents should be protected. We as the representatives of the residents of Nairobi we are seen as if we have no tooth to bite and the reason why they are doing whatever they want without anybody questioning them and we are the people who make the rules or the policies for the same.

I support the Member from the area and I think there is another dam near Kenyatta Hospital that they want to demolish other houses near there. We should rise up and protect those Nairobians because they are our supporters. If we gang together we shall stop that until they come and explain to us what is happening. Thank you, Mr. Speaker.

Hon. Anthony Gatune: Thank you Mr. Speaker, for giving me this chance. I would like to say that I don't know why our government is focusing so much on making its citizens so unhappy while we as elected leaders of Nairobi---

Hon. Deputy Speaker: Hon. Gatune please do not chew the microphone, we want to hear you. Let your voice come out properly.

Hon. Anthony Gatune: Okay. Sorry for the inconvenience. I am saying that I don't know why our government is focusing so much on hurting the people that put it into power and not focusing on the agendas that we elected members sold to the people while we were getting elected. Like in my Ward I have never seen a tarmac road. I would like to say that those funds that they have to build the Nairobi dam let them relocate them to our wards level so that we can build may be roads, hospitals and the other things that we need rather than hurting our people. Thank you Mr. Speaker, for that.

Hon. Deputy Speaker: I had said that I am only giving three people only. For this Committee to come up with a comprehensive report, I think it is better for us to give them 10 days so that they come up with a very comprehensive report once and for all. Hon. Oyugi what do you want to say?

Hon. Kennedy Oyugi: I want to agree with the speakers who have spoken over the issue and I want to add my voice into the suggestion that members of the committee plus other members who might be interested in accompanying the Planning Committee to the site while we are waiting for the 10 or 6 days as has been suggested by the leadership. I would suggest that the earlier the better. The Planning committee can plan for tomorrow or Thursday to go and visit the site. The issues of riparian land, let leave it to the experts because; yes the dam is man-made, but remember there is also Ngong River passing across the dam. So whether it is a riparian or not, let leave it not the experts.

Hon. Deputy Speaker: Let us go by 10 days because it is a process. You liaise with the leadership of that committee within those 10 days, because they are there. Clerk lets proceed, Planning committee 10 days.

Responses from Chairperson Planning Committee, Hon. Kiragu Wambugu?

Hon. Joseph Wambugu: Thank you Hon. Speaker. I have two responses from a statement requested by the Hon. Chege Mwaura MCA and I will request that I table the response although the Member who had requested for the statement is not present, I want to confirm that he has seen the response twice and he is satisfied and he was in agreement that we table the response even though he is not present, with your permission Mr. Speaker.

Hon. Deputy Speaker: Proceed and table the response.

STATEMENT RESPONSE REGARDING COUNTY'S ROLE IN RECENT ISSUANCE OF 60,000 TITLE DEEDS IN EASTLANDS REGION

Hon. Joseph Wambugu: Hon. Speaker on Wednesday 27th June, 2018, Hon. Chege Mwaura MCA, rose on the floor of the assembly pursuant to Standing Order No. 45 (2) (c), and requested the Chairperson of Planning and Housing Committee for a statement regarding the County's role in the recent issuance of 60,000 title deeds in Nairobi's Eastlands region.

According to the member, despite the value of land having gone up, most land owners in Eastlands do not have titles as they bought the parcels of land from land dealing companies that only issued them with allotment letters thus exposing their land to the risk of being grabbed.

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

1. Process involved in requesting for a title deed under the plan from the start to eventual processing and issuance
2. Implementation of the plan including fees requirements and justifications for the same;

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3. Challenges experienced so far by the County in rolling out the plan;
4. Proposed mechanisms to make the process smoother for wananchi to be guaranteed of a friendly, fair and transparent process; and
5. Whether the programme/plan has a second phase; what are the targeted areas and initial requirements; and when the same will be rolled out.

Hon. Speaker, the Committee wrote a letter to the county Executive Committee Member responsible for Lands, Urban Renewal and Housing on 6th July, 2018 where the contents of the request were outlined. Further, the CEC Member for Lands, Planning and Housing delivered a written response to the committee on July 24th July, 2018 on the issues raised. The issues are:

Process Involved In Requesting For a Title Deed under the Plan from Start to Eventual Processing and Issuance

The County government does approval for subdivision plans done by private surveyors where land is private and where land belongs to the County it does planning, survey, preparation, attestation, signing and sealing and registration of leases at the Ministry of Lands.

Implementation of the plan including fees requirements and justifications for the same

Fees charged are:

- (i) Survey fees – Kshs.25, 000/= - Caters for acquisition of survey data amongst others.
- (ii) Beacon certificate at a fee of Kshs.20, 000/= - Caters for the processing of Beacon certificate.
- (iii) Application fee of Kshs.1,000/= which caters for the administration costs of evaluation applications
- (iv) Lease fees Kshs.30,000/= catering for the preparations and attestations of lease documents before they are submitted to the Ministry of Lands for registration

Challenges experienced so far by the County in rolling out the plan

1. Lack of modern survey equipment
2. Inadequate transport
3. Failure by the County to pay the Director of Survey the checking fees for the finalized surveys
4. Lack of legal team to prepare lease documents and follow up the registration of the leases/titles
5. What proposed mechanisms to make the process smoother for wananchi to be guaranteed of a friendly, fair and transparent process?

The County Government has invested in two (2) modern survey equipment and six more are in the pipeline. This will fast track the survey process. The County Government has also purchased six vehicles for the survey team. Sadly, two were reposed due to lack of payment and one was involved in an accident. The County Government has waived survey fees for 30,000 plots which translate to 80% of the surveys done so far.

Whether the program/planner second phase and what are the target areas and initial requirements and when the same will be rolled out.

Issuance of title deeds in a continuous process- the targeted areas of County land are mainly the informal settlement. For private lands, the targeted areas are Kasarani, Embakasi Ranch, Njiru-Githunguri which is Utawala, Mihango, Karagita and Kahawa west. Hon. Speaker, I beg to table this response. Thank you.

Hon. Deputy Speaker: Proceed to the next one

Hon. Joseph Wambughu: Hon. Speaker---

Hon. Deputy Speaker: You have not requested.

Hon. Peter Imwatok: Thank you acting Chair for Planning. Mr. Speaker, this is a House of rules and procedures and I believe that any statement requested by a member in plenary is subject to scrutiny by the entire Assembly and most importantly we must be supplied with documented evidence of the same.

The issue of title deeds cuts across all and is not limited to the few mentioned names. Everyone in this Capital city has a right to a title deed if they have a lease and I don't know if the Chair is aware that Members seated here do not have a copy of the document before them. We have questions to ask and we need to know how transparent was this process of issuance of title deeds because as a representative of the people, we are getting complains that other people in the process lost their land while others could not authenticate the number of title deeds vis a vis the plot he/she occupies.

So these are the questions we have and hoped that the report could be circulated to Members as we represent a unit called Nairobi County. I would also want the Chair of the committee on Planning to ascertain whether they were satisfied as a committee with the responses given to them by the Executive vis- a- vis what is happening in the ground. We will not allow a situation where the Executive feeds us with technical answers as one that I have heard the reader give and I am sure he does not understand.

Let us look at these issues and ensure that no officer brings to us ambiguous statements to confuse us. Therefore Mr. Speaker I am invoking your authority under Standing Order one that you give a directive that every statement or report tabled before this Assembly is circulated to all Members of the County Assembly. I beg to sit Mr. Speaker.

Hon. Deputy Speaker: Hon. Matara, are you on a point of order?

Hon. Silas Matara: I wanted to talk about the statement on demolition but you have already dispensed of with the matter

Hon. Deputy Speaker: Hon. Matara, we are far off from that. Hon. Wambughu proceed.

STATEMENT RESPONSE REGARDING NAIROBI URBAN RENEWAL INITIATIVE

Hon. Joseph Wambughu: Thank you. Hon. Speaker, on Tuesday 5th June 2018, Hon. Chege Mwaura MCA rose on the floor of the Assembly pursuant to Standing Order 45 (2) (c) and requested the Chairperson of Planning and Housing committee for a statement regarding the Nairobi Urban renewal initiative launched by the former Governor of the Nairobi City county under the County comprehensive urban renewal program (ECURP). According to the Member, the first phase of the project dubbed "the Eastland's Urban Renewal project was to result in new housing units built in open spaces of new and old Ngara, Pangani, Geevanjee, Bachelors, Uhuru and Woodley. The member further asked the Chairperson to inquire into and report on;

- Current status of the project especially in Old and New Ngara estates, Pangani, Geevanjee and Bachelors quarters?
- Measures taken to bring on board residents potentially to be affected by the project and if any table report of public participation?
- Implementation plan of the project – ie when will the project commence and completion date?
- Measures put in place to ensure the well-being of residents to be affected by the project especially the provision of alternative accommodation and priority for occupation of the new housing units?
- When the County Executive intends to forward the plans to the Assembly for approval pursuant to article 185 of the Constitution section 8 of the County Governments Act 2012 and other enabling laws

Hon. Speaker, the committee wrote a letter to the County Executive committee Member responsible for lands, urban renewal and housing on 7th June, 2018 where the contents of the request were outlined. Further the CECM for Lands, planning and Housing delivered a written response to the committee on 13th June 2018 on the issues raised. In this regard Hon. Speaker, I wish to report to the Assembly that;

Current status of the project especially in Old and New Ngara estates, Pangani, Geevanjee and Bachelors quarters?

The CECM response was; the County has identified joint ventures which are for 8 projects as per the attached response. The county is in the process of securing land documents, the ministry of lands has issued letters of allotment for Pangani and Old and New Ngara and that public participation has been done and engagements are still ongoing even as development continues. For specific project status, see annexes which I will table. The project has not commenced, it is awaiting approval of a sessional paper by the Assembly and conclusion of court cases by the Assembly and tenants.

Measures taken to bring on board residents potentially to be affected by the project and if any table report of public participation?

Public participation has been undertaken as required by law since inception of urban renewal project 3 years ago. The process involved engaging with representative committees, tenants and political leaders. 46 meetings have been held to date in the earmarked estates.

Implementation plan of the project – i.e. when will the project commence and completion date?

The project is expected to commence in July 2018 with Pangani and Ngong road based on the availability of the land leases. Other project sites will commence as soon as leases are made available. It is expected that construction period per site will be between 24 and 36 months.

Measures put in place to ensure the well-being of residents to be affected by the project especially the provision of alternative accommodation and priority for occupation of the new housing units?

There are ongoing negotiations on whether to relocate or compensate tenants considering their safety and health during the construction period. Existing tenants will be given priority in selecting and occupying the housing units through a tenant purchase scheme. Consideration will also be given to people with special needs. Tenants will sign letters of offer and tenants purchase agreements before commencement of construction.

When the County Executive intends to forward the plans to the Assembly for approval pursuant to Article 185 of the Constitution and section 8 of the County Governments Act 2012 and other enabling laws

The County Executive will forward a sessional paper to the Assembly in July 2018 for approval. Hon. Speaker, I beg to table this response. It was long overdue and we were not able to table it since the Member used to disappear before the response was tabled. However, the Member is satisfied with the response and he can attest to that. Thank you Hon. Speaker.

Hon. Peter Imwatok: Chair, as much as Hon. Chege is satisfied with the report, as far as I know him, when he is satisfied he is and when he is dissatisfied then he is dissatisfied

Therefore, Hon. Speaker, allow me to delve a bit into this report the Acting Chair has just read, subject to the commencement of the construction for Jevenje because...

Hon. Abdi Hassan: For my good friend who is my able Minority Whip to seek for clarification or debate on an answer yet we are not sure if the person who has asked is satisfied or not satisfied Hon. Speaker sir.

I think before the Member does that, who is now our Acting Speaker you should not allow my good friend here. *(Loud Consultation)* Hon. Speaker, you should protect me from this bullying Minority Leader because am on the floor, Hon. Speaker sir.

(Laughter)

Hon. Speaker Sir our Standing Orders does not allow what our good friend, Hon. Imwatok has done.

Hon. Peter Imwatok: Thank you, Hon. Speaker, first of all, the Majority Leader of this House has to know the rules and procedure that My Minority Leader is known as Hon. Elias Okumu and not a bully so can he kindly withdraw that because it is on HANSARD before we proceed. More importantly Hon. Speaker, anything that is before this House is the property of the House. This is because when we are talking about...

(Hon. Moses Ogeto stood on a point of order)

Hon. Moses Ogeto: Hon. Speaker, I am on a point of order No. 45 (2) (g) which states that after a response has been tabled in the House it does not give a room for debate. Hon. Speaker, for your convenience you may wish to give a chance for only a few Members to speak about it but again it does not invite for the debate of this House. Therefore, I am requesting my Chief Whip to read the Standing Order.

Hon. Peter Imwatok: Hon. Speaker, I was informing the House as per the report read by the Hon. Chair, the report which I was listening keenly, and that is why I am blessed because I listen. He was saying

that the report says construction of these houses was supposed to be commence in August 2018 and the Chair emphasized 2018. If you go with me slowly without hurry you will realize that we are in October, 2018.

The point of information I wanted to enlighten the House was that as by October there is no single unit that has been put up in this capital city, in terms of Ngara or Jevenjee, so that the House cannot be taken in hullabaloo way saying that we have Houses under construction. Let it be very clear that the point of Information is that the report has arrived but there are no houses under construction now.

Hon. Silas Matara: Hon. Speaker, I want to inform my good friend Hon. Imwatok as from the report that my fellow Hon. Member read it clearly indicates on the availability of leases the project was scheduled to start. Thank you, Hon. Speaker.

Hon. Peter Imwatok: Ngara and Jevenjee construction will start on August but for other parcels of land it is subject to availability of leases. It is good to understand the question that is why sometimes passing exam is not by coincident. You must understand the question.

(Loud consultations)

(Members spoke off-record)

Hon. Deputy Speaker: Hon. Member that is not a parliamentary language, please. Let us finish the matter now. Clerks proceed! What statement?

Hon. Peter Imwatok: There are statements of about eight months ago that I was requesting from him. Let me consult with him so that I can ask tomorrow.

Hon. Deputy Speaker: Thank you, clerk please can you proceed.

Hon. Moses Ogeto: I remember Hon. Speaker, one time when you were sitting on that chair there is motion you passed in this House about demolition. The Leader of Minority committed himself before the House that he was going to bring a comprehensive report.

That is why Hon. Speaker we are seeing demolition everywhere yet we have no articulate measures. The Leader of Majority said that he is going to bring a progress report of that motion.

Hon. Deputy Speaker: That is a different matter. Hon. Elias!

Hon. Elias Okumu: I think Hon. Ogeto you should understand one thing that Hon. Leader of Majority is the beneficiary of those demolitions so he cannot bring the comprehensive report.

(Laughter)

Hon. Deputy Speaker: Hon. Otieno, please can you sit down.

Hon. Elias Okumu: Okay! What do you think I am saying he was a beneficiary?

Hon. Deputy Speaker: Can you address the Chair, please.

Hon. Elias Okumu: Hon. Speaker, there are so many things that someone can benefit on, so what I am talking about is beneficiary. I have not indicated the item, so you should also understand that as much as you want to protect him. The time he called me bully you did not protect me. Therefore I think you should understand that also.

Hon. Deputy Speaker: Thank you I have understood.

Hon. Elias Okumu: Hon. Majority Leader, can you please table a comprehensive report in this House if you not the beneficiary of the demolitions that are taking part in Nairobi. I am not saying you are a direct beneficiary, but what I am saying is you are the beneficiary. I am not giving the item which you are benefiting from.

Hon. Speaker, Majority leader is my good friend and he should stand and apologize for calling me a bully because that word is not good for me as I would not have several women and yet he has only one. That is why he is bullying one other than bullying four or five. Thank you, Hon. Speaker.

Hon. Deputy Speaker: Hon. Otieno do you need a response. Let us proceed!

Hon. Peter Imwatak: Hon. Speaker, My Hon. Majority Leader is just here and the question has just been directed to him but you are just trying to brush off to avoid the Majority Leader to commit himself. Kindly allow the Majority Leader to give us an undertaking.

Hon. Deputy Speaker: Majority Leader did you know what they are requesting you to do.

Hon. Abdi Hassan: If I heard him well, he is speaking about demolition and that matter has been seized...

(Laughing)
(Loud Consultation)

Mr. Speaker Sir, can the Member allow me to finish.

Hon. Deputy Speaker: Hon. Ogeto, Majority Leader is standing, please.

Hon. Abdi Hassan: The matter on demolition has been seized by the Committee of Planning and now it is upon the Planning Committee, which my good friend here Minority Leader is a Member and also am a Member, will come up with a comprehensive report concerning the matter of demolition.

Hon. Speaker, on the matter on employment that matters squarely belongs to Labour Committee Speaker sir.

But I want to tell my good friend here that on the matters of the status of the County I will bring the report on it and they should give me time because in the Standing Order it says that it should be brought either quarterly or yearly and the year has not ended. I will, therefore bring a comprehensive report about the status of this County. Thank you, Hon. Speaker.

Hon. Deputy Speaker: Thank you Majority Leader, I think you have heard. Clerk please can you proceed.

MOTION

SECOND REPORT OF THE SELECT COMMITTEE ON PUBLIC INVESTMENTS ON THE FINANCIAL STATEMENT OF NAIROBI CITY WATER AND SEWERAGE COMPANY LIMITED FOR THE YEAR ENDED 30TH JUNE 2017

Hon. Deputy Speaker: Mover! P.I.C.

Hon. Silas Matara: I beg to move that this Assembly adopt the report on Select Committee on Public Investment on the consideration of the Auditor-General report on the Financial Statement of Nairobi City Water and Sewerage Company Limited for the year ended 30th June, 2017 laid on the table of the Assembly today Wednesday, 3rd October, 2018

Hon. Speaker, the mandate of PIC as provided for under Standing Order 198 (5) is examination of the accounts reports and working of the County Public Investments and in the context of the autonomy and efficiency examine whether the affairs of the county public investments are being managed in accordance with sound financial or business principles and prudent commercial practices.

Hon. Speaker, this report of Auditor General was committed to the PIC on 10th April, 2018 for consideration and reporting. Article 229 (8) of the Constitution provides that within three months after receiving the report of the Auditor General, Parliament or the County Assembly shall debate and consider the report and take appropriate action.

It is on these bases that this report has been produced by the Committee for consideration and adoption by the County Assembly.

In the same vein, Hon. Speaker, I want to sincerely thank you on behalf of my Committee for having considered our request of extension to allow us finalize on the report. While considering the report, the Committee met and interrogated the Acting Managing Director Nairobi Water, Finance Director and Finance Manager. Moreover, the Committee received written submissions from the witnesses.

Allow me, Hon. Speaker to thank the entire Membership of this Committee for its hard work and commitment which made the taking of evidence and production of this report a success.

Hon. Speaker, the Audit Report of the Auditor General raised several issues that hamper effective service delivery to Nairobians especially during the year under review. The issues that have been raised include:

Encroachment of Land

The Committee has recommended that:

- i) County Executive to hasten the process of acquiring ownership documents for each property of the Company;
- ii) The Company should secure all their properties and demolish any illegal structures on their land as they wait for ownership documents; and
- iii) The Company and the County Executive urgently institute measures to recover irregularly allocated plots reserved for expansion, storage and treatment works.
- iv) The company should write to the Ethics and Anti-Corruption Commission (EACC) and the National Lands Commission (NLC) to investigate the encroached parcel of land under listed; Loresho Water Reservoir (Nairobi Block 90/587), Kariobangi North Sewerage Treatment Works, LR No. 13119/2-Booster Station II situated off Kabete Road, and Ruiru Dam – Kabete Pipeline.

Board Remuneration

The Auditor General revealed that the company expenditure on board remuneration for the year ended 30 June 2017 amounted to Kshs. 17,740,846. A review of this expenditure indicates that an amount

of Kshs. 6,842,794 equivalents to about 39% of the total amount was in respect of allowances paid on foreign trips. Further, some board members travelled in business class on various occasions instead of economy class as provided in the Company's human resource policy thereby occasioning an over expenditure of Kshs. 15,463,511 on the budget item. Some board members also changed flights by either returning back earlier or later than scheduled time, occasioning extra payments totalling Kshs. 468,001. Further, three board members were paid a total of Kshs. 4,789,436 to travel to various destinations on official duties but failed to go or returned earlier than the scheduled dates but did not refund a total of Kshs. 2,899,642 as per returns. In the circumstance, the validity of expenditure incurred on the above specific cases cannot be confirmed.

The Committee has in this regard recommended that:

- i) The Company to immediately institute measures to recover the un-utilized funds from the previous Board Members in line with the provision of the Public Finance Management regulations; and
- ii) Employees to authorize payments based on financial regulations and Company's human resource policy.

Non-Revenue Water

The Auditor General revealed that during the year under review, the company produced 181,363,932 cubic meters (m³) of water but earned from the water an income of Kshs. 5,103,161,621 only as disclosed at Note 3 to the financial statements. Out of this volume, only 112,787,608 cubic meters (m³) was billed to customers. The balance of 68,560,389 cubic meters or approximately 38% of the total produced represents Non-Revenue Water (NRW) which is over and above the allowable loss of 25% in accordance with the Water Services Regulatory Board guidelines. The excess Non-Revenue Water of 13% may have resulted in loss of revenue estimated at Kshs. 1,044,873,270.

In this regard The Committee recommended that:

- i) The management should ensure that the international standard of 25% Unaccounted for Water (UFW) should be adhered to ;
- ii) The management to expedite the process of installing meters that are easily monitored and tamper-proof which the Company was in the process of procuring as reported to the Committee by the management during the meeting to curb the situation of water loss through unscrupulous people tampering with meters;
- iii) Policies should be formulated that will encourage punitive measures be taken on any person who vandalizes company's property;
- iv) The management should deal with issues of illegal connections conclusively;
- v) In the informal sectors (slums) the company should install bulk meters and look for innovative measures like having private people to man and operate the water supply to the residents; and
- vi) The management to come up with strengthened reinforcement units to help them deal with the cartels operating water supply business illegally.

Recommendations

Hon. Speaker, the Committee also made the following recommendations:

- i) Review and harmonize the tripartite agreement amongst other things to take into account of the new dispensation.

- ii) The company and the County Executive urgently institute measures to recover irregularly allocated plots reserved for expansion, storage and treatment works.
- iii) Policies to be formulated giving guidelines on the ownership of the property, plant and equipment;
- iv) The company should review the efficiency and cost effectiveness of engaging a consultant to collect its debt from Kenya Revenue Authority noting that Kenya Revenue Authority has a claim for unpaid taxes by the Nairobi City Water and Sewerage Company Limited.
- v) The company should provide bank reconciliations at the time of the audit to avoid such queries in the subsequent reports.
- vi) The County Executive to hasten the process of acquiring ownership documents for each property of the company;
- vii) The management should strive to find the cause of the high levels with customers with credit balances and mitigate the same;
- viii) The management should procure software programme which cannot be manipulated and which can help in detecting overpayments and underpayment immediately the readings are posted to the system;
- ix) The management should have policies on inventories in place immediately and it should be documented;
- x) The management to expedite the process of installing meters that are easily monitored and tamper-proof which the company was in the process of procuring as reported to the Committee by the management during the meeting to curb the situation of water loss through unscrupulous people tampering with meters;
- xi) Policies should be formulated that will encourage punitive measures be taken on any person who vandalizes company's property;
- xii) The company review its debt management policy especially the debt writing off criteria as its current debt levels are unrealistic;
- xiii) The company should provide for taxation since not doing so exposes the company to risk of penalties and this could ground the company. Since the company claims Value Added Tax refunds from Kenya Revenue Authority and the company owes Kenya Revenue Authority insurmountable amount of money in unpaid corporate tax since inception, the company should consider entering into Debt swapping arrangements;
- xiv) The company to immediately institute measures to recover the un - utilized funds from the previous Board Members in line with the provision of the Public Finance Management regulations;
- xv) The company should be re-incorporated as a public entity through legislation by the County Assembly to avoid tax liabilities;
- xvi) In the informal sectors (slums) the company should have bulk meters and look for innovative measures like having private people to man and operate the water supply to the residents;
- xvii) Valuation be done on the assigned assets to give the current value of the assets and an agreement be put in place to guide on the payments of lease fee taking to account the value of the leased assets;

xviii) Nairobi City Water and Sewerage Company should write to the National Lands Commission seeking repossession of the land that has been grabbed by private developers and demolish any illegal structures on its land;

xix) The company should strengthen its debt collection mechanisms to maximize its revenue; and

xx) The accounting officer should report back in writing within 60 days on the implementation of the recommendations passed by the County Assembly as per the Public Audit Act 2015.

Hon. Speaker, it is our belief that our recommendations if adopted will be fully implemented. I urge members to support this report. I call upon Hon. Kabiro to second the Motion.

Hon. Deputy Speaker: Hon. Kabiro.

Hon. Mbugua Kabiro: Thank you very much, Mr. Speaker, I would like to second this report. They say that the next World War will be on natural resources especially on water. We have seen that beginning to happen in the last two weeks where the Governor of Murang'a was trying to start war of words around water that is supplied to Nairobi. Part of the reasons why water is actually flowing in our taps as Nairobians is probably because of this good Committee called PIC which audits and looks at the report of Nairobi Water. Most of the things in this report that have been highlighted are good recommendations which I would urge the House to support and be implemented to the latter and the spirit with which the Committee took its time to write. I beg to second, thank you.

(Question proposed)

Hon. Deputy Speaker: Any Member who wants to contribute? It seems there is no one.

(Question put and agreed to)

ADJOURNMENT

Hon. Deputy Speaker: There being no any other business, the House stands adjourned to tomorrow, Wednesday 17th October, 2018 at 2:30p.m. The House Business Committee will meet after this. Thank you and God bless you all.

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