



NAIROBI CITY COUNTY ASSEMBLY

OFFICIAL REPORT

Second County Assembly – Second Session

Wednesday 6th June, 2018

The House met at 2.30 p.m.

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

PRAYERS

Hon. Speaker: Serjeant-at-Arms ring the bell for 10 minutes.

(The Quorum bell was rung)

PAPERS

THE REPORT ON THE INDUCTION WORKSHOP HELD ON 9TH-12TH NOVEMBER, 2017 AT SAI ROCK HOTEL, MOMBASA.

Hon. Speaker: Chair Transport, Hon. James Mwangi.

Hon. James Mwangi: Thank you Madam Speaker. Pursuant to Standing Order No. 191 (6), I beg to lay the following paper on the Table of the Assembly today on Wednesday 6th June 2018, the report of the Sectoral Committee on Transport and Public Works on the induction workshop held on 9th-12th November 2017 at Sai Rock Hotel, Mombasa. I beg to lay.

STATEMENTS

Hon. Speaker: Hon. Members, before we even have new statements coming in, we have quite a number of statements that were requested before we went for recess and these statements are just too many. I would want to give the Chairperson--- I will stop so that the Hon. Members standing can sit. You can proceed and sit.

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(The Hon. Members sit in their places)

Hon. Speaker: I want to request the Chairperson that--- I will read all these statements. I am giving all of you a week to bring us the answers to these statements because there is no need of having statements if we don't have response of the same. But before I do that, Hon. Osman do you have a statement to give or is it a response? You have a response? You are to receive a response? Since I can't see the Chair of Water here, okay let me just read the pending statements that we have.

The first one was from Hon. Wilson Ochola, he had requested for a statement from the Transport Committee on the issue of the Drive-in Road along Mathare North Road in Utalii Ward. This is a request that was done in December and up to date we have no answers, the status is still pending. So, I am giving Hon. James Mwangi the Chair Transport one week to bring the response of that statement.

Hon. James Mwangi: Thank you Madam Speaker.

Hon. Speaker: Then there was also a statement from Hon. Francis Otieno to the Chairperson of Planning and Housing. The statement was requested on the status of a parcel of land ownership L.R No.7/626 along Kiambu Road. It is still pending and is dated December and up to date we are still waiting for the response. Hon. Kiragu is not in the House but kindly one of the Chairs and I can see the Chair of the Liaison Committee is here, you have to ensure you tell them in one week we want the response for this statement.

There was a statement from David--- proceed and sit Hon. Ndonji and Hon. Maurice. There was a statement from Hon. David Mbithi, again Transport Chair, the repair of Lungalunga Road from December to date. The status is pending. This time we don't want a lot of stories on your response, we also want the Executive to just tell if this road is among the roads that are being done, you tell us. It is still the same issue, because even bringing us a long statement; it is not helping this House any more.

We also want actionable response. Hon. Mwaura Samora, it was on Environment and Natural Resources regarding illegal dumping of solid waste in Clay City Ward. Chair, I can see you are there. *Mheshimiwa* Kamau.

Hon. John Muthiga: Thank you Madam Speaker. We redirected that question to Water & Sewerage department. Thank you. Hon. Mwaura Samora is here and can attest to that.

Hon. Speaker: We would also like to tell them that since December to date and we need now to get a response on the same. Hon. David Mberia and this is a statement I remember that has pushed us so much. It was on the issue of public utility lands in Karen. Planning and any member from that Committee should pick on that and the Chair of Liaison kindly. Let us follow up, some of these statements are very straight forward. You just go to Karen and got to know the number of utility land that is there. Kindly we need those responses.

Hon. Osman Khalif has requested for statement from the Early Childhood Committee on the issue of vocational training regarding the status of school feeding programmes. Chair, Millicent I gave you a week to bring us a response on that. Francis Otieno to transport Committee and the issue was the status of public transport in the County. Chair Transport, we will also give you a copy of this so that you can pick on what is yours.

There was a request from Hon. Warutere again to Early Childhood Committee on the issue of early childhood development educational centres in the County, the assurance of early childhood education, so the Chair (Hon. Millicent). There is also another one from you one the disbursement of bursaries. I think that one we are dealing with it. There is also a statement that was requested by Hon. Geophrey Majiwa on Water and Sanitation and he wanted to know the status of the Nairobi City water & Sewerage Company and I am hoping that members from that Committee are able to tell us what it is.

We have also Jeremiah Themendu's statement; his statement was on street lighting, again Transport Committee. If the street lighting has been done in Kayole you just bring a response to tell us, if not, what is the status there, Hon. Mwangi Njihia's statement request to the Chairperson of Water and Sanitation regarding water supply in Dagoretti Corner Askaris quarters. It was also sought in December 2017 and up to date there is no response. Another one is from Mheshimiwa Abraham Njehia to the Chairperson of Environment Committee; it was on the issue of garbage collection in Toi Market, in Woodley Ward. Then there is another one to the Transport Committee again from Mwangi Njehia and this one was from the status of the Joseph Kang'ethe Road in Woodley Ward. There was a request from Hon. Imwatoke to the Planning & Housing Committee regarding the controversy around the ownership of Mariakani Estate.

There was also a statement from Hon. Faud Hussein Mohamed to the Chairperson of Environment and the status of garbage collection within Eastleigh Airbase Ward. Another statement is from Hon. Faud Hussein to the Chairperson of Health regarding the deplorable status of Eastleigh Health Centre. You wanted to say something Hon. Chair?

Hon. John Muthiga: The issue about Toi Market I guess we finished with that statement long time ago. The request by Hon. Mwangi Njihia, I presented that statement here Madam Speaker and everything was sorted out.

Hon. Speaker: Chair Warutere. I saw your---

Hon. Peter Warutere: Madam Speaker we only have two statements that are outstanding from Health department and we are dealing with them, we will have them sorted next week.

Hon. Speaker: That is on Eastleigh. We have --- Chair Millicent you want to say something? I have given you Hon. Millicent Hon. Member for Ziwani.

Hon. Millicent Mugadi: Madam Speaker I wanted to respond to the statement that you asked me for yesterday regarding the bursary.

Hon. Speaker: We will do that last.

Hon. Millicent Mugadi: Okay. Thank you.

Hon. Osman Adow: Thank you Madam Speaker. I have also been told that my response is ready and is with the Vice-chair who is in the House.

Hon. Speaker: On? On the one that.... okay. I will call the Vice-chair. So we need also to get the response of Hon. Daniel Muturi to the Committee of Culture and community Services regarding the rehabilitation of Joseph Kang'ethe Grounds in Nairobi Central Ward. Hon. Njihia that is your statement, we need one week for the response. We have a statement from Hon. Imwatoke to the Chairperson of Labour and Social Welfare regarding staff currently employed by the County Executive.

Hon. Speaker: That is a very straight forward issue where you just tell us the numbers. I think by next Tuesday we can get the response. These are responses that are easier.

Hon. Waithera had asked the issue of sewer infrastructure in Upper Hill Ward. I think that is a very critical statement and I would wish we are able to get the answers in one week. Hon. Godfrey Majiwa had requested a statement to the committee on Labour on the issue of disciplinary procedures of the County Public Service Board on employment management. Chair of Labour? Anyone from the committee? This is a very easy statement. We can finalize it if we want tomorrow. It is a matter of going to the Service Board and just ask them for the tool they use in terms of disciplinary. It is a document, a policy they have put in place for disciplinary. You just bring it to us.

Hon. Jared Akama had requested to the Chairperson of Sectorial Committee on Culture on the issue regarding decentralization of fire fighters services to Ward level. I think Jared was doing this after the fire they

had in Langata. I believe it can also be finalized. There are some of those that I had asked to be requested and it was due. It was partially responded to. This means we had requested for more answers. Hon. Njihia you had asked Committee on Planning on the status of the ownership of Anderson Hall within Kenyatta Golf course. I hope the Chair can pick on that.

Hon. Jayendra Malde had asked the Committee on Transport to give you response on status of poor state of roads in Parklands and Highridge Ward. The Chair of Transport you have a lot. Hon. Samora had requested on issue of dumping of raw human waste in residential area in Njiru Ward. Hon. Khalif Osman wanted to know from the Committee on Water and Sewerage on the biting water shortage often experienced in various parts of the City.

Hon. Nicholas Okumu requested statement on the issue of garbage, regarding dumping of soil and garbage along Ngong road. Hon. Osman Adow requested to the Chairperson of Culture on rehabilitation of social halls in Eastleigh Ward. We have Hon. John Komu was asking question to the Chairperson on Environment and Natural Resources regarding emptying of raw sewer into Kiu river in Kahawa Ward.

Hon. Naftally Mathenge requested statement to the Chairperson of Sectorial Committee on Water regarding lack of water in Githurai Ward. Lastly, Hon. Mberia is on issue of Karen Ward to Transport Committee-status of roads in Karen Ward, whether named or unnamed. We have Hon. Mark Mugambi to the Chairperson of Health regarding construction of perimeter wall around the said facility in Umoja 1. We have Hon. Jared Akama to the Budget Committee, the use of revenue in Nairobi County. We have Hon. Majiwa to the Chairperson of Labour regarding the competence of qualification attached to the Office of Director of Investigations. That was very interesting statement but I hope the Chair will get the qualifications.

Hon. Herman Azangu requested the Chairperson of Sectorial Committee on Education regarding delayed disbursement of bursaries. I think one we are dealing with. Hon. Nihia who had asked the Transport Committee regarding parking of broken vehicles at Ngumo stage in Woodley Ward.

Hon. Karani had statement regarding security threatening. I think we had dealt with that. Hon. David Ayoï had asked the Committee of Children and Early Childhood Education regarding the office of the Governor scholarship established under the former County government administration and funded by the Governor's office. Hon. David Ayoï had asked the Chairperson of Health regarding dispensaries closing on weekends when needy needed most in low income neighborhoods in Nairobi County.

We also have Hon. David Ayoï again to the Chairperson of Labour regarding officers in acting capacity for more than six months. Lastly we have Hon. Herman Azangu to the Chairperson of Transport regarding the construction of the bridge on a missing link from Enterprise road through the slums of Kayaba to Aoko Road.

For all these statements some of them were done in December last year...yes *Mheshimiwa* Pius Mbono

Hon. Pius Mbono: Thank you madam Speaker, I am eagerly waiting to hear that my name is also in that list but *sijapata kitu*.

Hon. Speaker: Is it on response or a statement?

Hon. Pius Mbono: On a statement but I also made a request regarding the quarterly reports from the Executive. I think it was in February.

Hon. Speaker: I believe the Table [office] has heard that but the best thing we can do is put in a tracking so that we are able to re-track again but all of them we have given them one week. Let us finalize them. I cannot blame the House but also the Chairs. If you have no response and you have gone to that office just come and tell the House that we have gone to this office many times and we have not got the responses. So, that the Chair of the Liaison Committee and the team can summon the Executive to come and answer, in a team. Even if it is to have a *kamkunji* where every Member sits and listen to his statement. We are doing wrong even to the citizens of Nairobi, they are wondering if we are really serious. Yes
Mheshimiwa Deputy Speaker.

Hon. John Kamangu Nyumu: Madam Speaker the matter has just been brought to my attention but let me assure the House that we are going to crack the whip. This is unfortunate that Members can ask questions, we have able Chairs who cannot deliver. We have a meeting tomorrow, we are going to discuss this matter. Let me assure this House that the matter will never be repeated again, thank you Madam Speaker.

Hon. Speaker: Thank you very much Deputy Speaker but I hope the Chairs are standing in for the government. You support your government by supporting what Members would want to see which is very important. Let me start with Hon. Osman response. The Vice Chair, Water, Hon. Leah Supuko?

Hon. Leah Supuko: Thank you Madam Speaker. I would like to respond on Hon. Osman Adow statement but first of all I would want to say that there is a statement also that you have read out that we have not responded to, on Waithera Chege. I want to report that it has been brought twice to the Committee but Hon. Waithera who is a member of the Water Committee was not there and we could not discuss it without her presence. So, I would like to request Hon. Waithera if she is in the House to make sure that she comes to the Committee so that we discuss her statement.

Hon Speaker on Wednesday 29th November 2017 Hon. Osman Adow MCA rose on the floor of the Assembly pursuant to Standing Order 45 (2) (c) and requested for a statement from the Chairperson of Sectorial Committee on Water and Sanitation regarding the provision of clean water to Nairobi City County residents. The Member sought to know the following:

1. Water sellers in every ward;
2. The amount of water consumed by each seller in the last six month;
3. The amount of money each seller has paid the Nairobi City Water and Sewerage company in the last six month; and
4. When the company will end the water rationing programme since we have had adequate rainfall in the County.

Hon. Speaker the Committee wrote to the County Executive Committee Member for Environment and natural resources on 30th November 2017 requesting to be furnished with a written response to the statement sought by the Member.

In this regard I wish to report to the Assembly as follows:

The acting Chief Officer responsible for Water and Sanitation responded vide a letter ref NCC/CECM/EEWNR/EMM/7/2017. However upon considering the said response in a meeting attended by

Hon. Adow, members resolved that the said response was not satisfactory as such and sought to request for more information vide the letter ref NCC/WS/2018/008 dated 23rd January 2018.

Consequently the acting Chief Officer responsible responded on 6th February 2018 giving additional details as attached herewith. Upon further meeting of the Committee and the acting Managing Director of Nairobi City Water and Sewerage company with regard to the statement it was resolved that the information provided was satisfactory and that the statement had been responded satisfactorily. A detailed summary has been annexed to the report.

With regard to question four the acting MD of City Water and Sewerage Company stated that water rationing in city will end in 2023 when the County is expected to have put in place enough measures to end the shortage. However the County is working with the National Government to put in place measures to ensure water supply in the City is sufficient. Signed by the Chair Hon. Kados, dated 6th June 2018. I beg to lay the report.

Hon. Osman Adow: Madam Speaker that was satisfactory at that moment which was a few months ago but I think a lot has happened since we had very heavy rains across the country which has resulted in floods and deaths and still we get water once a week and yet at the height of drought we got once a week. The said rationing is until 2025 which is OK with me but the problem is that they have admitted that they have very big list of water sellers and have admitted that most of them don't pay for that water and at same time they say they can't do anything about it. The problem with Executive is always promising the future and it is a problem that needs to be addressed. The Committee has done a good job and am happy with their response, thank you.

Hon. Speaker: Thank you Chair. Chair, Liaison, do you have something you want to say? I can see you on the screen. It's ok. I thought you had pressed the mic. Let's proceed. The Chair of Education?

Hon. Millicent Mugadi: Madam Speaker I am giving back a statement and the County Treasury statement on transfer of Ksh. 357 million to Nairobi City County/ University of Maryland account instead of Nairobi City County Bursary Fund account on 6th June 2018.

Section 119 of the Public Finance Management Act 2012 mandates the County Treasury with the responsibility of opening, operating and closing of County bank accounts. Consequently on 24th April 2018 and 28th March 2018 the County Treasury opened two accounts namely Nairobi City County Bursary Fund account 011412323966112 and Nairobi City County /University of Maryland Health services account 011412323966111 respectively both at Cooperative bank of Kenya City Hall branch.

The bursary fund account was opened pursuant to Nairobi City County Bursary Fund regulation of 2016 while the Nairobi City County/University of Maryland account is an account for donor funded projects managed by Nairobi City County health services and University of Maryland.

Given that both accounts were opened more or less the same time and because when processing payments invoicing via the IFMIS only the payee appears on it. In this case Nairobi County government the accountant preparing for the payment erroneously picked the health donor fund account instead of the bursary account. Once payment has been invoiced in IFMIS neither the first approval nor the second approval can see the bank account number to which the funds are being transferred to it. It was thus not possible to know at this time that the funds had been transferred to Nairobi City County/Maryland University account.

The funds were transferred from Nairobi City County recurrent account at Central Bank of Kenya on 21st May 2018 to Nairobi City County /University of Maryland Health services account.

On 29th May 2018 Cooperative Bank notified the County government that bursary account were transferred to Nairobi City County/Maryland University account and on the same day we directed Cooperative Bank of Kenya to transfer the money to the bursary account which instruction were effected. In conclusion we wish to confirm that both accounts belong to Nairobi City County government. They differ by only one digit and just like any other government current governments they do not earn any interest and such funds were not closed. I beg to table the statements.

Madam Speaker you had asked me to bring along documents that proved when the accounts were opened. I have all the relevant documents. I beg to table. Thank you.

Hon. Speaker: Can you tell the House because this is an issue. When did the Controller transfer the money? On what date? Because I have gotten your 21st of May, 29th of May at the same time.

Hon. Millicent Mugadi: The transfer of Ksh. 357 million from Nairobi City County Maryland account to Nairobi County bursary was made on the 29th of May, 2018

Hon. Speaker: Controller of Budget?

Hon. Millicent Mugadi: We requested for money from the Controller of Budget on April 23rd and requested to open an account on the 24th of April. We then opened our account at the Cooperative Bank on 30th April. On 28th march 2018 we sent a letter to Cooperative Bank to remind them that we wanted to open the two accounts.

Hon. Speaker: I think it's around the 20th. I order that you lay the statement and let the Budget Committee take over that statement because they deal with money issues. The Chair has done her bit and I thank you for that. Hon. Kennedy Obuya.

Hon. Kennedy Obuya: Thank you Madam Speaker. I stand guided though interesting that in the spirit, vision and position of our President in finishing corruption, it is a high time that as a community, as a people and as a nation and Government we must stand when something goes wrong and take responsibility by condemning it. I have heard Hon. Millicent speak. It could be true that there could have been confusions but we read intent of malice in the confusion. I don't think that from her position as the Chair is letting that matter go with ease without condemning it because that is an embarrassment to our government. Madam Speaker, with your guidance I do not think that the statement laid by the Chair is convincing enough to the people of Kenya and in line with the spirit that our Head of State has. Thank you Madam Speaker.

Hon. Speaker: I want to listen to everyone then give a ruling. Hon. Njehia.

Hon. Abraham Njehia: Thank you Hon. Speaker. I wanted to know how confusion occurred because there is no way one can wake up in the morning and wire money to an account that is not in existence. Hon. Speaker, if you can remember sometime in February I asked for a statement from the Chairman of Budget requesting that I be furnished with all the accounts that were being operated by Nairobi County. I was given 32 bank accounts which were in operation. Hon. Speaker, I was also given donor accounts and if I heard the Chairperson talk correctly, I heard her mention Maryland University as a donor account. Where did it come from? It was not there from the accounts that I was given. Maybe I need clarification on where this account came about. Thank you Hon. Speaker.

Hon Speaker: Hon. Leah.

Hon. Leah Supuko: Thank you Madam Speaker. I wish to say that when this issue on bursaries came up yesterday I buzzed at you but you never caught my eye. It is good that it has come up again because I really wanted to contribute on it. I agree with Hon. Kennedy that it is really embarrassing to this House more so that the story is already out in the daily newspaper. The response that the Chairperson has brought to the House is not satisfactory and I wish to say that the mistake is not coming from Nairobi County Assembly or that of the Executive but from the Controller of Budget. These are two separate issues. It is not about us but the controller of Budget and because it is from them then why didnt the Chairperson dig for more information. I really pity her.

We have been reading a lot in our WhatsApp groups as she is being bashed about the bursaries and I wish to ask her not to take this burden as her own. She has a Committee of 19 persons who should all be responsible for what is happening with the bursaries. Bottom-line on this issue Madam Speaker is that you direct the Committee on Budget to bring to the House a statement explaining how monies belonging to Nairobi county Assembly landed in Maryland University in Australia. I hope that with your wisdom you will direct us so that we come to the bottom of this issue as it is embarrassing. We see our President fighting corruption and we cannot be left behind keeping quiet on a heavy issue such as this. I understand that the monies were kept there for one month and it wouldn't take one day to find that one. The error should have been detected a long time ago and monies returned to Nairobi County Assembly bursaries. I rest my case.

Hon. Speaker: Lastly Hon. Azangu

Hon. Herman Azangu: Thank you Madam Speaker. Members who were in the last Assembly know what is going on. In the last financial year of 2015/2016 we had a problem but not as far as this one. Most of the cheques are being signed by Chief Officers in their offices but now we understand that they are saying that cheques will come directly from the banks. I do not know how the banks will produce the cheques because as it is hey hold the monies and disburse to the schools. We do not know what is happening. Chairperson you were here and know what happened in the last Assembly. Children back in our wards are complaining thinking that we are the ones supposed to give them money.

Hon. Speaker: Hon. Azangu. I want us---

Hon. Herman Azangu: My grievance is that we tell Kenyans the reality and avoid going in circles. We are not sure as to whether we are going to give these children the cheques.

Hon. Speaker: I want us to deal with what is on the floor. Do not go out of that so as to avoid distorting things. Hon. Majiwa.

Hon. Geoffrey Majiwa: Thank you Madam Speaker. It is unfortunate that we have given this mater unnecessary time. Why do I say so? The Chairperson was here yesterday and you told her to table a report on this matter. I am not so sure because I am not a member of the Education Committee. Having been around since yesterday I do not think that the Committee sat down to discuss this matter substantively to come up with a report that is to be tabled. I know that reports that are tabled here are those of the Committee and the Chairperson only reads on behalf of the Committee. So, if the Chairperson is reading and defending a report which she is not competent enough to then we are taking up quality time that we could use to do other things. We should have the Chairperson convene her Committee, bring all members on board, summon people to

give answers. Bank operations are very clear and guidelines are known to all Kenyans on how monies should move from one account to the other. Detectors are there and so when the Chairperson says stories here that do not add up and we sit here listening then we look as if we are also swimming in the same pool. It is important that we get these facts correctly Madam Speaker. Thank you.

Hon. Speaker: Yes Hon. Odhiambo

Hon. Oyugi Odhiambo: This is to notify Hon. Majiwa that before we came into the Assembly we had a meeting since morning with the Chief Officer for Education. The shortcomings as a Committee we are not responsible but the fact that the Chair convened a meeting I must state that indeed the meeting took place

Hon. Speaker: Yes Hon. Majiwa. I hope it is not--

Hon. Geoffrey Majiwa: I think Hon. Oyugi tried to answer my question but he did not quite do that. This is a weighty matter and it should have its own session separate from what they were discussing the entire day. Maybe they mentioned it in passing and if I understand this matter properly, it needs to have its own session whereby the bank officials are summoned I do not know whether Mr. Oyugi met bank officials in that meeting. The questions here can only be answered by bank officials and the reports must capture that. They should tell us why they cannot detect Ksh. 300 million gets into an account that is dormant and they cannot report back to the County so that the monies are put in the right place. That is what the meeting was supposed to address Madam Speaker.

Hon. Speaker: Hon. Members I am closing that. I had given a rider before. Hon. Rose do you want to speak on this matter or?

Hon. Rose Ogonda: Yes Madam Speaker

Hon. Speaker: What is it?

Hon. Rose Ogonda: Thank you madam Speaker. The Chair of Education Committee has read a report on NCC bursary account and Mary land donor funded project. We talked about it yesterday and how it is of need to the needy students. I wish to inform Hon. Oyugi that the meeting that he is talking about was on Culture, Labour and Education and not education only. We were there .

Hon. Member: Point of Information.

Hon. Rose Ogonda: I do not want to be informed.

(Laughter)

Hon. Osman Adow: Point of Order.

Hon. Rose Ogonda: Madam Speaker.

Hon. Speaker: What is out of order Hon. Osman?

Hon. Osman Adow: Madam Speaker you already gave a ruling that he Budget and Finance Committee take up the matter and bring a report. I don't know why we are still going in circles over the same issue.

Hon. Speaker: Agreed and that is where I finalize.

Hon. Rose Ogonda: Can I continue Madam Speaker?

Hon. Speaker: Finalize.

Hon. Rose Ogonda: Just allow me to...

Hon. Speaker: One minute.

Hon. Rose Ogonda: I think that this Maryland account came into the picture because of our bursaries and further to that, can we be told where our cheques are because Maryland donor account cannot bring cheques for the needy students. As stated the Budget Committee will deliberate on that but at the end of the day where will the cheques be at? Thank you Madam Speaker.

Hon. Speaker: Hon. Members, I believe the statement was read very well and explained. All I want the Budget Committee to do is to have a look at the two accounts and verify. The rest of the issues have been well explained that monies were transferred by Central Bank to Nairobi City County University of Maryland services account which is in Cooperative Bank. I therefore request the Chair of Budget to look at that because I know that if an account is not a fixed one then there is no way one can accrue interest as asked by Hon. Obuya.

I would also want to know when Hon. Njehia was given accounts if Maryland was one of them. As an Assembly we want to assure Kenyans that no monies was lost and that monies put in the Maryland account were transferred back to the Nairobi County Bursary account. We must also agree that as an Assembly we did wrong by pushing the Executive for funds and yet they did not have an account and I think that is why they followed up on the monies and put. So I want to know what Maryland does and it is important that Kenyans know whether it is a dormant account or one amongst the accounts that they have and whether they still need the account because it is the Assembly to approve whether they are to open or to close and then we advise the Executive whether they need to close this account. So, those are the terms that we will look at that report. I hope we are done with that, Hon. Members, and we agree on that, let the Budget Committee now take over and it will assist us on the questions Hon. Obuya and Hon. Njihia have asked and it will come out very clear why money...

Because while as a country we are saying we want to deal with corruption we also want to deal with officers, some of them are in Central Bank where they do their own things and in any departments where we do these small mistakes that are strong mistakes that can bring issues. So, you people can also deal with cartel from Central Bank and all over, we know that is how Kenyans we work and all of us even us seated here we must accept. When we talk about corruption we must start reflecting on ourselves as leaders because we know as Kenyans, all of us we have a challenge. Sometimes when we are speaking about it let all of us hold this mantle of corruption knowing that somewhere down the line you need to question yourself first. Yes, Hon. Obuya.

Hon. Kennedy Obuya: Thank you, Madam Speaker. I am in agreement with you and I think as the Speaker of Nairobi City County Assembly you are next to the Speaker of the Senate and the Speaker of the National Assembly. Nairobi County as a Government is a serious Government Madam Speaker and I think we need to set a pace in dealing with corruption.

Hon. Speaker: I agree.

Hon. Peter Imwatok: I do not think in your wisdom your guidance is not hitting enough on the intent the perceived people either in the Treasury... Madam Speaker, it is to every Kenyans knowledge because the majority of Kenyans nowadays have gone to school; the system of money transfer is done electronically and it is so guided in a way that money getting from account X to Y is done with the guidance of specific people.

Madam Speaker, it is also on record that the Hon. Chair has said that the account is our account, the two accounts are accounts of the County Government of Nairobi and it is also on record that the Maryland

account is a joint account of the Nairobi City County Government and Maryland University specifically dealing with a school in Dandora. Madam Speaker, the connection and intent is too big and for us to ask a question of anybody in the future please give us guidance that also investigations should be done. Investigations should be done, Madam Speaker, and somebody must be brought to book. Thank you, Madam Speaker.

Hon. Speaker: Yes, Hon. Whip.

Hon. Chege Mwaura: Madam Speaker, allow me to speak because I have been trying to catch your gadget because now it is not an eye it is the computer down there. Madam Speaker, we are now also not going to allow ourselves to be ridiculed with matters of procedure. Madam Speaker, number one, the matter that is at hand has been dispensed of and documents have been tabled. Madam Speaker, my good friend Hon. Oyugi is speaking twice on a matter; you are allowing him to speak twice on a matter that has been dispensed. Thirdly Madam Speaker, you have made a ruling and you're allowing Hon. Oyugi to challenge a ruling made by a Speaker seated. So, Madam Speaker...

Hon. Speaker: Hon. Whip...

Hon. Chege Mwaura: No, allow me, Madam Speaker, it is unfair, these matters are also being disbursed by the media and we cannot allow ourselves to be taken for a ride.

Hon. Speaker: Hon. Whip, this is a public institution and the media is there to pick whatever they are and for this House to go on record correctly that is why sometimes we repeat some of these. This is not just a matter I can just... I have dispensed it in a good manner but if anyone has a query I have no choice as the head of this institution so that the media does not misquote anything that is not right. Two, this is a matter on a statement, it is only on a Motion where I know I cannot allow you because people are standing on a Point of Order, he did not just stand to speak so he is not even repeating.

So, I have finished with the matter, in fact now you are the one who has made it... I just wanted to listen to him because it is not even in the Standing Orders that you wanted to read, that when you are on a Point of Order you can stand 100 times on that Point of Order and the Speaker has to allow you to speak.

Hon. Chege Mwaura: That is not in contention, Madam Speaker. What I pointed out is that when a Member arises to speak and it has been noted that whatever he wants to speak on has already been ruled on, I think it behooves on the Speaker to elaborate to the Member that he is out of order. That is all I was saying.

Hon. Speaker: I am repeating...

Hon. Member: Madam Speaker, Point of Order.

Hon. Speaker: Order Member. There is no Point of Order on anything we are just trying to look at procedures. I just want to tell the Whip that when a county is in a situation like this it is a very difficult situation. When you are talking of 357 million moving from one account to another and I can see how the NYS is and it was just moving from account to account, we have to be very clear as a House. So, it is not just a matter I want to dispense with, I want to also ensure that we protect the officers who did this and in protecting is to bring out the issues clearly.

So, it is not just a debate we are having here, we are in a country which is a mood where even the Chief Justice was to give his address for us to deal with these matters. So, if as leaders we want to try and feel ashamed that we are repeating it 10 times it will be of our own disunity and especially when it comes from the Governments side. So, I have finished the matter and we are moving to the next order. I have said and I want to repeat, you have the Standing Order, I have Standing Order number 1 and it gives me power as the Chair to look at a matter and if the matter is of grave concern to the citizens I have no choice but to deal with it. Next order. Reckon

MOTION

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Hon. Speaker: Hon. Stazo.

Hon. Stanzo Angila: Thank you, Madam Speaker. I beg to move that this Assembly adopt the report of the select Committee on Public Investment on the consideration of the Auditor General's report on the financial statement of the Nairobi City Water & Sewerage Co. Ltd for the year ended 30th June, 2016 laid on the Table of the Assembly today Wednesday 6th May, 2018.

Hon. Speaker, the mandate of the PIC as provided for under Standing Order 198(5) of the Standing Orders is examination of the accounts report and working of the County public investments in the context of the autonomy and efficiency examining whether affairs of the County Public Investments are being managed in accordance with the sound financial and business principles for prudent commercial practices. Hon. Speaker, this report of the Auditor General was committed to the PIC Committee on 7th November, 2017 for consideration and reporting. Article 229(8) of the Constitution provides that within 3 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 this basis 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 the Committee for having considered our request of extension to allow us finalize consideration of the report. While considering the report the Committee met and interrogated the acting MD Nairobi City Water and Sewerage Co. Ltd acting Finance Director and Finance manager. Moreover, the Committee received written submission from the witnesses. Allow me, Madam 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 report of the Auditor General raised several issues that hamper effective service delivery to the Nairobians especially during the year under review. Hon. Speaker, the issues that have been raised include;

1. *Encroachment of Land* – The Auditor General raised issue that various land parcels belonging to the company meant for expansion, storage and treatment works have been encroached on by private developers.
2. The Committee recommended that the County Executive to hasten the process of acquiring ownership documents for each property of the company. That the company should secure all properties and demolish any illegal structures on their land as they await ownership documents.
3. The legal status of the company should be resolved since it is under the company's act and the company should write to the Ethics & Anti-Corruption Commission and the National Lands Commission to investigate on the encroachment of parcels of land as under listed;
 - a) Loresho Water Reservoir, Nairobi block 90/587
 - b) Kariobangi North Sewerages Treatments Works
 - c) LR No. 13119/2 Booster Station 2 situated on Kabete Road.
 - d) Ruai/Dandora Estate Sewerages Treatments Works and Karen Land Offices.
4. *Leased Assets* – The Auditor General revealed that the company entered into a tripartite agreement with the defunct City Council of Nairobi and Athi Water Services Board in April 2004. The assignment of all water and sewerage fixed assets and infrastructure to the company after consideration of 20% of the total revenue collected during the period 2007 to 2009 out of which the company paid a total of Ksh.1.5 billion. During that period a further amount of Ksh.709 million

- and Ksh.753 million, KSh. 792 million, Ksh.996 million, Ksh. 90 million, Ksh.926 million and Kshs. 1.2 billion were paid in the financial years 2010, 2011, 2012, 2013, 2014, 2015 and 2016 respectively in relation to the same assets. However, the assigned assets and infrastructure have never been valued therefore and the basis of setting the lease payment remains unclear. The Committee in this regard recommended that Athi Water Services Board should account for the amount received for the period 2007 to 2016. The Company should stop any further payment to Athi Water Services Board pending review of the tripartite agreement.
5. Valuation be done on the assigned assets to give the current value of the asset and an agreement be put in place to guide on the payment of lease fee taking into account the value of the leased asset and all the assets to be reverted to the company since it is a County Government Corporation mandated to provide water and sewerage services to the County residents by the Constitution.
 6. The Auditor General revealed that the company has been making profits and no provision for corporate tax has been made in the financial statement in line with the income tax legislation. This was mainly due to lack of clear guidelines on the tax status whether to exempt or otherwise. The accuracy of the current liabilities balance Ksh. 3.7 billion as at 30th June 2015 could not be confirmed. In this regard the Committee recommended that;
 - a. The Company should provide for tax liability since not doing so exposes the Company to risk of penalties and this could down the Company.
 - b. The management should negotiate with the relevant Government bodies to get a tax waiver
 - c. The Company should be reincorporated as a public entity through legislation by the County Assembly to avoid tax liabilities. Hon. Speaker, the Committee also made the following recommendations;
 1. Policies to be formulated giving guidelines on the ownership of the property, plant and equipment.
 2. The management should desist from transferring money from capital reserves to revenue reserves as it is a violation of the law, Company Act cap 486 in accounting principles and the management should reinstate the accounts.
 3. The management to investigate all credit balances and appropriate corrective action.
 4. The management to procure software programmes which cannot be manipulated and which can help in dictating the over payment and under payment immediately the readings are posted to the system
 5. The management should have policies on inventories in place immediately and should be documented.
 6. The management to expedite the process of installing meters that are easily monitored and tamperproof 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.
 7. Policies should be formulated that will encourage punitive measures to be taken on any person who vandalized company property.

8. The company reviews its debt management policy especially the debt writing off criteria as its current debts levels are unrealistic.
9. The company should provide for taxation since not doing so exposes the company to risk of penalties which could ground the company since the company claims value added tax refunds from the Kenya Revenue Authority and the company owes KRA an un-summable amount of money in unpaid corporate tax since inception. The company should consider entering into debt swapping arrangement.
10. The Company should be reincorporated as a public entity through legislation by the County Assembly to avoid tax liabilities. The company should strengthen its debt collection mechanism to maximize its revenue.
11. The accounting officer should report back in writing within 60 days on the implementation of the recommendation passed by the County Assembly as per Public Audit Act 2015.

Hon. Speaker, it is our belief if our recommendations are adopted it will be fully implemented. Hon. Speaker I urge the Members to support this report and as I move I call upon Hon. Silas Matara to second.

Hon. Silas Matara: Thank you, Madam Speaker for this opportunity and I want to thank the leadership of our able Chair and I rise to support this Motion. I would also like to thank our able members and I must take cognizance of the fact that most of the members of the Public Investment Committee are newcomers in this second Assembly and after thorough assessment, analysis of the operation of the only investment of the County Government which is Nairobi Water, we burned the midnight oil and did a lot of work on the documents that they presented, called the management for various meetings and it bore fruit. We take a commitment to do a follow up on the same to ensure that all the recommendations that we made are followed to the letter and in the subsequent reports of the operation of the company are going to be done with all due process and procedures followed. With that, Madam Speaker, I beg to support. Thank you.

Hon. Speaker: I propose the question.

(The question is proposed)

Hon. Speaker: Hon. Kemunto.

Hon. Immapet Kemunto: Thank you, Madam Speaker. I rise to support this Motion whereby as a Committee I am privileged to be in the Public Investment Committee and actually raised some eyebrows on this matter that has been brought to the Assembly today. As a Committee we want to actually back up the Nairobi City Water and Sewerage Company and to actually raise some more revenue on consideration on the land revenue water that is actually recurring each every financial year as per their auditors. We analyzed their system and what we saw, it has come to our attention that even our own Nairobi City County Assembly has not been remitting money to the Nairobi Water Company.

So it is all a collaboration with the Water Committee and our Committee to back up the Nairobi Water Company so as to raise more revenue for their proceeding as a company. Actually, there was also an eyebrow that was raised on Athi Water. Athi Water is actually receiving a lot of money from the Nairobi City Water Company. that is adding up to Ksh. 1.2 billion each and every financial year. What we want to understand is, as much as they are in an agreement with the Athi Service Board, we do not understand why we should be giving out money that is

Hon. Immapet Kemunto:that is supposed to help each Ward with the project that are supposed to be undertaken by other Wards. Therefore, the money is too much to be remitted to Athi Water and Water Committee also.

The Water Committee should be with us on this matter, because there is a lot of money that is going out that we really don't understand, is why the Athi is receiving this money which is not beneficial to the County. On this matter we want to do a Public Awareness on why should we be remitting Money to Arthi Water Service Board. As our Chairman said before that our roles is oversight which is true but know we need to get up as entire House and ensure that we don't loss more money to other bodies which are not substantial to our own core values thank you. I rise to support.

Hon. Speaker: Hon. Maurice Gari you want to contribute on this debate, or you are on a Point of Order.

Hon. Maurice Gari: Madam Speaker, I pressed this gadget when we were discussing the issue of the report by the Chairlady but I didn't catch your eye. Madam Speaker, I don't want to argue on this report so much, because I have just been given right now but I want to congratulate the Committee for the work they have done for the past one and half months.

Madam Speaker, I am very much disturbed with this Watchdog Committees, I have seen something circulating in the social media about the public Account Committee being summoned by EACC. I don't know the authenticity of the letter but I am disturbed. It seems we are going back to the last Parliament of Ababu Namwaba where some Members were alleged of taking something about the report. I hope that this report is clean and I also hope that nothing will come up again that there is another Investigatory department targeting a Committee of this Assembly.

I don't know if you have seen that letter because you are in a position to guide the Assembly and also guide me because I don't want to talk much since I don't know the authenticity of that letter Madam Speaker. Thank you so much.

Hon. Speaker: Hon. Benson Macharia, do you want to contribute on it.

Hon. Benson Macharia: Thank you so much Madam Speaker, it was a long recess and we are glad that we are all back safely. I would like this House to adopt this Committee report because of two major reasons.

One, because through my able Chairman Hon. Stazo we requested for more time to scrutinize it so that we may lay down a report which represents true and fair review of the status of Nairobi and Water.

Second, Nairobi and Water Company on the issue of taxation they have not yet submitted their taxes to the relevant bodies because they didn't have a clear guidance and we would also like to request the Water Committee and I as a member of Public Investment Committee to come up together to fasten that Bill so that the Nairobi Water Company can be exempted from taxes. So without much debate on this maybe you should call the mover to reply. Thank you.

Hon. Speaker: Hon. Rose Ogonda!

Hon. Rose Ogonda: Thank you Madam Speaker, on a Point of Order number 36 there is no quorum in the House.

Hon. Speaker: Serjeant-at- Arm, ring the bell.

Hon. Kennedy Odhiambo: Point of Order madam Speaker.

Hon. Speaker: Odhiambo, what is the Point of Order?

Hon. Kennedy Odhiambo: The Member was out of order when she was quoting the Standing Order number 36, instead she should have used a different figure which I don't want to mention so for that reason I am asking the House to proceed with the business.

Hon. Speaker: Thank you proceed! Hon. Clarence Muga!

Hon. Clarence Muga: Thank you Madam. Speaker let me start my congratulating the Public Investment Committee for a good work done on this report. As a former member of the Committee most of the audit queries that I can see here when it comes to taxation, unaccounted water, property plan and equipment these are the queries that keep on recurring from one financial year to another.

My plea to you now the implementation Committee is to ensure that the recommendation made by this Committee is adhered by the Management of Nairobi Water. This because we are losing a lot of revenue when it comes to unaccounted water. According to international standards we are supposed to loss below 25% but we are losing over 36% which is a big loss to the Company. When it comes to property planning and equipment you will find that most of these properties have been, encroached by private developers which are endangering the lives of Nairobian. How can we have a private developer, developing a building next to a water reservoir?

When it comes to terrorism, people can use this as tool to kill the masses in Nairobi and I think those developers must stop and those title deeds to be given to Nairobi water to ensure we don't loss our land to private developers.

In taxation, Nairobi Water Company should ensure that they comply as much as they want to feel like they don't belong where they are exempted from paying taxes. They need to ensure that they have remitted taxes to Kenya Revenue Authority. Lastly, my plea to the Committee and the Chairman is to actually inform them that a lot of people will discourage you along the way, but be firm and ensure that Nairobi Water accounts for the monies that they receive.

Therefore, I support the report thank you Madam Speaker

Hon. Speaker: Hon. Mellab!

Hon. Mellab Lumalah: Thank you Madam Speaker, the issue of water is a very essential issue in the Community and I am wondering why people have left and yet we need water on daily bases. In the *Mashinani* we don't get water and I am very shocked that am reading from the Statement that the Chairman has given that Nairobi Water is not compliant to taxes. Assuming that you have never paid water as a land lady or land lord, what do they come and do as from where I stay we have not been having water for the whole month because we had not paid on time.

We would expect them to be the first people to be paying the rate and taxes that are needed. So, I congratulate the Committee that has brought out this statement and the report that Nairobi Water should be scrutinized, because I believe that there is a lot of water in the sources and they should do their work thoroughly because you will find some people having water without proper connection.

At some point I also feel there is somebody in the Department who is also sleeping on job and we also need to understand how the connection of Nairobi Water and Arthi Water links up because if those two can be together then we expect the whole City to be having water. So, I would like to say congratulation to

the team who seat and went through this but we also need more time because I am seeing a lot of loop holes in it that can be discussed further. Thank you, Madam Speaker.

Hon. Speaker: Hon. Vice Chair Leah!

Hon. Leah Supuko: Thank you Madam Speaker, I would also want to join my colleagues in congratulating the Committee that has come up with these findings, but I want to comment on matters on water. I want to assure the Committee of PIC that Hon. Matara sits in that Committee of Water and he also sits in the Committee of PIC, I would wish if he could have advised the PIC Committee on some findings on matters to do with Nairobi Water Company.

Madam Speaker, I would like to assure the Members that we have really looked on matters about water in Nairobi County, and to unextend that we went to see the Water together with Arthi Water and we discussed all these issues. It is very sad to report about rationing or the shortage of Water. It is true it will take a long time not even 2023 as we were told by CEC Water.

This is because the Nairobi Sewerage Company are actually facing a hard time. If you get to know what they go through some of the equipment that are being used in this City were in place like 20 years ago. So, until other new equipment are put in place that is the only time when the Nairobians will get Water. Without that we are sorry to report that there will be no adequate water in Nairobi.

Again with matters to do with monies that Nairobi Sewerage Water gives to Arthi water, we also brought to the attention on the CS water concerning that matter, because as the Committee of Water we also say it was not proper for Nairobi Water to remit that money to Arthi Water. For you Information Madam Speaker and for the benefit for other Members in this House, all development monies from donors and the Government monies are not given to Nairobi Water. Any development money is given through Arthi Water. That is what is brought to the attention of CS Water to tell him how will Nairobi Water carry all the burdens and remit money to Arthi Water and yet all the donor monies is going through Arthi Water.

Actually we faced them when the CS was there and the CEO Arthi Water was also there and they explained that of forty boreholes that were done in Nairobi County, which they said it's only twenty four which are functioning and they are actually not even functioning. We were actually the day before yesterday discussing in the Committee a report of those boreholes.

If you see the report and if Members goes through that report, you will just know that we are living in a world of imagination and a corrupt one. This is because one of the boreholes was stated that it was put in Maji House, where the hell is borehole being made in Maji House, We did not understand that and we are summoning the CEC and through the CS we want a meeting with Arthi Water.

So in short Madam Speaker, let the PIC Committee be informed that we are following up the matter to do with water and yes, I can report that there is a lot to be done because things are not adding up and not being done up right. Thank you Madam Speaker.

Hon. Speaker: Mover before you reply, I want to say that the issue of water in Nairobi is a very disturbing issue. Nairobians buy every day and everyone is blaming the Governor and yet we know where the problem is. We should know that is a very powerful House and it can change many things for Nairobi residents.

Therefore, I will urge the Committee of water to kindly follow up the findings of the Committee and even you can ensure Arthi Water not to get that revenue until they comply with what they were supposed to do for Nairobians. So, the first thing you have to do as a Committee is to bring a report in this House that says, we are stopping Arthi Water in getting 1.3 Billion Shillings of Nairobians until they put their house in order, so that the money can do other things for Nairobians. Mover!

Hon. Stazo Elijah: Thank you Madam Speaker, I would like to put it straight to the Water Committee that at no point is PIC blaming or saying that they have not been following up. One thing that is clear with this audit report is that there has been recurring queries since the last Assembly, while I was going through the reports. Therefore I think that the major problem is the implementation of what the committees have been finding or putting across to be implemented.

We would also like to request the Implementation Committee to be following up issues after the Committee have implemented, so that we don't have an issue of recurring audit queries each and every financial year. With that Hon. Speaker, I would like to thank Hon. Members of this House for supporting this Motion and also I would like to put it clear that the Executive through the Implementation Committee should be taking things seriously.

This should not be taken as papers to be read in the Assembly only because whatever we have recommended here is exactly what was recommended by the other Assembly when we were not here. It will be very sorry for Nairobi people that every now and then we will be doing recommendation that are not being implemented. With those few remarks Madam Speaker, I beg to reply.

(Question put and agreed to)

Hon. Members, we have come to the end and I want to plead with Hon. Members that whenever you want to leave the House you can do so. Especially when we are just about to finish it is not fair for the other Members who are seated to be told that there is no quorum. If you see that you don't want to be in the House you just walk out slowly since a parliament is allowed to finish the business with only two Members regardless. From now onwards because I have realized that we cannot debate in the middle of something which is not very kind especially when a Member is moving a Motion or when we are about to put the question, we should finalize the debate and finish. We have just come from a recess and it is fair to Kenyans also to use their tax payers' money properly.

ADJOURNMENT

Hon. Members, the House stands adjourned to 7th June, 2018 at 2:30 p.m.

(The House rose at 4.20 p.m.)

