



## NAIROBI CITY COUNTY ASSEMBLY

### OFFICIAL REPORT

#### Third County Assembly – First Session

Thursday 1<sup>st</sup> December 2022

The House met at 2.30 p.m.

*[Hon. Speaker (Mr. Kennedy Ng'ondi) in the Chair]*

#### PRAYER

**Hon. Speaker:** Hon. Members, you may be seated.

#### COMMUNICATION FROM THE CHAIR

##### RESUMPTION OF VETTING OF NOMINEES FOR APPOINTMENT AS COUNTY EXECUTIVE COMMITTEE MEMBERS

**Hon. Speaker:** Hon. Members, I have the following Communication to convey regarding the resumption of vetting of nominees for appointment as County Executive Committee Members:

Honorable Members, you will recall that on Thursday, 27th October, 2022, I conveyed a message to this House from H.E. the Governor forwarding names of nominees for appointment as County Executive Committee Members for vetting and approval. Pursuant to the Public Appointments (County Assemblies Approval) Act, 2017, I committed the names of the nominees to the Select Committee on Appointments for vetting and reporting.

Honorable Members, as soon as the Committee commenced the vetting exercise, on 9th November, 2022, the Employment and Labour Relations Court in ELRC Petition No. E184 of 2022; the Association of Muslim Lawyers and Nubian Rights Forum versus the Governor, County Government of Nairobi and the Speaker, County Assembly of Nairobi, granted ex-parte conservatory orders, suspending the approval process pending the hearing and determination of the application.

Honorable Members, as the Chair of the Select Committee on Appointments, I immediately suspended the vetting process following a resolution of the Committee at its sitting held on 10th November, 2022 pending the outcome of the judicial process. This was informed by my and the Committee's appreciation of the provisions of Article 3(1) of the Constitution which obligates me and the House to respect, uphold and

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defend the Constitution and by extension the rule of law which includes obeying court orders. I immediately thereafter instructed our litigation counsels to move with speed and set-aside the ex-parte orders based on various legal grounds and particularly lack of jurisdiction by Courts to interfere with active parliamentary and legislative processes.

Accordingly, honorable Members, the County Assembly challenged the petition since the court was in contravention of the principle of separation of powers and that the petitioners were inviting the court to determine an active matter under the exclusive jurisdiction of the County Assembly under Article 179(2)(b) of the Constitution, Section 35 of the County Government Act, 2012 and the Public Appointments (County Assemblies Approval) Act, 2017

Honorable Members, in its ruling delivered on Wednesday, 30th November, 2022, the court agreed with our submissions that that the County Assembly has exclusive original jurisdiction to first carry out the approval process before the court can intervene. The court also observed that the doctrine of separation of powers as provided for in the Constitution ought to be respected and upheld at all times. The court therefore paved the way for the resumption of the vetting and approval process noting that the application was baseless, frivolous, vexatious and pre-mature. The court also noted that the County Assembly must be allowed to carry out its legislative mandate without any undue interference by any person or arm of government.

Honorable Members, I wish to commend this very progressive view taken by the court on this matter. Whereas every Kenyan has a constitutional right to approach the courts of law to seek reliefs, this House must be allowed to carry out its constitutional mandate without interference. I am persuaded that the petitioners lacked information and legal guidance since they could have brought the issues they raised in the petition before the Select Committee on Appointments.

Honorable Members, I reiterate the findings of the court that one organ of government should not interfere in an active matter being considered by another organ of government where such organ has exclusive original jurisdiction on the matter being considered. Indeed, under our Standing Order No. 97 on the sub-judice rule, this Assembly is prohibited to consider any matter that is active in the court of law. In the same vein, the Courts are expected to exercise restraint when asked to intervene on matters under active consideration by the County Assembly. I am glad that this a constitutional principle that has been upheld by the court in today's ruling. Going forward, as the County Assembly, we shall vehemently uphold and respect this principle.

Honorable Members, following this ruling of the court, I wish to guide the Select Committee on Appointments, this Assembly and indeed the general public as follows:

- i. That the suspension of vetting of persons nominated to serve as County Executive Committee Members is hereby lifted;
- ii. That the Select Committee on Appointments is directed to immediately resume and conclude the vetting process and table its report for consideration by the House; and
- iii. That in the event the Committee concludes the vetting process while the House is on long recess, a Special Sitting may be convened pursuant to Standing Order No. 32 to consider the approval Motion.

The House is so guided. Thank you, honorable Members.

*(Applause)*

## PETITIONS

**Hon. Speaker:** Honorable Members, we have a Petition.

### PETITION BY RESIDENTS OF PATANISHO IN LOWER SAVANNAH WARD ON SETTLEMENT FORMALIZATION PROJECT OF COMMERCIAL PLOTS 667-730

**Hon. David Odhiambo:** Mr. Speaker sir, I have a petition by residents of Patanisho in Lower Savannah Ward on settlement formalization project of commercial plots 667-730 within Nairobi County.

We, the undersigned citizens of Kenya, who are residents of Lower Savannah Ward in Nairobi County, draw the attention of the County Assembly of Nairobi to the following:

AWARE THAT, Article 185 of the Constitution vests the legislative authority and oversight of the County governments in the county assembly;

THAT WHEREAS, Article 62 of the Constitution mandates the county government to hold in trust public land on behalf of county residents;

THAT, the Kenya National Land Use Policy, 2017 recognizes the need for social development that takes cognizance for provision of basic infrastructure and services;

THAT WHEREAS, Section 5 (e) of The National Land Commission Act, 2012 requires the commission to initiate investigations into present or historical land injustices and recommend appropriate redress---

**Hon. Speaker:** Honorable Member, please read carefully, the honorable House is not able to capture you properly. Can we go to the next Member before you read again and so that you can make a proper presentation, please?

### PETITION BY DAM ESTATE RESIDENTS' ASSOCIATION ON STOPPAGE OF NOISE POLLUTION AND LAND GRABBING BY HELICOPTER CHURCH IN LANG'ATA

**Hon. Jared Ondieki:** Thank you very much, Mr. Speaker. I have a Petition by the Dam Estate Residents Association on stoppage of noise pollution and land grabbing by Helicopter Church in Lang'ata, Nairobi City County. The petition says:

We, the undersigned citizens of Kenya, who are residents of Dam Estate Association within Nairobi City County, draw the attention of the County Assembly of Nairobi to the following:

AWARE THAT, Article 185 of the Constitution of Kenya, 2010 vests the legislative authority and oversight of the county governments in the county assembly;

THAT WHEREAS, Article 42 of the Constitution further provides that every person has the right to a clean and healthy environment, which includes the right;

- a) to have the environment protected for the benefit of present and future generations through legislative and other measures, particularly those contemplated in Article 69; and
- b) to have obligations relating to the environment fulfilled under Article 70.

THAT, the Nairobi City County Public Nuisance Act, 2021 provides control of public nuisance and empowers the County to all lawful necessary and reasonable practicable measures for the maintenance of the County cleanliness and sanitary condition at all times;

THAT, the Kenya National Land Use Policy, 2017 recognizes the need for social development that takes cognizance for provision of basic infrastructure and services;

THAT WHEREAS, Section 5 (e) of The National Land Commission Act, 2012 requires the commission to initiate investigations into present or historical land injustices and recommend appropriate redress;

THAT, we Dam Estate Residence write to complain of the noise emanating from the Helicopter Church located in Lang'ata Ward, led by Bishop Thomas Wahome. The church conducts all nights Keshas and all day Sunday services with loud noise;

NOTING THAT, this establishment has become a public Nuisance in the residential neighbourhood through noise pollution, mostly in form of loud music on a nightly basis and Sunday services with little to no regard for the inconvenience to and/or discomfort of your petitioners;

THAT, Helicopter Church has grabbed a portion of riparian land that belongs to Dam Estate as well as reclaiming the actual dam by dumping extracted soil. He has also set up structures on the same portion;

THAT, Dam Estate Association put up a fence to stop his further encroachment but he organized goons who destroyed it on 3 April 2021, and same was reported to the area chief and Langata police station;

THAT WHEREAS, Article 28 of the Constitution states that every person has inherent dignity and the right to have that dignity respected and protected;

THAT WHEREAS, petitioners, confirm that efforts have been made to have the matter addressed by the relevant body, it failed to give a satisfactory response;

AND THAT, all the matters in respect of which the Petition is raised is not pending before any court of law or constitutional body.

HEREFORE, your humble Petitioners pray that the County Assembly of Nairobi County intervenes and ensure that;

- a) Nairobi City County Environment and Natural Resources Sector to exercise its oversight role by ensuring the noise pollution emanating from Helicopter Church, led by the Bishop Wahome and any other such rouge establishment around the affected residents;
- b) The Nairobi City County Government in conjunction with the relevant organs, bring down the illegal structure being on the said land and put it to the rightful owners, that is Dam Estate Association Residence; and
- c) In the alternative, the Helicopter Church be shut down and/or removed from the premises wherein it is currently operating its business, which is within a residential area in close proximity to the residents of the petitioners herein and Dam Estate.

And your Petitioners will forever pray.

Thank you, Hon. Speaker.

**Hon. Speaker:** Thank you, Hon. Akama. Honorable Members, from the Petition of the honorable Member, it is evident that it is touching two committees, that is Planning and Environment committees. I

would request that the two committees have a joint committee to consider the Petition. I now commit the Petition to the two committees.

Honorable Member, to whom we had deferred the petition earlier, you may proceed.

*(Point of Order)*

**Hon. Moses Ogeto:** Thank you, Hon. Speaker. I am on Point of Order under Standing Order No. 43 on sequence and proceedings of the Assembly. Looking at the number of statements and petitions in this Assembly, I am seeking your indulgence so that we can move to the Supplementary Order Paper on Motion No. 8 and then we can revert back to the Order Paper. Hon. Speaker, with your permission, I am asking if we can change the sequence and proceedings of the House. Thank you.

**Hon. Speaker:** Honorable Member, let us get to the Motion first and then we can consider that. But for now, let us proceed with the sequence as it appears on the Order Paper. Honorable Member, you may proceed.

SETTLEMENT FORMALIZATION PROJECT OF COMMERCIAL PLOTS 667-730

*(Resumption of Petition earlier read, 6<sup>th</sup> December 2022)*

**Hon. David Odhiambo:** Thank you, Mr. Speaker sir. I beg to be helped by my senior here so that I can proceed.

**Hon. Speaker:** It is in order.

**Hon. Kennedy Sakwa:** Thank you, Mr. Speaker. I do not have the card.

Petition by residents of Patanisho in Lower Savannah Ward on settlement formalization project of commercial plots 667-730 within Nairobi County.

We, the undersigned citizens of Kenya, who are residents of Lower Savannah Ward in Nairobi County, draw the attention of the County Assembly of Nairobi to the following:

AWARE THAT, Article 185 of the Constitution vests the legislative authority and oversight of the County governments in the county assembly;

THAT WHEREAS, Article 62 of the Constitution mandates the county government to hold in trust public land on behalf of county residents;

THAT, the Kenya National Land Use Policy, 2017 recognizes the need for social development that takes cognizance for provision of basic infrastructure and services;

THAT WHEREAS, Section 5 (e) of The National Land Commission Act, 2012 requires the commission to initiate investigations into present or historical land injustices and recommend appropriate redress;

THAT WHEREAS, in 2014 the County Government issued allotment letters to Patanisho (formerly known as Kayole South) Scheme settlers to formalize allocation of plots vide Minute 13 (pg. 564) of a general purposes meeting of the defunct County Council of 13<sup>th</sup> September 2012;

THAT WHEREAS, the 41 ha. plots were initially allocated to the Petitioners by the then Provincial Administration;

THAT WHEREAS, the allotment letters being an offer and subject to acceptance with the period specified on the face and also upon accepting by paying and meeting all the conditions set out. This being the payment of standard premium and ground rent;

THAT WHEREAS, upon the said payment of all the prerequisite fees, the Petitioners proceeded and applied for the survey of the land, which upon payment, they were issued with a map showing the boundaries of the plots now known as Nairobi Block 167;

THAT WHEREAS, upon the said payment of requisite survey fees of Ksh 2.1 million, the County Land Surveyor, in a letter dated 22nd September 2015, made a request forwarding a Preliminary Development Plan(PDP) and a Registered Index Map(RIM) to enable the County prepare leases to the allottees (herein the Petitioners);

THAT, in 2016, the County Government started issuing 99 year leases to 400 allottees, having duly paid KRA stamp duties;

THAT, The Petitioners have since been paying land rates/KRA land rates, and arising from a boundary dispute with Kiambu Dandora Farmers Association on plot Nos. 667-730, the Ministry of Lands visited part of Nairobi Block 167 and drew boundaries hence ending the dispute;

THAT, after the Ministry of lands conducted the Survey, a group known as Kayole Sector 'A' emerged claiming ownership of plots 667-730. The claim was contested by the Petitioners through their advocate who wrote to the County on the same. The County Government through the County Attorney and the Chief Officer Lands, after verifying the documents produced by Kayole Sector 'A' group, termed them as fake documents as they cannot be traced in County Government records;

THAT, this 'fake' claim by members of Kayole Sector 'A' Association has infringed on the rights of the allottees enjoying peaceful enjoyment to their property as envisaged by the Constitution;

THAT WHEREAS, petitioners confirm that efforts have been made to have matter addressed by the relevant body failed to give satisfactory response;

THAT, all the matters in respect of which the petition is being raised is not pending before any court of law or constitutional body.

HEREFORE, your humble Petitioners PRAY that the County Assembly of Nairobi County intervenes and ensures that;

- a) The County Executive do take the initiative of ensuring that plots No. 667-730 are indeed occupied by the rightful owners by issuing them with lease certificates as was done to settlers on the other part of the scheme.

And your Petitioners will forever pray.

Presented by Hon. Magoba on behalf of the residents. Thank you, Mr. Speaker.

**Hon. Speaker:** Thank you, honorable Member. I commit the Petition to the Planning Committee. Thank you.


## PAPERS

**Hon. Speaker:** Hon. Majority Leader, please.

REPORT OF THE AUDITOR GENERAL ON SPECIAL AUDIT ON PUBLIC PARTICIPATION  
IN THE COUNTY BUDGET MAKING PROCESS

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**Hon. Peter Imwatok:** Hon. Speaker, I was admiring the Chair for Planning Committee when all the Petitions are being committed to him, his in-tray is full. We can see his body language and the dressing.

Hon. Speaker, pursuant to Article 229 of the Constitution of Kenya, I beg to lay the following Paper on the Table of this Assembly today, Thursday 1<sup>st</sup> December 2022:

The report of the Auditor General on special audit on public participation in the County budget making process for the financial year 2022-2022.

I beg to lay.

*(The Paper was laid on the Table)*

**Hon. Speaker:** Thank you, honorable Majority Leader. Honorable Member, why are you standing? We commit the Paper laid to the Public Accounts Committee. Chairperson, Culture.

#### REPORT OF CULTURE AND COMMUNITY SERVICES COMMITTEE'S INDUCTION WORKSHOP

**Hon. Clarence Munga:** Thank you, Mr. Speaker. Pursuant to Standing Order No. 196, I beg to lay the following Paper on the Table this Assembly today, Thursday 1<sup>st</sup> December 2022:

The First Report of the Sectoral Committee on Culture and Community Services on the Committee's induction workshop held from 10<sup>th</sup> to 13<sup>th</sup> November 2022 in Mombasa County.

Thank you, Mr. Speaker.

*(The Paper was laid on the Table)*

**Hon. Speaker:** Thank you, Chair. The Chairperson for Agriculture, Livestock and Fisheries Committee.

#### REPORT OF AGRICULTURE, LIVESTOCK AND FISHERIES COMMITTEE'S INDUCTION WORKSHOP

**Hon. Emmy Isalambo:** Thank you, Mr. Speaker. Pursuant to Standing Order No. 196, I beg to lay the following Paper on the Table of this Assembly today, Thursday 1<sup>st</sup> December 2022:

The First Report of the Sectoral Committee on Agriculture, Livestock and Fisheries on the Committee's induction workshop held from 17<sup>th</sup> to 20<sup>th</sup> November 2022 in Mombasa County.

Hon. Speaker, I beg to lay the Paper.

*(The Paper was laid on the Table)*

**Hon. Speaker:** Thank you, Hon. Member. The Chairperson for Transport and Public Works.

#### REPORT OF TRANSPORT AND PUBLIC WORKS COMMITTEE'S INDUCTION WORKSHOP

**Hon. Musango Maithya:** Thank you, Mr. Speaker. Pursuant to Standing Order No. 196, I beg to lay the following Paper on the Table of this Assembly today, Thursday 1<sup>st</sup> December 2022:

The First Report of the Sectoral Committee on Transport and Public Works on the committee's induction workshop held from 14<sup>th</sup> to 17<sup>th</sup> November 2022 in Mombasa County.

Thank you, Mr. Speaker.

*(The Paper was laid on the Table)*

### NOTICES OF MOTION

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**Hon. Speaker:** Hon. DNG.

CONTROL OF NOISE POLLUTION FROM BARS, NIGHT CLUBS AND RELIGIOUS BUILDINGS

**Hon. Davidson Ngibuini:** Thank you so much for the opportunity, Hon. Speaker. I beg to give a notice of the following Motion on the control of noise pollution from bars, night clubs and religious buildings:

THAT, aware that Paragraph Three of part Two of the Fourth Schedule of the Constitution of Kenya, 2010 provides for the functions and powers of county governments on control of air, noise pollution and other public nuisances; further aware that the County Assembly passed the Nairobi City County Public Nuisance Act, 2021, which provides for the control of public nuisance within the County, Section 20 of the Act provides that, *'a person shall not upon other premises play, operate, cause or allow to be played or operated any musical instrument, wireless, gramophone, amplifier or similar instruments, thereby making, causing or authorizing noise to be made which is loud and continuous or repeated as to constitute a nuisance to the occupants or dwellers of any premises in the neighbourhood or to passersby on the streets'*; concerned that in recent years there has been an upsurge in noise pollution, especially from bars, nightclubs, and religious buildings near residential areas, which has caused discomfort and lack of peace among residents; further concerned that such noise has health effects, which include but are not limited to impairing cognitive functioning in children, affecting people's sleep and concentration levels, as well as biological stress among others; acknowledging that the National Environment Management Authority developed the Environment Management and Coordination (Noise and Excessive Vibration Pollution) (Control) Regulations, 2009 that prohibits the production of loud, unreasonable, unnecessary, or unusual noise, which annoys, disturbs, injures, or endangers the discomfort, repose health or safety of others and the environment; further acknowledging, that Paragraph Ten of Part Two of the Fourth Schedule of the Constitution requires the County to implement specific national government policies on environmental conservation; this Assembly resolves that the County Executive:

1. Implements all the legislations, both the County and national levels on noise pollution to control all forms of public nuisance, which have resulted in public outcry;
2. Develop regulations on noise mitigating measures pursuant to provisions of Section 35 of the Nairobi City County Public Nuisance Act, 2021 to curb all forms of noise pollution in residential areas in the County; and
3. Mandate proprietors to effect and install noise reduction and containment measures such as soundproofing, cut-offs, installing glass shields, repositioning of Speakers, and internal self-regulation mechanisms to minimize noise within the County.

Thank you.

**Hon. Speaker:** Thank you. Hon. Perpetua.

ESTABLISHMENT OF A FREE PUBLIC EDUCATION RESOURCE CENTRE  
AT THE NEWLY REFURBISHED UHURU PARK

**Hon. Perpetua Mponjiwa:** Thank you, Hon. Speaker, I wish to give Notice of the following Motion:  
THAT, aware that the functions of public entertainment and public amenities including county parks, recreation facilities and sports activities and facilities are vested in the county governments pursuant to



Paragraph Four of Part Two of the Fourth schedule to the Constitution of Kenya 2010; noting that parks and green spaces occupy a critical place in the urban environment, providing opportunity for recreation and wellness, as well as environmental management promotion and sustainability for urban communities; appreciating the rehabilitation of Uhuru Park, Uhuru Gardens, Central Park, Jeevanjee Gardens and Hon. Michuki Memorial Park; recognizing that Nairobi residents need to continue accessing the newly refurbished Uhuru Park, both for rest and recreation; this Assembly urges the County Executive to establish a public resource centre (mini library) at the newly refurbished Uhuru Park to act as an open source library stocked with reading materials for all age categories, a free area for board games and other appropriate indoor amenities that shall be accessible by all members of the public free-of-charge.

Thank you, Hon. Speaker.

**Hon. Speaker:** Clerk, before you proceed to Order No.7, I wish to grant authority, as requested by the Majority Whip, that we defer orders in line with the sequence so that we may allow the Majority Leader to move a Motion before pursuing medical attention. Honorable Majority Leader!

## MOTION

### ALTERATION OF THE ASSEMBLY CALENDER

**Hon. Peter Imwatok:** Hon. Speaker thank you for granting me an opportunity, courtesy of my whip who cares for me. I knew this young man when he was only 20 years when he vied for the first time as the youngest MCA in Kenya. By the look of my eyes, he knows that I am not okay and he decided to ask for a change in the sequence of the agenda.

Hon. Speaker, pursuant to the provision of Standing Order No. 31 (4), this Assembly resolves to alter this calendar to adjourn on Tuesday 13<sup>th</sup> December 2022.

Hon. Speaker and the entire House, I stand before you humbly to ask for the extension of this Assembly from today to 13<sup>th</sup> December 2022. As you are all aware, we are supposed to proceed today for long recess until next year February. Also, aware that the Leader of the Minority, myself, and the entire leadership of this House are very much cognizant of the facts around us in terms of our welfare. Aware that SRC made proclamation on the car reimbursement and our County Executive has just implored onto us that they received the money in the CRF account last week, so far, we have not yet got these monies in the account of the County Assembly for the car loan and reimbursement.

In the spirit of our welfare and making sure Members are comfortable as they proceed for Christmas, this House and the entire leadership resolve to keep vigil until every Member of this House achieves what is due to them in term of car reimbursement.

*(Applause)*

Hon. Speaker, I have seen for the first time my brother Robert Alai's last teeth, that speak volumes!

*(Laughter)*

Hon. Speaker, on the same breath, based on your communication, this is a government for the people of Nairobi, which must be fully constituted. I am happy with the way the Governor has so far managed the affairs of the City. As a House, we have a duty under your guidance, Hon. Speaker, to make sure as much as he gives us a gesture of good governance, we also do our part as a legislative arm by giving him the Executive he deserves to make policies and decisions for this County.

Hon. Speaker, based on your communication, you just lauded the courts for throwing away a frivolous application before the court that allows this Assembly to stand firm in doing its diligent duties of vetting and approving the ten men and women who the Governor presented about a month ago before this Assembly. May take this opportunity to say *kongole* to our courts and to the judge who rendered this judgment because in most cases, we would not generalize all the judges and magistrates. Most of the court orders are under procurement, but this particular judge has exhibited honesty to the law and fidelity to the Constitution.

Hon. Speaker, I believe the Appointment Committee, as you will direct, has a solemn duty under Article one of the Constitution to make sure we approve the vetted ten CEC members. That will make us to be here by next week when the report comes for us to decide on behalf of the people of Nairobi.

Hon. Speaker, you are aware of the Service Board was busy doing interviews for the chief officer positions, which ended the day before yesterday. We also expect that beyond CECs being in office by next week, we expect them to have their PSs, who are the chief office to be able to execute the work given to us by the people of Nairobi.

Therefore, Hon. Speaker, it is an affair that touches on our welfare and at the same time, we must be ready to deal with the affairs of the entire County; I do not want to waste a lot of time, I ask my counterpart, Mheshimiwa Kiragu to kindly stand and second. Thank you, Hon. Speaker.

**Hon. Anthony Karanja:** Thank you, Hon. Speaker and the Majority Leader, I beg to second this Motion and be reiterate that among the factors that our Majority Leader has laid down, we also started this Assembly a bit late. So, we need some time to try and catch up with the business of the day. I am happy to hear about the car grant that we are waiting for and we hope by December, we are all going to look for vehicles. I can also see Alai smiling at me. I think that thing is really making him very happy. I am happy that we will all get the car grant.

Hon. Speaker, I would also want that in the next two weeks we will be engaging your office and the Clerk's office on other matters of the welfare of these Members, to ask our offices to keep engaging other pension schemes on matters to do with our pension. I want to use this opportunity of this extension next week to bring to the attention of Members that we have been putting our money in Lap Fund for a long time but we were grossly short-charged in the last Assembly.

*(Applause)*

I will be engaging Members, especially the Members of Kenya Kwanza and invite individual Members and leadership of Azimio to come and join us to have a discussion. We invested Kshs 1.6 million in the last five years but only got Kshs 1.34 million in returns. I have gone round, shopped and looked at other schemes and hope to use this opportunity to make sure that we will invest our money properly this time such that when we invest, we will get returns for our money.

*(Applause)*

Therefore, Hon. Speaker, I beg to second and I hope to use the next 13 days very well for the future of this County and future of individual members. Thank you.

**Hon. Speaker:** Thank you. Honorable Members.

*(Question proposed)*

**Hon. Speaker:** I have got several requests. Hon. Emmy Isalambo, have you pressed?

**Hon. Emmy Isalambo:** No.

**Hon. Speaker:** Please, put off your mic. The mover to reply.

**Hon. Peter Imwatok:** Hon. Speaker, I want to take this opportunity to thank all honorable Members and more particularly, to thank Hon. Minority Leader. I welcome his suggestion to invite individuals from my political side for a conversation with him, which is a collective responsibility on both sides of the aisle. I invite all the Members to have our welfare at peak at any given time in a very constructive manner and sober way.

Hon. Speaker, I did not touch the issues of the loans. For those who are not aware, we are all in this house for 60 months. Currently, we are done with 92 days plus hours, meaning already three months are down. The repayment period for our Car Loan and Mortgage is about 48 months, to give you time to heal as you prepare time to retire or to continue after 5 years.

Therefore, honorable Members, it is very important when the Minority Leader speaks about gratuity, we must insist that our Members across the aisle deserve to get the Kshs 7.2 million as part of their benefits.

*(Applause)*

As we save with gratuity, first things first, do I have what belongs to me, the Kshs 3 million in terms of the Mortgage? Do I have the Kshs 2 million for the car loan?

**Hon. Speaker:** Honorable Majority Leader, you have under one minute to reply, please.

**Hon. Peter Imwatok:** Hon. Speaker, I just emphasizing courtesy of my seniority in this House. My voice has come back because of your smile, Hon. Speaker!

*(Laughter)*

Hon. Speaker, let us look at our welfare in totality. With that, I would like to thank the House and let us meet next week on Tuesday, Wednesday, and Thursday and next week part one on Tuesday and Wednesday. I beg to reply.

**Hon. Speaker:** Clerk, we may resume from where we left. There is no question put on the adjournment.

*(Loud consultation)*

Honorable Members, it seems you are using different Standing Orders, which is very wrong for the House.

*(Question put and agreed to)*

**STATEMENTS**

**Hon. Speaker:** Hon. Hashim Kamau.

REQUEST FOR STATEMENT REGARDING MOI INTERNATIONAL SPORTS CENTRE, KASARANI  
AND NYAYO NATIONAL STADIUM

**Hon. Hashim Kamau:** Hon. Speaker, pursuant to Standing Order No 47 (2) (c), I wish to request for a Statement from the Chairperson of the Sectoral Committee on Culture and Community Service, regarding Moi International Sports Centre, Kasarani and Nyayo National stadia sports facilities currently managed by the National Government.

Hon. Speaker, Paragraph 17 of Part 1 of the Fourth Schedule of the Constitution of Kenya, 2010 confers the promotion of sports and sports education mandate to the National Government, while Paragraph 4 of Part 2 of the Fourth Schedule of the Constitution of Kenya, 2010 presupposes sports and cultural activities and facilities to be a mandate to the County Government.

Hon. Speaker, Sports Kenya (SK) is a state corporation established by the National Sports Act, 2013 and is mandated to promote, coordinate and implement national and international sports programs, and establish, manage, develop and maintain the sports facilities. Sports Kenya manages two of Kenya's premier sporting complexes, which is Moi International Sports Centre, Kasarani and Nyayo National Stadium, both in Nairobi City.

Hon. Speaker, based on the clear distinction of the mandate of the two levels of government provided in the Constitution, management of the above stadia should be arguably under the Nairobi City County Government. Further, it is noteworthy that the provisions of Article 187 of the Constitution of Kenya as read together with Sections 24, 25, and 26 of the Intergovernmental Relations Act, 2012 provides the criteria for the transfer of functions between different levels of government.

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

- i. Status of implementation of paragraph 4 of Part 2 of the Fourth Schedule of the Constitution of Kenya, 2010 on the management of sports and sport facilities within Nairobi City County, specifically Moi International Sports Centre, Kasarani, and Nyayo National Stadium.

Thank you, Hon. Speaker.

**Hon. Speaker:** Chairperson of Culture, can you do the undertaking?

**Hon. Clarence Munga:** Thank you, Hon. Speaker, we will respond after recess.

**Hon. Speaker:** Thank you. Hon. Kago.

*[Hon. Speaker left the Chair]*

*[Hon. Temporary Deputy Speaker (Ms. Malyun Abdi) took the Chair]*

REQUEST FOR STATEMENT REGARDING THE LACK OF MEDICAL SUPPLIES  
IN MWIKI HEALTH CENTRE

**Hon. Samuel Kago:** Thank you, Hon. Speaker. Pursuant to Standing Order No. 47 (2) (c), I wish to request for a Statement from the Chairperson of the Sectoral Committee on Health Services regarding the lack of medical supplies in County health facilities, particularly Mwiki Health Centre located in Mwiki Ward.

Hon. Speaker, Article 43 (1) (a) of the Constitution of Kenya, 2010 provides every person with the right to the highest attainable standards of health, which includes the right to health care services, including reproductive health care.

The defunct Nairobi Metropolitan Services constructed and renovated several health facilities across the County but nearly all of them lack essential medical supplies. Mwiki Health Centre, for instance, that was designed to have a maternity wing, has never been in operation due to a lack of basic amenities such as bedding and drugs.

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

- i. Measures that the County Executive has put in place to operationalize the maternity wing in Mwiki Health Centre;
- ii. Steps that the County Executive is taking to provide adequate medical supplies to Mwiki Health Center and other health facilities in the County; and
- iii. Measures the County Executive is putting in place to ensure continuous medical supplies to County health facilities.

Thank you, Hon. Speaker.

**Hon. Temporary Deputy Speaker:** Chairperson, Health.

**Hon. Maurice Ochieng:** Madam Speaker, give us seven days to bring the report because this is a serious matter.

**Hon. Samuel Kago:** I agree; seven days are in order. Thank you. I have another Statement, Hon. Speaker.

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

**Hon. Samuel Kago:** Hon. Speaker, I had two statements.

**Hon. Temporary Deputy Speaker:** But the information I have is that Hon. Joseph Ndungu is supposed to request for a Statement.

**Hon. Samuel Kago:** I have two statements.

**Hon. Temporary Deputy Speaker:** Later please, with request.

**Hon. Samuel Kago:** Thank you.

**Hon. Temporary Deputy Speaker:** Joseph Ndung'u.

#### REQUEST FOR STATEMENT REGARDING DILAPIDATED MAKONGENI ROAD IN RUIAI WARD

**Hon. Joseph Ndungu:** Thank you, Hon. Speaker. Pursuant to Standing Order No. 47 (2) (c), I wish to request for a Statement from the Chairperson of the Sectoral Committee on Transport and Public Works regarding dilapidated roads across the city, particularly Makongeni Road in Ruai Ward.

Hon. Speaker, the County recently embarked on major renovation works across the City. While various projects have been executed, some areas of the County still have roads that have never been upgraded to marram status. For instance, Makongeni Road in Ruai Ward is currently impassable due to the

ongoing rains that have caused deep potholes and pools of water. This has made the mobility of people and goods and services difficult for the residents of the area.

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

- i. Measures that the County Executive has put in place to rehabilitate the said road; and
- ii. Steps that the County is taking to ensure that all informal roads and link roads within the County are constructed.

Thank you, Hon. Speaker.

**Hon. Temporary Deputy Speaker:** Chairperson of Transport? Vice Chair or any Committee Member?

**Hon. Samuel Kago:** Hon. Speaker, I am a Member of the Transport Committee. Two weeks will be enough to deliberate on the matter.

**Hon. Temporary Deputy Speaker:** Hon. Joseph, are you okay?

**Hon. Joseph Ndungu:** It is okay, thank you very much, Hon. Speaker.

**Hon. Temporary Deputy Speaker:** Hon. Jared Akama.

REQUEST FOR STATEMENT REGARDING MISMANAGEMENT OF HOUSING ESTATES  
OWNED BY THE COUNTY

**Hon. Jared Ondieki:** Thank you, Hon. Speaker. Pursuant to Standing Order No. 47 (2) (c), I wish to request for a Statement from the Chairperson of the Sectoral Committee on Lands, Planning, and Housing regarding the mismanagement of housing estates owned by the County.

Hon. Speaker, whereas the County owns and manages housing estates that contributes to the revenue that is used to provide various other services to the people, there are allegations of improper management, administration and maintenance of these estates. Of particular concern is that some of the tenants occupy these County houses but do not pay rent at all to the County.

However, Hon. Speaker, despite the requirement by Article 43 (1) (b) of the Constitution states that every person has a right to accessible and adequate housing and to reasonable standards of sanitation, the County is expected to keep the houses in proper conditions and the tenants to understand that there are obligations to the County of rent payment.

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

- i. The report on the number of housing estates and the total number of units that each estate carries;
- ii. The total amount of rent that each of the estates should generate every month and the actual collection for the financial year 2021/2022 and the financial year 2022/2023; and
- iii. Measures the County Executive has put in place to ensure compliance with regards to rent payment by the County tenants.

Thank you, Madam Speaker.

**Hon. Temporary Deputy Speaker:** Chairperson Lands?

**Hon. Alvin Palapala:** Madam Speaker, two weeks.

**Hon. Temporary Deputy Speaker:** Hon. Akama, are you okay with that?

**Hon. Jared Ondieki:** I hope that they have factored the aspect of recess because we need feedback as soon as possible. Two weeks is okay

**Hon. Temporary Deputy Speaker:** Okay. Hon. Sam Kago.

REQUEST FOR STATEMENT REGARDING RECORDS MANAGEMENT  
IN THE COUNTY EXECUTIVE

**Hon. Samuel Kago:** Thank you, Madam Speaker. Pursuant to Standing Order No. 47 (2) (c), I wish to request for a Statement from the Chairperson of the Sectoral Committee on Energy and Information, Communication and Technology regarding records management in the County Executive.

Hon. Speaker, proper management of records ensures that institutional records of virtual, historical, fiscal and legal value are identified and archived and that non-essential records are discarded in accordance with the relevant disposal policy on legislation.

Hon. Speaker, the County Executive departments generate and receive many documents, a majority of which are valuable records to the function of the County Government and hence the need to be managed appropriately to enhance effectiveness, accountability and transparency in the service delivery. The County Executive is grappling with loss of crucial documents due to lack of proper Records Management Policy system despite the County Assembly having approved funds for renovation of storage space and digitization of records.

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

- i. Whether the County Executive has a Records Management Policy;
- ii. Whether the County has begun the process of digitalization of records in light of the allocated budget to reorganize and catalogue; and
- iii. Plans the County Executive has put in place to reorganize catalogue and decongest the current Record Management Office.

Thank you.

**Hon. Temporary Deputy Speaker:** Chairperson, Energy and Information.

**Hon. Frederick Njoroge:** Thank you, Madam Speaker. I request the Member to give the Committee a chance to report back after the recess.

**Hon. Temporary Deputy Speaker:** Hon. Kago.

**Hon. Samuel Kago:** I agree because they need to do some fact finding. Thank you.

**Hon. Temporary Deputy Speaker:** Hon. Kamau Fiunifiu.

REQUEST FOR STATEMENT REGARDING THE NUMBER OF BOREHOLES DRILLED  
AND WATER POINTS BY THE DEFUNCT NMS

**Hon. Kamau Fiunifiu:** Thank you, Hon. Speaker. I rise pursuant to Standing Order No 47 (2) (c) to request for a Statement from the Chairperson of the Sectoral Committee on Water and Sanitation regarding the number of boreholes drilled and water points by the defunct Nairobi Metropolitan Services (NMS) across the County.

Hon. Speaker, Article 43 (d) of the Constitution of Kenya ,2010 entitles every person the right to clean and safe water in adequate quantities. Accordingly, the defunct NMS initiated a programme on drilling boreholes and water points in various parts of the County to complement the Nairobi Water and Sewerage

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Company water service provision to the residents of Nairobi City County. Section 87 (a) and (b) of the Nairobi City County Public Participation Act, 2016 expressly provides for the inclusion of the public in the activities the County Government intends to implement. It further provides that the views from the public shall be taken into consideration when making any decision.

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

- i. A report on the number of boreholes and water points drilled by the defunct Nairobi Metropolitan Services;
- ii. Whether there was any meaningful public participation conducted during the implementation of the borehole drilling programme;
- iii. A list of the companies that were contracted to undertake drilling and equipping of the said boreholes;
- iv. Whether there was a competitive procurement process undertaken and a financial statement on how much each borehole costed;
- v. Whether the County Executive has conducted visits to the drilled boreholes to ascertain the quality of water from the boreholes; and
- vi. The role of Athi Water in the implementation of the whole programme and the actual status of the boreholes across the County.

Thank you.

**Hon. Temporary Deputy Speaker:** Chairperson, Water and Sanitation? Vice Chair?

**Hon. Asli Mohamed:** We will respond in two weeks' time.

**Hon. Kamau Fiunifiu:** Hon. Speaker, I accept but it is impossible. We will be on recess.

**Hon. Asli Mohamed:** We will try and do it before the recess.

**Hon. Temporary Deputy Speaker:** Thank you, Madam Vice Chair. Hon. Nicholas Juma.

**Hon. Eric Murigu:** Madam Speaker, I am standing on behalf of Hon. Nicholas Juma who is engaged on other matters that concern this House.

REQUEST FOR STATEMENT REGARDING THE STATUS OF OWNERSHIP OF EASTLEIGH SOCIAL HALL THAT IS ALLEGEDLY OWNED BY A PRIVATE DEVELOPER, MACHAIS LIMITED

**Hon. Eric Murigu:** Hon. Speaker, pursuant to Standing Order No. 47 (2) (c), I wish to request for a statement from the Chairperson of the Sectoral Committee On Culture and Community Services and Select Committee on Public Investments regarding the status of ownership of Eastleigh Social Hall that is allegedly owned by a private developer, Machais Limited.


Hon. Speaker, the private developer signed a private-public partnership with the defunct Nairobi City Council and agreed to demolish the previous Eastleigh Social Hall to put up a storey mall. However, the private developer did not officially hand over the completed Eastleigh Social Hall to the defunct Nairobi City Council. The Eastleigh Community Social Hall was built to serve the residents of Eastleigh. However, the private developer only allocated part of the fourth floor for social hall.

Hon. Speaker, part of the 4<sup>th</sup> floor that was allocated to the Eastleigh social hall lacks basic utilities such as lifts and an access lab for persons with disabilities and the elderly.

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

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- i. Whether there was public participation when the defunct Nairobi City Council came up with the private-partnership agreement with Machais Limited;
- ii. Whether there is a valid lease agreement between the defunct Nairobi City Council and Machais Limited, and if yes, when does it expire;
- iii. Whether the private developer intends to install a lift and ramp in the building to enable the elderly and persons with disability access the social hall;
- iv. Whether the partnership with Machais Limited is an investment of the County and if it is being managed prudently; and
- v. Whether the County Government is benefitting from the said partnership with Machais Limited.

Thank you.

**Hon. Temporary Deputy Speaker:** Chairperson, Culture and Community Service.

**Hon. Samson Ooko:** Thank you, Madam Speaker. This is a very important and heavy matter that requires a lot of time investigating. We will therefore respond to it in February 2023.

**Hon. Eric Murigu:** Madam Speaker, this Statement is to be handled by a joint committee, therefore, I would like to hear from the other committee too.

**Hon. Samson Ooko:** Hon. Speaker, I agree that the House is going on recess in two weeks' time.

**Hon. Temporary Deputy Speaker:** Thank you, Chair Culture and Community services. Hon. Emily Oduor.

REQUEST FOR STATEMENT REGARDING THE INTERDICTION OF STAFFERS SERVING IN THE  
NAIROBI CITY COUNTY EXECUTIVE SECTOR, DEPARTMENT OF URBAN PLANNING, COMPLIANCE AND  
ENFORCEMENT

**Hon. Emily Oduor:** Thank you, Chair. Pursuant to Standing Order No 47 (2) (c), I wish to request for a Statement from the Chairperson of the Sectoral Committee on Labour and Social Services regarding the interdiction of staffers serving in the Nairobi City County Executive sector, Department of Urban Planning, Compliance and Enforcement.

Hon. Speaker, disciplinary control is an integral part of any human resource management in any institution, it is intended to contribute to performance improvement and the productivity, and should be governed by principles of natural justice.

Hon. Speaker, in the last few months, Nairobi County has been greatly affected by some buildings collapsing due to structural issues. There has been crackdown by the government to apprehend the owners of the said buildings. The disciplinary process in the public sector is governed by the principles of natural justice that requires any officer charged with any offence to be given an opportunity to defend himself or herself before an impartial adjudicator as per the policies.

Hon. Speaker, some staffs working in the Urban Planning Department have been interdicted unfairly due to the collapsing of buildings in the County. In the said department, there have been shortage of staffers allocated across the County to undertake inspection visits.

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

- i. Whether the said staffers are the ones to bear the liability when a building collapses;
- ii. Whether due process was followed in the interdiction of the said staffers; and

- iii. Steps the County Executive has put in place to ensure that there is adequate human resource in the Department of Planning, Compliance and Enforcement.

Thank you.

**Hon. Temporary Deputy Speaker:** Chairperson, Labour and Social Services.

**Hon. Allan Gathuku:** Madam Speaker, I beg to give feedback in eight days.

**Hon. Emily Oduor:** Thank you. Eight days accepted.

**Hon. Temporary Deputy Speaker:** Thank you. Madam Emily. There was a response to a Statement from the Chair Education. Proceed.

RESPONSE TO STATEMENT REGARDING INCREASED PRESENCE OF STREET CHILDREN  
IN THE CENTRAL BUSINESS DISTRICT AND VARIOUS PARTS OF THE COUNTY

**Hon. Perpetua Mponjiwa:** Thank you, Hon. Speaker. On Wednesday 30<sup>th</sup> November 2022, the Sectoral Committee on Children, Early Childhood Education and Vocational Training adopted the response to a Statement requested by Hon. Malyun Ali Abdi regarding the increased presence of street children in the Central Business District and various parts of the County, especially in the Eastleigh and slum areas.

Hon. Speaker, the Committee thereafter wrote to the Executive and we got a response, but the committee in its findings found that the response was not sufficient enough because they did not attach much of what we really wanted from them, which was data as we wanted to know how many children are in rehabilitation center's safely. So because there was no data attached to it, we did not have facts, and as you know where there are no facts then there is no truth.

The committee, therefore resolved that we needed to dig deeper and resolved to undertake an inquiry on the matter before tabling a comprehensive report in the Assembly for further action. Thank you, Hon. Speaker.

**Hon. Temporary Deputy Speaker:** Thank you, Madam Chair. I am now waiting for a comprehensive report. Clerk

**MOTION**

**Hon. Temporary Deputy Speaker:** On behalf of Hon. Waithera Chege, Hon. Silas Matara will move the Motion.

STRATEGIES AND PROGRAMMES ON CLIMATE CHANGE WITHIN THE COUNTY

**Hon. Silas Matara:** Thank you, Hon. Speaker. I am holding brief for Hon. Waithera Chege.

THAT, aware that Article 42 of the Constitution of Kenya, 2010 provides for the right to a clean and healthy environment for every Kenyan, which includes the right to have the environment protected for the benefit of the present and future generations; further aware that climate change is a complex social and scientific issue which is characterized by uncertainty and is a global nightmare with consequences that are already quite visible across the globe; cognizant that Article 12 of the Paris Agreement espouses the enhancement of climate change education, training, public awareness, public participation and public access to information; noting that climate change education explores mitigation and adaptation at both local and global level, critical, creative thinking and capacity building that will enable youth to engage with the information, inquire, understand, ask critical questions and take what they determine to be appropriate

actions in response to climate change; concerned that human activities have substantially been increasing the atmospheric concentrations of greenhouse gases, this in turn enhances the greenhouse effect that will result in additional warming of the Earth's surface and atmosphere and may adversely affect natural ecosystems and humankind; acknowledging that the Climate Change Act, 2016 provides that the County Government shall, in performance of its function, integrate and mainstream climate change actions, intervention and duties set out in the Act and the National Climate Change Action Plan into various Sectors. The County Government in development, updating and approval of County Integrated Development Plan and County Sectoral Plans mainstream implementation of National Climate Change Action Plan, taking into account National and County Priorities; further acknowledging that Paragraph Ten of the Fourth Schedule to the Constitution of Kenya, 2010 provides that the County Government is to implement specific national government policies on natural resources and environmental conservation; now therefore, the County Assembly urges the County Executive to:

1. Develop strategies and education programmes on adaptability to climate change within the County;
2. Develop a policy on climate change; and
3. Implement the National Climate Change Plan across all the Sector in the County.

Hon. Speaker, I beg to move that climate change is a serious issue affecting global economy and the livelihood of Kenyans. A summit was held in Egypt on climate change because it has caused adverse effects on Nairobi in terms of flooding and heat waves. When you travel to Ruai, Njiru and Karen, then you realize that pastoralists come over to look for feeds for their cattle. We also realize that Nairobi experiences some health issues due to climate change.

Therefore, it is important that the Executive respond, by implementing the dictates of this Motion and taking action. For example, having the planning sector put up changes in the building codes to accommodate water harvesting and accommodate the transformative measures and alleviate the effects of climate change. The environment sector should also put what we call a cycle economy where you recycle waste. The transport sector leads in greenhouse emissions from the vehicles in use. Therefore, by having a plan in place to mitigate these effects, will be of help.

Also, in case the Governor has made any changes to the older masterplan, then they should incorporate measures that ensure that the long-term plan is on how to deal with the long-term effects of climate change. With those few remarks, Hon. Speaker, I call upon Hon. Fiunifu to second the Motion.

**Hon. Kamau Fiunifu:** Thank you, Hon. Speaker. I rise to second this very important Motion and bring to your attention we do not have the requisite number of Members to debate on this Motion. I therefore want to quote Standing Order No 38 (1) on quorum. We do not have quorum in the House.

**Hon. Temporary Deputy Speaker:** You are out of order, Hon. Fiunifu. Can you please second the Motion and take your seat

**Hon. Kamau Fiunifu:** Hon. Speaker, I am guided. Thank you so much for the opportunity. I rise to second this Motion. It is a very timely as matters climate change are serious and of our time. I am aware that the County has established a Climate Change Directorate as a stand-alone department. I ask that they also come up with a Climate Change Action Plan Draft and bring the policy to the Assembly and also start the

enactment of the Nairobi City County Climate Change Mitigation, Adaptation and Financing Bill. With those few remarks, I second this Motion.

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

*(Question proposed)*

**Hon. Temporary Deputy Speaker:** I now urge Members to debate.

*(Hon. Kamau Fiunifu raised a Point of Order)*

On which Standing Order?

*(Point of Order)*

**Hon. Kamau Fiunifu:** I am rising on Standing Order No 38 (1) on quorum. We do not have quorum in the House.

### QUORUM

**Hon. Temporary Deputy Speaker:** Clerk, please establish whether there is quorum.

*(The Clerk-at-the –Table confirmed there was no quorum)*

The Clerk has confirmed that we do not have quorum.

### ADJOURNMENT

**Hon. Temporary Deputy Speaker:** Hon. Members, there being no any other business, this Assembly stands adjourned until Tuesday 6<sup>th</sup> December, 2022 at 2:30 p.m.

**The House rose at 4.37 p.m.**