



## NAIROBI CITY COUNTY ASSEMBLY

### OFFICIAL REPORT

#### Third County Assembly – First Session

Tuesday 8<sup>th</sup> November 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 take your seats. Clerk, you may proceed.

#### COMMUNICATION FROM THE CHAIR

##### VISITING DELEGATIONS FROM VARIOUS COUNTY ASSEMBLIES

Hon. Members, I have the following communication to make. Our Assembly has been graced by a delegation from Kitui County Assembly, Uasin Gishu, Elgeyo Marakwet and Mandera County as well.

In the House we have the Speaker of Kitui, *Mheshimiwa* Kinengu Katisya, Harisson Maluki, who is the Leader of Majority Party in Kitui, Alex Ng'ang'a, Leader of Minority, Mary Mbithe, MCA, Hon. Cyrus Musyoka, MCA.

*(Applause)*

Further, we have the following delegation from the County Assembly's Forum (CAF) on a tour visit to our Assembly. Namely, Hon. Philemon Kiplagat Sabulei, Speaker, County Assembly of Elgeyo Marakwet. He is also the Chairperson of the County Assembly Speaker's Forum. We have *Mheshimiwa* Omar Mohammed, Speaker of Mandera County, who is also the newly elected Treasurer of the Speaker's forum.

*(Applause)*

Hon. Members, we held elections yesterday for CAF and we were blessed with the position of the General Secretary of CAF, that was given to Hon. Chege Mwaura. We appreciate you, honorable Member.

*(Applause)*

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We also have a member of the Governing Council, who was elevated to the Executive Governing Council, namely our Majority Leader. Therefore, from Nairobi County, we have Hon. Chege Mwaura, Majority Leader and the Speaker in the Governing Council.

*(Applause)*

I therefore hope that an opportunity will present itself so that we can negotiate on behalf of the Nairobi City County Assembly soon. We may proceed.

### NOTICE OF MOTION

#### POLICY TO DETER STREET CHILDREN EXPLOITATION AND PROMOTION OF SCHOOL ENROLLMENT

**Hon. Speaker:** Hon. Waithera Chege? Is the Hon. Member in the House? You may proceed.

**Hon. Waithera Chege:** Thank you, Mr. Speaker. I beg to give notice of the following Motion;

THAT, aware that Article 21 (3) of the Constitution of Kenya, 2010 provides that all state organs and public officers have the duty to address the needs of the vulnerable groups in the society--- *(inaudible)* --- harmful cultural practices all of violence, inhumane treatment, punishment or exploitive labour--- *(inaudible)* ---34 years, and those below 19 years being--- *(Inaudible)*; further concerned that the highest concentration of street persons, according to the said report, was found in Nairobi with 15,337 persons, Mombasa County, 7,529, Kisumu County, 2,746, Uasin Gishu County has increased to 2,005; disturbed that street children population in Nairobi City County has increased over the years, which has seen them thrust into a brick-harsh deprived environment, obvious fraught with constant and eminent danger in various forms, such as harassment, violence, drug abuse, trafficking, sexual exploitation, loneliness, fear, physical and emotional abuse, early pregnancies, poor hygienic and sanitation conditions; further disturbed that most street children in the County and in particular, the Central Business District--- *(Inaudible)* ---prevention policy that will seek to deter street children exploiting and promotion of school enrollment forthwith.

The notice of Motion was signed by myself, Member for Nairobi South Ward. Thank you, Mr. Speaker.

**Hon. Speaker:** Thank you. We may proceed.

### STATEMENTS

#### REQUEST FOR STATEMENT REGARDING ILLEGAL DEMOLITION OF A RESIDENTIAL HOME BUILT ON LAND LR. NO. 1570/111/86

**Hon. Speaker:** Hon. Stephen Gitau. Is there a Member sitting in for Hon. Gitau?

**Hon. Stephen Ndegwa:** Pursuant to Standing Order 47(2) (c), I wish to request for a Statement from the Chairperson of the Sectoral Committee on Lands, Urban Planning and Housing alleged regarding illegal demolition of a residential home built on Land LR. No. 1570/111/86 and the irregular acquisition of the same land by Lariak Properties in School Lane, Parklands Highridge Ward.

Hon. Speaker, Article 61 (1) of the Constitution of Kenya, 2010 presupposes that all land in Kenya belongs to the people of Kenya collectively as a nation, as communities and as individuals. Further, the Nairobi City County Evictions, Resettlement and Demolition Act, 2016 provides for the procedures for

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evictions, demolition and resettlement in the County. On Sunday 8<sup>th</sup> November, 2022, Citizen TV aired the public outcry of an Asian family, namely Ms. Avani Shah, whose residential home of 46 years was illegally demolished on 4<sup>th</sup> November, 2022 by a private developer called Lariak Properties, despite court orders and a County Government notice restraining Lariak Properties from demolishing the said property.

Hon. Speaker, Lariak Properties claimed ownership of the 1 Acre parcel of land in School Lane, Parklands. They claim to have bought the land from Metro Pharm Pharmaceuticals in 2010, yet the said land has a lease expiring in 26 years. Whereas the applicant, respondent and magistrates name are the same, the court orders issued allegedly differ. Lariak Properties' court order states that they serve Avani Shah for inter partes on 1<sup>st</sup> of November 2022, while Avani Shah's court order restrained Lariak properties from demolishing the property.

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

- i. A report on history of ownership of Land LR. No. 1570/111/86;
- ii. Whether there is an existing lease between the County Government and Ms. Avani Shah;
- iii. Whether Lariak Properties had any legal document from the County Government authorizing the demolition of the said property; and
- iv. Plans the County Government has put in place to curb such incidences of irregular and/or forceful acquisition of private property in the County.

**Hon. Speaker:** Thank you, Hon. Member. The House is sorry for that. As a matter of urgency, honorable Chair for Planning and Housing, can you give an undertaking on the period you need to communicate back to the Assembly?

**Hon. Alvin Palapala:** Thank you, Speaker. We should be given up to the first week of December as we have not gone for induction and cannot carry out any activity before then.

**Hon. Speaker:** Honorable Member, that is what we call incompetence. You are already articulating issues on law in the plenary and you are saying that you are not in a position to give a response to a Statement from a Member yet you are a senior Member of this House for over 15 years.

**Hon. Alvin Palapala:** Hon. Speaker, give us three weeks.

**Hon. Speaker:** Three weeks is a lot of time. Honorable Member, as a matter of urgency, can you give a response next week on Wednesday.

**Hon. Alvin Palapala:** Hon. Speaker, we will do that.

**Hon. Speaker:** Thank you.

*(A honorable Member spoke off the record)*

**Hon. Speaker:** No! No! It is not possible. Clerk, let us proceed. Hon. Hashim Kamau

#### REQUEST FOR STATEMENT REGARDING OUTSOURCING OF WORKFORCE IN COUNTY HEALTH FACILITIES

**Hon. Hashim Kamau:** Thank you, Mr. Speaker. Pursuant to Standing Order number 47 (2 (c)), I wish to request for a Statement from the Chairperson of the Sectoral Committee on Labour and Social Welfare regarding the outsourcing of workforce in County health facilities.

Mr. Speaker, cleaning and security services at health facilities are outsourced from private companies, this is despite the fact that the County Government employed more than 3,000 city inspectorate officers and cleaners one year ago.

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

- i. Reasons the County Executive has failed to use the inspectorate staff and opt for outsourced services from private companies;
- ii. Measures being initiated by the County Executive to ensure alleged three month go slow by private cleaners due to non-payment of wages will be resolved urgently; and
- iii. A comprehensive report on when the County Executive entered into a contract with the private cleaners and security services, duration of said contract and costs incurred by the County.

Thank you, Mr. Speaker.

**Hon. Speaker:** Thank you Hon. Hashim Kamau. I now commit the Statement to the Committee on Labour and Social Welfare. Who is the Chair? Do we have the Chair or Vice Chairman? Any active Member of the Labour Committee? Hon. Absalom.

**Hon. Absalom Onyango:** Mr. Speaker, Sir, *inaonekana kwamba watu bado wanalala*. Hence, I am going to represent them. Give us two weeks, Sir.

*(Laughter)*

**Hon. Moses Ogeto:** Point of Order.

**Hon. Speaker:** There is no Point of Order on Statements. You have been ruled out of order, honorable Majority Whip. Can we proceed.

### PROCEDURAL MOTION

#### REDUCTION OF THE PUBLICATION PERIOD OF THE NAIROBI CITY COUNTY APPROPRIATIONS BILL, 2020 (ASSEMBLY BILL NO 7 OF 2022)

**Hon. Speaker:** Honorable Members, we have with us the Supplementary Order Paper. This is in regard to Motion 8 on the Procedural Motion which will be read out by the Leader of Majority Party.

**Hon. Peter Imwato:** Hon. Speaker, I stand to move a Procedural Motion on the reduction of the publication period:

THAT, notwithstanding the provisions of Standing Order number 131, this Assembly resolves to reduce the publication period of the Nairobi City County Appropriations Bill, 2020 (Assembly Bill No. 7 of 2022) from seven (7) days to two (2) days.

Hon. Speaker, this is necessitated by the urgency of the County which is almost coming to a halt because of operations in terms of financial services. We all know that the SRC has accorded us Kshs.5 million in terms of loans and mortgage and the reimbursement of a grant of Kshs.2.2 million, which currently lies at the office of the CEC for Finance. It will not be practical if we do not hasten the process of approving this Bill so that we are able to get what is due for us.

Hon. Speaker, without much ado, let me welcome my counterpart to second the Procedural Motion.

**Hon. Anthony Karanja:** Hon. Speaker, I would like to add that the same budget has the bursaries. We hope that by the time students are going back to school in January, the money will be available. This same budget has money for contractors, and with the depressed economy of Nairobi, if we will be able to pay the WDF and other capital project contractors. Money will start circulating and we will be able to move. I second.

*(Question proposed)*

**Hon. Speaker:** Honorable Members, we are in the plenary. Hon. Mark Mugambi Macharia Kevin.

**Hon. Mark Mugambi:** Thank you. Mr. Speaker. It is the Kevin for me. In the interest of time, you can see that most of the new Members are tired of using matatus to come to work. This County needs to facilitate their movements so that they can be here on time for the interests of mwananchi. I beg to support. May the mover move with speed so that we can push for these funds.

**Hon. Speaker:** Thank you. Hon. Absalom Onyango, you have pressed the mic on.

**Hon. Absalom Onyango:** Sorry, Sir

**Hon. Speaker:** Hon. Waithera Chege.

**Hon. Member:** She left.

**Hon. Speaker:** Honorable Members, do not be pressing the button. Allow me to call upon the mover to reply.

**Hon. Peter Imwatok:** Hon. Speaker, I beg to reply.

**Hon. Speaker:** Thank you.

*(Question put and agreed to)*

## BILL

### *First Reading*

THE NAIROBI CITY COUNTY APPROPRIATION BILL 2022 (ASSEMBLY BILL NO. 7 OF 2022)

*(Order for First Reading read)*

**Hon. Speaker:** I commit to the Budget and Appropriations Committee

## MOTION

**Hon. Speaker:** Hon. Mark Mugambi.

### EARLY VOLUNTARY RETIREMENT FOR ELDERLY WORKFORCE

**Hon. Mark Mugambi:** Thank you, Hon. Speaker.

THAT, aware that Section 57 of the County Governments Act, 2012 established the County Public Service Board of each County Government, as a body corporate with perpetual succession and a seal, capable of suing and being sued in its corporate name; further aware that Section 59 (1) (h) of the same Act, requires the County Public Service Board to inter-alia, advise the County Executive on human resource management and development; noting that out of the current County Executive workforce estimated at 14,000, with 60% of it being of the age of 50 to 60 years; further noting that according to the County Public Service previous years reports, annually, an average of 651 officers retiring, in 2019, 572 retired, 2020, 550

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retired, 2021, 535 retired, 2022, 682 retired and 2023, 950 are expected to retire; further noting that with an annual estimated mortality rate of 41 cases and with a dismissal rate of 20 persons, bringing an estimated total of 712 persons leaving service, against an average recruitment of 300 persons, hence hindering continuity in service delivery in the County, particularly for the fore-front service providers such as Environment sector workfare; appreciating the efforts and services currently being offered by the existing workforce, notwithstanding their advanced age, health and other hindering conditions against their work expectations; further appreciating the need to facilitate their timely early retirement benefits and encourage a dignified early retirement; deeply concerned that with the aged workforce, with a further 25% of it battling with health issues, alcohol addiction and minor case of officers absconding duties; disturbed that with such a workforce, service delivery to Nairobians is not at its optimum; now therefore, this Assembly resolves that County Public Service Board develops and early voluntary retirement package, sensitize the elderly workforce for early voluntary retirement with a view of employing a younger workforce for effective service delivery in the County.

Hon. Speaker, allow me to give a few notes on this. The Constitution of Kenya, 2010 heralded a new form of governance in Kenya. Schedule 4 of Part 2 provides for County functions, unlike local authorities' creatures of statute with limited functions/authority. The County Governments have a constitutional autonomy to perform the devolved functions within their areas of jurisdiction or boundaries. Article 6(2) provides that the Government at the national and county level are distinct and interdependent and shall conduct their mutual relations on the basis of consultation and cooperation.

Therefore, Hon. Speaker, we are well aware that in order for a County to perform its functions, it requires a workforce that is energetic, as most of its functions are manual oriented. The County inherited most of its workforce from the defunct City Council of Nairobi, thus the majority of workforce is made up of the elderly whose performance is at bare minimum. To make Nairobi work, the County requires a workforce that is energetic and tech savvy in some sectors to implement the challenges of the modern world.

Section 75 of the County Governments Act, provides that the County Service can retire an employee on among other reasons; ill health and a special retirement scheme between a public officer or the representative of the public officer and relevant appointing authority. It is with this in mind that I move this Motion to urge the County Executive to initiate the process of early voluntary retirement for staff with ill health and the elderly. The process is to be undertaken in consultation with the representative of the workers.

The statistics as earlier stated, Mr. Speaker, gives a worrying trend where the County is losing more workforce than it is recruiting. Piecemeal recruitment is not a solution to this perennial problem, and the County Service Board in consultation with the workers' representatives, should come up with a comprehensive policy to remedy this issue, which greatly affects service delivery to the residents of Nairobi.

A case study is in my Ward in Umoja I where I have like ten (10) or less environmental officers who are nearly or older than my own mother. You can imagine on the kind of staff we depend on to clean our drainages and taking care of the public school fields that we have. I am embarrassed when I pass by them working to supervise because a young man like myself inspecting old people cleaning the drainages. We have a lot of youths who are unemployed in our wards, and with a quick and diligent execution of this early

retirement within the County, we will give the elected leaders from the 85 wards slots to employ the jobless youths in their wards and in return, the County will greatly benefit from youth, energetic and vibrant workforce.

Hon. Speaker, mwananchi is tired of walking in the dirty streets and corridors within the CBD, leave alone the wards that we represent. When it rains in Nairobi City, the roads become rivers because of the dirt that remains uncollected within our drainage system that builds up causing clogging in the drainage.

Hon. Speaker, I beg to ask my counterpart, Hon. Nasra to second the Motion.

**Hon. Nasra Nanda:** Thank you, Hon. Mark Mugambi. Hon. Speaker, I stand before you today in support of Hon. Mark Mugambi's Motion on early voluntary retirement for the elderly workforce. I stand here before this Assembly endorsing this Motion because it raises a number of critical points.

The first being that, Kenya has a population of above 50 million of which 75% of that population is under the age of 35. When you think about that, it means that 75% of our workforce should actually be under the age of 35 to reflect our population breakdown. Unfortunately, this is not the case. As mentioned by Hon. Mark Mugambi in his Motion, we noted that 60% of our workforce is 50 years and above, which means that we are locking out critical positions for the youth who can plug in to these positions in a more robust and holistic manner.

In complementing the Motion, unfortunately, we do not have key considerations when we think about how to transition from one generation to the other. I urge this House to utilize the elderly workforce to train the new generation and create a scheme that allows the elderly workforce to have 3-5 years to groom the next generation so that when they do retire, there is continuity in service delivery. Separately, what we could also consider is to ensure that the elderly workforce do not suffer from depression, which is often the case when people are radically dropped out of the workforce, is to ensure that they are still incorporated in our training programmes as consultants for a year or two to support the existing workforce in the County.

I would also like to urge this honorable House that, by supporting this Motion and considering early retirement, we must ensure that the County Public Service Board also ensures that retirement, whether early or on time, is done with dignity so that any employee does not fear that upon retirement they will not get their dues. People should not fear retirement, we need to come on the table and understand what is preventing this workforce from retiring, one of which is timely payment of their retirement dues.

Second, in respect to ill health, we need to look at whether the ill health is being categorized under alcoholism or mental health. We should ensure that we are working on how to support them out of employment so that they do not feel stigmatized or chased out of employment, but supported on their way out.

For these reasons, I strongly support and endorse Hon. Mark Mugambi's Motion. I urge this House to support so that our workforce is vibrant and can deliver better services to the people of Nairobi. Thank you, Hon. Speaker.

**Hon. Speaker:** Hon. Member, before you close, can you second the Motion.

**Hon. Nasra Nada:** Hon. Speaker, thank you for your guidance, I beg to second the Motion. Thank you.

*(Question proposed)*

**Hon. Lily Kidenda:** Thank you, Hon. Speaker. Thank you, Hon. Mark Mugambi for this Motion. I rise to support this Motion, with amendments. I would like to move the following amendments to this Motion, pursuant to Standing Order No. 61. I have two amendments.

**Hon. Speaker:** I hope this is in line with the understanding from the mover of the said Motion? Is the mover aware?

**Hon. Lily Kidenda:** The mover is aware, thank you. My need to amend fall into two categories. Number one:

By inserting the words 'a clear retirement policy and procedure, and pre-retirement counselling and job separation psychosocial support, immediately after the word, 'develops,' appearing at the conclusion of the Motion.

Number two:

By deleting the word 'sensitized' and substitute the word therefor with the word 'preparing' appearing at the conclusion of the motion.

Hon. Speaker, I beg to propose that the County first need to develop a clear retirement policy and procedure, which will support early retirement to guide employees who are retiring or are about to retire on their retirement packages and benefits, and even give opportunities for pre-retirement courses to prepare employees' minds before they exit public service.

Article 27 (5) of the Constitution of Kenya 2010 states that;

*'No person should be discriminated directly or indirectly against another person on the grounds of age or health status'.*

I found some words in this Motion to be insensitive. Hon. Speaker, my passion to support mental health and the experience that I have with supporting other health issues, moves me to appreciate that the County experiences a bloomed workforce. However, age and health status of employees retiring or about to retire, should not be used to appear as if they are being chased away from the service.

Alcoholism and other addictions are health challenges. If not handled well, they can destroy life. Hon. Speaker, let the county have a proper retirement policy framework that addresses the needs of employees retiring or taking early retirement.

Allow me at this point to share an experience that I was part of in my previous work experience. As a manager in one of the parastatals in this country, we were called upon to sensitize workers to go for early retirement. I disagreed with that position because I felt that if workers are not prepared adequately to go for retirement, we are sending them to their deaths. I made this clear. I had a huge workforce that were reporting to me, and I called each one of them. I had a full in-tray of people who were excited about the little money that they were going to be given as lump sum. What they were to get, they were not even aware of it in terms of a monthly benefit. Finally, 85% of those who were under me withdrew their retirement.

Allow me to give an example of a gentleman who came to my office and said, "I am going into horticultural farming." I said, "where do you come from?" He quickly mentioned. I told him, "in the part of the country that you come from, is there ever crop failure?" And he said, "yes." Then, I said, "do I hear you say that you have discussed with the Almighty that there would be no crop failure when you put your lump sum into farming?" He looked at me perplexed. The next question was, "have you discussed this with your wife?"



And he said, “should I discuss it with her?” I was perturbed. The next question I asked, “you smoke and drink, do you think that you will borrow money or ask for money from your wife?” And he was totally perplexed.

Friends, I have a history of people who have gone into voluntary retirement unprepared psychologically who have lost their lives. People have lost houses that they took on mortgage because they were unable to pay for. If workers are sensitized, they are being coerced to opt to early retirement. Unless they are prepared, supported---

*(Point of Order)*

**Hon. Speaker:** Hon. Member, you may be seated as the Whip is on the floor.

**Hon. Moses Ogeto:** Hon. Speaker, I am on Point of Order No. 61 (3). She is a new Member in this House and need to be guided before she proposes or comments on this Motion. It is proper for the names which she wants to be inserted or deleted, be first be moved so that we can then go to the main Motion for debate. I beg for your indulgence so that she moves what she had proposed to be added or deleted.

**Hon. Speaker:** Thank you, honorable Whip. That is where we are actually. Hon. Lily Kidenda, you started building the Motion before the House accepted your amendments. For record, you are moving a Motion of Amendment. You need to have somebody to second before you build on the Motion, please.

**Hon. Lily Kidenda:** I stand guided, Hon. Speaker. I would like to request Hon. Ochieng’ Jera to second the amendments as I had stated previously.

**Hon. Samson Ooko:** Hon. Speaker, I stand to support Hon. Lily Kidenda’s amendments. She is asking us to delete the word ‘sensitize’ and replace with the word ‘repairing’ instead. I think these wordings are very important as it makes the statement stronger and vibrant. This makes people understand what you are about to do. I want to support these amendments---

**Hon. Speaker:** You second or you support?

**Hon. Samson Ooko:** I second these amendments by Hon. Lily Kidenda. Thank you, Mr. Speaker.

*(Question of the amendments proposed)*

**Hon. Speaker:** Honorable Members. May the mover reply?

**Hon. Lily Kidenda:** Hon. Speaker, I reply the two amendments that I had proposed; number one, an addition by inserting the words; ‘A clear retirement policy and procedure, pre-retirement counselling and job separation, psych-social support, immediately after the word, ‘developments,’ appearing at the conclusion of the motion.’

**Hon. Speaker:** Thank you, Hon. Member.

*(Question, that the words to inserted be inserted,  
put and agreed to)*

*(Question, that the words to be inserted in place thereof  
be inserted, put and agreed to)*

*(Hon. Lily Kidenda spoke off record)*

**Hon. Speaker:** We have amalgamated the two, so, we are through.

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*(Debate on the original Motion resumed)*

**Hon. Lily Kidenda:** Thank you very much, I appreciate your indulgence on this matter. I support the Motion---

**Hon. Speaker:** Hon. Member, please allow me to make a communication before you proceed. Our technical team has now drafted the Motion as proposed. Clerk, I hope the document I have is in circulation. Honorable Members, may be through your IQ, you are able to insert the clauses as they are amended to match the description of what we have. I do not have to go through the whole document again. Is that in order?

*(Honorable Members responded in affirmation)*

**Hon. Speaker:** Thank you, we may proceed. Hon. Peter Imwato.

**Hon. Peter Imwato:** This is the Majority of the Nairobi County Assembly, not Isiolo! Hon. Speaker, allow me to congratulate madam Lilian Kidenda. As you can see, she is a woman of experience and can discern where some gaps are in the Motion, I applaud her.

*(Applause)*

She is the only lady Member of this County Assembly that when you have a meeting at 9 am, she will be there on time or even earlier. Congratulations, Hon. Kidenda, our prayer warrior, keep it up. We pray for this Assembly.

Where is Hon. Mark Mugambi? Kindly take a seat, we give you some lessons. This Motion is very important. In 2016, a report was brought by HR when I moved to court in 2015 to challenge the validity of the number of employees of the County Government of Nairobi, which was by then 14,000. When that report was delivered to the Labour Committee and thereafter the Committee on Budget, the exact number of employees was 11,800.

Hon. Speaker, this worries me because at a particular year, 651 staff retired and 527 died. This worries us. Does the Executive really have enough staff to work for the County? I am happy the case is in the Court of Appeal; Peter Imwato versus AAR. It will go up to the Supreme Court until we know exactly as at 2013 how many staff were working for the County Executive. The report by the AAR showed 14,000 employees who were being insured. The HR department of the County Government, through Kibet & Associates gave a total number of 11,800, meaning that the County Government of Nairobi was insuring 2,200 staff who were not supposed to be insured and AAR was going with the money. I want to thank Hon. Mugambi for bringing it again on HANSARD.

Last week, I was walking along the corridors on the other side, an old askari tried to rise up and stand attention for an honorable Member who is a very young person. He was smiling instead of holding this old mama. Honorable Members, at the third and fourth year, these people will not stand up for you. It is a curse for a person who is like your father or mother to stand attention for you. Just like Hon. Mugambi has said, kindly let us have respect for our old staff, they have served their term.

More importantly, Hon. Speaker, the HR and Administration departments at the Executive must know at what time a particular employee has energy to serve at a certain department. I met another askari and he could not even push the gate, but we employed more than 3,000 inspectorate officers who are roaming

looking for motor cycles all over the CBD. They are very energetic young men who can run and catch a motorcycle but an old person is left to push a gate at City Hall or at a particular dispensary in the County.

Hon. Speaker, I beg also to support the amendment of Hon. Kidenda on psycho-social support. The County Government must develop a policy on their HR manual on how one transcends after 55 years. H.E the former President, Kibaki did them a favour by adding another five years. Otherwise, in the County Government of Nairobi we could be advertising for more than 7,000 employees as of today. In the HR report, the massive employment in this County took place in 1998. You can imagine in 1998 Hon. Ogeto was in which class. Hon. Mugambi, which class were you? You can ask yourself as you sit, how old were you in 1998? By chance, if you get a girl friend at the Executive side, know that she is your elder sister, she is not your age.

Hon. Speaker, I want to implore this House and the Chair of Implementation, as Hon. Mugambi has said, this is an opportunity to inject new power and new synergy to the county workforce. I therefore urge that immediately after the passing of this Motion, the Implementation Committee, where I sit, will implement this it as quickly as possible.

*(Applause)*

Hon. Speaker, this comes with a budget line. Today, if you want to employ in the County, the Budget Committee in conjunction with the interests of the Members to know in the next budget if not this one or supplementary, must start this process. It is better the first year we employ 1,000, the second year 2,000 and by the end of our five years, at least 4,000 employees from 30 years of age downwards will be serving the County.

Hon. Speaker, most importantly, we need to know who are the employees of the County Government of Nairobi? Thank you.

**Hon. Speaker:** Honorable Minority Leader.

**Hon. Anthony Karanja:** Thank you, Hon. Speaker. I would like to assure the County Assembly, as a Member and as the Chair of Implementation Committee, that this is one of the timeliest Motions that we have in this Assembly. We will ensure that we push it to its conclusive implementation.

I would like to congratulate Hon. Mark Mugambi and Hon. Lily Kidenda for going for the nitty-gritties and urging us to put a human face to the employees who are retiring. I would like to remind this County Assembly that this Motion is about voluntary early retirement and not forced retirement. I believe that most of us who have been employed before, had to leave our jobs because of being monotonous. I am sure there are people who are tired of working for the City County and would like an opportunity to exit early. Hon. Mark Mugambi has asked the County Service Board to advice the County Executive and the Human Resource department to prepare for the exit of these people.

Hon. Speaker, we are aware that what the Majority Leader is saying is right, that the County Executive must have a budget for the employees to exit. The County Executive must be prepared to pay dues to institutions like Laptrust, ABSA, Britam Asset Management and any other institution that keeps money for our staff so that at the time of their exit, they will leave with their money. The biggest fear for early retirement is for you to submit your letter of retirement and not get your dues.

The reason why the dues are not available is because some of these monies have not been paid to the institutions, for example NACICO is a co-operative society for this County, has not been paid for the last almost six months, they are actually on their death bed financially as we speak. We hope that with the budget that is coming next week, we will ensure that this Government is either paid on time, and if possible, pay what is owed to these institutions so that such a beautiful Motion does not go to waste. Such a beautiful career for these people who have served this city does not go to waste by delaying their money.

Hon. Speaker, I would like to support and encourage our Members to be reading Motions, noting small things like what Hon. Lily Kidenda has done, and to be adding value to anything that comes to this Assembly. Thank you.

**Hon. Jared Ondieki:** Hon Speaker, first, I want to congratulate you, seeing you seated in that seat is a source of pride. I want to take this opportunity to congratulate Hon. Mugambi for this very important Motion. Hon. Mugambi is a senior Member of this House and---

*(Point of Order)*

*(Hon. Speaker left the Chair)*

*[Hon. Deputy Speaker (Mr. Paul Kados) took the Chair]*

**Hon. Jared Akama:** Protect me, Mr. Speaker.

**Hon. Moses Ogeto:** I am on a Point of Order under Standing Order No. 61 (3).

**Hon. Deputy Speaker:** Hon. Akama, let us hear what Majority Whip has to say.

**Hon. Moses Ogeto:** Thank you, Hon. Speaker. I wanted to assist my colleague, Hon. Perpetua. She wants the Motion to be amended. I request you, Hon. Speaker that you give her a chance, and if she wishes, I move the amendments on her behalf.

Hon. Speaker under Standing Order No. 61 (3), she want the following amendments to be done; deeply concerned with aged workforce, with a further 25% battling with health issues, alcohol addiction and minor cases of some officers absconding duty. The Labour Laws of the Republic of Kenya under Article 207 of the Constitution---

**Hon. Deputy Speaker:** Hon Majority Whip, if you look at Standing Order No.62 (1);

*The proposer of an amendment to a motion shall, before moving it, had the proposed amendments in writing, and signed by the proposer, to the Clerk at least two hours before the order is read.*

Has she done that?

**Hon. Moses Ogeto:** Hon. Speaker, we are on a continuous learning process, that is why I am requesting---

**Hon. Deputy Speaker:** I am saying that you leave any amendment that you are doing. If you go to Section 62 (2);

*Despite Paragraph (1), The Speaker may, in exceptional circumstances, allow a member to move an amendment to a motion before the Assembly at any time during the consideration of that motion'.*

Can we wait at a point where we are considering that Motion?

**Hon. Moses Ogeto:** Hon. Speaker, that is your prerogative under Standing Order No 1. She has brought a very serious issue, which is against labour laws of this Republic. That is under Article---

**Hon. Deputy Speaker:** Honorable Member, I heard the Speaker ask if she had talked to the mover of that Motion because he must see what is being amended to his Motion.

**Hon. Mark Mugambi:** Thank you, Hon. Speaker. I have no issue because the Motion is of utmost importance, especially to the elderly---

*(A Honorable Member spoke of the record)*

I withdraw that, Hon. Speaker. I do not mind the few amendments being done by my counterpart because we have seen the other amendments that have been done by Mheshimiwa Kidenda. I think the wordings have a deep meaning depending with the interpreter.

If we have time, Mr. Speaker, you can allow the Members to make as many amendments as they wish so that we can have a Motion that will be fair to our staff. Thank you.

*(Applause)*

**Hon. Deputy Speaker:** Honorable Member, you can go on.

**Hon. Moses Ogeto:** Hon. Speaker, thank you very much. I want to sincerely thank the secretariat for understanding where we are coming from. I also want to thank my counterpart, Hon. Mark Mugambi for agreeing to these amendments. You have to agree with me, Hon. Speaker, that learning is a continuous process.

Mr. Speaker, I want to move these amendments:

By deleting the words 'and minor case of officers absconding duties' after the words, 'with a further 25% of it battling with health issues, alcohol addiction'

I request Hon. Perpetua to second this amendment. Thank you.

**Hon. Perpetua Mponjiwa:** Hon. Speaker, I do second the Motion. The issue of absconding duty is anchored in the labour laws, and there is a process and measures taken according to the Employment Act. There is a process when an employee absconds duty, give the first warning letter, the second and the third warning letters and fourthly, summary dismissal. It is an issue that is already anchored in law, and it is quite clear in the Employment Act. I do second the further amendments to the Motion. Thank you.

**Hon. Deputy Speaker:** The amendments are according to Standing Order No. 61 (3);

*Upon any amendment to leave out any of the words of the motion, the question to be proposed and shall be, 'That, the words proposed to be left out be left out'.*

*(Question of the amendment proposed)*

**Hon. Moses Ogeto:** Thank you, Hon. Speaker, I beg to reply. It is very encouraging that the new Members are jogging our minds by ensuring that we respect the rule of law. I believe that the secretariat will make sure that we do not collide with the law. Hon. Speaker, I beg to reply.

*(Question, that the words to be deleted  
be deleted, put and agreed to)*

*(Debate on the original Motion resumed)*

**Hon. Deputy Speaker:** You can go on, Hon. Akama.

**Hon. Jared Ondieki:** Thank you Hon. Speaker. Just before I was interrupted, I want to remind Hon. Mark Mugambi, because he is a senior Member of this House, that we had a similar Motion in the last Assembly, which was overwhelmingly supported and committed to the Committee on Labour and Social Services. I would like to bring to your attention, Hon. Speaker, that a very comprehensive charter was put in place in regards early voluntary retirement for the County.

**Hon. Deputy Speaker:** There is an intervention from Martin Mbugua Mwangi what is it, please?

**Hon. Martin Mwangi:** No intervention, Mr. Speaker.

**Hon. Deputy Speaker:** There is an intervention that is showing here, don't press on intervention then.

**Hon. Jared Akama:** Hon. Speaker, I am going to be very brief because I am being interrupted severally. What I was saying is that, in the last Assembly we passed a similar Motion and we were given a mandate at the level of the Labour Committee. We came up with a very comprehensive early voluntary retirement charter. What is being done now has already been implemented. The only problem we have been having is that our staff have refused to go for voluntary early retirement. We are saying clearly that this is just an early voluntary initiative. May be if we can get your guidance, we will appreciate. I am aware there was a meeting this morning by sectors in the sense that they are trying to come up with the modalities of encouraging staff to go for early retirement, especially the elderly in this aspect.

Having said that, Mr. Speaker, because we rely on your guidance, I again support this Motion as it looks very well researched. Equally, I am concerned because the honorable Member has only emphasized unskilled. He was talking about the sweepers, garbage collectors and all that. I hope that this Motion will also focus across, not only the unskilled but also the skilled in targeting those who want to retire, especially the technical part of it.

It is a well-versed Motion; it is the Motion that we supported in this Assembly. Maybe your guidance will be a way of watering down what has been done so far to accommodate this Motion. Again, let me emphasize that it is a very brilliant Motion and I support it. Thank you.

**Hon. Deputy Speaker:** Hon. Deonysias Waithera.

**Hon. Deonysias Waithera:** Thank you, Mr. Speaker, I am standing here in support of the Motion by the Hon. Mark Mugambi on one basis. Mr. Speaker, I know you have noticed that I entered the Assembly a bit late because I had to wait for tractors in my ward to come and do some thorough cleaning of certain drainage, which had been blocked for now one month. Apart from being asked to fuel the tractor, I was asked to look for young energetic and brilliant youth who would help in cleaning the drainage, whereas we have the staff who are being paid for such work. So, you can see the need for this Motion to go through.

Again, Hon. Speaker, Sir, most of the elderly staff, as it has been quoted in the Motion, we all understand God has blessed them. From the salaries they earn, they have bought lands somewhere. 99%

of the said elderly staff do not stay in the ward they are working in hence they may not have the affection on the work they are supposed to do.

Mr. Speaker, with those few remarks, I beg to support the Motion, thank you.

**Hon. Deputy Speaker:** Hon. Antony Kimemia.

**Hon. Antony Gathumbi:** Shukrani sana kwa fursa hii ambayo umenipa, Bwana Spika. Nashutumu-- Wacha nirejeele Kingereza.

*(Laughter)*

Hon. Speaker, thank you very much for the opportunity. My concern will be on recycling of Motion. Hon. Speaker, I would like to have your attention.

**Hon. Deputy Speaker:** Go on, Hon Kimemia.

**Hon. Antony Gathumbi:** Hon. Akama spoke about what I am speaking about, and he sought for your guidance. I had the privilege of being on the Labour Committee in the previous Assembly, and we spoke at length about the issue that have been raised here by Hon. Mugambi, the issue of retirement, deaths and the importance of employing youthful staff, as Mheshimiwa Waithera said. It was agreed and the Motion was passed in agreement by all of us. My problem would be on implementation. I hope Hon. Akama, you were advising him on---

**Hon. Deputy Speaker:** I am listening; we are just consulting on something.

**Hon. Antony Gathumbi:** With your guidance and of course with due respect to the mover of the Motion, we need to see at what point the Executive department has reached in terms of voluntary retirement. Has money been appropriated for the voluntary retirement? Because we are going to have a good Motion, and very good leadership. The standard of debate in this Assembly seems to be higher than in the last Assembly. I hear Members speaking of the same. So, at your guidance, can the Clerk tell us where did the last Motion reach in terms of voluntary retirement? Thank you very much.

**Hon. Deputy Speaker:** Honorable Member, I am being reminded that we have always put a budget for that early retirement. I think it is the work of these honorable Members to make sure, and this goes to the Labour Committee, why members of staff do not want to go for that early retirement? In fact, they are literally refusing So, I think we will have to get an indulgence of this House to come up with a regulation or a Bill which will make them be forced to be going for early retirement because we cannot have---

*(Point of information)*

**Hon. Deputy Speaker:** Point of information under which Standing Order?

**Hon. Mark Mugambi:** Thank you, Hon. Speaker, I beg to inform Hon. Kimemia and Hon. Jared Akama. I think the Motion that we passed during the last Assembly was not as sensitive and maybe did not have the goodwill from the Executive side.

Hon. Speaker, I can confirm to you that before I brought this Motion, I had a sit down with His Excellency the Governor, Johnson Sakaja, and together discussed a very good framework. I think the reason why most of the members of the staff opposed it was maybe the sensitivity of these issues, some of which have been raised by our senior, Mheshimiwa Kidenda. From her research and from the background where

she is coming from, she comes with vast knowledge on the effects if this issue is not handled carefully and the repercussions the staff are afraid of.

With the goodwill that we have from Governor Johnson Sakaja, who wants to have this early voluntary scheme done well by having pre counselling workshops or training for those willing, I think they will be able to undertake this early retirement scheme. The only thing it lacked was goodwill, starting from the former governors since they had other urgent use for the monies that we were appropriating. They did not have the goodwill of our staff. I believe Governor Sakaja Johnson has the goodwill and he will make sure that the monies are appropriated for, and the pension schemes that saved the staff's pension, are up to date. There were some nitty-gritties, and I am sure if it were you, Mheshimiwa Akama, without a proper laid procedure or guideline, you will not take it. But with the goodwill of the Governor, I think there will be a systematic way of undertaking this voluntary retirement. We can give very good terms and interest to these staff, and if you handle them diligently, they will be able to take.

Therefore, I do not find any force, Hon. Kimemia, in bringing this Motion because I believe in the last Assembly, we did not have more learned people who took time to scrutinize the Motions that were being brought to this House. I echo Madam Kidenda because she challenged this House. I did not expect any Member to have gone through my Motion and come up with those underlined---

**Hon. Deputy Speaker:** Honorable Minority Whip, you know you rose on a point of information but you started debating, I wanted to help you, this Motion is very different from the other one because on this one, it is us as the Assembly who are coming with the modalities, but that one you asked, the Executive was come up with modalities of early retirement. So, I think it is totally different, Bwana Kimemia.

You will agree with me that there are some officers in this County who think they are born in the sections which they are. There are officers whom you cannot touch, if you try to transfer them from one section to the other one, they cannot agree. So, if there is no political interference, As Members of this House, let us try the current Executive and we see if it is going to come implement. Thank you.

**Hon. Antony Gathumbi:** Thank you very much, Mr. Speaker, I am well informed by Hon. Mugambi and I support of the Motion. I want to thank Mheshimiwa Kidenda - thank you very much because what you brought up is in tandem with what Mheshimiwa Mugambi was saying on the issue of psychosocial education, so that these people agree early retirement. May be they do not know what is coming after retirement. This is going to help us to have them agree on the issue of retirement. I support the Motion, thank you very much.

**Hon. Deputy Speaker:** Thank you, honorable Member. Can we have Hon. DNG

**Hon. Davidson Ngibuini:** Thank you.

*(Point of Order)*

**Hon. Deputy Speaker:** Hon. Alai, what is the Point of Order.

**Hon. Robert Alai:** Thank you, Hon. Speaker. I want to rise on a Point of Order under Standing Order No. 61 (4), to add an amendment so that the Motion can be grammatically correct. The grammar is wrong after the last amendment. It should read 25% of it battling with health issues and alcohol addiction. We remove the coma and add the word 'and'.

Mr. Speaker, just as we expound on that, I will take the chance to also make the Speaker aware that we need not force anyone to go for early retirement. As a House, we must not be seen as having



recommendations to force anyone to go for early retirement. Early retirement must be voluntary and must be on the will employee basis.

I wish just to move the amendments for the removal of the coma after the word 'issues' and the addition of the word 'and' before the word alcohol. Thank you, Mr. Speaker.

**Hon. Deputy Speaker:** Thank you, Bwana Alai. 'Concerned that with the ageing workforce, with a further 25% of it battling with health issues and alcohol---'That does not affect the substantive Motion, Bwana Alai.

**Hon. Robert Alai:** Grammar, I will just ask Madam Kidenda to second the amendment so that ---

**Hon. Deputy Speaker:** No. I am informed it doesn't affect the substantive Motion. Can we go on, honorable Members? Hon. DNG

**Hon. Davidson Ngibuini:** Thank you so much, Hon. Speaker. I rise in support of this Motion brought to the House by our Minority Whip. Indeed, in my Sub County of Kibra, for example, we have only one elderly man who is tasked with cleaning up the entire sub-county. It may sound strange, but that is the reality. Apart from the environment officer who is trained with very scarcely available resources and machinery, that said elderly cleaner is honestly and able to execute this huge mandate by himself. And our environment department is totally reliant on contractors who are deployed irregularly. We are never aware when they are coming, you just find a truck. You ask for a schedule; you are told the vehicles are unavailable or the people have gone on strike. As such, we are living by faith, and that is not how we want to drive this capital city! The level of incompetence in planning cannot be allowed to continue in our great capital.

Further, the contractor only comes with heavy movers and do not clean up things like drainages and pathways. Litter is found all over our streets and has become an eyesore. Nairobians deserve better. Moreover, Kibra Sub-county has over 60 askaris and enforcement officers, similar to what had been spoken by the Majority Leader. You can imagine 60 of those verses one cleaner and one environment officer, it is a big joke. The environment department needs to be more pragmatic and needs to be serious in its deployment. What we want to see is a vibrant, energized and youthful workforce in the environment department, that will speedily ensure that our city is clean, orderly and dignified. Therefore, this Motion by Hon. Mugambi is very welcome. I beg to support this Motion. Thank you.

**Hon. Diana Mwangangi:** Thank you, Mr. Speaker. First, I take this opportunity to thank you for the Motion that you brought before this House. The last time we were sitting regarding the formalization of youth SACCOs at the ward level, I must say as a youth in this Assembly, I am happy and grateful. *Kama youths wa Nairobi tunakushukuru.*

Now to the Motion at hand, I want to support. Indeed, just like yours, it creates an opportunity for young people, it is an avenue to empower young people economically. I understand that it is a polite way of telling our parents and grandparent, please give us space, *sasa ni wakati wetu.* But all the same, even as we do that, I came in late and did not get to familiarize myself with the submission of Hon. Kidenda, which I believe from what I am hearing, made a lot of sense.

That even as I support this Motion, we should also ensure that in the implementation of it, there is sensitivity to the rule of law and also in terms of mankind. So, whatever procedure that will be used here, should be legally sound so that as an Assembly, we do not seem to be victimizing the elderly people.

I understand the necessary amendments have been moved, and therefore, Hon. Mugambi, I congratulate you on this. We need to ensure that the implementation of this Motion will be legally sound because as an Assembly, we need to stand in for the rule of law even as we create an opportunity for the young ones, we ensure that we are not victimizing the elderly ones. Thank you.

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

**Hon. Martin Mwangi:** Thank you, Hon. Speaker, do I start with an introduction?

**Hon. Deputy Speaker:** Very well.

**Hon. Martin Mwangi:** Thank you. My name is Martin Mbugua Mwangi.

**Hon. Deputy Speaker:** Maybe this is your maiden speech.

**Hon. Martin Mwangi:** Yes. I am Martin Mbugua Mwangi, elected by the people of Mutuini to represent them in this very important House. First, I want to thank God for this opportunity to serve, and also to thank the people of Mutuini and to assure them that they will get the best presentation from me. I want to congratulate the Speaker and all Members for trying.

Concerning, this Motion, which I seek to support, first, as Hon. Alai was dealing with the grammatical issues, I want to propose an amendment on the same line. With a further 25% of people battling with health issues – Mr. Speaker, in proper English, and let be made clear as part of my introduction---

**Hon. Deputy Speaker:** Hon. Member, as a practice of this House you cannot seek an amendment and you are not referring to the Standing Order, I think that is out of order. Please, let us stick to the Standing Orders. I would like the Clerk to advise on that, please. Have you amended anything?

**Hon. Martin Mwangi:** I am proposing.

**Hon. Deputy Speaker:** Let us be writing to the Clerk because you cannot just propose when you are just sitting there and you had not informed the Clerk where you want to amend.

**Hon. Martin Mwangi:** I thought the mover of the Motion allowed us---

**Hon. Deputy Speaker:** Then you propose the amendment.

**Hon. Martin Mwangi:** I propose the Motion be amended:

By deleting the word 'battling health issues' and substitute the word therefor with the word 'battling ill health', appearing at the conclusion of the Motion.

So, my issue is that, in proper English we do not say, 'battle with', we say 'battle'. So, it should read, 'battling health issues.' Also, the word 'issue' has a problem, for instance, wearing warm clothing and eating properly is a health issue. So, it should be 'battling ill health', but not 'health issues.' Health issues are many, including eating properly. That is the proposal of my amendment. However, I support the Motion.

**Hon. Deputy Speaker:** That is delete 'with' and put 'ill'?

**Hon. Martin Mwangi:** Yes. Then we delete 'issues.'

**Hon. Deputy Speaker:** That is very much in order.

**Hon. Martin Mwangi:** Thank you, and I support.

**Hon. Deputy Speaker:** Who is seconding you?

**Hon. Martin Mwangi:** Hon. Kimemia is seconding.

**Hon. Antony Gathumbi:** Thank you very much, I am going to second. As I said earlier, we now have an Assembly that is alert and standards have raised. So, older Members, the Speaker and the Clerk, you should brace yourselves with an Assembly that is alert. Thank you very much. I second.

*(Question of the amendment proposed)*

**Hon. Deputy Speaker:** Can we continue, Members? I would like the mover to reply.

**Hon. Martin Mwangi:** Thank you, Hon. Speaker, I reply.

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

*(Applause)*

**Hon. Deputy Speaker:** Let us now go back to debate.

*(Debate on the original Motion resumed)*

**Hon. John Kwenya:** Thank you, Mr. Speaker, I support this Motion. This is a Motion that is taking care of our elderly and those who came before us. When I was elected to this city, I had a chance to visit most of the staff who were working in the CBD, and they raised this issue. The respect the elderly get from the County is wanting, whereby most of them who are serving in the fire stations and in the market are not able to cope with the work they are given. This Motion has come at that time where the youth surrounding us, and most of them interact with Members outside here, which has become a big problem to us. Every day they move up and down looking for handouts.

With this Motion, it will give us a chance, the way Hon. Mugambi said it, to employ these young people. I was looking at this Motion and I tried to understand as Members did their contributions, why most of these people do not want to go for early retirement. From what I understand, there are so money loopholes in the County, whereby they do not want to leave them. That could be the main problem that we are having as a County. Some of these people have made a culture of getting their sources of income while they are working.

I would say that this Motion should be looked at properly. These staff can voluntarily give a chance to other young people instead remain in their working stations even when they cannot perform. I beg to support this Motion; we shall continue discussing about it, but at the moment, I sincerely support the Motion. Thank you, Mr. Speaker.

*(Applause)*

**Hon. Deputy Speaker:** Thank you, Member. Can we now have the mover to reply.

**Hon. Mark Mugambi:** Thank you, Hon. Speaker. I take this chance to thank all the Members that have taken their time to contribute--- We have a Member who---

**Hon. Deputy Speaker:** She wants to raise a Point of Order?

**Hon. Mark Mugambi:** She wants to contribute to this.

**Hon. Deputy Speaker:** No, you cannot contribute when I have asked the mover to reply.

**Hon. Mark Mugambi:** Okay, Hon. Speaker, special regards to Hon. Kidenda, Hon Perpetua, Hon. Kimemia, Hon. Martin, the party leader, Hon. Diana, Hon. Kwenya and all the Members who have participated in supporting and seconding my Motion.

As we all know it is for the interest of Nairobians, and not the interest of Umoja I alone, it is the interest of all wards within Nairobi and also the welfare of our county staff. Therefore, Hon. Speaker, I beg to move.

*(Question of the Motion as amended put and agreed to)*

**Hon. Deputy Speaker:** Honorable Members, the Assembly Business Committee meets at the rise of the House

### ADJOURNMENT

**Hon. Deputy Speaker.** The House stands adjourned to tomorrow, 9<sup>th</sup> November 2022 at 2.30 p.m. Thank you.

**The House rose at 4.57 p.m.**