

COUNTY GOVERNMENT OF NAIROBI CITY



NAIROBI CITY COUNTY ASSEMBLY

THIRD ASSEMBLY - FIRST SESSION

COMMUNICATION 5 FROM THE CLERK

ELECTION OF THE SPEAKER

Order **Hon. Members!**

Welcome back **Hon. Members**. We are now supposed to proceed to the next Order. Let me ask the Clerk-at-the Table to call the Order.

- Clerk-at-the Table to read the Next Order

Hon. Members, I have a communication to make regarding the procedure to be followed in the election of the Speaker of the County Assembly. However, before we proceed I will first confirm whether we have the requisite quorum in the House.

- Confirmation of Quorum

Hon. Members, I wish to confirm that the Assembly is properly constituted in terms of Standing Order No. 35, which provides that a quorum of the County Assembly or of a Committee of the Whole County Assembly shall be a third of its members, which number is 41 members. From my counting and looking at the Membership seated in the Assembly, I can confirm that the Assembly is properly seated, having attained the 41 Members requirement.

Hon. Members, may I point out that this Communication is always issued to guide Members even in a normal process when we have an activity to carry out in the Assembly. So, allow me to read this Communication. Kindly follow it keenly so that it makes our work easier when it comes to electing the Speaker.

Hon. Members, His Excellency the Governor of the Nairobi City County notified of this first sitting of the 3rd Assembly of the Nairobi City County Assembly vide Legal Notice No.11277 of 2022 dated 22nd September, 2022.

Hon. Members, Article 178(1) of the Constitution provides that each County Assembly shall have a speaker elected by the County Assembly from among persons who are not members of the Assembly. In furtherance of the foregoing, Standing Order No. 5(1) of the Nairobi City County Assembly Standing Orders provides thus:-

"A Speaker shall be elected when the County Assembly first meets after a General Election and before the County Assembly proceeds with the dispatch of any other business, except the administration of the Oath or Affirmation of Office to Members present."

Accordingly, the Office of the Speaker became vacant at the commencement of this sitting today in the morning, being the first sitting of a new County Assembly after an election.

Hon. Members, pursuant to the Standing Orders, a number of activities were required for the election of the Speaker before this first sitting. I will proceed to detail each activity and the manner in which we have complied with the Standing Orders.

First, Standing Order No. 6(1) provides:-

"Upon the Governor notifying the place and date for the first sitting of a new County Assembly pursuant to Standing Order No. 4, the Clerk shall by notice in the Gazette notify that fact and invite interested persons to submit their nomination papers for election to the office of Speaker."

In exercise of the powers conferred by Standing Order No.6 (1), I notified the general public of a vacancy in the Office of the Speaker of the County Assembly via Gazette **Notice No. 11495 of 2022 dated 23rd September, 2022**. Additionally, I publicized the declaration of the vacancy by advertisement in two newspapers of national circulation.

Hon. Members, in the notice and advert, I invited interested persons who qualify to be elected as Members of County Assembly, but are not such Members to submit their nomination papers for election as Speaker of the County Assembly.

The following twenty four (24) persons collected nomination papers from my Office as at the close of the period prescribed for collecting the nomination papers which was **Monday, 26th September, 2022 at 5.00 pm :-**

1. Ahmed Dubon Subanea
2. Hon. Kennedy Okeyo Ng'ondi
3. John Kibet Keino
4. Kennedy Otieno Ondindo
5. Amimo Austine Ooko Okello
6. Hon. Anthony Kiragu Karanja
7. Hon. Benson Mutura
8. Richard Bosire
9. Arthur Ndung'u Ngugi
10. Hassan Robow Mohamed
11. Charles Kiyo Muratha

12. Anyanga Paul
13. Leonard Ng'etich
14. Aldrin Vundi Kasyoya
15. Brian M. Mutie
16. Alex Mwenda Miriti
17. Masaki Samwel Mokua
18. Peris Wanjiru Karanja
19. Michael Memusi
20. Alex Ouda Otieno
21. Jane Mugure Njau
22. Sylvian Josphine Njeri
23. Donesia Njeri Njagi
24. Rimshot Vigira Jackson

Hon. Members, as per the *Gazette Notice* and advertisement, a person who collected nomination papers was required to submit the completed papers together with his or her curriculum vitae and relevant supporting documents as detailed under the First Schedule to the Standing Orders to my Office not later than **9.00 a.m.** on **Tuesday, 27th September 2022**. This is in line with the provisions of Standing Order 6 (2) of our Standing Orders which requires that nomination papers should be returned to the Office of the Clerk at least forty-eight (48) hours before the County Assembly assembles for the purposes of the First Sitting.

Accordingly, **Hon. Members**, at the close of the nomination period, the following **nine (9)** persons had returned their nomination papers: -

1. Hon. Kennedy Okeyo Ng'ondi
2. Hon. Benson Kangara Mutura
3. Ahmed Dubon Subanea
4. Amimo Austine Ooko Okello
5. Arthur Ndungu Ngugi
6. Hassan Robow Mohamed
7. Charles Kiyo Muratha
8. Brian M. Mutie
9. Masaki Samwel Mokua

Hon. Members, pursuant to the provisions of Article, 178 (1) and 193 of the Constitution, Section 21 (1) of the Elections Act, 2011, and Section 7 of the County Governments Act, 2012, out of the nine (9) persons who returned their nomination papers, only the following two (2) persons qualified as candidates for election as the Speaker of the County Assembly: -

- (i) **Hon. Kennedy Okeyo Ng'ondi; and**
- (ii) **Mr. Hassan Robow Mohammed.**

Hon. Members, Standing Order No. 6(5) requires that: -

"The Clerk shall maintain a register in which shall be shown the date and time when each candidate's nomination papers were received and shall ascertain that every such candidate for election to the office of Speaker is qualified to be elected as such under Article 193 of the Constitution."

I hereby confirm that a register has been maintained in accordance with the requirements of this Standing Order. In addition, **Hon. Members,** Standing Order No. 6 (6) requires that: -

"Immediately upon the close of the nomination period provided for in paragraph (2), the Clerk shall-

- (a) publicize and make available to all Members, a list showing all qualified candidates; and*
- (b) Make available to all Members, copies of the curriculum vitae of the qualified candidates"*

Hon. Members, I hereby confirm that in my communication to all Members dated 27th September, 2022, a list showing all qualified candidates was publicized and was made available to all Members. I further confirm that I made available to all Members a list with extracts of the curriculum vitae of the qualified candidates. I further gave reasons for disqualifying the other seven (7) applicants.

Hon. Members, where more than one candidate qualifies to stand for election to the Office of the Speaker, as it is in the current circumstance, Standing Order 7 provides that the election of the Speaker shall be by secret ballot. Specifically, Standing Order 7 (2) provides that:-

"(2) The Clerk shall, at the commencement of each ballot, cause the ballot box, empty and unlocked, to be displayed to the County Assembly and shall, in the presence of the County Assembly, lock the box, which shall thereafter be kept in the full view of the County Assembly until the conclusion of the ballot"

Hon. Members, with the help of my officers, I will do that shortly.

Further, **Hon. Members,** Standing Order No. 7(3) provides that *"the Clerk shall issue not more than one ballot paper to each Member who comes to the Table to obtain it and each Member who wishes to vote shall proceed to a booth or designated area provided by the Clerk for that purpose and located next to and within reasonable distance of the ballot box and shall, while there, mark the ballot paper by placing a mark in the space opposite the name of the candidate for whom the Member wishes to vote, fold the marked ballot paper before leaving the booth or area and place the folded ballot paper in the ballot box"*.

To facilitate this process, the name of each Member shall be called out; following which the Member shall come to the table Station 3, directly in front of the Clerks-at-the-Table and obtain a ballot paper.

Hon. Members, each Member shall then proceed to either of the two (2) polling booths which are clearly displayed and while there, mark the ballot paper by placing a visible mark in the space provided, opposite the name of the candidate he or she wishes to vote for and fold it. The Member shall then leave the booth and place the marked ballot paper in the ballot box at the dispatch area.

The polling booths are on my extreme left and right as displayed appended on today's Order Paper.

Hon. Members, Standing Order No. 7(4) provides that a Member who, before the conclusion of a ballot has marked a paper in error may, by returning it to the Clerk, obtain another in its place and the Clerk shall immediately cancel and destroy the paper so returned. For clarity, the first one shall be marked "cancelled" and "destroyed". Therefore, **Hon. Members,** once you go to the booth and make a wrong mark, do not proceed with the vote.

Hon. Members, when it appears to the Clerk, the returning officer, that all Members who are present and who wish to vote have placed their ballot papers in the ballot box, the Clerk shall unlock the box, examine the ballot papers and, having rejected those unmarked or spoilt, report the result of the ballot; and no Member who has not already recorded his or her vote shall be entitled to do so after the Clerk has unlocked the ballot box.

Standing Order No. 7(7) as read together with Standing Order No. 7(8) provides that, *"a ballot paper is spoilt, if in the Clerk's opinion, it does not identify the candidate purported to be selected by the Member voting". "The Clerk shall declare a ballot paper to be invalid under paragraph 7 in the presence of and after inspection by the Members representing each of the candidates in the election"*.

Hon. Members, the counting of the ballots shall take place in the presence of all Members and Members appointed as agents or representatives by the candidates. So I will shortly ask for the agents of the candidates to come forward.

Hon. Members, in line with the requirement of Standing Order No. 8(1), a person shall not be elected as Speaker unless he or she is supported in a ballot by the votes of two-thirds of all Members. The Assembly is reminded that this two-thirds threshold is not a constitutional requirement. It is a procedural step to ease the election of a Speaker on the first round of ballot. In fact, if your votes will result in attainment of two-thirds in the first round, we will not proceed to the subsequent ballot.

Accordingly, **Hon. Members,** if no candidate shall not be supported by the votes constituting two-thirds of all Members, the candidate or candidates who received the highest number of votes in the first ballot and the candidate or candidates who in that ballot received the next highest number of votes shall alone stand for election

in a further ballot. At the end, the candidate who shall receive the highest number of votes in the further ballot shall be elected Speaker, and I will declare so.

Hon. Members, I wish to remind the Assembly that the voting exercise we are about to undertake is by secret ballot as earlier communicated.

Accordingly, Members are not allowed to display their marked ballot papers to the Assembly, the galleries or to any other person. Members of the media are also reminded to observe rule 3(c) of the Assembly Broadcasting Rules, which provides that: *"Wide-angle shots of the Chamber shall be used during voting and Division and no shot shall be taken so as to show the manner in which a Member has voted in any secret ballot."*

Hon. Members, we have arranged the two voting booths on my extreme left and right (*pause and show members the two booths*). For convenience of the Assembly, Members on my right side will cast their ballots in the voting booth to my right and vice-versa. We are now ready to commence the voting process. But before we start, may the agents or representatives for the candidates please come forth? Agent for -

- (i) **Hon. Kennedy Okeyo Ng'ondi; and**
- (ii) **Mr. Hassan Robow Mohammed.**

Having explained the voting procedure, I now direct the Sergeant-at-Arms to open the ballot box and display it to the Assembly.

Hon. Members, you have all witnessed for yourselves that the ballot box is empty, in which case I now direct the Sergeant-at-Arms to close it and seal it.

Hon. Members, we are now ready to vote. I now direct the Clerks at the table to call out the names starting with the Members with disability and then proceed with the order as it appears in the Order Paper. However, in the interest of accountability and convenience during the process, we shall have respective agents cast their votes before then. Kindly note that the agents will remain at the dispatch area throughout the process after casting their votes. I therefore call upon the agents to proceed and vote:

1. *Agent for Hon. Kennedy Okeyo Ng'ondi*
2. *Agent for Hassan Robow Mohammed.*

I now call upon the Clerks at the Table to call out the first name.

Break [Members pick ballots and voting continues]

Hon.:

Hon.

Hon.

Hon.

Hon.

Hon. Members, could there be any Member who is present but has not voted for any reasons?

[When last member has voted]

Hon. Members it appears that all the Members who wish to vote have already done so.

Hon. Members, Standing Order 7(6) provides that, *"when it appears to the Clerk that all Members who are present and who wish to vote have placed their ballot papers in the ballot box, the Clerk shall unlock the box, examine the ballot papers, and having rejected those unmarked or spoilt, report the results on the ballot and no Members who have not already recorded his/her vote shall be entitled to do so after the Clerk has unlocked the ballot box"*.

Therefore, in accordance with this Standing Order, **Hon. Members**, I direct the Sargent-At-Arms to unlock the ballot box in the presence of the agents and the ballot papers be examined and once they ascertain whether there are some which are unmarked or spoilt, we shall start counting the votes.

The seals have been broken.

The Sergeant-at-Arms may pour the ballot papers on the dispatch table and then the votes are going to be sorted, grouped and then we are going to count. Everything is going to be done in the open. So sergeant-at-arms, open the box and show that all the ballot papers have been emptied.

Break [Ballot boxes are being emptied]

Now my officers, the Clerks-at-the Table are going to go through the votes and sort them out and they will be calling them as we proceed. Thereafter they will count and then we shall have the results. Proceed Officers.

BREAK (Sorting and Counting of Votes)

Hon. Members, I wish to announce the results of the first ballot as follows: -

(Refer to the results as submitted by Clerks-at-the- Table)

Name	Votes
1. Hon. Kennedy Okeyo Ng'ondi	71
2. Hon. Hassan Robow Mohammed	52
3. Spoilt	0

Total

123

EDWARD GICHANA
CLERK, NAIROBI CITY COUNTY ASSEMBLY