



NAIROBI CITY COUNTY ASSEMBLY

OFFICIAL REPORT

First County Assembly – Fourth Session

Tuesday 4th October, 2016

The House met at 2.30 p.m.

(Hon. Speaker (Mr. Alex Ole Magelo) in the Chair)

PRAYER

(Loud consultations)

Hon. Speaker: Order Hon. Members! Can we proceed?

COMMUNICATION FROM THE CHAIR

GROSSLY DISORDERLY CONDUCT

Hon. Members, the afternoon of Thursday 29th September, 2016, will go down in the history of this new Assembly Chamber as perhaps the darkest day during the First term of the First Nairobi City County Assembly.

Hon. Members, we will recall with astonishment the grossly disorderly conduct witnessed on the said day when a Member was attacked for merely attempting to prosecute an item of business which was

properly before this House, having followed all due process and obtaining procedure under Section 33 of the County Government Act, 2012, and Standing Order 60 of the County Assembly Standing Orders.

Hon. Members, the needless attack on the person of Hon. Samuel Nyangwara by the Hon. Peter Owera, which occasioned the scuffle witnessed by all present and as reported by media houses via captured video, was indeed regrettable, despicable and shameful. What transpired here last week is now public knowledge and to say otherwise other than to condemn it would be to fail in my mandate as the Speaker of this August Assembly.

Hon. Members, I need not remind you that every Member of this Assembly has a right to bring forth any matter for debate, and when such matter is approved procedurally, to table such matter without undue pressure or violent interference. No Member of this Assembly has the right to violently or otherwise interrupt the prosecution of any matter procedurally and lawfully before this Assembly by another Honourable Member.

Perhaps some Hon. Members have forgotten, and if that is the case, here is a reminder. Hon. Members, there are various avenues through which dissent on any matter before this Assembly can be registered without resorting to violence. These avenues for dissent are provided for in the Standing Orders, and by practice, whether by raising objections on the floor or voting against such matter when the Question is put. Therefore, Hon. Members, there is no room for violent and unbecoming conduct in supposed pursuit of an objection to a matter due for tabling as witnessed here last week, and that can't be tolerated.

Hon. Members, the regulation of conduct and breach of order in the Assembly is provided for under Standing Orders 104, 105, 106, 107. Specifically, Standing Order 104 provides thus –

Conduct is grossly disorderly if the Member concerned, creates actual disorder; knowingly raises a false Point of Order; uses or threatens violence against a Member or other person; persists in making serious allegations without, in the Speaker's opinion, adequate substantiation; otherwise abuses his or her privileges; deliberately gives false information to the County Assembly; votes more than once in breach

of these Standing Orders; commits any serious breach of these Standing Orders; or acts in any other way to the serious detriment of the dignity or orderly procedure of the County Assembly.

Hon. Members, I wish to note that this incident was very unfortunate. The acts of the instigators of the said scuffle were a serious detriment to the dignity and orderly procedure of the County Assembly. The Chair takes the threat of violence against any Member seriously and will not hesitate to take extreme measures to ensure it does not happen. Indeed as is the case in ordered societies elsewhere, grossly disorderly conduct has no place in the County Assembly.

The Chair directs the Powers and Privileges Committee to seize itself of this matter, and expects the Committee to review footage of the said sitting and report its findings and recommendations by Tuesday, 11th October, 2016 for appropriate directions on sanctions as recommended.

In view of the foregoing, I give the following directions –

1. Every member having signed the already gazetted, specific Leadership and Integrity Code, the Chair wishes to remind Members that the Assembly will fully cooperate with any external agencies charged with enforcing compliance with the code should the need arise. I wish to therefore remind Members that Parliamentary Privilege provides no immunity against disorderly conduct that contravenes Chapter Six of the Constitution and other enabling statutes on leadership and integrity;
2. The Clerk of the County Assembly to take inventory of all damage on Assembly property arising from the events of Thursday 29th September, 2016 and review footage of the sitting to identify those responsible for any such damage and hold them personally accountable for the same for purposes of surcharging those involved;
3. Members should take note that we are no longer in Charter Hall. Millions of tax payer's monies were sunk into building this new state-of-art debating Chamber and equipping it. It is our responsibility to protect public property against malicious damage. I need to remind you, Section 339 of the Penal Code on malicious damage to property recommends that any person who wilfully and unlawfully destroys or damages any property is guilty of an offence, which, unless otherwise stated, is a misdemeanour, and is liable, if no other punishment is provided, to imprisonment for five years. So

note that we have installed CCTV cameras and video cameras in this Chamber to protect public property from malicious damage, and it is the individual responsibility of every Member to protect public property within the precincts of the Assembly.

Hon. Members, stand warned. It is so directed.

Hon. Members, let it not go into history, as a Member of the County Assembly of Nairobi, for you will be remembered for throwing a bottle of water and for punching, not talking about the representation of the people of this City. It is your responsibility to come out here as strong men and women. It is therefore important to let you know that this Motion that came last week is just like any other Motion that had been brought to this Assembly since we came to this Assembly. It is not special. And therefore Hon. Members, as brothers and sisters, I urge you to live like brothers and sisters. Thank you.

Can we proceed, Clerk?

NOTICES OF MOTION

DIRECTIONS- NOTICE OO MOTION UNDER STANDING ORDER 6

Hon. Members, a Notice of Motion was submitted by the Hon. Samuel Nyangwara, MCA, pursuant to Article 181 of the Constitution, Section 33 of the County Governments Act, 2012 and Standing Order Number 60, and was subsequently processed and approved accordingly by the Speaker for tabling having met the threshold established for such Notice of Motion.

A Notice of the said Motion was to be given on Thursday 29th September, 2016, which Notice was interrupted and therefore not given.

Standing Order 60(3) provides that a Member who has obtained the approval of the Speaker to move a Motion pursuant to Section 33 of the County Governments Act, 2012, for the impeachment of the Governor, shall give a seven (7) days' notice calling for impeachment of the Governor.

Upon the expiry of seven (7) days, after notice given, the Motion shall be placed on the Order Paper and shall be disposed of within three days; provided that if the County Assembly is not then sitting, the Speaker shall summon the Assembly to meet on and cause the Motion to be considered at that meeting after notice has been given. The Member will be giving notice of Motion shortly.

Hon. Members, any Member who wishes to violently disturb the peace is free to do so, but be warned - I am ordering the Serjeants-At-Arms to throw out any such Member who even attempts to heckle the Honourable Member, outside of the Assembly precincts for a period of 30 sittings pursuant to the powers bestowed on me under Standing Order 1.

I will now give the floor to Hon. Nyangwara to give Notice of his Motion.

It is so guided.

Hon. Nyangwara, proceed to the dispatch box.

(Loud consultations)

Hon. Members, can you be seated? Hon. Mberia!

(Loud consultations)

Hon. Member! You will be seated.

(Loud consultations)

Order Hon. Members! Hon. Odalo! Back to your seat! Order Hon. Members! Please be seated! Can you sit down! Order!

(Loud consultations)

Order Hon. Members! Indeed, you understand what a Notice of a Motion is. This is not the first one. Order Hon. Imwatok! Order!

(Loud consultations)

Order Hon. Members! Order Hon. Chief Whip! Last warning.

Hon. Members, do I have to remind you of a tabling of a Motion?

(Loud consultations)

Order Hon. Masiga! Order Masiga! Hon. Masiga, last warning! Order Hon. Members! Masiga, order!

(Loud consultations)

Hon. Masiga, I am throwing you out for 30 days! 30 sitting days. Out!

(Loud consultations)

Order Hon. Members! Masiga is a stranger in the Assembly. Can you remove that Member right now? Hon. Members, be seated.

(Loud consultations)



Hon. Mberia, you cannot be allowed to continue making noise here! I give you a last warning Hon. Mberia!

(Loud consultations)

Hon. Members, we have a stranger in the House and he must go out now! Order Hon. Members! Serjeant-At-Arms clear the floor and Members be seated.

Hon. Members, a ruling has been made. We have a stranger in the Assembly by the name of Hon. Masiga. Please, I will ask you, as a Hon. Member, to leave the Assembly.

(Loud consultations)

Hon. Member, I am giving you the last warning. Hon. Mberia! Order Hon. Members! Hon. Masiga, I ask you for the last time. And if you want us to sit here until midnight, we shall sit. Please leave the Assembly. Serjeant-At-Arms, please remove Hon. Masiga!

(Hon. Ochola goes for the Mace)

Hon. Ochola, out for the day! You cannot play with the Mace!

(Hon. Nelson Masiga is escorted out of the Chambers)

Thank you Hon. Members. Hon. Nyangwara, to the dispatch box.

Hon. Member for Viwandani Ward: (Mr. Samuel Nyangwara): Mr. Speaker, I beg to give Notice of the following Motion –

NOTICE OF MOTION – IMPEACHMENT OF GOVERNOR

AWARE, that *Article 73(2) (d) and (e)* of the Constitution of Kenya provides for accountability of a state officer to the Public, for decisions and actions as a key guiding principle of leadership and integrity, further aware that *Section 30(2)* of the County Government Act, 2012 provides for the functions and responsibilities of a County Governor, noting that *Section 30(3)* provides for ways in which the Governor's functions ought to be performed, this Assembly **RESOLVES** to remove the Hon. (Dr.) Evans Kidero from office of the County Governor of Nairobi City, pursuant to *Article 181(1)(a), (b), (c)* of the Constitution, *Section 33* of the County Governments Act, 2012, and *Standing Order 60* of the Nairobi City County Assembly Standing Orders, on the following grounds;

1. Gross violation of the Constitution, 2010; The County Government Act, 2012; The Public Procurement and Disposal Act, 2015; and the Public Finance Management Act, 2012.

- a) Inability to control and manage County debt, leading to the unmitigated accrual of debt, which has ballooned the County's overall debt to unmanageable levels, rising from Ksh. 12 billion

- when he took office in 2013 to the current Ksh.42 billion, within three years, thus creating paralysis in funding for projects and programs; debts which were not disclosed in the Debt Management Paper, 2015 and 2016 and the County Fiscal Strategy Paper, 2015 and 2016, violating Articles 201(e), of the Constitution, Section 123 and 207(2)(e) of the Public Finance Management Act, 2012.
- b) Violation of the *Articles 201 (a), (d), (e)* of the Constitution of Kenya on principles of Public Finance and *Article 226(5)* on the audit of Public entities, as well as *Article 227(1)* on procurement of goods and services, and the Public Procurement and Disposal Act, 2015 by flouting the principles of public finance management in far as public procurement of goods and services is concerned, where the Auditor-General faulted the procurement process. The system was set up by a private company whose selection criterion was made under suspicious and illegal circumstances. Citing numerous missteps in the procurement process, Auditor-General, Mr. Edward Ouko, concluded that the 4.5 per cent of all transactions retained by JamboPay are too high compared to what the Kenya Revenue Authority charges. The Auditor found that two other bidders, Virtual Mobile and Craftsilcon, had bid to charge 2.5 per cent of the transaction costs, but were not considered. A review of the cost-impact using the actual revenues for the 2012/2013 financial year established that the County Government will spend an enormous Sh. 767.4 million in the five years the contract is supposed to run.
 - c) Violation of the *Articles 201 (a), (d), (e)* of the Constitution of Kenya on principles of Public Finance and *Article 226(5)* on the audit of Public entities, as well as *Article 227(1)* on procurement of goods and services, and the Public Procurement and Disposal Act, 2015 by flouting the principles of public finance management in the unilateral signing of an agreement with Foton for the supply of busses, a matter which the EACC is investigating.
 - d) Violation of the *Articles 201 (a), (d), (e)* of the Constitution of Kenya on principles of Public Finance management, the Public Finance Management Act, 2012 and the County Allocation of Revenue Act, 2015 on the use of conditional grants from the National Government, where the Governor in the 2014/15 and 2015/16 Financial Years diverted or negligently caused to be diverted Conditional Funds meant for the free Maternity program and user fees foregone to other unrelated programs, to the great detriment of City residents struggling to access better healthcare, contrary to the regulations that govern the use of conditional grants from the National government;
 - e) Violation of the *Articles 201 (a), (d), (e)* of the Constitution of Kenya on principles of Public Finance management, the Public Finance Management Act, 2012 on the authorization of expenditure of revenue collections at source across the City, leading to heavy revenue leaks and missed targets, which has greatly affected the implementation of County programs aimed at uplifting the lives of residents, leading to stalled projects and unpaid contractors contrary to

- Statute and Constitutional provisions of the procedure for collection, withdrawal and usage of public funds.
- f) Violation of *Article 176(1)* and *185* on the creation and authority of County Assembly as an arm of County Government by undermining the Assembly's legitimate authority to make laws, through willful refusal to implement resolutions of the County Assembly, such as a free on employment, which the Governor has ignored and undertaken advertisements for employment twice, ignoring implementation of the Nairobi City County Wards Development Fund Act, 2014, even after assenting to the Bill, and in the absence of any directions on the illegality of the Act, any of its provisions or otherwise from the High Court under *Article 165 (3)(d)(i)* and *(iv)* of the Constitution.
 - g) Violation of *Section 4* of the County Governments Act, 2012 and *Section 3* of the Nairobi City County Flags and Other Symbols Act, 2013, by refusing to implement the approved symbols as provided for in the Act.

2. Crimes under National Law

- a) Violation of *Articles 201(d)* of the Constitution on principles that guide all aspects of public finance in the Republic, and *227(1)* on Procurement of public goods and services, and the provisions of the Public Procurement and Disposal Act, 2015 by awarding the revenue collection tender controversially to JamboPay, with a costly charge of 4.5 per cent of all transactions retained by JamboPay, which the Auditor noted as too high compared to what the Kenya Revenue Authority charges and what other bidders have proposed in the tender document;
- b) Violation of *Articles 201* of the Constitution and the Public Finance Management Act, 2012 on principles that guide all aspects of public finance in the Republic where the Governor either intentionally or negligently has presided over massive loss and theft of County public funds in the four years he has been in office, as evidenced by the Auditor General's Report of 2013/2014, where the Auditor raised the red flag over failure by the Nairobi County Government to bank some Sh.252 million, which is part of Sh.5.5 billion collected as revenue by the County. Records made available for audit revealed that during the period 1st January, 2013 and 30th June, 2013, a total of Sh. 5,511,732,231.00 was collected from the various sources of revenue but only Sh. 5,258,849,088.00 was banked resulting to under banking of Sh. 252,883,143.00, partly leading the arrest and prosecution of Senior Officers in the Finance Department who report directly to him, as well as the theft of public resources through wasteful procurement and payment for non-existent services, for instance exaggerated legal fee notes to certain lawyers and law firms, with legal debts standing at Sh. 5 billion.

3. Abuse of Office/Gross misconduct

The County Governor of the Nairobi City exhibited gross misconduct/abuse of office as follows: -

- i. Violation of *Article 75(1)(c)* of the Constitution on conduct of State Officers that is demeaning to the offices they hold and Section 11 of the Leadership and Integrity Act, 2012 first by assaulting a Member of Parliament, an elected leader from Nairobi City County, a matter which legal redress was sought, forcing the Governor to settle out of Court, and that recently he again allegedly assaulted another Member of Parliament, to the dismay of the Public when he was invited by the Senate of Kenya to answer audit queries relating to expenditures by the Nairobi City County Executive.
- ii. Creation of the Office of the County Attorney contrary to *Section 62(2)* of the County Governments Act, 2012.

(Loud consultations)

Hon. Speaker: The Motion is hereby tabled and given and therefore we proceed to the next order!

STATEMENTS

Hon. Alexander Mulatya. Statements. Hon. Mulatya!

(Loud consultations)

Order Hon. Mumo...Hon. Kwamboka, last warning...Hon. Mbocha, last warning...Hon. Mulatya please...order members! Order members! Hon. Deputy Speaker please! Order Hon. Members! Order Hon. Serkali! Hon. Mulatya, you can come to the dispatch box. Order Hon. Kwamboka!

Hon. Member for Kwa-Njenga Ward (Mr. Alexander Mulatya): Hon. Speaker pursuant to Standing Order 41(2) (c) I wish to request for a statement from Chairperson of Sectoral Committee on Planning and Housing regarding the grabbing of part of land hosting Embakasi Girls Secondary School which is a public land. The said public land has been grabbed by a private developer. In the statement the Chairperson should inquire into and report on:

- I. How was part of the land allocated to private developer
- II. The acreage of the school compound and table documents on the transfer of the land from public to private developer
- III. Measures being taken by the County Government to stop grabbing of public land especially land belonging to public schools, thank you.

Hon. Majority Leader (Mr. Elias Otieno): Mr. Speaker, what is going right now in the Assembly for about some minutes ago, I would like to know whether Hon. Nyangwara has crossed over from Cord to



Jubilee officially (*Applause*). Mr. Speaker if that is the case then he ceased to be Member of the County Assembly because there is no way you can be a member of two parties at the same time. I know Minority Leader is trying to take people from Cord to Jubilee through the backdoor, so as far as am concerned Mr. Nyangwara is one of the members of the Speaker panel from the Cord side and I want this directions from you on whether Nyangwara has defected officially from Cord to Jubilee and then from there we can know what to do.

Hon. Speaker: Order Hon. Members, be seated. Hon. Members let me answer the Leader of Majority.

(Loud consultations)

Hon. Members, to the Point of Order by Leader of Majority, the only person who can notify the County Assembly of Nairobi of any movement of any Member from one party is actually the Leader of Majority of the party that is Cord. So it is you to inform the Speaker of the Assembly accordingly of the movement. Thank you.

Hon. Deputy Speaker (Mr. Ken Ngondi): Hon. Speaker I would like at least to raise your attention on the Notice of Motion which has just been tabled under Standing Order 44 (4) and allow me to read: a Member giving a Notice of Motion approved by the Speaker shall state its terms to the County Assembly and whether the original copy received by the Clerk has been certified by a party Leader or Party Whip for sponsorship by the Member's party.

Hon. Speaker: Hon. Chairperson the Motion was not a party Motion, it was a Member's Motion. Can we proceed please?

(Loud consultations)

Clarence Munga...Clarence Munga!

Hon. Member for Kabiro Ward (Mr. Clarence Munga): Thank you Mr. Speaker, I would like to request a statement pursuant to Standing Order 41(2) (c) from the Chairperson of Sectoral Committee...

(Loud consultations)

Hon. Speaker: Order Hon. Obonyo! Hon. Obonyo please behave yourself, you are a Hon. Member representing people of Nairobi. Please control yourself! Order Hon. Members! Order!

Hon. Member: Mr, Speaker, why are you protecting Jubilee? *Wakule nyama huko*

Hon. Minority Leader (Mr. Abdi Hassan): Thank you Mr. Speaker sir, is it in order for a drunkard person to enter this August House? I want you to declare Hon. Obonyo as a drunkard and throw him out of this House because it is dishonourable thing for a Member to come to the Assembly while he is too...

(Loud consultations)

Mr. Speaker can Majority Leader have discipline, can he hold his seat? Am on the floor! I want to remind these Hon. Members...

I think you have hangover of council Mr. Deputy Speaker, this is not a council. I want to remind my colleagues that Nyeri Members of the County Assembly who are 100% Jubilee members impeached their Governor. That does not mean a Member who moves a Motion against a Governor who comes from his party ceases from being a member of that party. That should be clear. Secondly Nyangwara did bring this Motion as a private member's Motion. It doesn't need any endorsement from the Party Leader who is my good friend bwana Otieno. Bwana Speaker I want to urge my colleagues from Cord side if they think the Governor is clean they should wait for the 7 days to expire so that they can execute, prosecute their argument on this floor...

Hon. Majority Leader: Mr. Speaker as far as am concerned I know the Leader of Minority doesn't have Alcoblow to know whether Hon. Obonyo is drunk. I think it is high time you compel him to withdraw that statement because there is no way he can substantiate that Hon. Obonyo is drunk in this house.

Hon. Speaker: Members lets proceed! Clarence Munga please!

Hon. Clarence Munga: Thank you Mr. Speaker. I would like to request a statement, pursuant to Standing Order 41 (2) (6) I wish to request a statement from the Chairperson of Sectoral Committee on Planning and Housing regarding the grabbing of plot 936 Dagoreti/ Riruta which is a public land hosting Hajemu primary school in Kabiro Ward. The plot allotment 936 Dagoreti/Riruta has been grabbed by the Catholic Church which has built a perimeter wall around the land. In the statement the chairperson should inquire into and report on:

- I. The status of ownership of the plot 936 Dagoreti/Riruta
- II. How was the land allocated to Catholic and if any table documents on the transfer of the land
- III. Who approved construction of the perimeter wall on the land
- IV. Measures being taken by the County Executive to ensure the school gets back the grabbed land

Hon. Speaker: Hon. Chairperson, Planning and also the question by Hon. Mulatya in regard to Embakasi Girls secondary school and Hajemu primary school in Kabiro Ward. Hon. Chairperson, Planning?

Hon. Member for Gatina ward (Mr. Mike Obonyo): We don't have the Chairman and we are seeking for election for the Chairmanship. Until you give us at least 3 weeks.

Hon. Speaker: 3 weeks?

Hon Obonyo: Yes!

Hon. Speaker: You are a good citizen. You will respond to this.

(Applause)

(Loud consultations)

Hon. Speaker: Hon. Obonyo the undertaking for Hon. Mulatya's statement?

Hon. Mike Obonyo: After 3 weeks Mr. Speaker. But Mr. Speaker I want to register my apologies and I want to tell the Minority Leader to apologize. I am not under the influence of anything the way he is saying.

Hon. Speaker: True.

Hon. Mike Obonyo: I am not under the influence of miraa, alcohol or anything.

(Laughter)

Hon. Mike Obonyo: I am not under the influence of Ruto's money.

(Loud consultations)

Hon. Speaker: Proceed Bwana Clerk

BILL

THE NAIROBI CITY COUNTY PUBLIC USERS BILL 2016, ASSEMBLY BILL NO---

(Loud consultations)

Hon. Speaker: Order Hon. Kambi! Use the system.

(Loud consultations)

Hon. Speaker: Order! You have to use the system please. Order Hon. Obonyo!

(Loud consultations)

Hon. Speaker: Order Hon. Members! You have cards!

(Loud consultations)

Hon. Speaker: Order Hon. Kambi please!

THE NAIROBI CITY COUNTY PUBLIC USERS BILL 2016, ASSEMBLY BILL NO 7 of 2016 – AN ACT OF THE NAIROBI CITY COUNTY TO GIVE EFFECT TO THE 4TH SCHEDULE OF THE CONSTITUTION TO CONTROL PUBLIC USERS AND FOR CONNECTED PURPOSES, 1ST READING.

THE NAIROBI CITY COUNTY OFFICE OF THE COUNTY ATTORNEY BILL 2016, ASSEMBLY BILL NO. 4 OF 2016, SECOND READING

Hon. Speaker: Hon Leader of the Minority please?

Hon. Leader of Minority (Mr. Abdi Hassan): Thank you Mr. Speaker sir. Before I go to the Bill---

Hon. Speaker: Order Hon. Members!

Hon. Leader of Minority: Mr. Speaker sir, before I prosecute the Bill, one of the Members by the name Hon. Obonyo insinuated that the Deputy President dishes money to this Assembly. He needs to apologize or substantiate his claims. We are not going to allow the name of the Deputy President to be bungled around this House, Mr. Speaker sir. It is in bad taste for a drunkard Member who if you come near him---

Hon. Speaker: Order Hon. Leader of Minority!

Point of Order Mr. Speaker!

Hon. Member for Korogocho Ward (Mr. Maxwell Ochar): Mr. Speaker there is no way a Member can---

Hon. Maxwell Ochar: Mr. Speaker the Minority Leader should apologize for calling a Member a drunkard. We won't allow that or we will all walk out of this House unless he apologize Mr. Speaker.

(Loud consultations)

Hon. Speaker: Order Hon. Gari!

(Loud consultations)

Hon. Speaker: Hon. Kambi order!

Hon. Leader of Minority: I pity the people of Gatina Mr. Speaker sir for electing a wrong choice to represent them—

(Loud consultations)

In this August House---



(Loud consultations)

Hon. Speaker: Proceed Minority Leader.

Hon. Leader of Minority: Thank you Mr. Speaker sir. The Nairobi City County Office of the County Attorney Bill 2016, be read a second time Mr. Speaker sir.

(Loud consultations)

Hon. Leader of Minority: Mr. Speaker sir I want the Members to understand the background of this Bill. As we are speaking, we don't have the Office of the County Attorney that is structured under the law. Mr. Speaker such scenario---

Hon. Speaker: Order Hon. Members! Order Hon. Mugo! Order Hon. Kambi!

Hon. Leader of Minority: I think the CORD members understand that the Notice of Motion has gone through so they will need to put their House in for the Governor not to leave the office but I can assure them that the Governor will leave in due course. Mr. Speaker sir, the County Attorney will be appointed by the County Governor with the approval of the County Assembly. The County Attorney will serve for the term of 5 years. When the new Governor shall come he will appoint his new County Attorney. With those few remarks I want to call upon Mheshimiwa Thuo to second the Bill.

Hon. Speaker: Order Hon. Member! Is the procedural Bill--- Order Hon. Member please! This is a Procedural Motion please, sit.

Hon. Member for Karura Ward (Mr. Kamau Thuo): Thank you Hon. Speaker and thank you for your leadership so far. I rise to support this particular Bill by Hon. Minority Leader, Hon. Guyo. And as the Hon. Guyo has said indeed as a County we really need a framework on how we are going to set up an office for the Attorney of this County Mr. Speaker. As the Member had already said that right now that...in this County is a one woman show and going forward this County of ours requires great and prominent lawyers to guide the whole County and the two arms of the government. With those few remarks, I second. Thank you.

(Question is proposed)

Hon. Member for Sarang'ombe Ward (Mr. Pius Otieno): Thank you Mr. Speaker. First allow me to make a few remarks and probably inform your office and the rest of the members that what has just happened was very bad. It is bad to the extent that in such acrimony you could have--- I remember Mr. Speaker when the National Assembly was debating the amendment of the Security Law, such acrimony did appear. Member of the Coalition for the Democracy went to court and those are some of those issues that Judge George Odunga actually ruled and said that; the law could not have passed in such acrimony. Assemblies like parliament depend or are ruled by precedents and traditions. That ruling of that court forms a basis of precedence and probably in future probably we need to know how we move on that. But coming

straight to the point, I want to support this Bill that calls for the creation of the office of the County Attorney because Mr. Speaker this Bill is timely because; one, it provides for the legislative framework on how this office is going to be created.

While I also appreciate that much has not gone because it is just a copy and paste from the National Parliament which is not bad. But what I am trying to look at is probably a lot of money and activities has gone into the hiring of Legal Counsel and sometimes this legal activities that have always been done by private practitioners or private lawyers can s well be done by the Office of the County Attorney.

Mr. Speaker if you kill me, look at sometimes for Bills that are written here, if you look at the work that come from the County Executive, most of it is half-baked work. Why? Because there is insufficient Lawyers or Legal Advisors that can probably advise the County Government on some of the activities, on some of the contracts and even on some of the laws that they propose. So for that Mr. Speaker, I support this Bill.

Mr. Speaker, the world over is being ruled on parameters of legal dictates. In so far as I know, a good society can only be measured by the good laws that it has. We are still being managed by by-laws. If you look at some of the cases that sometimes people have been accused of within the CBD, they are being accused of silly or frivolous mistakes that were passed during colonial times or by the colonial masters and if you look at them presently, those are laws that are obsolete.

I want to believe that the Office of the County Attorney shall come in with speed, propose amendments, propose for repeals and bring to this House anything that they feel would be of urgency and of importance. I think this is a Bill of prosperity and not of County Attorney's office or for the Governor. It is for the bigger posterity of the people living in Nairobi. With those few remarks, I beg to support.

Hon. Speaker: Hon. Dianna Kapeen.

Hon. Member for South C Ward (Ms. Dianna Kapeen): Thank you, Mr. Speaker. I rise to support the Bill. The Legal Department of Nairobi City County is a cash cow. The department has become everybody's business in town at the expense of service delivery, health and our children education. We have heard rulings in our County which we are not represented. There is cartels whereby rulings are made that are not in favour of the County.

Mr. Speaker, if you have a structured Legal Department with an appointee through the County Assembly, we will have a channel to employ our own because almost all the Legal Lawyers who represent the County are outsourced. That is the reason I am saying it is a cash cow. It is the only department in the County that is paid monthly while all the contractors are downing their tools. Patients are dying, mothers who are giving birth are dying, and new-born babies are dying because we cannot even afford syringes. With this kind of loophole, we are creating millionaires at the expense of desperate Nairobi people.

While I support the Bill, I would want it to be *mwananchi* friendly, not just a Bill that is meant for the elite to collect rates. I beg that the person who will be appointed by the Governor should be brought to this Assembly to be vetted.

Mr. Speaker, it is a pity that Mr. Obonyo has left. Some of us, myself in particular, I don't take handouts the way he referred to us. We are not paid. When we make a ruling, when we stand on the other side, we are not standing because we don't have food in our table. It is a matter of principle and different beliefs. We don't have to be paid to make me vote in a manner that suggests you are not happy. I will vote for this Bill, and if I am not wrong, I want to inform you that it is one of the basis that was in the Nyang'wara's Motion. In fact I am kind of skeptical because we are pushing yet it is among the grievances Hon. Nyang'wara had raised.

However, I support it. I stand on the opposite side, not because I am but because I share the beliefs of Nairobi that service is not bought. Loyalty is not quality, I support what is right. Hon. Nyang'wara, personally, I will go by the words of your Deputy Party Leader, *pia mimi niko na bahasha*. So, don't quote me next time. Thank you Mr. Speaker sir.

Hon. Speaker: Hon. Warutere.

Hon. Member for Roysambu Ward (Mr. Peter Warutere): Allow me, Mr. Speaker, to support this very important Bill. But before I get to the Bill, allow me also to commend Members of Jubilee family for a job well done. If you have ever read 48 Laws of Power by Robert Greene, it says that *"There are times that you fight for honor as opposed to fighting for the prize."* I can assure you the very high today. Wanjiku out there send us to the Assembly, Wanjiku out there is crying because today indeed is a sad day. Just as it happened the last time, you get the difference between us and them. Therefore, I want it to go on record that this is the lowest that the Hon. Members can get. I pray that it doesn't happen again because sense must prevail at all times. We did not come by might because if it was a question of might, I am sure they could have defeated us. But we came with the truth and the truth shall set us free. It is in this spirit that you allow me to now go straight to this very important Motion that actually touches the heart.

Hon. Speaker: Hon. Member, you are out of order. Go to the Bill.

Hon. Peter Warutere: Sorry, allow me to go to the Bill. As you are all aware, the last time I had a very serious question on the County Attorney's office because I felt as a County, we are losing too much in terms of fees and charges that are levied every day by greedy Lawyers to this County. I had proposed then and I still stand by the same position that it is high time we now have an institutionalized office of the County Attorney so that we can have savings because the many litigations that come to this County are brought so that dishonest Lawyers can get something. Therefore, I support it on this basis so that finally we can get to Canaan. We need to have an established office so that we can minimize the briefcase Lawyers that come to this County to milk Wanjiku dry. It is for this purpose that I support. Thank you very much.

Hon. Speaker: Hon. Karen Wanjiku.

Hon. Karen Wanjiku (Nominated Member): Thank you, Mr. Speaker sir. I want to support this Bill, indeed it is timely. Reading part of Memoranda of Objects and reasons, the principal object of this Bill provides for the establishment and administration of the Office of the County Attorney, provides for the functions and powers of the County Attorney, the performance of the functions of the County Attorney and the appointment County Attorney. The County Attorney is the Principal Legal Advisor to the County Government and responsible for representing the County Government in any legal proceedings.

Mr. Speaker sir, we have seen this County being conducted with a lot of impunity because of lack of Legal Advisor. As a woman and as a mother, we have seen a lot of impunity especially in the Health Committee. Free maternity money has been given by the National Government and that that money was diverted to pay garbage and other suppliers Mr. Speaker. The health facilities of Nairobi County do not have any drugs just because of this impunity and corruption in the County. That is why we want the Governor to go.

Mr. Speaker, I want to quote Clause 25 of this Bill. *"To empower the County Attorney to procure the services of other persons for the purposes of assisting in the performance of the functions of the County Attorney"* The process of procurement in this County has been wanting. People are dying in Nairobi County because of those things. This Bill is timely and we want it passed so that this County can be in order. Thank you, Mr. Speaker sir.

Hon. Speaker: Hon. Chege and then we will come to you.

Hon. Member for Ngara Ward (Mr. Chege Mwaura): Thank you, Mr. Speaker for the opportunity. First of all, I want to congratulate the Hon. Minority Leader because this Bill is a Private Member's Bill. It is instructive to note that an important service like Legal Department after four years, the County Government has never seen any need to put structures to be able to even have a position to be talking about the Legal requirements. That states two things that, one; we have a very lazy department in the name of Legal Department and a very ineffective County Executive that cannot be able to see the importance of bringing timely Bills if they actually feel that the Legal Service Department is important.

It is instructive also to understand that the consumers of justice at a County level also have a stake in such an arrangement. For me, while I support this Bill I propose some very rigorous amendments especially with regards to the County courts that we have, the City court that actually adjudicates law and prosecutes the cases within the County. The people who are taken to these courts have never been represented. It is essentially--- as a Member who represents a majority of the hawkers, it's a kangaroo court. Anyone who is found spitting on the streets or walking while crossing the road, you come to court and it is a matter of the Magistrate sitting there and you are being read charges by the Prosecutor with no representation.

My proposal, and I think probably the Office of the Clerk will be of help here, is to come up with a position that we have Legal Services being provided based on the charges that are being prosecuted in the

City court. You remember the Kenyan judiciary was never devolved. As such I propose that money be set aside so that instead of having glorious things like the County Attorney, a County Solicitor General and a County Legal Counsel whose job is to just be a conveyor belt of getting cases and be giving them out to private Lawyers. I propose that a department within the County Legal Services be formed so that people who are consuming justice in a City court be given representation.

Mr. Speaker, I also propose that while we finish up with passing this law, we also need to embark on the by-laws. Since the Constitution was passed and the implementation phase has gone, we still use by laws. Anyone who is arrested and taken to a City court is being prosecuted on the basis of by laws which are not constitutional. I think this department is--- the formation of this Bill is overdue. Let it be formed and let us find a way of putting it implementable so that now we can be able to put the things that matter to Nairobians. I support Mr. Speaker.

Hon. Speaker: Hon. Zulfa. We go to the ladies.

Hon. Zulfa Hakim (Nominated Member): Thank you Mr. Speaker. I rise to support this Motion. I would like to start by congratulating my very able Minority Leader who found it in his wisdom to --- sorry this Bill. It's just that this behavior is informed by the surprises that just happened in this House. We don't take that very well. It is a shame. I want to apologize on behalf of those Members who thought it was the right thing to do. Anyway, back to business.

As I said I rise to support this Bill and mostly congratulate our Minority Leader who found it in his wisdom to come up with this particular Bill which I think in my opinion is overdue. However, my concern on this Legal Department of the County is that we are seeing a lot of discrepancies in the Executive wing. Nothing is happening on time in this County. We have land issues that are in court that do not end on time. We have court cases that we never win. That begs a question mark. On that note Hon. Abdi I think this is what you saw and that is why you decided to help this County. We need a legal framework to be able to implement some of the Bills and Motions we pass in this House.

As you can see, as history will say, we have not been able to implement around 70% of what we have passed in this House. Part of this is to be blamed on the legal situation of this County. With the success of this Bill, I am confident that we will get somewhere especially the very pertinent issues. We have issues that are affecting Nairobians.

We just witnessed doctors not being paid for six months. We have witnessed problems in procurement. Nairobians are suffering and this is a very important Bill for Nairobians to realize their rights as the citizens of this County. I am sure this is in line with the Jubilee manifesto that all the citizens of this Country shall be provided with the right legal frameworks to be able to access what the Government and devolution was all about. With the few remarks I wish to support this Bill and also urge this Assembly to see the wisdom that has come with this Bill. We are sure that there will be a light at the end of the tunnel. Thank you Mr. Speaker sir.

Hon. Speaker: Hon. Samuel Kagiri.

Hon. Member for Pipeline Ward (Mr. Samuel Kagiri): Thank you Mr. Speaker for this opportunity to contribute to this Bill. I want to support the Bill and congratulate the Minority Leader for bringing it to this House. I want to say like the other Members, it's actually late but we appreciate the Bill is in the House and we are going to pass it. So many Nairobianians have suffered in the wrong hands.

I know you have some information that the County owes billions of shillings to litigation of which if we had this kind of an office in place this kind of money would not be going to the wrong people. We would not be called a County of debts. As I support this Bill I want to appeal to the Office of the Clerk to please try to hasten our Bills. We have so many Bills pending in his office. Our time is running out and we might find ourselves that we have not brought the Bills to this House.

Mr. Speaker, just to add my voice to whatever was going on in the House, it is only cowards who act to the point of preventing information---

Hon. Speaker: Hon. Kagiri you are out of order!

Hon. Samuel Kagiri: Thank you Mr. Speaker.

Hon. Member for Dandora Area II Ward (Mr. Stephen Kambi): Thank you Mr. Speaker sir for this honoured opportunity. Allow me to echo the sentiments by my fellow colleagues in congratulating now the Leader of the Majority in the Nairobi City County Assembly. I think actually we should be changing roles since we are the Majority. In support of the Bill in front of us traditionally it has been a norm if you want to make a kill you sue the County.

I believe our Legal Services have been dead historically even in the defunct City Council. The legal department never served Nairobianians as it is intended. Most of the legal representatives or law firms have been making a kill meant for other services within the County. We know the issue of legality is pertinent. We need to give it attention and have laws so that at least we can have order in that section. Billions of revenue have been lost in a dubious manner by cartels and scams by the law firms and by the Legal Department that had been there previously. I believe with the ability of this Bill we shall see an end to this scams thus saving the tax payers money, the revenue collected by the Nairobi City County Government. The money can be channeled to other resourceful means because services have been wanting within this County.

I stand to support the Bill by the able Leader of Minority, thank you sir.

Hon. Speaker: Thank you very much Hon. Kambi. It is good to hear your voice. Hon. Members, I now call the mover of the Motion to reply.

Hon. Leader of Minority: Thank you Mr. Speaker sir. I am sorry for that. Yesterday I didn't sleep because goons were after Nyang'wara. I had to protect him. I beg to lay the Bill, thank you Mr. Speaker sir.

Hon. Speaker: Very well Hon. Leader of Minority.

(Question put and agreed to)

An Act of County Assembly of Nairobi City to provide for functions and powers of the County Attorney to provide for the discharge of duties and the exercise of powers of the County Attorney and for connected purposes,

Second Reading.

MOTION

Hon. Karen Wanjiku: *(Inaudible)*

Hon. Speaker: Hon. Karen Wanjiku. Serjeant-At-Arms to ring the bell for ten minutes.

(Quorum bell is rung)

Hon. Speaker: Yes Hon. Hashim.

Hon. Minority Chief Whip: Thank you Mr. Speaker. I just seek your direction. There was that Motion of Nyangwara, has it already been tabled?

Hon. Speaker: *(inaudible)*

Hon. Hashim Kamau: Meanwhile before the bell---

Hon. Speaker: You are out of order! Hon. Members good afternoon once again. The Assembly is adjourned until tomorrow 2: 30 p.m. I thank you. House Business Committee meets at the foyer after the rise of the Assembly and Motion number 10 appears tomorrow on the Order Oaper.

(The House rose at 4:35 p.m.)

