



NAIROBI CITY COUNTY ASSEMBLY

OFFICIAL REPORT

Second County Assembly – Second Session

Thursday 6th September, 2018

The House met at 2.30 p.m.

[Hon. Deputy Speaker (Mr. John Nyumu) in the Chair]

PRAYERS

Hon. Deputy Speaker: Clerk

PAPERS

Hon. Moses Ogeto: Thank you Hon. Speaker. Under Standing Order 34 which recognizes the gazette notice for this Assembly, I want to lay the following paper. Pursuant to the provisions of the Standing Order 163 (4f), I beg to lay the following paper on the table of the Assembly today Thursday 6th September 2018. I beg to lay. Hon. Speaker, there is a lot of noise coming from outside and so I am requesting for your indulgence before we proceed. We need the place quiet. Therefore order the Sergeant-at -Arms to ensure that the place is quiet.

Hon. Deputy Speaker: Order Hon. Members!

Hon. Moses Ogeto: Thank you Hon. Speaker for your wise consideration. I wish to lay: That pursuant to Standing Order 163 (4) (f), I beg to lay the following papers on the table of the Assembly today Thursday 6th September 2018: The report of the select committee on the Assembly Business - amendments to the Standing Orders of the Nairobi City County Assembly. I beg to lay.

NOTICES OF MOTION

Hon. Moses Ogeto: Thank you Hon. Speaker. I beg to give notice of the following motion; that this Assembly adopts the report of the select committee on Assembly business on amendments of the Standing Orders of Nairobi City County Assembly laid on the table of the Assembly today 6th September 2018.

REMOVAL OF SPEAKER FROM OFFICE PURSUANT TO STANDING ORDER NO. 65

Hon. Anthony Kiragu: Hon. Speaker, I beg to give notice of the following motion- 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 on fiscal responsibility of public and state officers, Article 201 of the Constitution is explicit on the principles of financial management, which is further reinforced for County Public Officers under Section 162 of the Public Finance Management Act, 2012; NOTING that the Leadership and Integrity Act, 2012 and the Regulations emanating thereby further provide extensively for the specifics of the conduct of State officers, REGRETTING that the conduct of the Hon. Beatrice K. Elachi, through her actions and omissions, has caused the Assembly great embarrassment and brought the Office of the Speaker into disrepute contrary to the gamut of laws on conduct of State officers of her caliber, this Assembly RESOLVES to sanction and remove the Hon. Beatrice Elachi as holder of the office of the Speaker of the County Assembly of Nairobi City, pursuant to Section 11 of the County Governments Act, 2012, Section 21(5)(c) of the Elections Act, 2011, on the following grounds;

1. *Conflict of Interest - Gross violation of the Constitution of Kenya, 2010; The County Governments Act, 2012; The Public Procurement and Disposal Act, 2015 and The Leadership and Integrity Act, 2012.*

Violation of Chapter Six of the Constitution, specifically Article 73 on Responsibilities of leadership which requires objectivity and impartiality in decision making, and in ensuring that decisions are not influenced by nepotism, favoritism, other improper motives or corrupt practices; violation of Article 75(1)(a), (b) and (c), violation of Article 201 (a) of the Constitution on Principles of Public Finance, violation of Section 16 and 17 of the Leadership and Integrity Act, 2012, violation of Sections 176(a), (d), and (g) of the Public Procurement and Disposal Act, 2015 by aggressively and contrary to the law, interfering with procurement processes with a view to have tenders awarded to parties close to her or their proxies, for

- a) instance in the controversial purchase of the residence of the holder of the Office of Speaker, where she actively interfered, including threatening, bullying and intimidating staff to have a party close to her win the award for the purchase of the said residence despite that party having clearly failed the mandatory criteria for award of the tender, and having quoted Kshs125 million when the recommended price was Kshs100 million,
- b) creating a markup of Kshs25 million above what the market survey Report recommended, evidence of which is available from procurement records, audio recordings and electronic correspondences with the said party and her proxies, which tender has since been refloatated and bids received, an action which prompted her deleterious unilateral decisions over the preceding weeks to the embarrassment of the County Assembly Service Board and the Assembly;

2. *Undermining the Authority of the County Assembly Service Board - Gross Violation of the Constitution of Kenya, 2010; County Assembly Services Act, 2017; The Public Officer Ethics Act; The Leadership and Integrity Act, 2012.*
- a) General violations of Section 12 of the County Governments Act, 2012 and Section 12 of the County Assembly Services Act, 2017 on Powers of the Board as a body corporate by undermining the authority of the County Assembly Service Board through her actions and omissions by purporting to unilaterally undertake the functions of the Board and inviting **investigators to probe the conduct of officers of the County Assembly and the Board's prior decisions** despite there not having been a board meeting to address the said matters and give express authorization for such action as contemplated by law as the Board saw fit;
 - b) Violation of Section 12 of the County Governments Act, 2012 and Section 12 of the County Assembly Services Act, 2017 on Powers of the Board as a body corporate, through purporting to secretly and unilaterally appoint officers of the service as accounting officers through defining mandates at the Central Bank of Kenya (CBK), IFMIS and Internet Banking (IB) without consulting the CASB nor having express authority from the Board for such actions, which actions saw her forced to retrieve the appointments when the matters became public;
 - c) Violation of Section 12 of the County Governments Act, 2012 and Section 12 of the County Assembly Services Act, 2017 on Powers of the Board as a body corporate by inviting investigators to probe alleged irregularities in Procurement matters falling squarely under the **purview of the Board, which matters she should have, by the Board's own regulations and practice, tendered before the Board for consideration before inviting third parties without the Board's prior consent and knowledge;**
 - d) Violation of Section 23 of the County Assembly Services Act, 2017 and Standing Order 92 by unilaterally purporting to allow debate on the conduct of the Clerk of the County Assembly on Thursday 14th June, 2018 ostensibly under Standing Order 1 contrary to the provisions of the law and the Standing Orders, which require such debate to be only conducted upon a specific **substantive Motion of which at least three days' notice has been given, thus undermining the authority of the Board which has exclusive mandate to recommend the suspension or removal of the Clerk where it considers it necessary to remove the Clerk under section 22 of the said Act.**
 - e) Violation of Section 11, 12 and 23 of the County Assembly Services Act, 2017, Section 12 of the County Governments Act, 2012 by unilaterally, unprocedurally and illegally usurping the functions of the board, thereby purporting to take certain actions which can only emanate from the Board as a consequence of its decisions while exercising its functions under the said Acts, in so doing greatly undermining the authority of the board and bringing its reputation as a body Corporate into disrepute, circumstances which render her unfit to hold the seat of the Chairperson of the Board;

- f) Violation of the County Assembly Services Act, 2017, the County Assembly Powers and Privileges Act, 2017, on legal protections for officers of the service by pursuing the malicious prosecution of officers of the Service who coincidentally sat in the Ad Hoc Tender Evaluation Committee which denied her proxies and their associated companies the irregular award of an exaggerated contract for the purchase of a Residence for the Speaker of the County Assembly.
3. *Abuse of Office/Gross misconduct – Violation of the Constitution of Kenya, 2010; Leadership and Integrity Act, 2012; County Assembly Powers and Privileges Act, 2017.*
- a) Violation of Article 201(d) the Constitution on prudent and responsible use of public resources, and violation of Section 162 of the Public Finance Management Act, 2012, by inappropriately expending public funds on a visit to Dubai, UAE, to ostensibly receive a fake Honorary Doctorate Degree **from the “London Graduate School,” which is affiliated to a “Commonwealth University” which university is suspiciously registered in Belize, a tiny Country in Central America, and run from Nigeria, upon payment of USD5,500/- or roughly Kshs550,000 of taxpayers monies, as part of a suspicious “Dubai Leadership Summit,” knowing fully aware the costly and fake Honorary Doctorate Degree was a ploy by Nigerian fraudsters in what are commonly known as 419 Scams, which Scam renowned media personalities such Mr. Larry Madowo and Mr. Boniface Mwangi even highlighted in their social media platforms when they received similar invitation letters from the Nigerian scammers to pay to receive the Honorary Doctorate, an expenditure which would have been personal but which she procured payment for by intimidation, improperly and unprocedurally to have the public fund her deceptive personal travels, evidence of which is readily available online and attached herewith;**
- b) Violation of Article 201(d) the Constitution on prudent and responsible use of public resources, and violation of Section 162 of the Public Finance Management Act, 2012, by inappropriately expending public funds on dubious travel to Dallas, Texas, USA ostensibly for a Diaspora Women Network conference when in actual sense she was travelling for plastic surgery and knee surgery, as evidenced by an insurance claim from CIC Insurance totaling Kshs 1,000,000/-, whose payment was similarly procured through deceit and intimidation.
- c) Violation of Article 201(d) of the Constitution on prudent and responsible use of public resources, and violation of Section 162 of the Public Finance Management Act, 2012, by inappropriately expending public funds on the purchase of a First Class ticket to Texas, USA, at Kshs1,500,000/- on 23rd May, 2018 in contravention of all practice and relevant regulations on travel by State officers, which demands that all State officers, even at her level, travel Business Class, which was originally valued at Kshs900,000/-, but whose highly irregular upgrade to First Class she procured through intimidation, leading to loss of public monies;
- d) 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 threatening, intimidating and harassing officers of the County Assembly Service exercising their duties as assigned by the Board, undermining the office of the Clerk of the County

- Assembly through various correspondences to Constitutional Commissions such as the Commission on Revenue Allocation, Salaries and Remuneration Commission and the Auditor General seeking to unilaterally control all administrative affairs relating to the intergovernmental function of those offices with the County Assembly contrary to law.
- e) Violation of the County Assembly Powers and Privileges Act, 2017 and long running traditions of Parliament by repeatedly inviting the Ethics and Integrity Commission (EACC) and other investigatory agencies to investigate the conduct of Members of the Select Committee on Labour and Social Welfare knowing fully well the Select Committee on Powers and Privileges had every intention to seize itself of the matters and investigate any breaches of privilege per the County Assembly Powers and Privileges Act, 2017 and recommend appropriate actions, subsequent to which any further referrals would be made to the external agencies per practice while respecting the sanctity of the powers and privileges of the Assembly;
 - f) Violation of the County Assembly Powers and Privileges Act, 2017 by unprocedurally and frequently authorizing entry into Assembly precincts by Police officers not assigned to the County Assembly contrary to laid down law and provisions of the Standing Orders for purposes of arresting officers of the Assembly Service and intimidating the Assembly service at her request;
4. *Failure to show leadership - Violation of the Constitution of Kenya, 2010; Leadership and Integrity Act, 2012; the Standing Orders;*
- a) Violation of Article 75(1)(c) of the Constitution on leadership and integrity by interfering with the legitimate results of the Women Caucus elections where she unilaterally cancelled the results of a legitimate vote and ordered a fresh election, clearly abusing her office;
 - b) Repeatedly commencing Assembly proceedings without the requisite Quorum, and proceeding with Assembly sittings where the Question of Quorum has been raised, and acceded to, contrary to the Standing Orders;
 - c) Violation of Article 75(1)(c) of the Constitution on leadership and integrity through tribalism and nepotism by continually preferring members of a certain community for special favors in the exercise of the powers of her office, and extending the same to Staff, by repeatedly warning staff members from certain tribes to toe the line or face the consequences for unknown offenses;
 - d) Violation of Article 75(1) (c) of the Constitution on leadership and integrity through her concerted efforts to interfere with a Report of the Select Committee on Public Accounts to achieve recommendations aligned with her personal objectives contrary to the Standing Orders and provisions of the Leadership and Integrity Act, 2012.

STATUS OF THE COUNTY GOVERNMENT

Hon. Moses Ogeto: Thank you. I want to move a notice of motion on the status of the County.

THAT, aware that Article 185 Sub-article 3 of the Constitution of Kenya (2010) provides that the County Assembly while respecting the principle of separation of power may exercise oversight over the

Disclaimer: *The electronic version of the Official Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor.*

County Executive Committee; FURTHER AWARE that the County Assembly received and approved various development plans from the County Executive, in addition the assembly has passed several resolutions which are vital for the development of the County if implemented by the County Executive;

Concerned that the County Assembly is yet to receive a satisfactory report on the implementation of the County plans and policies almost a year since the inception of the current administration; Further concerned that officers of the County Government are in limbo with the recent reshuffling and suspension of some them which has hampered service delivery to the residents of Nairobi; Disturbed that the current administration despite the numerous reshuffling of cabinet members, has not been able to conduct cabinet meeting, in addition to the Governor often missing from office; Father disturbed that since the 9th March 2018 Supreme Court Advisory on the Nomination of a Deputy Governor for subsequent approval by the Assembly; Observing that there have been high number of demolition of properties without clear procedures and framework; Further observing that the County Government is seen to be working to bring sanity in various departments to enhance service delivery, however, nothing tangible has been done so far, this Assembly resolves as follows, THAT;-

- i. H.E the Governor of Nairobi City County to move with speed and forward a name of the nominee for the position of Deputy Governor of Nairobi City County for subsequent approval by the Assembly;
- ii. The County Executive Committee (cabinet) to be proactive in development of public policies and subsequent forwarding of legislations for enacted by the Assembly for effective service delivery; and,
- iii. The Management, Operations and Governance of Nairobi City County to be conducted, executed and implemented within the jurisdiction of the gazette headquarter of Nairobi City County, which is at City Hall save for the decentralized units.

STATEMENTS

Hon. Deputy Speaker: Hon. Members, let us switch to the supplementary paper that has been submitted.

MOTION

PROCEDURAL MOTION – EXEMPTION OF BUSINESS UNDER PROVISION OF THE STANDING ORDER 240(3)

Hon. Deputy Speaker: Kindly request

Hon. Moses Ogeto: Hon. Speaker, I am on point of order number 1 (2); it says that the decisions made on paragraph one shall be based on the constitution of the Republic of Kenya, statute of the law and usage of procedures, precedence, customs and traditions of parliament and the County Assembly of Kenya and other jurisdictions to the extent of this applicable in Kenya. The Standing Orders give us express rights to conduct its business in respecting the constitution of the Republic of Kenya. When you guide us through the Standing Order then we will be in a position to conduct other businesses before this House so that we respect the Constitution of the Republic of Kenya. I need your guidance and wish that you make a ruling on the same. Thank you.

Hon. Deputy Speaker: Your concerns have been received. It is within the law. Thank you.

Hon. Moses Ogeto: Thank you Mr. Speaker for respecting Standing Order number 1 (2). Order 8; exemption of business under provision of the Standing Order number 240(3), that the business appearing on today's Order Paper be exempted from provisions of the County Assembly Standing Order 240(3). Hon. Speaker, Standing Order 240(3) is very clear. The exemption of such businesses is very clear in the Constitution of Kenya under Article 178. I wish that my colleagues and Hon. Members observe that. If we respect the Constitution and the County Governments Act then this House will be in a good move for its implementation of other procedures which are before the House. It is very explicit and categorical on how the Order Paper of the day is moved and the Standing Order which is a subsidiary statute which we are using before this House. I call upon Hon. Wahinya to second this motion

Hon. Deputy Speaker: Hon. Wahinya

Hon. Peter Wahinya: Mr. Speaker, let me take this opportunity to second this motion. It has clearly been explained to us by Hon. Ogeto and without mincing my words, I wish to say that this matter is weighty and as he has clearly stated, it will clear a way for us to be able to transact business in a more efficient manner moving forward. I second the motion.

(Question proposed)

Hon. Deputy Speaker: Mover

Hon. Moses Ogeto: Thank you Mr. Speaker. This must be a happy house

(Applause)

Hon. Moses Ogeto: This is the first time in the history of this House that we have a full quorum of 122 members. Standing Order number 240(3) says that not more than one motion of exemption of business of the Standing Orders may be moved at any time except with the leave of the Assembly. As a mover, I am a happy man that nobody is trying to oppose it, including my leader of Majority and Minority who are before this House. Therefore, Hon. Speaker because we have very many businesses before this Assembly I wish to move thank you.

(Question put and agreed to)

PROCEDURAL MOTION - EXEMPTION OF BUSINESS UNDER PROVISION OF THE STANDING ORDER 30(4)

Hon. Deputy Speaker: Please observe that we are in No. 9 and not No.10.

Hon. Moses Ogeto: Thank you for your assistance, Hon. Speaker, I was given but I have also received a supplementary of the Order Paper.

Hon. Deputy Speaker: Proceed!

Hon. Moses Ogeto: Thank you, Hon. Speaker: That **the business appearing in today's Order Paper** be exempted from the provision of the County Assembly Standing Order 30 (4). Hon. Speaker, when you go to Standing order 30(4) it is very explicit. I know that most of the Members here today it is their honeymoon and I will juggle their minds so that they can understand this Standing Orders so that they can know that they are having a special sitting in this Assembly.

Hon. Speaker, I want to call my colleague who is Hon. Waithera to second me on this motion and she has equivalent powers like me. Thank you.

Hon. Deputy Speaker: Hon. Waithera!

(Question proposed)

Hon. Moses Ogeto: Hon. Speaker, once again I want to thank the Members for considering their time as they were called from where they were. Standing order No.30 (4) is explicit and I want to thank the members for respecting the same because, in the Standing Order No. 30, it is saying about special sittings.

Hon. Speaker, the Members of this House saw it **that it's important today to sit on this special sittings** to ensure to transact the business that will change their lives, I beg to move.

(Question put and agreed to)

PROCEDURAL MOTION - EXEMPTION OF BUSINESS UNDER PROVISION OF THE STANDING ORDER 247

Hon. Moses Ogeto: Thank you, Hon. Speaker: That **the business appearing in today's Order Paper** under Order No. 11 be exempted from the provisions of the County Assembly Standing Order 247(2), (3) and (6).

Hon. Speaker, when you go to those orders they are starting from Standing Order No. 246 which says about the amendment of the Standing Orders. In this House immediately after approving the same amendments which are brought before this House should be adopted explicitly.

Hon. Speaker, this is to enable me to give motions that are important because these are just Procedural Motions. I, therefore, call my able Deputy Majority Leader to second me on this motion, Hon. Kiriba.

Hon. Deputy Speaker: Hon. Kiriba? Is he in the House! Proceed.

Hon. Kiriba: Thank you, Mr Speaker, as I stand to second my Hon brother this matter is of a big weight and it's in the eyes of the general public. I, therefore, wish to second.

(Question proposed)

Hon. Deputy Speaker: Mover, please.

Hon. Peter Imwatok: Speaker as this is house of procedure I stand to support this Procedural Motion on the premise that this Assembly deserves to do things within the perimeters of the law, I, therefore, second the Procedural Motion.

Hon. Deputy Speaker: Mover!

Hon. Moses Ogeto: Hon. Speaker, I informed you from the beginning from Order No. 8 the mood of this House is very explicit. We will be very happy may be because of changing the Standing Orders and also amending them.

In this Standing Order 247 it's talking about the amendment and in the last Assembly for those who were there, you can remember very well the Standing Order was tampered with and it was just serving few individuals but through the administration of this Assembly where you are the Speaker of the Assembly, this Standing Orders now will be effected immediately to serve the purpose of this Assembly.

Hon. Speaker, if you go to the Standing Order in which we want to exempt it has very many sentences, questions and I know most of you Hon. Member has gone through this Standing Order 65. When we were in this House in the last Assembly it had only four lines, but when you look at the interest which superseded this House it was added up to 18.

Hon. Speaker, for the exemption of this to be removed from the Standing Order and to be amended, so as to fit every individual in this House it will not be like an animal farm, because all the animals are equal. That is why these laws that we are making today will guide this house to its proximity. I beg to move. Thank you, Hon. Speaker.

(Question put and agreed to)

PROCEDURAL MOTION - EXEMPTION OF BUSINESS UNDER PROVISION OF THE STANDING ORDER 247(1)

Hon. Moses Ogeto: That, notwithstanding the provisions of Standing Order 247 (1), this Assembly resolves in the absence of the Select Committee on Procedure and Rules, that the Select Committee on Assembly Business table its Report of the amendments to the Standing Orders pursuant to Standing Order 163(4) (f).

Hon. Speaker, when you look at the Motion No.11 it is very explicit, that is why this house needs to continue to move in Rules and procedures [committee] of this House. I urge the Leader of Majority and Minority to bring the names of the Rules and Procedures [committee] to this House so that such amendments should not go to House Business because it has a lot of functions and duties that need to be done.

Hon. Speaker, when you look at the Standing Order No. 163 (4) it is very explicit that if there is no any other committee which has been constituted by the Leader of Majority and Minority then the House Business Committee takes precincts of the same.

Hon. Speaker, I want to remind the Members that the same report is before the table and they can go through the report; the one which we are going to agree today on how to amend the Standing Order No.65 and replace it with effective Standing Order which will rule this House until when the Hon. Speaker will leave.

Hon. Speaker, I call my colleague who also is my brother who was in the last Assembly so that we can be in partnership by ensuring that we respect the law. I request Hon. Chege Mwaura to second me this Procedural Motion No. 11 of this House.

Hon. Deputy Speaker: Hon. Chege Mwaura!

Hon. Chege Mwaura: Mr. Speaker, This is not the first time that my microphone is acting up, I **don't know if it is sabotage because it happens all the** time when you are in the Chair; I beg that you ensure that it works so that I can speak and be heard from my position.

Hon. Speaker, I stand to support the Motion No. 11 and it is important that Members understand that my good brother today is very busy and his head was very instrumental in the House Business Committee in term of past experience and where we want this Assembly to go, in terms of how we want the Standing Order to shape where we want to go.

Hon. Speaker, as he rightly put it the Procedure and Rules Committee is a committee that is way overdue and it must be put there so that in future they can look into every bit of legislation in that particular book so that it is in tandem with the Members it is purposed to lead. As far as that is concerned I am supporting and am fully behind the move to relook at the Standing Orders and shape it to the way we want to go. Hon. Speaker, I beg to support.

(Question proposed)

Hon. Peter Imwatok: Hon. Speaker, I am a happy man that I want to put myself within the Constitution of Kenya in Article (1) that speaks about the supremacy of the people by the people and for the people, and more importantly to note this Standing Order in the Constitution which is supreme beyond and statutory law. I therefore support the procedural motion. I ask the mover to reply.

Hon. Deputy Speaker: Mover!

Hon. Moses Ogeto: Thank you Hon. Speaker and you have seen that these are the senior Members of this Assembly who were also there in the last Assembly. Hon. Speaker, looking at the House the decision of the House Business Committee to ensure Procedural Motion No.11 is under the wisdom and the Leadership of Leader of Majority and Minority.

Hon. Speaker, they have respected Article 176 of the Constitution where we have the devolved units and every Member is elected to this Assembly or a Member should represent certain individuals, groups, and people with disabilities, to give their voice to the people. Looking at it, **it's has been very** fruitful. For this I beg to move.

Hon. Deputy Speaker: Hon. Members, I want to say that the chair has noted a typo under order No. 10 of the Supplementary order paper. The business exempted under that order is not No. 12 and No.11. The correction so ordered thank you.

(Question put and agreed to)

REPORT OF THE SELECT COMMITTEE ON ASSEMBLY BUSINESS ON THE AMENDMENTS TO THE STANDING ORDERS

Hon. Moses Ogeto: Hon. Speaker, I believe that all the Members in this House have not been supplied with the amended supplementary order of the business of today and I would wish them to be given. We are in Motion 12.

That this Assembly adopts the report of the Select Committee on Assembly Business on the Amendments to the Standing Orders.

Hon. Speaker, once more I want to remind Members that where they are there is a paper which has been circulated today. The report has been signed fully by the Members of House Business Committee. When you look at the report, out of the 19 Members of the House Business 15 were present and out of 15 in the same report, nobody objected about the same report. That is why you can't see any minority report attached to it; it's only the majority report whereby the Members of this Assembly that the leader of Majority and Minority gave powers to sit in that House Business.

Hon. Speaker, I also wish the Member to go through the same so that when we will be moving to **other motions which are also serious before this Assembly like Motion No.13 and 14 so that they don't get** confused by raising up Standing Orders **which they don't understand and are captured in this report.**

Hon. Speaker, I want to call Hon. Mbatia to second me on this motion.

Hon. Deputy Speaker: Hon. Mbatia!

(Question proposed)

Hon. Peter Imwatok: Hon. Speaker without much ado, allow me to say as a Member of House Business Committee and if you look at your Standing Order this is the most important Committee on any inaugural time in the County Assembly.

I therefore, urge all the Members of this Assembly as a matter of procedure and to confirm the commonwealth of the Parliament they really adopt this report. I move to support.

Hon. Deputy Speaker: The Mover!

Hon. Moses Ogeto: Hon. Speaker, I have seen how tiresome it was for my Leader of Majority in the last Assembly moving all the motions called Procedural Motion and also now it is for Hon. Guyo. How also tiresome it is to move these Procedural Motions.

Hon. Speaker, this Motion is very good and it is also very explicit. I also want you to invoke Standing Order NO. 249 that immediately after tabling of this report the Assembly should immediately say that this report is genuine for this House.

Hon. Speaker, I would wish you also to go to Standing Order no 249 (2) so that you give a guideline to Members on what it there so that in future we should not repeat the same mistake. I therefore beg to reply.

(Question proposed)

Hon. Deputy Speaker: Hon. Members, I have noted the amendments on Standing Order No. 249 (2) ***“Amendments to the Standing Orders proposed under this part shall, upon approval by the County Assembly, take effect at the time appointed by the County Assembly.”*** It is the wish of the Members of the Assembly that it takes effects immediately. Thank you

(Question put and agreed to)

MOTION

REMOVAL OF SPEAKER FROM OFFICE PURSUANT TO STANDING ORDER 65

Hon. Deputy Speaker: Hon. Members motion No. 13 requires a special threshold, therefore, I have ascertained that there are 102 Members present and that is two thirds threshold required by law. So Proceed! Hon. Antony Karanja!

Hon. Antony Karanja: Hon. Speaker, I beg to move this motion, but before that Hon. Speaker I would want you to take cognizance of a group of hecklers outside this building who are chatting against us and this Motion.

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 on fiscal responsibility of public and state officers, Article 201 of the Constitution is explicit on the principles of financial management, which is further reinforced for County Public Officers under Section 162 of the Public Finance Management Act, 2012;

Noting that the Leadership and Integrity Act, 2012 and the Regulations emanating thereby further provide extensively for the specifics of the conduct of State officers, regretting that the conduct of the Hon. Beatrice K. Elachi, through her actions and omissions, has caused the Assembly great embarrassment and brought the Office of the Speaker into disrepute contrary to the gamut of laws on conduct of State officers of her caliber, this Assembly resolves to sanction and remove the Hon. Beatrice Elachi as holder of the office of the Speaker of the County Assembly of Nairobi City, pursuant to Section 11 of the County Governments Act, 2012, Section 21(5) (c) of the Elections Act, 2011, on the following grounds;

Disclaimer: *The electronic version of the Official Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor.*

1. *Conflict of Interest - Gross violation of the Constitution of Kenya, 2010; The County Governments Act, 2012; The Public Procurement and Disposal Act, 2015 and The Leadership and Integrity Act, 2012.*

Violation of Chapter Six of the Constitution, specifically Article 73 on Responsibilities of leadership which requires objectivity and impartiality in decision making, and in ensuring that decisions are not influenced by nepotism, favoritism, other improper motives or corrupt practices; violation of Article 75(1)(a), (b) and (c), violation of Article 201 (a) of the Constitution on Principles of Public Finance, violation of Section 16 and 17 of the Leadership and Integrity Act, 2012, violation of Sections 176(a), (d), and (g) of the Public Procurement and Disposal Act, 2015 by aggressively and contrary to the law, interfering with procurement processes with a view to have tenders awarded to parties close to her or their proxies, for:

- a) instance in the controversial purchase of the residence of the holder of the Office of Speaker, where she actively interfered, including threatening, bullying and intimidating staff to have a party close to her win the award for the purchase of the said residence despite that party having clearly failed the mandatory criteria for award of the tender, and having quoted Kshs125 million when the recommended price was Kshs100 million,
- b) creating a markup of Kshs25 million above what the market survey Report recommended, evidence of which is available from procurement records, audio recordings and electronic correspondences with the said party and her proxies, which tender has since been refloated and bids received, an action which prompted her deleterious unilateral decisions over the preceding weeks to the embarrassment of the County Assembly Service Board and the Assembly.

2. *Undermining the Authority of the County Assembly Service Board - Gross Violation of the Constitution of Kenya, 2010; County Assembly Services Act, 2017; the Public Officer Ethics Act; the Leadership and Integrity Act, 2012.*

- a) General violations of Section 12 of the County Governments Act, 2012 and Section 12 of the County Assembly Services Act, 2017 on Powers of the Board as a body corporate by undermining the authority of the County Assembly Service Board through her actions and omissions by purporting to unilaterally undertake the functions of the Board and inviting investigators to probe **the conduct of officers of the County Assembly and the Board's prior decisions despite there not** having been a board meeting to address the said matters and give express authorization for such action as contemplated by law as the Board saw fit;
- b) Violation of Section 12 of the County Governments Act, 2012 and Section 12 of the County Assembly Services Act, 2017 on Powers of the Board as a body corporate, through purporting to secretly and unilaterally appoint officers of the service as accounting officers through defining mandates at the Central Bank of Kenya (CBK), IFMIS and Internet Banking (IB) without consulting the CASB nor having express authority from the Board for such actions, which actions saw her forced to retrieve the appointments when the matters became public;

c) Violation of Section 12 of the County Governments Act, 2012 and Section 12 of the County Assembly Services Act, 2017 on Powers of the Board as a body corporate by inviting investigators to probe alleged irregularities in Procurement matters falling squarely under the purview of the **Board, which matters she should have, by the Board's own regulations and practice, tendered before the Board for consideration before inviting third parties without the Board's prior consent and knowledge;**

d) Violation of Section 23 of the County Assembly Services Act, 2017 and Standing Order 92 by unilaterally purporting to allow debate on the conduct of the Clerk of the County Assembly on Thursday 14th June, 2018 ostensibly under Standing Order 1 contrary to the provisions of the law and the Standing Orders, which require such debate to be only conducted upon a specific substantive Motion of which at least three days' **notice has been given, thus undermining the authority of the Board which has exclusive mandate to recommend the suspension or removal of the Clerk where it considers it necessary to remove the Clerk under section 22 of the said Act.**

e) Violation of Section 11, 12 and 23 of the County Assembly Services Act, 2017, Section 12 of the County Governments Act, 2012 by unilaterally, unprocedurally and illegally usurping the functions of the board, thereby purporting to take certain actions which can only emanate from the Board as a consequence of its decisions while exercising its functions under the said Acts, in so doing greatly undermining the authority of the board and bringing its reputation as a body Corporate into disrepute, circumstances which render her unfit to hold the seat of the Chairperson of the Board.

f) Violation of the County Assembly Services Act, 2017, the County Assembly Powers and Privileges Act, 2017, on legal protections for officers of the service by pursuing the malicious prosecution of officers of the Service who coincidentally sat in the Ad Hoc Tender Evaluation Committee which denied her proxies and their associated companies the irregular award of an exaggerated contract for the purchase of a Residence for the Speaker of the County Assembly.

3. Abuse of Office/Gross misconduct – Violation of the Constitution of Kenya, 2010; Leadership and Integrity Act, 2012; County Assembly Powers and Privileges Act, 2017.

a) Violation of Article 201(d) the Constitution on prudent and responsible use of public resources, and violation of Section 162 of the Public Finance Management Act, 2012, by inappropriately expending public funds on a visit to Dubai, UAE, to ostensibly receive a fake Honorary Doctorate Degree.

b) from the "London Graduate School," which is affiliated to a "Commonwealth University" which university is suspiciously registered in Belize, a tiny Country in Central America, and run from Nigeria, upon payment of USD5,500/- or roughly Kshs550,000 of taxpayers monies, as part of a suspicious "Dubai Leadership Summit," knowing fully aware the costly and fake Honorary Doctorate Degree was a ploy by Nigerian fraudsters in what are commonly known as 419 Scams, which scam renowned media personalities such Mr. Larry Madowo and Mr. Boniface Mwangi even highlighted in their social media platforms when they received similar invitation letters from the Nigerian scammers to pay to receive the Honorary Doctorate, an expenditure which would have been personal but which she procured payment for by intimidation, improperly and unprocedurally

to have the public fund her deceptive personal travels, evidence of which is readily available online and attached herewith.

c) Violation of Article 201(d) the Constitution on prudent and responsible use of public resources, and violation of Section 162 of the Public Finance Management Act, 2012, by inappropriately expending public funds on dubious travel to Dallas, Texas, USA ostensibly for a Diaspora Women Network conference when in actual sense she was travelling for plastic surgery and knee surgery, as evidenced by an insurance claim from CIC Insurance totaling Kshs 1,000,000/-, whose payment was similarly procured through deceit and intimidation.

d) Violation of Article 201(d) of the Constitution on prudent and responsible use of public resources, and violation of Section 162 of the Public Finance Management Act, 2012, by inappropriately expending public funds on the purchase of a First Class ticket to Texas, USA, at Kshs1,500,000/- on 23rd May, 2018 in contravention of all practice and relevant regulations on travel by State officers, which demands that all State officers, even at her level, travel Business Class, which was originally valued at Kshs900,000/-, but whose highly irregular upgrade to First Class she procured through intimidation, leading to loss of public monies.

e) 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 threatening, intimidating and harassing officers of the County Assembly Service exercising their duties as assigned by the Board, undermining the office of the Clerk of the County Assembly through various correspondences to Constitutional Commissions such as the Commission on Revenue Allocation, Salaries and Remuneration Commission and the Auditor General seeking to unilaterally control all administrative affairs relating to the intergovernmental function of those offices with the County Assembly contrary to law.

f) Violation of the County Assembly Powers and Privileges Act, 2017 and long running traditions of Parliament by repeatedly inviting the Ethics and Integrity Commission (EACC) and other investigatory agencies to investigate the conduct of Members of the Select Committee on Labour and Social Welfare knowing fully well the Select Committee on Powers and Privileges had every intention to seize itself of the matters and investigate any breaches of privilege per the County Assembly Powers and Privileges Act, 2017 and recommend appropriate actions, subsequent to which any further referrals would be made to the external agencies per practice while respecting the sanctity of the powers and privileges of the Assembly.

g) Violation of the County Assembly Powers and Privileges Act, 2017 by unprocedurally and frequently authorizing entry into Assembly precincts by Police officers not assigned to the County Assembly contrary to laid down law and provisions of the Standing Orders for purposes of arresting officers of the Assembly Service and intimidating the Assembly service at her request.

4. Failure to show leadership - Violation of the Constitution of Kenya, 2010; Leadership and Integrity Act, 2012; the Standing Orders;

- a) Violation of Article 75(1) (c) of the Constitution on leadership and integrity by interfering with the legitimate results of the Women Caucus elections where she unilaterally cancelled the results of a legitimate vote and ordered a fresh election, clearly abusing her office.
- b) Repeatedly commencing Assembly proceedings without the requisite Quorum, and proceeding with Assembly sittings where the Question of Quorum has been raised, and acceded to, contrary to the Standing Orders.
- c) Violation of Article 75(1) (c) of the Constitution on leadership and integrity through tribalism and nepotism by continually preferring members of a certain community for special favors in the exercise of the powers of her office, and extending the same to Staff, by repeatedly warning staff members from certain tribes to toe the line or face the consequences for unknown offenses.
- d) Violation of Article 75(1) (c) of the Constitution on leadership and integrity through her concerted efforts to interfere with a Report of the Select Committee on Public Accounts to achieve recommendations aligned with her personal objectives contrary to the Standing Orders and provisions of the Leadership and Integrity Act, 2012.

Hon. Speaker, I would like to elaborate on the grounds that I have detailed in my Motion, and I would like to table documents to that effect and audio clips that support the grounds that I have just given. It is also good to know that all the officers who were taken to court last week sat in the tender committee that denied Hon. Elachi and her proxies an opportunity to sell a house belonging to the Speaker to this Assembly at an inflated price that was supposed to see that this Assembly and the tax payers lose Ksh.25 million.

Secondly, Hon. Elachi unprocedurally appointed officers who could have been used to pay and commit the Assembly resources. The only reason that somebody would circumvent the law in appointing people who have authority to incur expenses--- **I believe it is anybody's guess that the result would have been loss and misuse of public funds.**

Hon. Speaker, it is also in my Motion that Hon. Beatrice Elachi is a Dr. She is actually using the term Dr. Elachi in the media and in all her interviews, and recently as today. The business cards that have been printed have the term Dr. It would have only taken one simple search to know that the London Graduate School is a scam operated by Nigerians and is used to fleece people around the world of their hard-earned money by honouring them with doctorate degrees. It is very unfortunate that Hon. Elachi made sure that this **Assembly and the tax payers' money was used to pay for that fake degree to the tune of USD5,500**, excluding her cost of travel and her entourage who included her personal assistant and secretary.

Hon. Speaker, as if that is not enough, she made a trip to Dallas, USA on a purported conference with the diaspora. It is an open secret that she went for a plastic surgery in a foreign country at the expense of the taxpayers. She used the same class of flight that is used by the queen of England, which is first class. A move that even the travel agent, with an email that I have attached in my documents, complained that she contacted the agent directly and intimidated and caused the agent to change her flight from business to first class. This caused this Assembly extra Kshs.600,000. As if that was not enough, her

itinerary was rerouted to a shopping destination, which is Dubai. It became very important for to pass through Dubai her to do shopping and other personal things without any official business at the cost of the taxpayers.

Hon. Speaker, I do not think to elaborate that we have a well-choreographed disorganization of the women caucus. *(Applause)* This does not only result in women in this Assembly losing opportunities but it also translates to women of Nairobi losing an opportunity to represented by the women who are in this Assembly.

Hon. Speaker, I sit in Public Accounts Committee and I am one of the witnesses who were in that room when Hon. Elachi called members of the fourth estate to her office to cast aspersions and imply that we were actually distributing money so that if we did not have the kind of recommendations she wanted in that report. I want to congratulate and salute our Chairman and members of the Committee because we were not intimidated. We did what was right and the report was not used to achieve personal ambitions. Outside this Assembly our Hon. Speaker cast aspersions and created impressions that this House has 122 ineffective and corrupt members and only one Hon. Speaker who is fighting corruption in this County. That is not fair.

As I conclude, the EACC and the DCI have been used on several occasions by the Hon. Speaker as a tool of terror against staff and against members of this House. It is a fact that this House has Powers and Privileges Committee that is supposed to among other things look into matters of abuse of privilege. Powers and Privileges Committee has been rendered useless by the Chairperson of that Committee by involving the DCI and EACC to intimidate members, to lift the veil of immunity that was seen by the assent of the Powers and Privileges Act, 2017 that allows members of this House to speak freely, to debate freely and to comment freely on matters that touch Nairobians. I am amazed personally at the speed with which the Speaker allows the EACC and the DCI to summon members of this House on flimsy grounds without evidence. For example, recently when a member of the Labour Committee just implied casually on an audio clip that they were paid money by an insurance company, summons were still being given by the EACC for members who have not gone to report and record statements. That is intimidation, causing fear and pushing members into safe mode, not to do anything and not say anything that has not been sanctioned by the Speaker.

When the Powers and Privileges Act, 2017 was envisioned, it was important that immunity was one of the things that were seen as important for the effective execution of our mandate as members of the County Assembly. I would like, as we deal with this emotive issue, this is our future and the future of Nairobians. This about having a free hand or having a free will to debate on issues without intimidation and fear and it is about the sanctity of this House. This is the only safe place as per the Powers and Privileges Act, 2017 whereby you can question and interrogate any matter that comes into this House.

Hon. Speaker, I don't have a lot to say but I would wish that the members of this House participate to make history in this City as we declare Hon. Elachi persona non grata I this House and to wish her well as she moves out after squandering an opportunity where we gave her more than 90% of the votes that were cast.

I wish to call my colleague, Hon. Imwatok to second my Motion. Thank you.

Hon. Peter Imwatok: Mr. Speaker, I may not have latitude of time to express. To avoid time wasting, allow me to second this Motion of Impeachment. Let me paraphrase in a simple language as it is in the Standing Order. No one at any given time can misquote what I have seconded. This Motion No.13 that speaks about the removal of the Speaker from the office, Dr. Elachi, I do hereby as per the subject of the charges presented before this Assembly, delete the name Dr. an allow me to address the removal of the Speaker of Nairobi City County Assembly, Hon. Beatrice Elachi. Also, allow me to register my displeasure on the Hon. Speaker. History is written in this House as the first capital City Assembly to appoint and to vote for first woman to be the second Speaker of Nairobi City County Assembly. I am putting to test and profoundly say we respect all our women across the political divide who have performed exemplary well.

Article 178 of the Constitution and the County Government Act Section 11 speaks about this Motion. The Constitution is the supreme law that can only be interpreted by the High Court and more importantly the Supreme Court can give guidance which cannot be overturned by any court of this land. I want to place myself within the jurisdiction of the Constitution and the County Government Act Section 11. Article 75 of the Constitution says **“(1) A State officer shall behave, whether in public and official life, in private life, or in association with other persons, in a manner that avoids:**

- (a) any conflict between personal interests and public or official duties;*
- (b) compromising any public or official interest in favour of a personal interest; or*
- (c) demeaning the office the officer holds.”*

I want to emphasize Section 2 which says **“(2) A person who contravenes clause (1), or Article 76, 77 or 78 (2):**

- (a) shall be subject to the applicable disciplinary procedure for the relevant office; and*
- (b) may, in accordance with the disciplinary procedure referred to in paragraph (a), be dismissed or otherwise removed from office.”*

Therefore, Mr. Speaker, we are here 102 members of the County Assembly to remove Hon. Beatrice Elachi from the office as per 75 (b) of the Constitution.

(Point of order)

Hon. Moses Ogeto: I am on a point of order 31 (3) which says **“(3) notwithstanding paragraph (1), the County Assembly may resolve:**

- (a) to extend its sitting time.”*

The time in the Standing Order has been defined to end at 5:30 p.m. Due to the weighty matter of the Motion and the Motion coming after it, through your leadership and wisdom, extend the sitting by at least one hour. This will give an opportunity to members of this House to ventilate on issues based on these allegations which have been presented by Hon. Kiragu. Thank you.

Hon. Deputy Speaker: I allow extension of the Motion as per the Standing Order No.31 (4) which says **“(4) A Motion under paragraph (3) (a) shall be moved at least thirty minutes before the time appointed for adjournment.”** I add 30 minutes, that will be up to 4:30p.m.

(Hon Gari rose on a point of order)

Hon. Deputy Speaker: Hon. Gari, Standing Orders are very clear. Hon. Imwatoke is senior, so sometimes it is important to listen to him and then I will give you chance.

(Hon Gari spoke of the record)

Hon. Deputy Speaker: Proceed.

Hon. Maurice Gari: Mr. Speaker, according to Standing Order No.30 of the gazette notice of **today's special sitting, I have been sitting here going through and understanding how things are going, it** will be specific what has been put in the gazette notice to be discussed. Beyond that, you are sitting in that seat illegally purporting to do---

Hon. Deputy Speaker: Order, Gari! While you were away, I was reading No.9. You are out of order.

Hon. Peter Imwatoke: Mr. Speaker, as I was saying, I want to confine myself to the Constitution which is the supreme law of this land. On allegations laid by the mover of the Motion in particular on the girl child because looking across this building and the precincts of the Assembly, I can see all great women who are beautiful. But it is so disheartening if indeed as per the document from the insurance company that the Speaker of this County Assembly could spend a whopping Kshs.1 million to do a plastic surgery. **In terms of integrity, it doesn't anchor well. We are fighting cancer in this country and one of the** causes of cancer is skin surgery. I therefore expect less of a Speaker of Nairobi City County Assembly to participate on the same.

County Government Act Section 11 speaks about prudent follow up of the law. 11 (4) speaks about an opportunity. This is an issue I know every Hon. Member is keen to listen. I am aware in a nick of time I am waiting the Speaker to walk before the precincts of the Assembly to defend herself on these allegations before the debate commences. I am aware a letter was sent to the Speaker. I am waiting to hear whether the Speaker went to UK for plastic surgery. Two, whether the Speaker used a flight that equates that of the queen of England. Three, whether the Speaker at any given time tried to induce the staff of the County Assembly to spend more than was assigned for the buying of the House.

I therefore beg to second the Motion.

Hon. Deputy Speaker: Hon. Members, this Morning the Assembly wrote to Hon. Speaker to appear before us. We will therefore call upon her as ordered to plead her defense. Serjeant-at-Arms, please look for the Speaker to come and defend herself. Report to me whether the Speaker is in the office.

(The clerk consulted with the Speaker)

I have a report that Madam Speaker, Hon. Elachi is not within the precincts of the Assembly.

(Question proposed)

Hon. Deputy Speaker: Hon. Kabiro.

Hon. Mbugua Kabiro: Thank you very much, Mr. Speaker. I am looking at the amendments that we have done and No.4 is before the debate and voting on a motion under paragraph 3, the Speaker shall **be accorded the opportunity. I think "shall" is absolute in law. I wish the drafters should have done---**

(Point of order)

Hon. Deputy Speaker: Hon. Kiragu, what is the point of order?

Hon. Antony Kiragu: Hon. Speaker, we are going back to Standing Order which is the procedural Motion. We are beyond that, we are now discussing the Motion for the Impeachment of the Speaker.

Hon. Mbugua Kabiro: That is what I am doing sir. There is a hitch, we will be faulted on the **process if this "shall" will remain here and we continue to pass this Motion. I wish they did amend. Thank you.**

(Point of order)

Hon. Peter Imwatok: Hon. Members, I think when the Speaker is giving a communication, we should be very keen. The Speaker asked the Serjeant-at-Arms to bring in the Speaker to respond to respond to Section 11 (4) of the County Government Act and the Constitution, the right to reply.

Hon. Peter Imwatok: The Seargent-at- Arms have just responded that the Speaker has not responded on a letter which was written to her by the Clerk of the assembly this morning. Therefore the right reply has been communicated, received by the office of the Speaker. It was of her our own volition to decide to come or not to come. That is her issue.

Hon. Deputy Speaker: Hon. Kiragu?

Hon. Anthony Kiragu: I beg to reply and ask for support from members to remember that this **about... as I table the document that are requested by the Minority Whip detailing the flight, communication** from the travel agents and the hospital and the insurance and any other officer that I have mentioned in my motion I beg for everybody to support this motion and let us make history for this city, thank you God bless you.

Hon. Deputy Speaker: Hon members order 13 is a special motion requiring two thirds threshold. The chair has ascertained that there are 92 members present meeting the threshold. We will therefore have division. We will have the electronic voting to ascertain the threshold. I now put the question.

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 on fiscal responsibility of public and state officers,

(Loud consultations)

Article 201 of the Constitution is explicit on the principles of financial management, which is further reinforced for County Public Officers under Section 162 of the Public Finance Management Act, 2012; NOTING that the Leadership and Integrity Act, 2012 and the Regulations emanating thereby further provide extensively for the specifics of the conduct of State officers, REGRETTING that the conduct of the Hon. Beatrice K. Elachi, through her actions and omissions, has caused the Assembly great embarrassment and brought the Office of the Speaker into disrepute contrary to the gamut of laws on conduct of State officers of her caliber, this Assembly RESOLVES to sanction and remove the Hon. Beatrice Elachi as holder of the office of the Speaker of the County Assembly of Nairobi City, pursuant to Section 11 of the County Governments Act, 2012, Section 21(5)(c) of the Elections Act, 2011, on the following grounds as per the Order Paper;

We have three minutes to prepare for the electronic division, three minutes. Technical team please! Technical team could you please confirm! I am sure you were inducted how to vote. This is not the first

time! We are voting now! We have three minutes! You can vote or abstain. Please can we vote! You vote YES or NO or abstain. Seargent-at-Arms if any member does not know how to vote ask for assistance.

(Loud consultations)

Order please! Order members! We have the two whips, Hon. Imwatok. Sit down hon members. If **you don't have a card... you vote! I am waiting for you to vote. Can you please take your positions please!** Sit down. Hon. Osman? Just sit down! Hon members please resume your seats. Sit first! Hon. Doris! Please resume your seats! Order Kamau! Seargent-at-Arms tell members to sit down!

(Loud consultations)

Please take your positions hon members! Order members! Be seated! Hon. Donji!

(Members spoke off-record)

Hon members are you ready?

(Members spoke off-record)

Hon members are you ready to vote? Please take your positions! Can you move? Seargent-at-Arms can you make sure members take their positions? We have only one minute remaining for us to vote! Order, order Hon. Emily? Hon. Kiriba! Take your position! Members, members, silent!

(Loud consultations)

Hon members, silent! We have only two minutes to vote. We have agreed you are going to vote electronically. Those who do not have the cards can do it manually. We shall consider and of course what we said it that it is Yes or No and you can also abstain if so you wish. We are now opening the screens for voting. Order! Take your positions please. We are opening the screens for 90 minutes. We are now voting. We have no time. Can Majority whip?

Hon. Chege Mwaura: Thank you Mr. Speaker. I beg to be listened in silence. Mr. Speaker you are aware that some of our microphones have been acting up and the voting we are proposing is very instrumental to how things are going to run. Standing Order 75 talks that **'unless the Speaker, for the convenience of the County Assembly otherwise directs, voting on a division in the County Assembly shall be by electronic voting'**.

Mr. Speaker I beg your indulgence that we vote by way of roll call voting as it is faster and clearer and has no shadow of doubt

(Applause)

I am using my example and you know I have been in this situation. If there are other situations around the house the confusion we will not be able to bear. I beg your indulgence that you allow us to do roll call voting that is faster.

Hon. Deputy Speaker: That is in order. We go by the division list. Or each party should provide one person to see whatever is happening because it is an open game. Can we have the list tabled on the floor?

(The Majority and Minority Whips tabled the members' lists for voting)

We go by the lists.

(Loud consultations)

Order, order! We are going to call according to the list. So if you are called come forward and vote accordingly. Can we start voting now? Clerk, call the names please!

DIVISION

1. Hon. Elias Otieno Okumu

Hon. Deputy Speaker: Hon Otieno has said Yes. So X is NO and YES is Y.E.S. Are we in agreement members? If your is NO you put X, if your is YES it is Y.E.S. Proceed Clerk!

2. Hon. Alvin Palapala Olando

Hon. Deputy Speaker: **Hon. Palapala, you are called upon. Don't waste** time! Come and say Yes or No? He said Yes!

3. Hon. Jayendra Virchand Malde

Hon. Deputy Speaker: Sema! Order, order members! No movement please!

4. Hon. Joseph Kiragu Wambugu

5. Hon. Paul Shem Silaho

6. Hon. Morris Ochieng Onyango

7. Hon. Fredrick Njogu Njoroge

8. Hon. David Ayoi

9. Hon. Clarence Munga

10. Hon. John Nganga Mukiri

11. Hon. Peter Wahinya Kimuhu

12. Hon. James Kiriba Kariuki

13. Hon. Moses Ogeto Nyangaresi

14. Hon. Samuel Muchene Kabiru

15. Hon. Anthony Kiragu Karanja

16. Hon. David Njilithia Mberia

17. Hon. Maurice Gari Otieno

18. Hon. Jared Akama Ondieki

19. Hon. Osman Khalif Abdi

20. Hon. Kennedy Odhiambo Oyugi

21. Hon. Cecilia Ayot

22. Hon. Jairus Amukhoye Omayo

23. Hon. Solomon Magembe

Hon. Deputy Speaker: Hon. Solomon please we are voting. You must say yes or no. it is very clear. Say Yes. Tick is a nursery word. Say yes or no!

24. Hon. Abraham Mwangi Njihia

Hon. Deputy Speaker: You must speak out. You have all the options.

25. Hon. Lawrence Otieno Odhiambo

26. Hon. Naftally Wagura Mathenge

27. Hon. Anthony Nganga Gatune

28. Hon. Pius Mwaura Mbone
29. Hon. Peter Murithi Warutere
30. Hon. Joseph Mwangi Komu
31. Hon. Samora Mwaura Wachira
32. Hon. Geoffrey Nganga Mbutia
33. Hon. Anthony Ngaruiya Mburu
34. Hon. Elijah Mbutia Irura
35. Hon. Geoffrey Odhiambo Majiwa
36. Hon. Wilson Ongele Ochola
37. Hon. Jared Okoth Okode
38. Hon. Fredrick Omondi Otieno
39. Hon. Naftally Owuor Ogola
40. Hon. Kennedy Omondi Obuya
41. Hon. John Kyalo Mulyungi
42. Hon. Evans Otiso
43. Hon. Stephen Kanyi Gikonyo

Hon. Deputy Speaker: Order, order. Hon. Evans you know for sure you are part of this [Speaker] panel. You say Yes or No. shout! You have the freedo. You can even say No.

(Hon. Evans Otiso spoke off record)

You have said Yes and its confirmed. Thank you.

44. Hon. Rose Adhiambo Ogonda
45. Hon. Julius Maina Njoga
46. Hon. Peter Wanyoike Gitau
47. Hon. Silas Matara Ongwae
48. Hon. Charles Thuo Wakarindi
49. Hon. Julius Maina Njoka
50. Hon. Francis Otieno Ngesa
51. Hon. Samuel Nganga Mwangi
52. Hon. Jeremiah Karani Themendu
53. Hon. Fredrick Onyango Okeyo
54. Hon. John Kamau Muthiga
55. Hon. Stazo Elijah Omungala
56. Hon. Nicholas Okumu Ouma
57. Hon. Michael Ogada Okumu
58. Hon. Patrick Karani
59. Hon. Paul Kados Muiruri Kiguathi
60. Hon. Mark Macharia
61. Hon. Joseph H. Ouma Ndonji
62. Hon. Benson Mwangi Macharia

63. Hon. Robert Mbatia
64. Hon. Mark Ndung'u Ng'ang'a
65. Hon. David Wambua Mbithi
66. Hon. Peter Anyule Imwatok
67. Hon. Paul Ndungu Irungu
68. Hon. Osman Khalif Abdi
69. Hon. Patrick Kanyangi Logedi
70. Hon. Fuad Hussein Mohamed
71. Hon. Hassan Abdikadir Mohamed
72. Hon. Daniel Ngengi Muturi
73. Hon. Chege Mwaura
74. Hon. Peter Wahinya Kimuhu
75. Hon. Millicent Wambui Mugadi
76. Hon. Herman Masabu Azangu
77. Hon. Esther Chege Waithera
78. Hon. Patrick Musili Mbangula
79. Hon. Wilfred Oluoch Odalo
80. Hon. David Ruong'o Okello
81. Hon. Patriciah Mutheu Musyimi
82. Hon. James Mwangi Wambui
83. Hon. Husni Mohamed
84. Hon. Immapet Kemumnto
85. Hon. Mbugua Kabiro
86. Hon. Susan Mukungu Kavaya
87. Hon. Leah Naikanae Kavaya
88. Hon. Ruth Ndumi Maingi
89. Hon. Laura Mwendu
90. Hon. Juliet June Ndegwa
91. Hon. Muthami Grace Nancy
92. Hon. Joyce Muthoni Kamau
93. Hon. Ngoyo Doris Kanario
94. Hon. Jacinta Wanjiku
95. Hon. Mary Njuguna Njambi
96. Hon. Silvy Moseiya
97. Hon. Anita Thumbi
98. Hon. Elizabeth Nyambura Kuria
99. Hon. Habiba Hussan
100. Hon. Kariuri Wanjiru
101. Hon. Margaret Wanjiru Mbote

102. Hon. Millicent Anyango Jagero
103. Hon. Beatrice Waithera Gakunyi
104. Hon. Rose Matista
105. Hon. Carolyne Mayunzu
106. Hon. Hafsa Mohamud khalif
107. Hon. Ann Catherine Akinyi
108. Hon. Emily Ondeje Oduor
109. Hon. Nimo Omar Haji
110. Hon. Millicent Okatch
111. Hon. Jackline Apondi
112. Hon. Esther Nyangweso
113. Hon. Mellab Atemah Lumalah
114. Hon. Emily Wanjiru Waithaka
115. Hon. Malenya Eve
116. Hon. Catherine Okoth
117. Hon. Mary Ariviza Mwani
118. Hon. Eunice Wanjiku Marimbi
119. Hon. Jane Muasya
120. Hon. Ali Mohamed Mohamud

Hon. Deputy Speaker: Are we through now? Can you count? The returning officer can now report the results, escorted by the Whips.

Hon. Members, I want to report the results after the voting. That;

103 members voted YES

2 members voted NO

2 members ABSTAINED

Therefore, the YES have it.

(Applauses)

Next Order. Hon. Kiragu, what is your point of order?

Hon. Anthony Kiragu: Mr. Speaker, I think it is important for you to declare that Hon. Beatrice Elachi is no longer the Speaker of Nairobi City County Assembly.

(Applauses)

Hon. Deputy Speaker: As from today, Hon. Dr. Beatrice Elachi is no longer the Speaker of Nairobi City County Assembly. Thank you.

(Applauses)

Next order.

(Loud consultations)

Order! There is another business. Serjeant-at-arms, nobody should go out. We have another business that we are carrying. Please take your positions. Clerk, proceed.

MOTION

STATUS OF THE COUNTY GOVERNMENT

Hon. Moses Ogeto: THAT, aware that Article 185 Sub-article 3 of the Constitution of Kenya (2010) provides that the County Assembly while respecting the principle of separation of power may exercise oversight over the County Executive Committee; further aware that the County Assembly received and approved various development plans from the County Executive, in addition the assembly has passed several resolutions which are vital for the development of the County if implemented by the County Executive;

Concerned that the County Assembly is yet to receive a satisfactory report on the implementation of the County plans and policies almost a year since the inception of the current administration; further concerned that officers of the County Government are in limbo with the recent reshuffling and suspension of some them which has hampered service delivery to the residents of Nairobi;

Disturbed that the current administration despite the numerous reshuffling of cabinet members, has not been able to conduct cabinet meeting, in addition to the Governor often missing from office; further disturbed that since the 9th March 2018 Supreme Court Advisory on the Nomination of a Deputy Governor for subsequent approval by the Assembly; observing that there have been high number of demolition of properties without clear procedures and framework; further observing that the County Government is seen to be working to bring sanity in various departments to enhance service delivery, however, nothing tangible has been done so far, this Assembly resolves as follows,

THAT;-

- i) H.E the Governor of Nairobi City County to move with speed and forward a name of the nominee for the position of Deputy Governor of Nairobi City County for subsequent approval by the Assembly;
- ii) The County Executive Committee (cabinet) to be proactive in development of public policies and subsequent forwarding of legislations for enacted by the Assembly for effective service delivery; and,
- iii) The Management, Operations and Governance of Nairobi City County to be conducted, executed and implemented within the jurisdiction of the gazette headquarter of Nairobi City County, which is at City Hall save for the decentralized units.

Hon. Speaker, we demand that the Executive be able to report to this Assembly within 14 days. Hon. Speaker, the Supreme Court advisory was very specific that it has given the Governors 14 days to bring their deputy governors. H. E. Mike Mbuvi Sonko has ignored the advisory of the supreme of this country. He fears nominating the deputy governor of this county which is hindering the service delivery of this county.

Hon. Speaker, if you look at my motion, it is very clear that there has been no cabinet meeting solution before this county government. The resolutions should be published for the people. The Governor of Nairobi has erroneously defied the gazettelement of staying in his office in Nairobi, i.e. where the

headquarter is and gone to Mua Hills where he operates cabinet sittings without the resolution of this Assembly.

Hon. Speaker, we want the Governor, Mike Mbuvi Sonko to report to this Assembly within 14 days on the demands of this Assembly so that we can move forward. Failure to do that, we will bring a censor motion under chapter 11 of the constitution for the removal of the Governor of Nairobi. So that we will be at liberty to serve the people of Nairobi as the legislatures of this Assembly.

Hon. Speaker, Chapter 11 of the constitution is very clear. It says that there shall be executive members who will preside and implement any legislations which would be passed by this Assembly. Before we went for recess, we passed a very serious motion which up to date has not been assented to because **the Governor doesn't want to come to the office. It would have become a bill by now. That is the** outdoor and advertisement bill.

Hon. Speaker, **we're** giving the Governor 14 days to respond to this failure to which this House will resolve for his removal from office for incompetency, for not respecting the law and for not respecting chapter 11 of the constitution of Kenya. I call the chairman of Delegated Legislation to second this motion. Thank you.

Hon. Deputy Speaker: Hon. Wahinya

Hon. Peter Wahinya: First of all, let me register my support for exactly what Mr. Ogeto has said. I need to congratulate Mr. Ogeto for the work he has done today. It will go down in history as one of the best performances we have ever seen. The HANSARD is on right now. Please accept my congratulations. Mr. **Speaker, I don't want to repeat what Ogeto has said. One of the** biggest reasons why I am supporting this particular motion is because of item number 2.

Members of the County Executive have been refusing to honor our summons as chairpersons of the committees. As the Chairman of Delegated Legislation, my work is to scrutinize regulations that are developed for policies and bills. We have currently 17 regulations that have not been presented to my committee. Policies and bills have been developed, regulations that are supposed to operationalize the acts have not been brought.

Like I said in the *kamukunji* **yesterday, if this situation doesn't change, we shall bring a motion to** discuss the conduct of the members of the members of the county executive committee and it shall be followed by a censorship upon which we shall request the Assembly to dishonor any business that is brought here by the CECs.

The reason why I intend to take that path is because we have a serious experience from the last Assembly where we in tempted to impeach an executive members and it was almost impossible – in fact we have actually lost. If you look at the law, it has certain procedures that we need to follow. This time around, we shall follow the procedures as they are laid down so that we build a case on the CECs and hopefully eventually we shall achieve an impeachment. It is my hope that once we bring a motion of censorship, the members of the county executive will shape up because that is an opportunity for them to change. I know that the executive is planning to call us somewhere. This was communicated by our leader of minority.

Finally, I wish to state here that I support this motion 100% and I wish my fellow members will do the same. Thank you.

(Question proposed)

Hon. Peter Imwatok: Thank you Mr. Speaker. Allow me to say that we are writing a new chapter. I must congratulate the Majority Leader, the Minority Leader, Minority Whip and the entire Assembly.

(Hon. Ogeto stood on a point of order)

Hon. Moses Ogeto: Hon. Speaker, as I had requested earlier on Standing Order no 31 (5) to request that you extend the time of this sitting as you may describe. Thank you.

Hon. Deputy Speaker: Point noted. 30 more minutes.

Hon. Peter Imwatok: Thank you. As I was saying, I think the leadership and the secretariat of the Assembly and more importantly NASA and Jubilee for a well-done job. Speaker, another motion is before the House. Mahatma Gandhi once said that the customer is always right. In the spirit of that, Mahatma Gandhi wanted to define that in case the customer in our hotel is not satisfied, the sufferer is the cook.

Mr. Speaker the Motion before us is the state of the County is a very momentous Motion that speaks not only to us as Members of the County Assembly, aware that we have removed one stumbling block in terms of our legislative agenda this afternoon. Now we are in the second phase; our second phase is to make sure that the people who elected us in this Hon. House under Chapter 1 of our Constitution; the Supremacy of the People, get what they deserve out of us.

Mr. Speaker Article 179 of the Constitution and Article 180 are very explicit on the functions and why the Governor of a city is elected. Mr. Speaker looking at this Constitution I said today I restrain myself using other statutes but sticking the Constitution as the rule of law. Looking at the Constitution, number one, Article 179 speaks about election and general election; ***“that every County must do election by the people elected within the jurisdiction of the county”***.

Therefore that person who has been elected as the Governor of the city must/shall be a resident of **Nairobi, must be a voter of Nairobi, and must be having an ID and a voter's card of Nairobi**. On 8th of August, 2018 Mr. Speaker we went for election and our Governor presented the best manifesto ever, somebody can project on Facebook or social media and he was elected as the second Governor of the capital city called Nairobi. Mr. Speaker I am aware that the jurisdiction, the perimeter wall that surrounds the boundaries of Nairobi. When you look at the City Act, it speaks about the boundaries from where it begins from Airport view to Wanyee Road, Limuru to the other side of Thika Road, Roysambu.

It says that under the Constitution, that the capital city of Nairobi and the headquarters gazette under the Gazette Notice is City Hall that the Governor of this great city must always report to City hall and execute his duties. Mr. Speaker one of the abdications of the duties that the Governor of the city has done is to relocate the seat of power from the capital city a gazette precedence which is City Hall to Mua Hills. As the Hon. Members of this House, we are saying it is time the Governor H.E. Mike Mbuvi Sonko reports back to the capital city which is the headquarters, the house of power which is City Hall.

Based on that Mr. Speaker, I want to put this right, the Constitution and the County Government Act 2012 Section 32 speaks about the Governor, the Principal Assistant of a capital city or any other county is the Deputy Governor. When you go to No. 4, it says, it is a principal Assistant and Advisor of the

Governor. The Governor of Nyeri passed on and may his soul rest in peace. As I say that Mr. Speaker, allow to take a quarter of a second to give a minute of silence in respect of the father of our existing Governor who is being remembered today. Let us stand up in remembrance of the father to the Governor Mike Mbuvi Sonko.

(Members stood up)

Thank you, Members. Therefore Mr. Speaker as I speak about this, having a Deputy Governor under the Constitution and the County Government Act, is not and I will repeat as I always say, it is not, it shall never and it shall not be a priority to the Governor of the city or a favour to the residents, it is a Constitutional right under the Constitution. Therefore Mr. Speaker and the Hon. House, the demand by the mover of the Motion that in the next 14 days the Governor of the capital city H. E. Mike Mbuvi Sonko, let me tone down and say that I have never abused anyone I speak the law as it is. The Governor of the city has a limited time from 9th of March 2018 to the next two weeks from now to nominate one Deputy Governor among the 5 million residents of Nairobi to be the Deputy Governor, failure to which we are going to sponsor a Motion of Censor and subsequently a motion of impeachment against one Mike Mbuvi Sonko without fear of contradiction.

Mr. Speaker this is a House of rules and procedures and I must concur with everyone in this House that the Governor Mike Sonko must respect the leadership of this House, must respect every Member of this County Assembly and must adhere to the rules of separation of powers that this House cannot and will never and shall never succumb to any intimidation. Mr. Speaker allow me to point out that this assembly as it resolves in its wisdom is not going to take exception of all Executive Members (CECs), Chief Officers and Directors who violates the Constitution.

We say a committee is an extension of the House, if any Member of the Executive fails to appear before the committee must have as per the Constitution and the County Government Act and the Powers and Privileges Act the express authority from the Governor. Failure to which we are going to sanction all the CECs, all the Chief Officers and all the Directors who fail to come before this assembly to answer questions to the committees. I therefore beg to say in the next 14 days, failure to which the Hon. Members will present a Motion of Impeachment against one Governor Mike Mbuvi Sonko. Thank you.

(Applause)

Hon. Deputy Speaker: Thank you.

Hon. Charles Thuo: Thank you Mr. Speaker. I want on the onset to state that this assembly is not expecting any favours from the Governor or from the Executive and Mheshimiwa Wahinya I am sure that is what **he meant and we don't do any motions or bills or any other procedures in this assembly expecting any** favour from any quarter, that should go on record Mr. Speaker. Having said that, I am a member of the Jubilee Party, the party that has sponsored our Governor in this assembly and as I mentioned before the assembly, it is about service delivery because this assembly cares about the Governor. We are discussing this Motion because we love our Governor; we are discussing it because we want to help him achieve his goals and to serve Nairobians as he intends to do.

Mr. Speaker the issues raised in the motion are weighty and they affect our very presence in this assembly and they go to the core of the service delivery to the Nairobians. Just to mention briefly, Mr.

Speaker if I could jog the memory of the Members in this assembly, towards the end of the last financial quarter of the financial year, we passed a Supplementary Budget that was not implemented in its entirety. We are already in the second quarter of this financial year and we are still not seeing any action, we are not blaming our Governor, we are not attacking him, we are telling the Governor to tell the people who are working under him, the CECs and the Chief Officers to pull up their socks and ensure that we do the business that we were sent to do here by the Nairobians.

Mr. Speaker, the makers of our Constitution were very clear when they gave the Governor a cabinet and their intentions were good because they did not intend to burden the Governor. My plea to our **Governor is to stop overburdening himself, we know he does this out of love but he can't be a jack of all trades.** Because the law has given him an assistant, the law has given him the authority to delegate all those duties and the people who would not perform, we are his MCAs, we are the other arm of this government, and we are going to deal with the officers who are derailing our Governor.

Mr. Speaker we are discussing this Motion to actually give power to the Governor and make him act and make the officers under him responsible. Thank you, Mr. Speaker sir.

Hon. Godphrey Majiwa: Thank you Mr. Speaker. As I support this Motion, I want to give my personal sentiments on the conduct of the Governor of Nairobi. Mr. Speaker when we came here day one we discussed our Governor, we gave him all the praises and we had a lot of confidence in him. We talked much about how he was going to change the lives of the people of Nairobi. We had a lot of hopes of how we are going to relate well with him of course **he started well, I can't deny him that. But somewhere along the way something has gone amiss and it is important for us as leaders of this city to bring it clear that the role of the Governor of Nairobi is equivalent to the role of the President of Kenya because we refer to him as His Excellency to show that he is the President of this city.**

We are living in a situation where the president of one country is operating from another country. This situation Hon. Speaker is not very good because you know residents of Nairobi need to see their Governor within their county. There those who can manage to find him wherever he is. But I am sure 99% of Nairobians will not be able to do that. They will expect to meet their Governor in his official office where he has been allocated work and work from that office.

The office of the Governor is not only serving locals from Nairobi here but it serves even international dignitaries who come in Nairobi, those who are departing here on their way to other countries. Some will just like to pay a courtesy call to the Governor of Nairobi keeping in mind that Nairobi is a very great city in the world. I am sure we have missed a lot on several opportunities that have come around with people who just want to come and pay a courtesy call to the Governor. We are talking about a Governor who does not have Deputy Mr. Speaker. A deputy Governor is a provision in law and I think may be the Governor of Nairobi has not realized that by not appointing a deputy, he is doing a disservice to the people of Nairobi. So we need to remind him that Members of this Assembly have resolved that we cannot wait any longer, that we need him to come to the office, we need him to have a deputy in the office. We know he is a busy man, when he is outside doing other activities we have somebody to go to.

Members can have problems from their different Wards Mr. Speaker; ordinarily you would expect them to come even with delegations from their Wards to the office of the Governor to see how issues can

be settled when the Governor is listening and giving instructions as the head of this County. But that cannot be possible because the Governor is never there. Mr. Speaker I think even the leadership of this assembly has a responsibility not only the Members, to sit down with the Governor as representatives of Members of this County Assembly to tell him that really he need to work from his office. Rumour has it outside there, some are giving us different versions of this occurrence, some are saying that in the **Governor's office there is a trap so he is scared of coming inside there, that there are people who are waiting to do wrong things to him when he gets to his office.** Mr. Speaker there are several ways of avoiding that. We can ask the Governor and we can also allow him if he thinks the office that he is currently allocated is not safe for his life, we can allow him to rent an office within the city and we allocate **that office some other officers who can work from it. So once the Governor's office is** within the city, we will be okay. There are so many buildings around which have been built to the standard and the Governor can get one of them and hire an office there and then surrender the office to somebody else and make sure that his security will sleep and wake up in that office so that nobody can plant anything sinister.

Mr. Speaker we know that the Governor has had a few issues with Members of this County with matters relating to how to work on day to day operations, as Members we have a few activities that we would like to oversight within our Wards, but we have seen a scenario where these activities are like presided over by the Governor, this is not the right way to do it. We have said it, and we are saying it again today that the Governor needs to consult with us in matters pertaining to our Wards because we were elected in our Wards first before he was elected. We know that he also elected but ours comes first. We were elected and kept in those Wards so that we can deal with their day to day activities. The moment we **have a problem there and you can't find him, the following day you hear that he has talked to somebody from that Ward it is like he is a position to understand what is going on yet you don't know as a Member.** That looks like we are not coordinating work well Mr. Speaker.

The Governor needs to know that working with people means sitting down with them and discussing issues and agreeing together and then we lead these people in the right way that we should. Mr. Speaker I think that the Governor is a good listener, that much I know. He is a very good listener, what I **don't understand is whether he takes the listening serious when you talk to him. I think the leadership** needs to do this, talk to him not once, not twice but make it a habit because it is like the Governor has a young age which to some of us we can refer it to *ujana* so this sometimes makes him take things lightly. So you need to get him even if it is some old men to talk to him and tell him that the matter with Nairobi County is bigger than all of us and Nairobi is the capital city of Kenya and a much respected city in the world. Therefore if he is the Governor of Nairobi he needs to be equivalent to the position that the city of Nairobi holds in the map of the world. Thank you, Mr. Speaker.

Hon. Paul Kados: Thank you Mr. Speaker. First let me congratulate the mover of this Motion which is very pertinent to Members of this County Assembly as a whole. Mr. Speaker we were all elected to deliver services to the people who elected us. It is a high time that one year down the line, nothing is happening in our Wards. Mr. Speaker when you go back to the bursaries, you will see one year down the line we have just been given the bursaries which as of now most of them were never honored by the banks **and everybody has been chased out of the bursary office. So I don't know what these members are**

thinking because when you talk of the things which we are supposed as representatives of the people to address in this assembly some of us or some people are told or are taken as if they are fighting the Jubilee government. We are not fighting Jubilee, what we want is to inform our Governor that he should be responsible and we gave him mandate to work for Nairobians.

We have a President and a Deputy President in the National government, why doesn't the Governor take up this matter up after the courts have instructed him and has given directions for him to put the office of the Deputy Governor in place. What we are asking is that, unless support and I don't think there is need for us to talk about this matter what we are supposed to do is to call the mover of this Motion and we call it a day. With that I support.

Hon. Elias Otieno: Mr. Speaker I think today is our happiest day in Nairobi because there are some devils who wanted to come before us but God was on our side.

(Applause)

Mr. Speaker because I know right now you are Mr. Speaker. If you don't know, know it from now onwards. I want to contribute on this Motion. Yesterday I said clearly during our *kamkunji* that the Executive side we don't have structures. Since we have given the Governor 14 days, he must do the correct thing to put his structure in place. We don't have some several offices and there are no people working in those offices. Also and this is mandatory, it is must, the Deputy Governor even before the expiry of the 14 days.

(Applause)

I think we just rest this Motion for now, we just leave it the way it is right now because we must have the Deputy Governor in place before the 14 days elapse, failure to which; *wembe ni ule ule*. Mr. Speaker I beg if you can use wisdom and call the mover to reply because of time. It is not a must for the Majority Leader to talk because you know sometimes, you know if you want someone to say something **which he doesn't want to say. He is also tired because he has been up and down and the pressure was too much on him, the same case with me but God will prevail upon the so called --- So Mr. Speaker I don't think you should give the Majority Leader time to talk, just call the mover to reply.**

(Applause)

Hon. Deputy Speaker: I wanted to give Hon. Guyo a chance, the mover?

Hon. Moses Ogeto: Thank you Hon. Speaker. My Minority Leader has put it very clearly that failure to which we will evoke Article 181 of the Constitution, the removal of the Governor where Sub-section (c) is very clear. Hon. Speaker he has said it very clearly that we must respect even the courts, we must respect the jurisdictions of the gazette areas. I have never seen the President of the Republic of Kenya heading to Uganda to serve from Uganda the people of the Republic of Kenya. I have never seen the President encouraging or excusing his counterpart the President John Pombe Makufuli of Tanzania that; please give me a small space I need to operate my duties from Tanzania.

What this Hon. House is saying is that if the Governor and as my able former Mayor has said that if you want to build many county lodges like the way the President has a lot of state lodges, we are ready to give him a budget to build many county lodges so that he will have 17 of them because we have 17 constituencies. We have county lodges within the jurisdiction of Nairobi. Hon. Speaker, we are very clear again that by him removing members of staff starting from the Legal department, Hon. Speaker there is

only one person who is performing the legal duties and that is the County Attorney. The whole Legal department is not there. That is why we are giving him 14 days to bring back the officers who he sent away home to come back and start working because Hon. Speaker we are paying them salaries and they are not working.

We are saying that the Procurement department because we know that he doesn't like them, there are many officers we have over 14,000 officers can be cohabited in the Procurement department and work there. The Finance department where Hon. Speaker, the members who are working for the bursaries for the Nairobians have been suspended. We are giving 14 days to bring the officers of his choice to work in those offices. Hon. Speaker, if he does the same then we will not initiate Article 181 of the Constitution of the Republic of Kenya.

Hon. Speaker I thank all the Members for being candid as the Minority Leader has said that, *wembe ni ule ule*. Come 14 days from now if no action will have been taken, we will evoke Article 181 of the Constitution and start our work. Hon. Speaker I want to remind you the same day you were sworn in is one year down the line and no Member here who is celebrating. The Governor promised elected Members that he will employ at least 100 youths from every Ward and that has not been done.

(Applause)

Hon. Speaker the same Governor said that he will ensure Ward Development Fund will be disbursed equally to the 85 Wards, that one has not been done. Hon. Speaker said that when the County Constables will be employed for service delivery and that one has not been done as well. The recruitment of ECD teachers who he suspended through a Gazette Notice, it has not been done. Hon. Speaker we are saying that within 14 days if the Governor fails we will institute a Censor Motion against him to go from office under gross misconduct under Article 181 of the Constitution of Republic of Kenya.

(Applause)

Hon. Speaker I thank all the Members because we are sure of where we are going, there is a saying that I usually share with my friends, Hon. Ochieng and Hon. **Imwatok that**; "you will never pickpocket **a naked man**". **Hon. Speaker I beg to move.**

(Laughter)

Hon. Deputy Speaker: Order!

(Question put and agreed to)

ADJOURNMENT

Hon. Deputy Speaker: To report back within 14 days. Hon. Members there being no other business---

(Loud consultations)

There being no other business, the House is adjourned till 25th September 2018 at 2.30 p.m. Thank you and may God bless you.

The House rose at 6. 00 p.m.

