



## NAIROBI CITY COUNTY ASSEMBLY

### OFFICIAL REPORT

#### Second County Assembly – Third Session

Thursday 13<sup>th</sup> June 2019

The House met at 2.30 p.m.

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

#### PRAYERS

#### QUORUM

**Hon. Deputy Speaker:** Serjeant-at-Arms, please ring the bell for 10 minutes, we don't have the quorum. Please, don't allow anyone to go out.

*(Quorum bell was rang)*

I think we have the quorum. Clerk, proceed.

#### PAPER

**Hon. Deputy Speaker:** Leader of Majority?

**Hon. Abdi Hassan:** Thank you, Mr. Speaker sir. Pursuant to Section 135 of the Public Finance and Management Act, 2012, I beg to lay the following Paper on the Table of the Assembly today, Thursday 13<sup>th</sup> June 2019: The Nairobi City County Supplementary Budget Estimates for the financial year 2018-2019.

*(The paper was laid on the table)*

#### STATEMENTS

**Hon. Deputy Speaker:** Hon. Imwatok.

#### REQUEST FOR A STATEMENT REGARDING NEW REVENUE COLLECTION SYSTEM

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**Hon. Peter Imwatok:** Thank you, Hon. Speaker. Pursuant to Standing Order No. 45 (2) (c), I wish to request for a statement from the Chairperson of the Select Committee on County Finance, Budget and Appropriations, His Excellency Mbatia regarding the new revenue collection system recently launched by the County Executive.

Hon. Speaker, the County Finance Department recently announced the unveiling of the new revenue management system after the termination of Jambo Pay contract. Details are still scanty on the nature of the system and its operation, especially as regards on the role to be played by the National Bank and the County in running the new system.

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

1. The nature of the new system and its operations especially the role of the National Bank of Kenya on the same;
2. Who currently hosts the system and where;
3. Auditability of the system for purposes of ensuring accountability;
4. Amounts collected since the system went live upon termination of Jambo Pay services;
5. Amounts swiped to the County revenue account by Jambo Pay on the day of the termination and switching in to the new system.

*(Point of order)*

**Hon. Deputy Speaker:** Proceed, Hon. Otieno.

**Hon. Elias Okumu:** Mr. Speaker, I don't know since when did Hon. Robert Mbatia become His Excellency. I don't think it is not in order to joke with those names. President Uhuru Kenyatta, His Deputy and the governors are the ones who only use the name. You cannot purport to call Hon. Mbatia His Excellency. You cannot just allow him to continue. He should withdraw the name.

**Hon. Deputy Speaker:** Hon. Imwatok, please can you withdraw. We only have one, His Excellency Mike Mbuvi Sonko in this County.

**Hon. Peter Imwatok:** Hon Speaker, in the procedure of parliament, if a member as mentioned a word that the speaker's ears has not caught---

**Hon. Deputy Speaker:** But I have already got it.

**Hon. Peter Imwatok:** It is paramount for the Speaker to consult with the Hansard or the Clerks to confirm whether that word was said.

**Hon. Deputy Speaker:** Can you withdraw.

**Hon. Peter Imwatok:** As far as I am concerned, that word was not said.

*(Laughter)*

**Hon. Deputy Speaker:** Proceed.

**Hon. Peter Imwatok:** I withdraw, Hon. Speaker.

**Hon. Patrick Karani:** Mr. Speaker, the issue that is being raised by Hon. Imwatok is very sensitive. I think it is important that we discuss it here. Matters regarding revenue are very sensitive. How we switched to the new system---

**Hon. Deputy Speaker:** Hon. Karani, I think it was a request. You will discuss it later.

**Hon. Patrick Karani:** I am saying it is a matter---

**Hon. Deputy Speaker:** It was a request from Hon. Imwatok, let the Chair answer.

**Hon. Patrick Karani:** We can't wait two weeks. We are losing a lot of revenue. 10% of daily collection, the County is losing a lot of money. We need to ventilate here in the House. So, allow members to discuss and come with a way forward on the route to take.

**Hon. Deputy Speaker:** Hon. Otieno, what is your point of order?

**Hon. Elias Okumu:** Mr. Speaker, I think the Vice Chairman of Budget is misleading the House. It is like he has a straight answer. We cannot discuss something which we don't have an answer.

**Hon. Deputy Speaker:** Thank you, Hon. Otieno for that advice. This was just a request and we have a procedure. If you want to discuss, let it come as a motion or something else. He has requested, how long do you need to bring the response?

**Hon. Robert Mbatia:** Thank you, Mr. Speaker. Considering as my Vice Chair has said it is a weighty matter, we request to be given up to Thursday next week.

**Hon. Deputy Speaker:** Hon. Imwatok, are you comfortable with one week?

**Hon. Peter Imwatok:** I am much more comfortable even if he says next year as long as the real facts come out. Thank you.

**Hon. Deputy Speaker:** Thank you. You have another one, proceed.

#### REQUEST FOR A STATEMENT REGARDING ENVIRONMENTAL POLLUTION IN NAIROBI COUNTY

**Hon. Peter Imwatok:** Hon. Speaker, pursuant to Standing Order No. 45 (2) (c), I wish to request for a statement from the Chairperson of the Sectoral Committee on natural Resources regarding environmental pollution in Nairobi County.

Hon. Speaker, residents across the city in particular along Nairobi River have often complained of pollution, occasioned frequently by irresponsible companies and factories across the city. This pollution has indeed been more demonstrated in the state of rivers across the city. It appears agencies such as NEMA tasked with managing this issue have either absconded their duty or willfully refused to reign in these polluters.

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

1. The management of affluent and other wastes from the following companies into the Nairobi River and other rivers:
  - a. Tononoka Rolling Mills
  - b. Supa Loaf Ltd
  - c. Steel Structures Ltd
  - d. Akamba Ltd
  - e. Chandaria Industries in Baba Dogo
  - f. Frigoken Industries in Baba Dogo
  - g. Pmmer Food Industries in Baba Dogo
2. Enforcement measures put in place to prevent pollution by these companies;

3. Number of companies and factories closed or warned or actions taken against such offending outlets to the environment.

Thank you.

**Hon. Deputy Speaker:** Thank you. Hon. Member of Kitisuru Ward, there is a procedure of movement in this House. Please can you go back to the bench and respect the House.

*(Hon. Alvin Palapala bowed before the House)*

**Hon. Deputy Speaker:** Thank you, you may sit. Chair of Environment?

*(Point of order)*

**Hon. Paul Kados:** Mr. Speaker, for a member of a committee he sits on to ask a question to the same committee, is it procedural?

**Hon. Deputy Speaker:** Is Hon. Anyule a member of Environment Committee?

**Hon. Members:** Yes.

**Hon. Elias Okumu:** Mr. Speaker, it is a routine of this House--- hon. slay queen asked---

*(Loud consultations)*

**Hon. Deputy Speaker:** Hon. Otieno, please---

**Hon. Elias Okumu:** Mr. Speaker, unless you refer to someone who is a slay queen. You just keep quiet. Before we went for recess, she asked about something to do with Planning and she was a member of Planning Committee. You people did not ask those questions. Even the Chair of Water also asked for statement from the committee he is a member and no one questioned him. Right now, the Chief Whip is asking for a statement from Environment Committee. He is not asking as a member of the committee but for Nairobi. If it is not in order, then the Chairman of Water should withdraw all the statements he had asked in the committee that he is a member.

**Hon. Deputy Speaker:** Hon. Otieno, there is a procedure---

**Hon. Elias Okumu:** Mr. Speaker, last time I was in Water Committee, the Chair asked a question to the same committee he was chairing.

*(Hon. Paul Kados spoke off the record)*

**Hon. Deputy Speaker:** Hon. Kados, I want to clear this matter. Procedurally, this matter should be deferred back to the Committee because you are a member of the committee.

**Hon. Peter Imwatok:** Mr. Speaker, you are aware that it was well-explained by my able Leader of Minority that I am not just Mr. Imwatok, MCA Makongeni. I am also the Chief Whip of the opposition in Nairobi and also have the powers and jurisdiction to remove or appoint. I don't know at what point Mr. Kados has confirmed that I am still a Member of Environment, because I am the appointing authority. Therefore, Speaker, I am asking this question while aware of the procedures of the Assembly. Therefore, the Chair of Environment should respond on this because I have not asked any question touching on Makongeni. I have

asked a question touching on Baba Dogo, the other side of Mowlem, the issue of Nairobi River. Hon. Speaker, you are aware, the Governor of the City launched the cleanup of Nairobi River. It is not spoilt by small residents. It is done by industries. So, I am talking of Nairobi River which encompasses the 5 million Nairobians in terms of environment. Not my ward.

**Hon. Deputy Speaker:** Thank you. Procedurally, it is wrong to request a statement from the same committee you are a member of. I don't want to argue on that, Hon. Imwatok. In still defer the same matter to the committee. Hon. Kados.

**Hon. Paul Kados:** Hon. Speaker, this is a house of procedures. And with due respect, Hon. Speaker, Hon. Imwatok is an old Member of this House. What we are asking is if it is procedural for him to ask himself a question while a precedence was set.

**Hon. Deputy Speaker:** Let me finalize this issue. The Hon. Member was to bring up the matter in the committee in which he is a member under which matter raised are part of that mandate. Please let us go that way. Clerk, next order.

*(Loud consultations)*

Hon. Imwatok, both of us can't stand at the same time. I have ruled and that is final. Clerk, proceed to the next order, please.

*(Loud consultations)*

Hon. Malde, proceed.

**Hon. Jayendra Malde:** Thank you Hon. Speaker. I have the response to the statement requested by Hon. Daniel Ngengi. Hon. Speaker, on Tuesday 26<sup>th</sup> March 2019, Hon. Daniel Ngengi MCA rose on the floor of the Assembly pursuant to standing Order 45 (2) (c), and requested the Chairperson of the sectoral committee on Justice and Legal Affairs for a statement regarding the harassment of taxi drivers in Nairobi County especially in the Central Business District around Tom Mboya street. Mr. Speaker, the Taxis and Tuktuk drivers despite being charged for the parking fees still undergo harassment and their vehicles towed away from parking lots as early as 7 a.m. According to the Member, all the revenue collection officers aided by the county inspectorate are charging more than what is provided for in the finance act 2018. The charges being 2500 Kenya shillings instead of 1000 Kenya shillings. The Member further asked the Chairperson to inquire into and report on;

1. The continued harassment of taxis and tuktuk drivers despite their compliance with county laws and other requirements
2. What by-laws or regulation is the inspectorate asking for consideration by-laws are no longer in existence and
3. What is the county executive doing to curb the harassment of the taxi drivers concerning the parking going forward.

Mr. Speaker, the committee wrote to the Chief Officer responsible for security an compliance on 28<sup>th</sup> March 2019 inviting him to a meeting of the committee on 3<sup>rd</sup> April 2019. The purpose of the meeting was to

enable the Chief Officer to furnish the committee with the response to the statement requested by the Member.

In this regard, Mr. Speaker, I wish to report to the Assembly as follows:

1. The continued harassment of taxis and tuktuk drivers despite their compliance with the county laws and other requirements. Mr. Speaker, the committee was informed that as part of the duty of the county inspectorate, they have continue to ensure that obstructions, picking and dropping in known requisite places is enforced to the later. This ensures that there is a free flow of traffic.
2. What by-laws or regulations is the inspectorate asking for considering by-laws are no longer in existence? Mr. Speaker, the committee was informed that currently the inspectorate department is enforcing the existing by-laws until the time they will be replaced or adopted. This is because there is a vacuum in law.
3. Are space meant for taxis and tuktuk parking given to matatus illegally? Mr. Speaker, the committee was informed that the issuance of space is the mandate of the technical department dealing with roads, public works and transport and that enforcement does not allocate spaces.
4. What is the county executive doing to curb the harassment of the taxi drivers concerning the parking going forward? Mr. Speaker, the committee was informed that the measures put in place by the executive to curb harassment of the parking going forward is that of inclusivity and stakeholders engagement to pave way for a lasting solutions. That continuous engagement will enable all parties air out their issues and in the process, issues raised will be solved amicably.

Mr. Speaker, Hon. Daniel Ngengi was satisfied with the response given by the Chief Officer. A copy of the detailed response has been given to Hon. Daniel Ngengi who requested for the statement and further copy is hereby attached to this report.

Mr. Speaker, I beg to lay the response, thank you.

**Hon. Deputy Speaker:** Hon. Ngengi. Are you satisfied with the response?

**Hon. Daniel Ngengi:** Thank you Hon. Speaker. I did attend the said meeting and am satisfied with the response. However, I would like the transport committee to rush and bring the bill that manages the transport sector in this city. Thank you, Hon. Speaker.

**Hon. Deputy Speaker:** Thank you Hon. Ngengi. Hon. Malde again.

**Hon. Jayendra Malde:** Thank you Mr. Speaker. Here is a second response to a statement requested by Hon. Daniel Ngengi.

Mr. Speaker, on Thursday 21<sup>st</sup> March 2019, Hon. Daniel Ngengi, MCA rose on the floor of the Assembly pursuant to Standing Order 45 (2) (c) and requested the Chairperson of the sectoral committee on Justice and Legal Affairs for a statement regarding the harassment of private bike riders and couriers in the central business district by the county askaris. Mr. speaker, that the enforcement of the ban by the county executive on bodaboda riders within the CBD continues to cause untold stories by private bike riders going about their business within the city. The plan to rid the CBD of chaotic bodaboda has unfortunately turned discriminatory with county askaris making no distinctions between bodaboda operators and private citizens who own bikes or courier services.

According to the Member, the harassment of private riders has become worse over the recent two weeks with askaris turning this unfortunate situation into a corruption haven unleashing violence on bikers

and demanding bribes and extorting monies from innocent riders and even seasonal ticket holding private riders. This despite the fact that the ban was clearly targeted at bodaboda riders and not courier services or private bikers.

The member further asked the Chairperson to inquire into and report on;

1. Clarification on whether the ban is for all motorbikes, whether private, courier or otherwise, and if not;
2. Why the county government continues to allow the harassment of innocent private bike riders despite massive outcry from the affected residents;
3. Measures put in place by the county executive to safeguard the rights of private motorbike riders and couriers who find themselves at the mercy of the county askaris and
4. Number of arrests made and prosecution undertaken of private bike riders and action taken against officers perpetuating this illegally.

Mr. Speaker, the county wrote to the chief officer responsible for security and compliance on 22<sup>nd</sup> march 2019 inviting him to a meeting of the committee on 3<sup>rd</sup> April 2019.

The purpose of the meeting was to enable the Chief Officer to furnish the committee with the response requested by the Member.

In this regard, I wish to report to the Assembly as follows:

1. Clarification on whether the ban is for all motorbikes, whether private or otherwise – The committee was informed that the ban was effected during the current regime and later the court upheld the ban via judicial review no. 27 of 2018. (Copy of the review is attached)
2. Why the county government continues to allow the harassment of innocent private bike riders despite massive outcry from the affected residents – The committee was informed that during the period, there was an outcry from the members of the public due to insecurity and various violations of traffic laws and regulations. These were mugging, robbery and escaping from crime scene using motorbikes.
3. Measures put in place by the county executive to safeguard the rights of private motorbike riders and couriers who find themselves at the mercy of the county askaris - The committee was informed that it was worth noting that there are other riders either bodabodas, courier or private bikes who impersonate by fixing the boxes to evade arrest. That during the crackdowns, they are stopped, requested for compliance documents for payments on seasonal parking and branding fees. That is is a process that is normally mistaken to be harassment that some do cooperate while others resist.
4. Number of arrests made and prosecutions undertaken of private bike riders and actions taken against officers perpetuating this illegality – Mr. Speaker, the committee was informed that since the ban began, more than 4,000 motorbikes have been impounded as a result of the riders accessing the central business district. That the operators are usually arrested for various reasons such as obstructions, riding on the wrong direction of traffic, dropping passengers in the middle of the road or pavements, parking and driving on pavements. In addition, officers engaging themselves in extortion and bribes bear individual responsibility that if caught since this is an integrity issue.

Mr. Speaker, Hon. Daniel Ngengi was satisfied with the response given by the Chief Officer.



A copy of the detailed response has been given to Hon. Daniel Ngengi who requested for the statement and a further copy is hereby attached to this report. Mr. Speaker, I beg to lay this response. Thank you.

Hon. Deputy Speaker: Hon. Ngengi.

**Hon. Daniel Ngengi:** Thank you Hon. Speaker. I am satisfied with the response from the committee. I would also like to congratulate the Governor for having released 600 motorcycles during the Madaraka Day. I would also like to bring to the attention of this Assembly that despite several meetings of where the bodabodas have agreed on particular routes with the administration, there are still being harassed in those particular roads. I will be forwarding that statement soon. Thank you.

**Hon. Deputy Speaker:** Chair, Education? Hon. Millicent? Vice Chair? Labor?

**Hon. Waithera Chege:** Thank you Mr. Speaker. I am on a point of order no. 45. Just a week before we went for CAF, there were some two statements that I requested here from two committees that have never been replied to until today. I wish to request for a commitment from your desk in terms of directions because these committees have either refused or they are not working very hard on these two things. One statement was on betting. We are having so many suicidal cases on the ground and we must really commit ourselves in this Assembly to act on these issues. I wish, therefore, to request directions from your desk. Thank you.

**Hon. Deputy Speaker:** Which committees?

**Hon. Waithera Chege:** Environment, Culture and Budget.

**Hon. Peter Imwatok:** Hon. Speaker, on the same, there is something that is coming up every now and then and today I witnessed it before a committee. Under the Speaker's rules, a Committee is an extension of a parliament. Today we had an episode which was not right. Chair of a committee was chairing a meeting wearing a t-shirt. Let me say this in the Hansard. That the Speaker's rule requires that before you sit before a committee, you must be seated like in the parliament. Therefore, Chair, you must declare on the floor of the House to all the chairmen and members that they should be properly dressed when attending a committee sitting. One should not be allowed to attend a committee sitting unofficially dressed because he/she will be bringing shame and look ridiculous to us when people appear before the Committee.

There was an instance whereby a chair chased away a witness who had no necktie but his members who were in the same committee also had no neckties. Therefore, the chairs must adhere to the rules and procedures of the House. Thank you.

**Hon. Elias Okumu:** Hon. Speaker on the same, Hon. Whip is very right. Today I went to a Committee on Delegated where they had a joint meeting with the Senate. The Chairman of Delegated on Senate side challenged the Chairman of Delegated of Nairobi City County Assembly because the Chairman of Delegated of Nairobi was not smartly dressed.

Hon. Speaker, it is high time we should take this work seriously. The Chairman of the Delegated is a member of my committee and I always send him out because he is usually not smartly dressed. There is no need for someone to look like selling cows in the market or someone who has been working in a shamba like my garden boy at home when attending committee sittings. Hon. Speaker, you should not allow the Chairman at any given time to chair a meeting when he is not smart. You should direct him and give him



total warning so that he can be smart like the Chairman of Budget, Water, Environment, Labour, Planning. I want to inform you that you will never see even one day Chairman of Budget without a tie and also the Chairman of Environment is always smart.

We have a disease in this House, the Chairman of Delegated does not know if he is a member of this Assembly or whether if he is selling cows in Dagoretti. I think, Hon. Speaker, you should send him out of this House and tell him that this is not Ngando where he gives warning to his opponents. He wrote a letter to Nancy Muthami that she should not interfere with his ward yet he is not smartly dressed. You must be smart all the time even if you have one coat like the way you are. You can wear it every day.

*(Laughter)*

**Hon. Deputy Speaker:** Hon. Otieno, it is noted and I will give direction. Hon. Members we are not discussing the dress code because you all know how you are supposed to dress. I want to rule out that chairperson should not allow any member to enter in the committee when not properly dressed. This is an important issue and the matter is over.

The issue of Hon. Waithera, I would like to direct it to Hon. Mwangi who should stand, Hon. Njihia of Culture and Hon. Mbatia of Budget. However, I want to rule this that this matter must be responded not later than Wednesday next week. Other than that, stern measures will be taken against the chairpersons. Thank you and you may sit.

**Hon. Robert Mbatia:** Thank you, Hon. Speaker. I do agree that the Budget Committee has several statements that have not been responded to. This is a matter that was even raised at our meeting. We made our last call to the Executive because they have not yet responded to us. So, this should also be a warning. I know these chairpersons here sometimes are desperate and their hands are tied because they need a response from the Executive.

Therefore, we kindly request the leadership of the Assembly to liaise with the Executive such that the responses can be forthcoming so that we can be responding to the members concerned. We gave them the last call from there we shall come to plenary to make a decision on the failure to respond.

**Hon. Deputy Speaker:** Let us have next Wednesday. You have all the days to go through it.

## MOTION

**Hon. Deputy Speaker:** Chair of Labour.

**Hon. Peter Wanyoike:** Thank you, Hon. Speaker. Pursuant to Article 235 (1) of the Constitution of Kenya, 2010 and Section 57 to 59 of the County Government Act, 2012, His Excellency the Governor, Hon. Mike Mbuvi Sonko vide a letter dated 8<sup>th</sup> May 2018 forwarded to the Speaker of Nairobi City County Assembly the names of nominees for vetting by the Sectoral Committee of Labour and Social Welfare on consideration for approval by the County Assembly for appointment as the Members of County Public Service Board. The names were: Mr. Abdihakim Mohammed Kahiya, Ms. Aisha Wanjiku Karanja, Ms. Sharon Mirella Wakhu, Ms. Consolata Muthoni Kimuya, Mr. Thomas Mwesu Kasoa and Mr. Jack Babji Owino

Hon. Speaker, the County Public Board appeared before the Committee on Tuesday 28<sup>th</sup> May, 2019 and they were vetted in accordance with the provision of the Constitution, the Public Appointment Act, 2017

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and the County Assembly Standing Orders on the suitability for the appointment to the County Public Service Board.

Hon. Speaker, to ensure compliance with the provision of Chapter 6 of the Constitution, the nominees were required to submit their clearance status with the following institutions for the vetting exercises: KRA, DCI, HELB, CRB and EACC.

Hon. Speaker, the Committee having considered the nominee's curriculum vitae and had their all submission during the vetting exercises made the following observation and findings that:

1. That five out of six nominees satisfied the requirement of Chapter six of the Constitution of Kenya on leadership and integrity which is required under Section 35 (3) (c) of the County Government Act, 2012.
2. The nominees met the requirement of the provision of section 25 (2) of the County Government Act, 2012 in that there is a representation of the minorities, marginalized groups and communities within Nairobi City County and uphold the community cultural diversity within Nairobi City County.
3. One nominee, Mr. Jack Babji Owino did not attend approval hearing and hence the committee did not make any observation with regard with his nomination.
4. The nominees met the requirement of Section 35 (3) (d) which they exhibit impressive knowledge of topical and legal issues touching on the respective docket and a have qualification and experience.
5. The committee further observed that Section 58 (1) (c) of the County Government Act provides that; *"The County Public Service Board are comprised by a Certified Public Secretary of good professional standing nominated and appointed by the Governor with the approval of the County Assembly, who shall be the secretary to the Board."*

The composition of the members as nominated by H.E the Governor does not have a person competent to perform the role of Secretary to the Board. The Committee, therefore, urges the Governor to nominate a suitable candidate for the said position and forward the name to the County Assembly for approval. That is when the term of the current secretary comes to an end which is by early November.

Hon. Speaker, the Committee made the following recommendation that pursuant to Section 45(1) (a) and (b) of the County Government Act, 2012, Section (9) of the Public Appointment Act, 2017 and Standing Order 203 (6) (f) of the Nairobi City County Assembly Standing Orders.

The Committee recommends that this Assembly approves the following five nominees for appointment by H.E the Governor Hon. Mike Mbuvi Sonko as Members of Nairobi City County Public Service Board:

1. Mr. Abdihamkim Mohamed Kahiya, Chairman
2. Ms. Aisha Wanjiku Karanja. Member
3. Ms. Sharon Mirella Wakhu, Member
4. Ms. Consolata Muthoni Kimuya, Member
5. Mr. Thomas Mwesu Kasoa, Member

Hon. Speaker, I propose that this Assembly adopt the Committee report. I call upon Hon. Rose Ogada to second.

**Hon. Rose Ogonda:** Thank you, Hon. Speaker, I second.

*(Question proposed)*

**Hon. Elias Otieno:** Hon. Speaker, we all know what is going on. The committee has already done their work and we were not there. So, why do you want to discuss something which is already done by the committees? If I can see, Rose is supporting the report and she is a member. Why should I oppose when my member is already supporting it? I must give that respect to the committee. That is the reason why we gave them the mandate to carry out the work of that committee. We have already taken a lot of time discussing other things like environment and statements. I don't see the reason why we should take time to discuss these people. What I want to do is call all members and approve these names. The employment in this county is wanting. Let us approve the names and call upon members to support the report. All of them have said the report is good. We should not oppose just for the sake of opposing. Let us always go with the way the committee recommends.

**Hon. Jeremiah Themendu:** Thank you, Hon Speaker, I concur with my able Minority Leader and I stand to support the motion. As you know we have stayed in this Assembly for long without a proper board and some things are falling apart because we cannot employ nor do anything that we promised our voters on the ground. As I look at the mood of this House, it is already passed. Thank you.

**Hon. Cecilia Ayot:** Thank you, Mr. Speaker, I rise to support. I really appreciate and recommend the job well done by the Labour Committee. Being a woman and looking at the list, I am so happy and excited by this Assembly for giving women an opportunity to do what they can do best. Margaret Thatcher once said: *"If you want something said ask a man and if you want something done ask a woman."* I support.

**Hon. Abdi Hassan:** Thank you, Mr. Speaker. I want to thank the Labour Committee for the job well done. They burned the midnight oil to come up with this report. The Nairobi City County needed this board like yesterday. As you are aware, we have 11000 employees in this County of which 60 per cent are non-skilled of 50 years and above. We need this board to look into it on how they will do early or voluntary retirement to these employees.

Mr. Speaker, four months ago there were advertisement of County marshals which did not materialize. When this board comes in we need them to expedite the process of employing the County marshals so that the traffic flow in Nairobi can be well managed.

Mr. Speaker sir, as you are aware also, the last board advertised the position of ECDE. We have close to 300 ECDE across Nairobi with no teachers. We need them to recruit these ECDE teachers. We also need them to recruit nurses for our dispensaries and for our hospitals.

With those few remarks, I want to urge the County Assembly to support this motion and adopt the report of the sectoral committee on Labour. Thank you.

**Hon. Peter Wanyoike:** Thank you, Hon Speaker. Let me take this opportunity to thank the sectorial committee on Labour and Social Welfare and the office of the Clerk and Speaker for the support they extended to the committee during the vetting exercise. Also, let me thank the members of this House for that overwhelming support. Thank you very much, Mr. Speaker. I beg to reply.

*(Question put and agreed to)*

## MOTION

### ADOPTION OF REPORT ON INQUIRY INTO ALLEGED ABUSE OF PRIVILEGES BY HON MARY ARIVIZA

**Hon. Naftaly Mathenge:** Hon Speaker, I beg to move the following motion: THAT, this Assembly adopts the report of the select committee on Powers and Privileges on the inquiry into the alleged abuse of privileges by Hon. Mary Ariviza, MCA during the County Assembly Forum 2019 held in Kisumu County, laid on the Table of the Assembly on Tuesday 4<sup>th</sup> June 2019.

Hon Members, I would like to commend members of the Assembly for the patience at the select committee on Powers and Privileges who took two months to conduct investigation into the alleged abuse of privileges by Hon Mary Ariviza, MCA during the County Assembly Forum 2019 held in Kisumu County.

I would like to report to the Assembly that the committee has successfully completed the report into the inquiry.

Hon Members, the County Assembly committees are an extension of the Assembly established under the County Assembly Standing Orders and in accordance with section 14 of the County Government Act, 2012. The committees are supposed to perform functions that the Assembly is not well fitted to consider in plenary.

Hon Speaker, the mandate of the County Assembly Powers and Privileges is contained in under Section 15 of the County Assembly Powers and Privileges Act, 2017. It includes inquiry into the conduct of members, issue summons to witness and receive evidence on matters of privileges of members. The committee on Powers and Privileges exercises its mandate by investigating any matter pertaining conduct of members and staff within the precincts of the Assembly.

Hon Members, pursuant to Standing Order No. 183, the committee held a total of ten sittings during which evidence was received from witnesses and statements received from the Serjeants-at-Arms and honorable members. During the sittings, witnesses were summoned to appear and adduce evidence in chief. The committee held sittings on 24<sup>th</sup>, 25<sup>th</sup>, 26<sup>th</sup>, 27<sup>th</sup>, 29<sup>th</sup> and 30<sup>th</sup> April 2019 and 28<sup>th</sup>, 29<sup>th</sup> May 2019 and 4<sup>th</sup> June 2019.

Hon Speaker, in this light, the committee summoned four hon. members and four staff of the County Assembly.

Hon. members, the matter for which the select committee on Powers and Privileges undertook this inquiry arise from the alleged abuse of privileges by Hon Mary Ariviza, MCA during the County Assembly Forum 2019 held in Kisumu County which according to section 16(e) the County Assembly Powers and Privileges Act 2017, may likely reflect adversely on the dignity and integrity of the County Assembly and its members contrary to the best interest of the county assembly.

The committee was tasked to inquire into the alleged abuse of privileges by Hon Mary Ariviza MCA. This was after Hon. Abdi Guyo Hassan, MCA rose on the floor of the House on 23<sup>rd</sup> April 2019 under Standing Order No.45 (2) (b) and made a statement reporting alleged abuse of privileges by Hon Mary Ariviza, MCA

during the County Assembly Forum 2019 held in Kisumu County. The said member was accordingly named pursuant to Standing Order 115.

In this statement, the Leader of Majority party alleged that during the address of the delegates by Hon Speaker, the Hon. Member conducted herself in a manner to denounce the leadership of Hon Speaker in the midst of the delegates hence bringing the Assembly to disrepute contrary to Section 16 of the Powers and Privileges Act against whom the select committee of Powers and Privileges sent invitation to appear before it to shade light on the foregoing.

Hon Speaker, upon conclusion of the investigation and with observations, the committee made the following observations and findings as follows:

1. That indeed Hon Mary Ariviza, MCA had acted in a manner to demean the office of the Speaker and that it was evident in a video clip that was presented before the committee by one of the witnesses, Hon. Abdi Hassan, MCA.
2. That the Hon. Member had lied before the committee that she did not act in any of the given point in a manner to demean the office of the Speaker and was not present at the time the Hon Speaker moderated the session.

Hon Speaker, in consideration of the above observations and findings, the committee recommends as follows:

- a) The Assembly pursuant to Section 17 (3) of the County Assembly Powers and Privileges Act, 2017, the Hon Mary Ariviza be suspended from the Assembly as ordered in Standing Order No.114 (2) (c) for 30 sittings upon adoption of the report for conducting herself in a manner intended to demean the office of Hon Speaker and conduct likely to reflect adversely on the dignity and integrity of the County Assembly or of its members and contrary to the best of interest of the Assembly and contrary to section 16 (e) of the County Assembly Powers and Privileges Act for violation of procedure provided for under Standing Order 113 (g) (j). The said suspension starts immediately upon adoption of this report by the Assembly.
- b) Apart from being denied all the committee sittings allowance, the Hon Member should neither access assembly precincts nor the County Assembly parking area.
- c) The Hon. Member under suspension shall formally apologize to the Assembly after serving the suspension. The assembly upon adoption of this report to conduct training for all Hon. Members on conduct and privileges of being a Member of the County Assembly.

Hon. Speaker in this spirit, I urge this House to adopt the report on inquiry into abuse of privileges by Hon. Mary Ariviza, MCA during the County Assemblies' Forum 2019 held in Kisumu. Hon. Speaker, I now call upon Hon. Jackline Apondi MCA, to second the motion. Thank you.

**Hon. Jackline Apondi:** Thank you, Mr. Speaker, I second.

*(Question proposed)*

**Hon. Kennedy Oyugi:** Thank you, Mr. Speaker for the opportunity to debate on this motion. First and foremost, I want to begin by pleading with the House leadership. It is fortunate that the House leadership across the divide are men with a lot of experience in matters Assembly. It is also important to understand and know one another.

Mr. Speaker I want to plead with both leaderships to at least for now and on this one to forgive Hon. Mary Ariviza. I want to believe that the purported mistakes that Hon. Mary Ariviza committed in Kisumu are not as red to an extent that it cannot be rubbed. Bearing in mind that it is recently that Hon. Ariviza completed her punishment in this Assembly, it will not be fair on humanitarian grounds to again send her for 30 plenary days.

Hon. Majority Leader, I understand and I now too well this is your project and I want to plead with you as a man, as a leader and as a brother, find it fit to forgive Hon. Ariviza. Human beings make mistakes but I want to believe that the only way to deal with these mistakes at times is to teach instead of punishing. I want to plead with you Hon. Members, let us all agree that mistakes might have occurred---

**Hon. Deputy Speaker:** Hon. Oyugi, there is something I want you to take note. These are a committee's findings. So, when you say it was somebody's project, it is unfortunate.

**Hon. Kennedy Oyugi:** Thank you, Mr. Speaker. But let me take you through the findings of the Committee. You realize that nine witnesses were called to testify against this case and out of the nine, no one heard what Hon. Ariviza said. Actually, the nearest some witnesses were to that plenary was like 200 meters. Based on the witnesses' submissions, there are no mistakes and that is why I went that direction. But that notwithstanding, I am pleading with the leadership and the entire House. Thank you. I beg to oppose.

**Hon. Elias Okumu:** Mr. Speaker, you should compel Hon. Oyugi to withdraw the word 'leadership'. I don't know how leadership is in this because it is about the committee just like any other committee. Right now we have just concluded the work of the Labour Committee, isn't it? I don't think anybody in the leadership was guiding what was going on in the Labour Committee.

The Powers and Privileges Committee was invited by the committee members. I went there to go and defend myself against what transpired here last year. I didn't go there as the Leader of Minority, I was just like a prisoner like you. The Powers and Privileges Committee can even summon the leadership of this Assembly. how can Hon. Oyugi appeal to the leadership of this House? It is not about the leadership of this House but about the Powers and Privileges Committee. Appeal to that committee. It is not also right for you to say that this project belongs to the Majority Leader. How does the Majority Leader come in? Let us not be malicious to one another. Let us discuss in an honest and open manner, Hon. Oyugi. Thank you, Mr. Speaker.

**Hon. Peter Kimuhu:** Thank you, Mr. Speaker. I want to concur with the Minority Leader in the sense that this is a matter that was deliberated by the Committee. Unless we are doubting the performance of the committee, in my opinion we should approve the report as it is. I want to believe that the committee in the leadership of *Mhehsimiwa* Mathenge has really deliberated on this matter. They have done their investigations the way it should be done.

In any case, Mr. Speaker, suspension of 30 days is very lenient for a behavior that was demonstrated before our eyes. In other words, I am also congratulating the committee for being very lenient because Hon. Mary is one of us. Given that leniency, 30 days is a very short period of time. This will be an example for other members to toe the line because this is a House of order and rules. I suggest that we pass the report as it is.



Mr. Speaker, I want to finalize by saying that the matter that came before the House in respect to my dressing, I want to concur Mr. Chairman, I have already had a discussion with the Leader of Majority and he has given me some tips on how I should dress. I wish----

**Hon. Deputy Speaker:** Hon. Wahinya, I think I have made a ruling on that. Did you request? Can I give you a chance to talk? Do you have something to add?

**Hon. Rose Ogonda:** On what?

**Hon. Deputy Speaker:** You have declined, thank you very much.

**Hon. Abdi Hassan:** Thank you, Mr. Speaker sir. I want to thank the Powers and Privileges Committee for doing a wonderful job. The issue here touches on the integrity of this House. The moment we allow Members to disrespect and disregard the rules of this House, then it ceases to become an assembly and becomes a market place.

My good friend, Hon. Oyugi has said that this is my project. It is not my project. This is a very serious and grave matter that touches the Assembly of Nairobi. Hon. Oyugi can attest the behavior of one Hon. Ariviza in this House. When members were voting against Hon. Elachi, she exhibited a despicable behavior which should not be tolerated by this House. When a Member says that she or he does not recognize the Speaker, then you disregard the entirety of the House.

Mr. Speaker sir, I want to thank the Powers and Privileges Committee for sending a very strong message to any member who thinks he can misbehave in this House and go scot free. Members of Powers and Privileges Committee summoned me twice, not on Hon. Ariviza's issue but issues on when members fought at the Speaker's office. I was not found guilty. If they would have found me guilty, the punishment would have been the same.

I want to urge my brother Hon. Oyugi to support this motion so that it sends a very strong message to any member who thinks he is going to misbehave in this House and go scot free. I want to dissociate myself from the report. I am not the engine behind this report as alleged by Hon. Oyugi. I was summoned as a member of Matopeni/Spring Valley Ward and not as the Majority Leader. I went and took oath of which I am not supposed to be doing. In Islam, taking oath is a very serious matter. But I did because I was obliged to do that because if I refused to take the oath, maybe I would have been given punishment by this committee.

With those few remarks, Members should go and read Powers and Privileges Act, 2017 and what it entails to be a member of either the County Assembly or National Assembly or Senate. I beg to support. Thank you.

**Hon. David Mberia:** Mr. Speaker, probably I pressed the button accidentally. I have just walked in please.

**Hon. Deputy Speaker:** You have nothing to offer?

**Hon. Mary Ariviza:** Thank you for giving me this great opportunity, Mr. Speaker. One thing you need to know is that I am a member and a citizen of Nairobi County. I was born and brought up in this County. I went to primary school here, secondary school at Moi Girls Nairobi and I have taught at the University of Nairobi.

One of the things that I stand for is justice and righteousness. I stand here to say that I never said that I went to the plenary where the Speaker was speaking. I never went there. I still stand here to say that

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I never went there. When I attended the last meeting with the Committee of Powers and Privileges, the Chairman said in the presence of my lawyer that we find no guilt in you but we will pursue this thing if we find some more evidence. If some more evidence had been found, I am supposed to be called and I am told that some more evidence has been found.

Secondly, one of the things that I find very interesting as somebody has already mentioned, I have already flipped through. Many people can come and say that they never saw me. I never said that, and then it is concluded that I did. What I want us to do as a House with all due respect to members is that CAF records all the meetings that go on, the plenary session where the Speaker spoke and the one where he was moderating. They record them. I want us to get those recordings and we see if Hon. Mary Ariviza participated in those meetings.

I stand here to say that I am very sorry. I never did anything that has been said because the allegation is that I lied. I am a born again Christian, I got born again in 1975 and I stand for the right thing. I have no apologies to make to anybody or any human institution including this one about my faith and standing for justice and righteousness.

With all due respect, I stand here to say that I did not do anything at CAF where the Speaker was moderating. When the meeting started, I was informed that I stood where he was giving his speech and I did not attend that session. The meeting that I attended, I was not given a microphone and neither did I contribute on the same. So, I believe that CAF has got all the recordings and we need to get them so that I see if I did anything like that.

Ladies and gentlemen let me say that I am not here as Mary Ariviza Mwami to impress people. I love people, I love justice and I honor and respect the leadership but I do not stand when people come to disrespect and pick on me. I said this in the meeting and I want to repeat it. There are very many things that have happened in this Assembly and as a member---

**Hon. Deputy Speaker:** Just make it short, Hon. Ariviza

**Hon. Mary Ariviza:** People have spoken in this Assembly but I have never seen anyone follow them up. The manner in which Madam Elachi was removed from office is still being talked about in the whole country to date---

**Hon. Deputy Speaker:** Hon. Ariviza.

**Hon. Mary Ariviza:** Yes sir.

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

**Hon. Mary Ariviza:** I am not out of order.

**Hon. Deputy Speaker:** We are discussing---

**Hon. Mary Ariviza:** I am not going out of order because I was told that during Hon. Elachi's reign, I misbehaved. What happened to the people who knocked down the door to her office? I therefore stand here to say with all due respect that I did not speak against the Speaker.

*(Point of order)*

**Hon. Deputy Speaker:** What is the point of order, Hon. Otieno?

**Hon. Mary Ariviza:** My suggestion is that before any action is made--- *(inaudible)*

*(Hon. Ariviza spoke off microphone)*

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

**Hon. Elias Otieno:** Thank you, Mr. Speaker. I believe that if you were to give Hon. Ariviza one million chances to apologize, then she will apologize for two seconds and five seconds later say something totally different. When she says that people broke Hon. Elachi's door, it is not her door but that of the Assembly. Hon. Elachi was a stranger. If you find a thief in your House what would you do? You can even get a panga to cut that thief. There is no way that she is going to tell us about Hon. Elachi yet we are talking about Hon. Mary Ariviza versus what transpired at CAF. It is not about the former Speaker, because I wish to forget that name the way I forgot some things from my mom. Let us be realistic here.

Punishing someone is not a punishment but instilling discipline and respect on somebody's head. She mentioned that she is saved. As a son of Jennifer, I wish to say that I am born again catholic and every Sunday I go to the church to ask for forgiveness from God. Right now I know that we are going to punish Hon. Mary Ariviza and thereafter I will go to church to repent of my sins.

I also believe that Hon. Ariviza has challenged the committee on powers and privileges. Did you play the audio to her? If you did not, then it would be wise for you to play the audio to her so that she can understand what it is that she did.

Going forward, discipline is a must and should be across board. For example, there is an incident that occurred here and I never heard the Chairman of Powers and Privileges call the two members who fought here. They should be followed and put to face the music. I remember holding one of the members who was about to fall down and now the chairman is trying to act so as not to hear what it is that I am saying. Dressing code must be followed in this Assembly. Let us not dress like people going to take cattle to the market and I say that one day I will mention someone who will have to face the power and privilege committee. It has become a routine and that will act as a warning to that person who does not follow the rules of the Assembly. I want the Chairman of powers and privilege to act on the members who fought here last time so that we discipline everyone and not Ariviza alone. Thank you Mr. Speaker and for Mary Ariviza I say sorry for you are going to be punished but I am going to ask God for forgiveness this evening. I know that you read the Bible and have seen the part where punishment is written. Thank you and God bless you as you go to enjoy your days outside there. Not to worry, I will be with you.

**Hon. Deputy Speaker:** Hon. Nyambura, do you have anything to say? Do you have a card? You don't have anything to say. Mover?

**Hon. Naftali Mathenge:** Thank you Mr. Speaker. I would like to inform that we have disciplined several members before Hon. Mary Ariviza. I therefore wish to thank Members for their immense support of this motion and support of the report findings. I believe that if this motion is passed then this Hon. House will bring back confidence to members of the public into knowing that this is a dignified House. Hon. Speaker, I wish to acknowledge with gratitude Members of the select committee on powers and privileges for the dedication that they have portrayed in ensuring that the committee implements its mandate and that the County Assembly upholds its dignity and integrity while looking into the alleged abuse of privileges by Hon. Mary Ariviza, MCA during the County Assemblies Forum 2019 held in Kisumu County. Hon. Speaker, my sincere appreciation also goes to the office of the Clerk of the County Assembly and the secretariat of the

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select committee for offering sound legal advice on the mentioned cases. Hon. Speaker, it is therefore my pleasant duty and privilege to ask and persuade and pray that this Honorable Assembly adopts the report of the select committee on Powers and privileges tabled before this Assembly. I beg to reply

*(Question put and agreed to)*

**Hon. Deputy Speaker:** Hon. Members, directions for the proceedings; Direction of suspension of a member by way of resolution on a report. Hon. Members, this Assembly has just resolved the adoption of the report of the select committee on powers and privileges that the Hon. Mary Ariviza, member of the County Assembly be suspended from the service of the County Assembly forthwith for 30 sitting days pursuant to section 17 sub section 3 subsection G of the County Assemblies powers and privileges Act 2017. The committee having made a finding that she breached the relevant statute and the provisions of the standing orders and privileges and immunities to a member and the Assembly. Accordingly section 17 subsection 6 of the County Assemblies powers and privileges Act 2017 provides as follows and I read;

1. A member who has been suspended under subsection 6 shall leave the precincts of the County Assembly and shall not during the period of suspension without a written permission of the Speaker, enter the precincts for whatever purpose or participate in any activity of a County Assembly or a committee of a county Assembly

Therefore, may the Hon. Mary Ariviza, member of the County Assembly if within this chamber now vacate the precincts until such a time as her suspension shall be lifted. Serjeant-at- Arms, it is so ordered. Thank you.

*(Hon. Mary Ariviza escorted out of chamber by Serjeant-at-Arms)*

**Hon. Deputy Speaker:** Next Order

### MOTION

**Hon. Deputy Speaker:** The motion is deferred to next week Tuesday because the member who was to contribute is not with us.

*(Motion deferred)*

### ADJOURNMENT

**Hon. Deputy Speaker:** With those few remarks, and there being no other business, the House stands adjourned till Tuesday 18<sup>th</sup> June 2019 at 2:30 p.m. Thank you.

***The House rose at 4:13 p.m.***

