



NAIROBI CITY COUNTY ASSEMBLY

OFFICIAL REPORT

Second County Assembly – Fourth Session

Tuesday 25th February, 2020

The House met at 2.30 p.m.

[Hon. Speaker (Ms. Beatrice Elachi) in the Chair]

PRAYERS

COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM HOMABAY COUNTY ASSEMBLY

Hon. Speaker: Hon. Members, I have the following Communications to make, Hon. Members, we have a visiting delegation from Homabay County (*Applause*). This will be my first communication and then I will do the second one. Firstly, Hon. Members our sitting this afternoon is graced by Members of the Homabay County Assembly's Committee on HANSARD, Library and Broadcasting who are here with us on a benchmarking exercise with its relevant Committees.

Accordingly, I wish to recognize the presence of; -

- 1) The Hon. Paul Wamunga, MCA and Chairperson.
- 2) The Hon. Peter Asoyo, MCA – Vice-Chairperson.
- 3) The Hon. Jane Kiche, MCA – Member
- 4) The Hon. Sophy Kowejee, MCA – Member
- 5) The Hon. Pamela Odira, MCA – Member
- 6) The Hon. Philemon Okumbo, MCA- Members
- 7) The Hon. Michael Odiwa, MCA- Member
- 8) The Hon. Everline Otieno, MCA.

They are accompanied by the Secretariat: -

- 9) Ms. Agnes Odongo
- 10) Mr. Amos Oluoch

- 11) Ms. Effie Onyango
- 12) Ms. Faith Apuko
- 13) Mr. Emmanuel Ouor
- 14) Mr. Eunice Arte
- 15) Ms. Betty Limo
- 16) Mr. Erick Edwards
- 17) Ms. Julliet Ogembo

(Applause)

Hon. Members on behalf of the County Assembly of Nairobi family I wish to extend a warm welcome to the Hon. Members from Homabay County Assembly HANSARD, Library and Broadcasting Committee may your endeavours benefit the residents of your great County and feel welcomed and enjoy your experience in Nairobi.

GUIDANCE ON THE CONSIDERATION OF THE IMPEACHMENT MOTION OF THE GOVERNOR

Hon Speaker: Hon. Members I have a second communication to convey -

Hon. Members, you will recall that on Thursday, 20th February 2020, Hon. Peter Imwatok, MCA, Member for Makongeni Ward issued a Notice of Motion, for removal from office of Hon. Mike Mbuvi Kioko Sonko, the Governor of the Nairobi City County by impeachment, pursuant to Article 181(1) (a), (b), (c) of the Constitution, Section 33 of the County Governments Act, 2012, and Standing Order 67. In this regard, Hon. Members, the Chair wishes to guide Members on how the Assembly shall dispense off with this business.

Hon. Members, before I proceed to issue my guidance to the House, I wish to remind the Assembly that impeachment is a process by which a legislative body levels charges against a government or political officials for offences the official might have committed. The power of impeachment is limited to removal from office but may also provide for a removed officer/leader to be disqualified from holding future office.

In the United States of America for instance, the Constitution gives the House of Representatives the power to initiate the impeachment process, and it makes the Senate the sole court for impeachment trials. In our case, County Assemblies have been mandated to recommend to the Senate the impeachment of a Governor and the Senate serves as the final jury. The Senate before taking a decision on impeachment has to investigate allegations raised including summoning witnesses.

Hon. Members, from the onset, Standing Order number 67 (4) provides as follows: - *“(4) Upon the expiry of seven (7) days, after notice given, the Motion shall be placed on the Order Paper and shall be disposed of within three days; Provided that if the County Assembly is not then sitting, the Speaker shall summon the Assembly to meet on and cause the Motion to be considered at that meeting after notice has been given.*

Hon. Members, for the interest of the House and the Public, the aforementioned seven (7) days relating to the maturity period of this Motion refers to ‘calendar days’. The implication of the foregoing is that the motion shall mature on Thursday 27th February 2020. In addition, Hon. Members, the Assembly is required to dispense off with the motion within three (3) days following the expiration of the seven (7) days. For the avoidance of doubt, the three (3) days mentioned therein refers to ‘sitting days’ as provided for in

Standing Order 2 on interpretation. For clarity, the three sitting days shall be; Tuesday 3rd, Wednesday 4th and Thursday, 5th March 2020.

Further, Hon. Members, Standing Order 67 (5) and (6) provides as follows:- *“(5) When the Order for the Motion is read, the Speaker shall refuse to allow the member to move the Motion unless the Speaker is satisfied that the member is supported by at least a third of all Members of the County Assembly to move the Motion; Provided that within the seven days’ notice, the Clerk shall cause to be prepared and deposited in his office a list of all Members of the County Assembly within an open space against each name for purposes of appending signatures.”*

(6) Any signature appended to the list as provided under paragraph (5) shall not be withdrawn.

Accordingly, Hon. Members, during our last sitting, there was a contestation on the understanding of the holder of the position of ‘Clerk’. For avoidance of doubt, I wish to clarify that Standing Order 2 on interpretation defines ‘Clerk’ as follows: - “Clerk” means the Clerk of the County Assembly, or, if the Clerk is absent, or if the office is vacant, such other person as for the time being performing the duties of the Clerk”.

Equally, Hon. Members, the Leader of the Majority had indicated to the Chair that he needed to verify the signatures presented. However, as mentioned, the role of verifying signatures is a preserve of the Clerk. However, I wish to inform the Assembly that fifty-five (55) members appended their signatures.

(Applause)

Regrettably, Hon. Members, the Chair is concerned that some of the Members who appended their signatures in support of the Motion have been threatened. The Chair takes these actions seriously and shall not shy away from invoking the applicable provisions of the County Assemblies Powers and Privileges Act, 2017 in protecting the Members since that is the Chair’s duty.

(Applause)

I, therefore, direct the Office of the Clerk to apply the provisions of Standing Order 234 and ensure that the identity of the Members is protected until such time the matter shall be referred to the Senate in the event the motion is carried. Similarly, Hon. Members, paragraph (6) restrains Members from withdrawing already appended signatures in support of this Motion.

(Applause)

Hon. Members, Article 47 of the Constitution of Kenya, 2010 on fair administrative action provides; *“every person has the right to administrative action that is expeditious, efficient, lawful, reasonable and procedurally fair”*. Equally, Hon. Members, the Chair wishes to refer you to the High Court Petition No 3 of 2014, *Martin Nyaga Wambora and others vs the Speaker of the Senate and others*, in which a three-judge bench comprising of H. I Ong’udi, C. W Githua, B. N.Olao observed that:

“Even though Section 33(1) of the County Governments Act, 2012 does not provide expressly for the right to be heard, we are alive to the rule that there is a presumption in the interpretation of statutes that rules of natural Justice will apply whenever administrative decisions with a potential to adversely affect an individual are made. It is therefore clear in our mind the right to be heard should apply whenever Section 33 (1) of the Act is being invoked by any County Assembly.”

Hon. Members, with the forgoing, I direct that the Office of the Clerk notify the Governor to submit written replies to the allegations raised in the Notice of Motion, which should be received on or before Monday,

2nd March 2020 at 10.00 am. Once in receipt of the replies, if any, the Clerk shall cause dissemination of the copies to all Members before the sitting of Tuesday, 3rd March 2020. Consequently, I direct the Office of the Clerk to serve the Governor with the Notice of Motion.

Subsequently, Hon. Members, Article 196(1) (b) of the Constitution provides that “a County Assembly shall facilitate public participation and involvement in the legislative and other business of the Assembly and its Committees”. In this regard, Hon. Members, to satisfy the requirements of the said provisions, Members of the Public are requested to submit written memoranda on this matter.

I, therefore, direct the Office of the Clerk to place a notice in at least two local dailies of national circulation requesting for the said submissions. Hon. Members, during the consideration the Motion at hand, the House shall be guided by the provisions of Standing Order 49 on consideration of a ‘special motion’. In this regard, the mover shall be allowed a maximum of two (2) hours while moving and a maximum of thirty (30) minutes while replying. While all other Members shall be allowed a maximum of fifteen (15) minutes.

Hon. Members, at the conclusion of debate on the motion, and the Chair having been satisfied that all members intending to contribute have done so, a vote on the motion shall be taken and this shall be done on or before the third sitting day.

Hon. Members, in conclusion, the Chair wishes to remind Members on the provisions of Standing Order 113 and 114 on gross misconduct and the sanctions therein. Equally, I refer you to the provisions of Section 28 of the County Assemblies Powers and Privileges Act, 2017 on the improper influence of Members and the sanctions therein as we dispense off with this business. For the purposes of clarity, the said Section provides as follows: -

(1) A person shall not, by fraud, intimidation, force, insult or threat of any kind, or by the offer or promise of any inducement or benefit of any kind, or by any other improper means—

(a) Influence a member in the performance of the member's functions as a member;

(b) Induce a member to be absent from a county assembly or a committee at a particular time, or attempt to compel a member to declare himself or herself in favour or against a matter pending before or proposed or expected, to be submitted to a county assembly or a committee.

(2) A member shall not solicit, receive or accept any fee, compensation, gift, reward, favour or benefit of any kind for the member or another person for in respect of—

(a) Voting in any particular manner or not voting on a matter before a county assembly;

(b) Promoting or opposing anything pending before or proposed or expected to be submitted to a county assembly, or

(c) Making representation to a county assembly.

(3) A person who contravenes this section commits an offence.

Hon. Members, therefore I urge you to observe these provisions of the law as we execute this process.

For your interest Hon. Members, kindly note that the Chair, Pursuant to the Provision of Standing Order No. 1 of the Assembly Standing Orders, may issue further directions as and when the need arises with regard to this particular Motion before this Assembly. You are so guided.

Hon. Members, it is wrong as I said 2020, is a year whereby a few Kenyans us we are not going to play around on what we call corruption and therefore, for Members to go and lie every day to the Governor eating his money and taking it. If you really indeed loved Governor Sonko do the right thing for him because you have the numbers vote. Do not go to upper hill to beg for money and lying to him for things that are not there. Therefore, this week wherever my Governor is, it is a week whereby you are not supposed to spend any penny because there is nothing in this House this week.

(Applause)

Therefore, do not spend money because we are doing wrong as an institution because it is your right to do what is right. If you feel you want to save Governor Sonko you should know it is the numbers, but the way we are doing it we are not going to allow 2020. We are praying to God for this Country to change from corruption. Therefore, having said that proceed Clerk.

(Applause)

STATEMENTS

OWNERSHIP STATUS OF COUNTY PUBLIC LANDS IN RIRUTA WARD SPECIFICALLY, THE JUA KALI AND RIRUTA CEMETERY LANDS

Hon. Mwangi Njihia: Thank you, Hon. Speaker, I am reading this request for statement for Hon. Kiriba. Hon. Speaker, pursuant to Standing Order 45 (2) (c) I wish to request for a statement from the Chairperson of Sectoral Committee on Planning and Housing regarding ownership status of county public lands in Riruta ward specifically, the Jua kali and Riruta cemetery lands.

Hon. Speaker, in planning law, a provision is made for guidelines (master plans) and allocation designating public land for the construction or use of any public land for the purpose of benefiting the citizens.

Hon. Speaker, the case on alleged encroachment on land in Riruta ward by private developers is appalling in the County Government needs to investigate into the matter. Hon. Speaker in the statement the Chairperson should inquire into and report on:

1. The owner of the two pieces of land and their documentations thereof;
2. The original acreage of the lands that were located for the cemetery and Jua kali artisans;
3. Whether the County Government has given any lease to private developers or any other entities and,
4. Steps that the County Government is taking to map out revert and protect County public land from perennial encroachment. Thank you, Hon. Speaker.

Hon. Antony Karanja: Thank you very much, Hon. Speaker, I think we can take two weeks.

Hon. Speaker: Okay, thank you.

OWNERSHIP OF OPEN SPACE IN THE COUNTY SPECIFICALLY IN HOSPITAL WARD, MATHARE CONSTITUENCY

Hon. Redson Otieno: Thank you, Hon. Speaker, pursuant to Standing Order 45 (2) (c), I wish to request a statement from the Chairperson of the Sectoral Committee on Planning and Housing regarding ownership of open space in the County, more so, in Hospital Ward, Mathare Constituency.

Hon. Speaker, in planning law, a provision is made for guidelines (masterplans) on availing public space for settlements and communities as a means of ensuring good quality of life for the residents. For instance, Nairobi's 1948 master plan and other subsequent plans had sufficient provision on public spaces. In these spaces, communities can propose the development of social amenities for use by the residents.

Hon. Speaker, Depot ground in Hospital Ward is a source of controversy between the residents and the police post constructed on it due to lack of clarity of ownership. This has occasionally led to clashes between residents seeking to use the ground and police keeping in mind that this is one of the few spaces in Hospital Ward, Mathare Constituency.

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

1. Ownership of Depot ground in Hospital ward and copy of ownership documents; and
2. Measures that the County has put in place to map out and protect public spaces across the County from encroachment and grabbing. Thank you.

Hon. Speaker: Hon. Kiragu, all these statements seem to be coming to Planning so you will have to take an undertaking on the matter.

(Loud consultation)

Hon. Anthony Karanja: Hon. Speaker, I think undertaking is quite a heavy word, but I pledge that we will do our best to bring the report in three weeks because we already have another report.

Hon. Speaker: Okay. But just know that it is dealing with ownership of a depot ground.

Hon. Anthony Karanja: I will make sure that the Chairman knows that. I have undertaken on his behalf. He has to bring the report here.

Hon. Speaker: Okay, thank you. Minority Leader, are you ready?

REQUEST FOR A STATEMENT REGARDING TRENDS IN PARKING REVENUE COLLECTION IN THE COUNTY

Hon. David Mberia: 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 regarding trends in revenue collection in the County, especially parking revenues.

Hon. Speaker, it has been assumed that by increasing parking fees, the County is bound to collect high revenue against the baselines. However, this strategy has over time proven to be counterproductive since the collection has been on the decline, especially when parking fees was increased from Kshs.200 to Kshs.300. To demonstrate this, in 2014/2015, 2015/2016, 2016/2017, 2017/2018 and 2018/2019, the County collected parking revenue as follows; Kshs.2.015 billion, Kshs.2.037 billion, Kshs.1.974 billion, Kshs.1.857 billion, and Kshs.1.933 billion respectively.

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

1. Reasons why the County has been missing its targets on revenue collection, more so from parking; and
2. Measures and strategies that the County has put in place to ensure that the revenues, especially from parking are enhanced in order to meet the targets for the purposes of running the County's development agenda.

Thank you, Madam Speaker.

Hon. Speaker: Thank you. Chair, Budget?

Hon. Robert Mbatia: Thank you, Madam Speaker. I want to concede that our revenues are dwindling. The state of the finances of the County are not good at all. To that effect, through the wisdom of the committee, we had requested that we meet the Treasury and other stakeholders on the same. We were to meet on 3rd but now after your communication, it seems next week will be a bit tight for us. We had invited all the revenue stakeholders to come and meet us because of the same issues the Minority Leader has brought up. I want to invite him once we set our date of meeting those stakeholders, Treasury, NBK, Noveta Company, Legal, Procurement and others. We will communicate to him then we shall report to this House after that.

Hon. Speaker: Is that okay, Minority Leader?

Hon. David Mberia: Most obliged, Madam Speaker.

(Point of order)

Hon. Speaker: Okay. Hon. Njihia, what is it?

Hon. Abraham Njihia: Hon. Speaker, I am standing on a point of order under Standing Order No.34. I am seeking an adjournment to discuss the functioning of the Department of Finance and Economic Planning.

Standing Order No. 34 (2) says; A member who wishes to seek leave to move the adjournment of the County Assembly, shall at least have two hours before the commencement of the sitting, hand to the Speaker a written notification of the matter but the Speaker shall refuse to allow the claim, unless the Speaker is satisfied that the matter is definite, urgent and of County importance and may properly be raised on motion of adjournment of the County Assembly.

34 (3), If the Speaker is satisfied in terms of paragraph (2) and not less than twenty other members rise in their places in support, the Speaker shall nominate on the same day at which such motion may be moved.

So, Hon. Speaker, I am requesting my colleagues, 20 members, to justify this adjournment to stand.

(Several members rose on their feet in support of the adjournment motion)

Hon. Speaker: You are allowed.

Hon. Abraham Njihia: Thank you, Hon. Speaker.

Hon. Speaker: You will wait until I give you that time. I will finalize what is on the Order Paper, then I will give you that time. Proceed, Minority Whip, you have a statement.

REQUEST FOR A STATEMENT REGARDING ENCROACHMENT ON PUBLIC UTILITY LAND IN SOUTH C WARD

Hon. Peter Imwatok: Thank you, Madam Speaker. Pursuant to Standing Order No.45 (2) (c), I wish to request for a statement from the Chairperson of the sectoral committee on Planning and Housing regarding encroachment on public utility land in the County, especially public spaces in South C Ward. I have sought permission from the area MCA.

Hon. Speaker, in the Planning Law, provision is made for guiding lines and masterplans on allocating and designating public land for the construction of specific government installations for the purpose of benefiting the citizens, for instance, health facilities, water and sanitations, transport installations, education facilities and playgrounds. Hon. Speaker, the case of alleged encroachment on a public space in South C Ward LR NO 209/8524/124, LR NO 209/8524/130 and LR NO 209/12489 have been encroached by private

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developers. The County needs to investigate and report to this Assembly, especially because constructions are already ongoing on the plot.

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

1. Whether the County Government entered any agreement of lease or the sale of the said plot for private use, and if not so, the steps the County Executive has taken to revert the said plots to the ownership of the County Government;
2. Whether the developer obtained construction approval from the County; and
3. Steps that the County Executive is taking to map out revert and protect County public land from encroachment across the city.

Thank you, Madam Speaker.

Hon. Speaker: Chair, Hon. Kiragu?

Hon. Anthony Karanja: Hon. Speaker, would you want to add---

Hon. Speaker: Let me hear from Chair of Water and I will come back to you.

Hon. Paul Kados: Madam Speaker, I think that question cuts across three departments. I wanted to ask for leave to come up with an answer in three weeks' time.

Hon. Speaker: Since it is about ownership, the Chair of Planning and you the Chair of Water should have a joint sitting on the third issue where he is asking about the mapping out so that by the time they are reverting, you will have asked your questions to get the answers of both. Can you agree on the days you are giving? This is a matter, which you should be careful because development is already ongoing.

Chair, Hon. Kiragu?

Hon. Anthony Karanja: Hon. Speaker, I need to be honest a little bit. I think it is becoming fashionable to say two weeks. I can see several members of the Committee on Planning, Hon. Gari, Hon. Ogode, and Hon. Ng'ang'a. It is fair to say we have had only two meetings in the last three months. Unless we change the way we are working, it will be unfair for me to promise this Assembly two week unless we be given time tomorrow to put our committee in order and the Chairman comes to give an undertaking that it is going to be possible.

Hon. Speaker: Thanks for that, Hon. Kiragu. I saw the Whip around. I have seen many statements have come to your committee. Members of the committee, you must call for a meeting tomorrow. In the afternoon, we want answers of how you are going to undertake. I will instruct Chair of Water to proceed with this matter as they sort themselves out. It is a matter where development is ongoing on the said spaces. It is something that you need to move with speed.

Members of Planning, you need to tell your Chair, it is wrong two have two meetings in the last three months. We have complained about the Executive Closing Planning Department and you have decided as a committee to now take us in a wrong direction. Wherever the Chair is, he should be told that this committee needs a lot of commitment and dedication.

Hon. Themndu, did you have a statement?

REQUEST FOR A STATEMENT REGARDING ENCROACHMENT OF ROAD RESERVES IN KAYOLE
CENTRAL WARD.

Hon. Jeremiah Themndu: Thank you, Madam Speaker. Pursuant to Standing Order No.45 (2) (c), I wish to request for a statement from the Chairperson of the sectoral committee on Planning and Housing regarding encroachment of road reserves by private developers in the County, particularly in Kayole Central Ward.

Hon. Speaker, recent years have experienced increase in encroachment on public lands, especially road reserves by private developers in the County. Hon. Speaker, the residents of Kayole Central Ward are undergoing undue suffering due to encroachment of road reserves by private developers who have erected fences along Diwopa Road near Bondeni Primary School and Kayole South Secondary School, making it difficult for people and students to access their schools on time.

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

1. Approval of construction and faces of road reserves along Diwopa Road;
2. Whether the Diwopa Road has been transferred from being a public road to a private road; and
3. Measures the County Executive is taking to deter private developers from interfering and encroaching on public roads in the County.

Thank you, Madam Speaker.

Hon. Speaker: Where is the Vice Chair of Planning? Hon. Palapala? He is also not in? Hon. Kiragu, you will forgive us, kindly.

Hon. Anthony Karanja: Hon. Speaker, I will still go back to my earlier statement that you give us until tomorrow. We are several members and we will put these issues in the committee. We will ask the Chairman to give an undertaking on all those queries.

Hon. Speaker: Thank you. Clerk, proceed.

MOTION

Hon. Speaker: Hon. Njihia?

ADJOURNMENT TO DISCUSS THE FUNCTIONING OF THE COUNTY EXECUTIVE FINANCE DEPARTMENT

Hon. Abraham Njihia: Hon. Speaker, I wish to move the following motion: THAT, aware that The Fourth Schedule of the Constitution provides for the apportionment of functions for the National and County levels of Governments; further aware that the County Executive Department on Finance and Economic Planning plays a key role in the execution of resolutions of the Assembly and implementations of finance policies and plans; noting that H.E the President issued a decree urging the National and County Governments to clear all pending bills;

Further noting that pending bills for the Nairobi City County has continued to hinder rolling out of new projects to impact positively on the lives of Nairobians; cognizant that the County Government must incur recurrent expenditure with respect to remuneration of its workforce; concerned that the Department of Finance and Economic Planning has had the highest turnover of holders of office of County Executive Committee Member; further concerned that the Governor's public notice dated of Tuesday 25th February 2020 declaring Ms. Pauline Kahiga, Dr. Washington Makodingo and Ms. Winfred Gathangu as *personae non*

gratae to the County Executive will paralyze the operations of the County Government and affect service delivery to Nairobians given their current roles in the finance management of the County; this Assembly adjourns pursuant to Standing Order No.34 to discuss the state of affairs in the County Executive Department of Finance and Economic Planning and the net effect on the functioning of the County Government as a matter of definite County importance.

Hon. Speaker, I thought of calling for this adjournment to discuss this matter of great concern. It was a presidential direction that we should clear all pending bills, but up to date, other counties are paying but Nairobi City County is lagging behind. Hon. Speaker, I want to bring to your attention that the department of Finance has had over five changes within a span of two years. We can see the County is dragging behind. Like now, we have two substantive CECMs of Finance and Economic Planning, Allan Igambi and Pauline Kahiga. We do not know who is who.

I am calling upon Hon. Mberia to second this motion so that members may get a way forward on this matter.

Hon. David Mberia: Thank you, Madam Speaker and Hon Njihia for this adjournment motion. We are representatives of the great city of Nairobi. The problems that the County is facing at the moment is manmade. The County is on autopilot. The County Treasury is a very important sector in running of the County Government. Madam Speaker, as you are aware, we appropriate billions and billions of money to this County to spend. With the confusion at the County Treasury as we speak, there are several CECMs for Finance. There was an advert the other day where three of them were declared *persona non grata* in the County Executive. It is absurd we have reached where we are now. There are some suppliers and contractors who have committed suicide and others whose properties have been auctioned because the County has refused to pay what they supplied and the works they have done for this County. The directive of the president fell on deaf ears in this County Government.

Madam Speaker, as Hon Members who represent the entire Nairobi we have a duty to ensure that the small business persons who got money from banks and sacco are paid. Creating confusion at the County Treasury is to ensure that nothing happens because that is where the money is supposed to be spend from. We are not going to watch as the County dies a natural death. We must rise to the occasion and ensure that indeed the plane lands safely. I beg to second.

(Question proposed)

Hon. Maurice Gari: Thank you Madam Speaker, I rise to support this motion. Due to the situation of this county especially the Finance Department, we should not bring these jokes that the Executive is bringing in the department. You cannot gazette someone to be *persona non grata* and he still holds the post, he or she still has the rights. Do you expect this person to come and handover and you have declared him *persona non grata*? To hand over this thing to the Treasury you must come in person, and here you have declared somebody *persona non grata*. We should not joke with the lives of Nairobians.

If the Executive do not want to work, they should tell Nairobians that they are tired and want to sink Nairobi, and they go their way and they leave us so that we can reorganize the entire Nairobi. We were elected to come and represent people at the ward level and if you suspend today somebody who is going to

pay the garbage collector, to pay the medicine for hospitals, to pay for the running of day to day activities of the county, you are paralyzing the entire county.

Madam Speaker, I think even the Clause of the County Government Act of the impeachment of the Governor or the ward it should be direct, because this is a quagmire we are having here, today this and tomorrow that. You appoint somebody to run an office and then within one week, you change with somebody else. They were ten previously and the Treasury refused to give the other gentleman the rights and these persona non grata people who have rights, I don't know what the Governor wants them to do.

Madam Speaker, you bring somebody who is not qualified to be the County Secretary, somebody who has a case in court, somebody who has been accused for the dying of innocent Kenyans due to collapse of buildings. This assembly is firm and MCAs are not seeing this, some of them are blind. We should not be blind in 2030, we should rise to the occasion, Madam Speaker. This is a serious matter, it reaches a time in Kenya for men and women fighting in the house, there is something called divorce clause. If you cannot live with your wife, there is no need of beating her go to court and divorce. Share the property and part ways. This is the time that we must part the ways with the rogue Executive. The Executive do things the way they want or think, they don't even have procedures.

Madam Speaker, if it was not for Governor Kidero, the previous Governor, this government has not initiated any project, these are the brainchild of the former Governor. We should not sit here running up and down collecting money, I urge the members that we sit down and redeem ourselves. We will be crucified the way people are talking out there and the way contractors are being auctioned. It is time for both coalitions to call their members to come to their senses, both the Majority and the Minority Leaders to call their members to come to their senses and see what is happening.

Madam Speaker, we cannot have an empty house here and we are eating public money doing nothing and this thing is being televised because of quorum hitch. The plane has landed and the passengers must board. Thank you, Madam Speaker I support.

Hon. Mary Omwami: Thank you Madam Speaker. I have before me on this smart phone that I bought the other day, two very beautiful ladies; Ms. Winfred W. Gathangu and Ms. Pauline Nyambura Kahiga Waititu and a very handsome young man Dr. Washington O. Makodingo. These are people who are professionals who are supposed to be propelling our county to greater heights.

I read another forward that a young Nigerian was trying to say what happens in African countries, we are losing a lot of our brains because we are unable to use them within our countries because of mediocrity. What they do, they fly out of the country, Kenya has a lot of technocrats in Malaysia, the ones in charge of the techno city and I know someone in Canada. I also know that many Kenyans are doing very in UK doing various things while they are supposed to be developing our country.

I stand to support this motion and urge our Governor and those of us who are his friends, that we must account to the people of Nairobi who have called us. Remember the oath that we took to our trust and the prayer we keep praying every day. Everything has been entrusted to us and cannot go on with the shenanigans that are going on and being scared every time of what is happening. Somebody told me that they will break my other leg that is remaining, I am ready but we cannot go on like this. It is not proper and it is not right. We must have a functioning government in this city and part of it is because of our Governor. I

call upon him even though he is still outside there and people have not also decided, but he must leave these great people to continue to work and function.

The other thing is, when you put these people in the papers and you are a government entity, what you are telling the public is that they should never be employed. These are very young people and professionals, and you are putting them in newspapers so that nobody else can employ them. It is very bad, we must think of the human interest and we must care of others as we take care of ourselves. It is improper for us to educate our young people and bring them to work for us and then we start mistreating them like they don't know what they are doing. I stand to support this motion, we need some sanctioning and we need to know what is happening on the other side.

As we talk, I know there are many mothers in maternity, I am a mother and in Pumwani Maternity workers are on strike because they have not been paid. When a baby comes, it must be born. Where are our mothers going to go in this city? We are busy as the statement that Madam Speaker has given, we are busy been given 2010, 50k and we are bringing curses upon ourselves. It is not proper, I stand here and say that I will not eat anything until I fulfill what I am here for this time round. I don't want anyone to give me anything, let's stand for the right thing in this city and do the right thing for Nairobians who have called us to their trust. Thank you, Madam Speaker.

Hon. Chege Mwaura: Thank you Madam Speaker. I stand to support the motion by the Leader of the Minority. I think the issue we are talking about is the department of Finance which is the engine of the running and operations of this county. This game of musical chairs must come to an end. In my short time here and in my recollection, I think out of the 27 months of this Second Session of the County Assembly, we have had about six to eight CECs Finance and some of them serving for short instances as three months or less, and having gone and came back again after a short time. You wonder what was the reason for the removal in the first place because I am told Madam Kahiga was supposed to be exchanged with the CEC Trade Allan Igambi who had also previously headed the docket. What informed his removal in the first place and what is informing his return?

(Applause)

I have friends close to the head of the Executive, I just want to tell them that there is nothing wrong with giving good advice. This advice we have been receiving as my Leader of Majority has been telling me that; *haitaki makasiriko*, we are not in any way in anger. I am happy that today in the Nation newspaper I read that my good friend Mheshimiwa Ngesa been quoted asking what happened once the Chief of Inspectorate was removed, the person who is supposed to replace him has not been given the chance to enter into his office. Yet the appointing authority is very willing to do other things, while this critical department is left unattended, yet the Inspector General of Police has already seconded a person.

I am happy that this House is now coming out to say as it is and we are not going to be cowed, we are not going to say it in anger. The Planning Department was closed for a couple of months, I am told it is now reopened. The person who was removed was one Kathenge, he was returned and he is now the head of the department. I am wondering, what had Kathenge done and did he go the way we Catholics do, repent and then see the light? We must at some point say that the game of musical chairs must end. I think it is as

they say that chickens are coming home to roost because you realize that the issue we are now seeing clearly is not the Department of Finance, not the Inspectorate, not the Planning departments; it is the boss himself.

(Applause)

I am very happy that my good friend Hon. Imwatok managed and I had promised him that I am not going to give my signature because if he had not raised 40 members, there was no point of talking to him. But now that he has raised 40 members, I am now willing for us now to look at the details and the issues that he has raised. In these issues I am so sure there are finance, inspectorate, planning issues are going to be there. Nairobians can expect us to do justice to that motion and we shall surely not disappoint. I beg to support. Thank you.

(Applause)

Hon. Moses Ogeto: Thank you Hon. Speaker. I want to thank the Chair of Culture Committee for bringing this Adjournment Motion. I want to echo my colleague Hon. Chege Mwaura, Hon. Speaker sections of the law of publishing names of individuals of a government institution makes you think that Nairobi County is not somebody's company or kiosk to run the way you want.

Hon. Speaker we will not allow professionals to be sabotaged. I was going through various sackings and pronouncements by the Governor before in the Finance Department. This House vetted one Veska Kangogo, sometimes later Dalmus Makori was appointed for the same docket, later it was given to Mugambi, and then Pauline Kahiga. Hon. Speaker after a short time Kerich was appointed to head the same department---Hon. Speaker, protect me from the Minority Leader, he is disrupting my mind. In a span of two years we have almost all CECs serving under the Finance docket. Allan Igambi has been appointed twice in the Finance docket and Pauline Kahiga has served in the same docket twice.

Hon. Speaker, this is a city that serves over five million Kenyans, this is a city that hosts very high offices like the US Embassy the world superpower and then you publish young people's names in dailies and say that they are not your government officials. You are the same person who employed them and it beats no logic that the problem is the Governor and not any other person. That is why I say; when you are surrounded by fools, it becomes difficult because you can turn to be a buffoon.

Why am I saying this? I am saying this because there is no way in the republic of Kenya you can disobey the rule of law. The Employment Act Section 35 (2) is very clear, that even before you remove somebody from the office, you must give him or her a notice. It is not right that we have been having a Governor who wakes up in the morning and thinks that Kahiga is not loyal, out. It is Ridiculous! The other time Hon. Speaker, as the Justice and Legal Affairs Committee, we were requesting the handing over of the Chief Officer Security and Compliance, he said that he had not yet been handed over the instruments of power. When we asked who did that, we were told that it was Leboo Ole Morintat. On Monday, Leboo was fired. You wonder how somebody can look at your heart to gauge how loyal you are.

Hon. Speaker we want you to bring quantile so that you can meet all these members and measure their loyalty meter. We are wondering how do you measure loyalty. It is not right for Nairobi County to have people been sacked. In the history of Nairobi County there was no person who has ever been employed. Hon. Speaker, these members were lied to pass a budget of 400 million so that Traffic Marshalls can be

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employed. What we saw were tyres been burned at Dagoretti and then they were called back and taken to Kasarani. Up to date the budget we passed to employ young men and women in the Inspectorate Department, it is not working. This is a very bad precedent which is been set by H.E. Mike Mbuvi Sonko that the moment he feels that you are not part of his argument, you are the wrong person.

Hon. Speaker, as the Adjournment Motion has come, there is a procedure of placing these young men and women on a gazette. He has destroyed the careers of these people. We cannot be a House where we are keeping quiet, this is 2020, the way you have said it. Hon. Speaker we are requesting you as well to bring quantile so that we can also measure how the Office of the Governor works. Thank you Hon. Speaker.

Hon. Mbugua Kabiro; Thank you very much Madam Speaker.

Hon. Speaker: Proceed Hon. Kabiro.

Hon. Mbugua Kabiro; I am really conflicted on how I should argue this motion because the question on the floor of the House is not who holds what position, but rather who is the appointing authority. I want to believe that is what you will rule about when you will rule about this motion.

My submissions are as follows; one, there is a Supreme Court advisory that we are waiting to guide us on who is the appointing authority right now. Two, we have an impending impeachment of the Governor which is going to happen next week and we will prosecute it in accordance with the law. The important thing is, currently who should give us and change the people in those offices? Is it the person who is about to be impeached or is it someone else?

Right now we are talking about the persona non grata notice that was put on social media and papers. The situation is, are we or who is supposed to appoint Pauline or Allan or Makodingo? We should look at it in accordance with the law so that we should not flout the process as we try to legislate or decide. I would be happy if we are told that Pauline was appointed before the Governor was charged and therefore, she cannot be changed. That is the decision that the Speaker can actually take.

As it is right now, what needs to be ruled is who is --- (*Point of Order*) I am supporting, can you just listen to my argument?

Hon. Speaker: I like his thoughts, let me listen to the member.

Hon. Mbugua Kabiro; Those are the things that we should be looking at. Is he supposed to appoint anybody or not in this spell and what should happen in this period? We are in different times and we are operating at a situation where there is a vacuum in law over what should happen. The Supreme Court would probably guide in the advisory and that would set precedence in the even that another county faces such a situation.

But as it is right now, the decision that needs to be taken is who is supposed to appoint and in this spell is there supposed to be an appointment or firing of any officer in accordance with the law? Because then, two people would write two separate letters from the same office. Makdingo and Waqo would write the same letter, Pauline and Allan would write the same letter, they have been appointed. By who? Madam Speaker, that is the reason why I am saying that I don't know how to argue this because the decision rests with you taking a decision which will be very binding by telling us, during this period no appointments should happen and that may be contrary or preempting the Supreme Court advisory.

We are conflicted, but nevertheless, we should prosecute this notion and I support it. We need to get the direction clearly on who and what should happen during this period. Thank you Madam Speaker.

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(Point of order)

Hon. Speaker: What is the point of order and yet he had already sat down. Let me give direction on some matter. He has raised very fundamental matters and I would leave the chair to guide us more than even what I will say. I think the most important thing is that for now, as we look at the situation, the CEC of Finance is Pauline Kahiga Waititu. The reason is the docket of treasury is not like any other docket in the CECs. This is the docket where the CEC is gazetted. Until the Governor will show us the person who has now been gazetted is when this house will know the next CEC. We also don't want to find ourselves in a crisis that will loom if we are not careful and also if we are not firm. That is why the house is affirming today who is indeed the CEC of finance. Secondly the Governor has no powers to remove Makondigo, because he is a public servant. He is employed under the Public Service Board and therefore for removal of a chief officer he has no powers based on the law. I know when I say this people turn around and tell the Governor... No, no, no it is important to tell the Governor and advise him in the best way, that is why the president cannot sack anyone in the public service. It can only go through the levels that have been put and you must respect Article 236 of the constitution especially when you are dealing with public officers. I hope I have corrected, Hon Kabiro.

Hon. Mbugua Kabiro: Thank you Madam Speaker, I feel more guided and I would have argued a little bit differently had I had this information but nevertheless I want to say that I understand the PFM allows the gazettment of the CEC member of finance and the CEC member finance is the one who then appoints the chief officer who work with them. Gazettment never happens at the county assembly neither at the executive so Pauline Kahiga remains the CEC member of finance and Makondigo the chief officer. That is the clarity that is needed in Nairobi and in all places so that they can work without fear or favour or being victimized and then they can know the government of the day is running and it is running because they are signing documents on desks to move forward Nairobi and no service is hampered to that effect. Thank you Madam Speaker.

Hon. Speaker: Notwithstanding that we should appreciate that without the CEC treasury the county assembly comes to a halt. Therefore, that is the only CEC we really work closely because anything you need in terms of your payments you will need the CEC and the chief officer and they are the ones holding the tokens of Central Bank. It is not something we should take lightly. We need to work and stop playing around with the treasury docket within the county government. Hon. Ogada?

Hon. Michael Ogada: Thanks a lot Madam Speaker. People have spoken and at least you have given as advice that we really need to follow. I didn't wish to talk about this subject for today but because we did discuss it with my friend Mwangi Njiha, if I would not have put my voice on it he would have thought otherwise.

I am really in support of the motion. Madam Speaker I alerted this house several months ago that educated people in the county are being played around with. When I shouted here I was seeing some people were not very excited with me but anyway I was not interested in their excitement; I was interested in facts.

This is one of the eye openers that you need to take your children to school. If you don't go to school, you will always do this *(Laughter)*. You don't see the sense of education; you don't understand the meaning. You play with people. I even mentioned one day and you warned me, that you run a county the way you run

a kitchen in Mwaa. You cannot operate like that in the county. It is not right. This are people who are educated. Their parents did fundraisings to take them to school.

I raised that issue during Gatimu. I know Gatimu. His first born is in standard three. You have already put him on a gazette that the man is corrupt. You have not taken that man to court. So nobody wants to see that man around the street because he is corrupt. His life has ended like that. And you are excited and you think we are happy with you because you give people Kshs 10,000. I cannot take those monies and I will never take them and we will show you some manners (*Laughter and applause*).

It is not right. For example, the other day I was just looking at some few things. You give me somebody to vet as a deputy Governor or a CEC. Then this guy has a degree and a certificate *ya form four ako na D-*. and this guy passes. You see I even have a problem with members of the county assembly who passes this people. They also have issues. There are issues here. In fact, chairs of this committees who passes this people, if I were a leader you will leave to regret some few things.

I remember when Kidero was the Governor I rejected chief finance officer thrice. He threatened me – and Imwatoke can confirm- but I refused. He must bring proper papers. No short cut. That is how it was. That is why the person who was eventually taken was never sacked. He served throughout the five years.

We must be able as members of the county assembly to play above board. Stop being cheap, brothers (*applause*). You are person who used Kshs 6 million to win elections. You start being cheap because of Kshs 5,000. Very shameful. We need to come out of this behaviors.

Madam Speaker there is a time that is coming. We will talk about these things. I don't see this time far from today. We are going to talk about these things. My county where I serve, with Speaker Madam Elachi, cannot go down when we are watching both of us. We will either refuse both of us or she supports but I refuse. This county will not go to the dogs because of a single individual and some few cheap cronies who don't leave somebody's house from morning to evening every day.

How do you go to somebody's house every day? From morning you are taking a *pikipiki* you're going to somebody's house. Upper hill is a house where someone sleeps! You go every day, you come from that house by 2 in the morning. It is terrible. You are even becoming a nuisance to that family. We need to learn a few things as leaders. We need to stand our ground. I am not rich but I am comfortable in the name of God. Going to beg will bring your value down. You will become cheap. One you will not be respected by us, particularly me. I will not respect you. You will not be respected by the Speaker and finally you will start going to the executive to ask for Kshs 3,000 and they will not give you because you are cheap. We need to play above board. We need to make independent decisions without influence from some strange fellows.

Madam Speaker as we speak today I was in a meeting with my chair of Budget and we were being given a report about how terrible it is in this county. Just imagine this is March or almost March. We have got three months to end this financial year. We budgeted/ forecast from local revenues to get Ksh 17 billion. As we speak today with my chairman we have only collected Kshs 1.1 billion. And people are excited that he is a performer.

That guy is not a performer. That guy is a failure (*applause*). That guy is useless (*laughter*). He is becoming a disgrace. Go to my ward. Garbage has never been collected for the last one year. In fact, I told the officers never to talk to me again. I am not interested. What I told the public from my area- Kados, you

know my area, do you know where they now dump? I told them to dump at the social hall in Embakasi because that is the office of those people. That is where they dump. And if you dare remove them they are dumped at the hall. They can't eat the garbage. Where do you take it? I was talking to Niko who comes from Savannah. There is a road from Baraka estate, the bridge we did with Kados. That bridge you can't pass it now. Not because it is spoilt. The garbage is all over on top of the bridge. The vehicles can't pass there now. And he expects to go sing for a man who is dancing on a street of a foreign country eating our money. We can't do that. It can't work like that.

Madam Speaker let me not talk. I will talk next time. Thank you very much (*applause*).

Hon. Jeremiah Themndu: Thank you Hon Speaker, I rise to support the motion because I am wondering from the time we entered this assembly what we have experienced or seen is only dramas. You wake up today, sack someone, you create another, tomorrow you sack, you continue sacking and I am wondering. According to my understanding the court bared the Governor from entering this county office. I am asking...

(*Point of order*)

Hon. Speaker: What is the point of order Hon. Silas

Hon. Silas Matara: Madam Speaker I would like to bring to the attention of this house under Standing Order 92 that is wrong especially for senior members of this house – Hon Morefire I can forgive him because he is a new comer like myself- it is not right to discuss the name of the Governor without a substantive motion. So it is right that this house, despite the issues going on, we don't discuss the conduct of the Governor and mention his name without a motion. Thank you Madam Speaker.

Hon. Speaker: Hon Silas Matara, he [the Governor] is the appointing authority, he has put in the papers non grata on three Kenyans and that is why they will discuss the office. I have not heard the name.

I think we are discussing the office of the Governor and it can be anyone and because he is the appointing authority for now, and the matter that has come is a matter he has done on himself, therefore we have no choice to discuss it as it is. We are not discussing his conduct. Hon. Matara you were to bring a few things today.

I don't know why I have even given you a chance to interfere as a point of order when this house gave you an opportunity. you know there were very critical issues you brought to this house and I have given you an opportunity to come, present to us and I hope you have. You know in the end I will have to use the Standing Order to do what is right for the house so that next time nobody comes and joke with this house. it was very wrong for you to dismiss a report that was done by this house. you need to go and read the Powers and Privileges Act. By the time I will be bringing you should not blame the Speaker. Don't blame the Speaker. We are not discussing the name. we are discussing the office and what we are going to do with finance. If it is closed what next? Do we close as the assembly or what? Proceed Hon Themdu.

Hon. Jeremiah Themndu: Hon Matara comes for Dandora, an elected member and I could just remind you to do oversight and oversight the executive. That is our duties in this assembly. Ho Speaker I was saying that the Governor was barred from accessing his office and according to me the reason why he was barred is because he is able to interfere with the witnesses. My question is, he is sacking, recruiting while outside. How sure are we that he is not going to sack the witnesses? How sure are we? (*applause*)

How Speaker I think the time has come to speak the truth and say enough is enough because we cannot watch Nairobi being destroyed because somebody is feeling bitter and wants to destroy everything so that Nairobi can be ungovernable and that is why if you go there in the executive you see many ministries do not have substantive CECs. It is only in an acting capacity and how can we develop Nairobi and you know even in an organization if you don't have the manpower you cannot proceed with the project you deserve. Hon Speaker as I stand here I am defending Madam Kahiga and Makodigo because they are PHD holders and somebody somewhere don't want to see those guys who are educated more than him. I am wondering how you can insult someone who has gone to school to a level of PhD and you call them names. From Nairobi to continue, we must make sure everything is done according to the rules and procedures of the game. Thank you and I support the motion. The plane has landed.

(Applause)

Hon. Emily Oduor: Thank you Madam Speaker. First, it is very sad because the appointment committee is chaired by the Speaker and every time we sit, we vet these people and we give them positions. They hardly sit there for a month. So, I think we have been abused as a committee and as a House.

Our work has been taken for granted. You bring a name and after three months, the person is fired and another name is brought. We cannot do this. We need to think twice before they bring the names. How long are they going to be there? We are in a county that does not work. The only thing we are good at is recycling the CECs. For quite some time, the legal department was closed. We then had someone acting and the last thing I heard is that the first one came back. I want to ask the same question as the rest. If today my husband decided that he is fed up with me and throwing me out. I do not see why I would be beautiful again after one month. What you saw in me when you were throwing me out is still there. So, this idea of recycling the CECs is not right. But I believe that it is done to cover up something especially in finance.

There is so much that we do not know. So much is going on in finance department. But even as a member of the Finance and Budget Committee, we can't get that information because every time a CEC comes and you ask questions, they tell you they do not know and that the last person did not hand over. What is hidden in this department that we are not supposed to know?

Madam Speaker, I think the reason why our pending bills are very high, especially for our lawyers, is because of this thing called sacking. I believe people are committing suicide because they have not been paid. It is because they are unable to pay lawyers. If all those people who have not been paid get lawyers, our pending bills would hit 100 billion.

Madam Speaker, today I am appealing to you. Before we vet the next CECs that are being brought, we must be assured that we are not going to waste our time, vet the CECs, put them in office and then one month down the line, they have been thrown out. We are very honorable Members, you are an educated Speaker and we do not want to waste time Chairing that meeting and then at the end of it, Nairobian look at us as if the committee is not doing the right job. Madam Speaker, I support the motion.

Hon. Rose Ogonda: Thank you Madam Speaker. I rise to support the motion. I want to challenge the Member from Dandora that being elected once or twice does not make a difference. The title is the same. I thought this Assembly brought few young men who are learned and women who can see the light of the

day. Madam Speaker, all have been said. But today, I was annoyed in a meeting of a labor committee. When the Public Service Board Chairman was called, the acting secretary was the one who came.

The Vice Chair was called later and she knows very well that the of the board has taken leave. We waited for 4 hours before she came in. Since we vetted the Public Service Board, the meeting has been called 4 times and they did not come. All of a sudden, the recruitment matter was discussed. The acting secretary was asking where to get 148,000 shillings because they don't know who is who to sign the money. So, I am wondering how Hon. Matara is behaving. You see me standing here. I did not speak in the last Assembly, but I went back to school. I am shocked and bleeding inside. I would have been nominated three times, not elected. Last month, the people of Kware Ward planted bananas alongside the road. I cannot go back to my ward. The road was done by a contractor. She was paid 8 million and disappeared. I have followed with letters and verbally, but nothing has been done. If Hon. Matara cannot see the light of today, I am ashamed to be an elected Member of Kware. I beg to support.

Hon. Speaker: What is it, Hon. Matara?

Hon. Silas Matara: I have just been mentioned thrice. It is not that I am trying to inform the Member. I was trying to remind the Members of this House that this is a House that is governed by rules and procedures. Just like I stood on order no. 92, according to my simple understanding of English, you should not discuss the conduct of the Governor of Nairobi and according to the knowledge that I have, the Governor of Nairobi is still Mike Mbuvi Sonko. We have to take cognizance of that fact. At the end of the day, we cannot say we are discussing about the office. That is my standing. Simple.

Hon. Speaker: Hon. Matara. Did you read the motion? You know, if you read the motion, you will understand the grievances of the motion. I want you to read the motion before you answer. I am not saying you should not support the Governor. For those who would want to assist anything on the matters of the county executive, please do a lot of research. I am talking to Hon. Matara and the rest. Do research so that when you are answering, you come out as someone who understood what is being discussed. I want the Cahir to finalize this process. Hon. Kiragu.

Hon. Anthony Karanja: Thank you Hon. Speaker. I would like to express my comments on the motion. It is unfortunate that Madam Kahiga, Kathangu and Mc'Odingo are jobless now, according to the Governor. However, I would like this House to take cognizance of petition 79 of 2017 before Justice Hellen Wasilwa whereby Gatimu, the former finance and economic planning, Okere, Wamboi and others took the Governor to court for their suspension and the judge was very clear that interdiction, hiring and transfers is part of the disciplinary action by the employer, in this case the governor. Their suspension, interdiction and transfers were upheld. We need to take cognizance of that.

Madam Speaker, I am surprised when my good friend, Hon. Chege asks in bold whether we advise him properly. I would like to take him back a year ago while you were away. Hon. Chege was riding in a vehicle, a Nissan patrol, black in color, KCB 131Y, donated to him by the governor. I would also like to remind Chege that out of those 5 sacking or transfers in that department, he was actually sitting on that seat and never raised a finger. It is only now that I have heard that it has happened while you are there, which a very good thing. I also heard him talk about Justus Kathenge who was suspended when I was the Chair of Planning. It is very clear in this House that there was an incident in Dagoreti where 8 children lost their lives

and Kathenge was suspended. However, after investigations, he was not prosecuted and there was nothing whatsoever that stopped him from coming back. I remember about three or four weeks ago, you and other Members of this House actually did a press conference and urged those who had been suspended irregularly with no cases in court should come back. It is surprising that my good friend would actually site that as a concern unless he wants to give a report just like my friend Matara will give tomorrow on the actions of this House.

So, Hon. Speaker, based on petition 79 of 2017, I want to treat the petition of my friend Njihia with the contempt it deserves because if you go back to that petition, the labor relations and employment court is very clear, that it is the prerogative of the governor who is the employer in this case to interdict, transfer. Let us be a bit sensitive as we debate because I have heard an honorable Member describe members who are around the governor as fools. It is unfortunate because my friend Chege who used to sit around the governor and Ogeto who used to sit around the governor...I would want to know whether that has changed. So, I do not support that motion at all. Thank you.

Hon. Speaker: Before I give you the point of order Chege Mwaura and Mary, there is one thing I would want us to always do. Always read the ruling of a judge. Do not quote Wasilwa and say she said that any governor should interdict, deploy...she quoted by the law. Meaning, you have the employment act, you have the constitution, you have the public service act on how to procedurally... Nobody is saying the governor should not. I think the question here is the procedure of removal of any person. Therefore, if the constitution tells you that you have to give a public servant the right to be heard before you terminate, that is all we are saying. It is wrong to do it in a manner that looks malice than doing it in a correct way. If you do it in the correct way, then we need a finance gazette person very fast. So, what we are saying is for you to do it in the right way so that we can handover to the next person. You know, it is a very sensitive docket. Right now, CBK will not give anyone that docket. You see, we are stuck. The county assembly has to write to unlock some of these things. It is something that we want to have it done better. I think that is what the house is saying. Do it the right way. Hon. Chege, you have been mentioned. What do you have to say?

Hon. Chege Mwaura: Thank you Madam Speaker for the opportunity to reply. My friend, Hon. Kiragu, insisted that he needed to teach me some debating manners and I am happy that he brought out the issues only that I was expecting more fundamental issues. I never at any time raised the issue of the prerogative of the governor to hire or fire. We just wondered what was the rational of removing a CEC member and finding to return him after 6 months. It is not only in one docket, but many other dockets. That was my only issue.

Secondly, the petition that is quoted is that the circumstances of that issue and in that county are very different from the circumstances we have. If we get ourselves in a situation where a CEC member of Finance is crippled, then this assembly and its operations become crippled in the same vein. We have to look at the pros and cons of every decision that is being taken.

Madam Speaker, when I am told that while I was seated there I never raised an issue, it is true because it is not your business to raise an issue. It is the Members to raise issues. Yours is to guide the debate and I am happy that Hon. Njihia thought it is wise to bring the issue. I was tied because the Speaker

is blind to issues until the members bring it up. It is true that issues of vehicles have been brought. They were donated to the office of the Speaker.

When I am no longer the Speaker, I do not enjoy the same privileges. The fact that you are the friend of the Speaker or the Governor, you must be able to stand up and give him correct information. When Hon. Ogeto and Chege Mwaura were in court of the Governor, we are on record telling him what is not right and what is right. But it is not our business to implement. But it is true we told him to treat carefully.

In fact, some of the issues that put me into problems is allowing some questions to be asked. It is the prerogative of the Speaker to allow questions to be asked on this floor. So, since have changed roles, let the Governor know that if he is going to make changes, it is your business to tell the governor that he is naked. I agree that some issues might not come out clearly in terms of raising the question of the appointing authority. But does that negate the fact that the appointing authority is missing on some issues. Our business is oversight. There is nothing wrong with being. We are still very good friends. Invite me and I will come. I will be able to tell you in front of you that you are wrong. We will be there and push our position. If you have the numbers, you will win. Otherwise, we will win. Let us debate openly. I am happy that Hon. Kiragu is not supporting this motion. When the vote is called, the majority will win. The same way, the other motion will come. We shall weigh again and we shall look at the numbers. Thank you.

Hon. Speaker: Let me ask the Chairman of Budget to give us some directive.

Hon. Robert Mbatia: Thank you Hon. Speaker. I rise to support the motion but be careful on what I might say because there is a live debate awaiting report in our committee. So, we will soon be bringing a report surrounding this issues on the finance docket. But I want to pronounce myself on behalf of the finance, budget and appropriation committee on the matters of the pending bills. As much as there is a supplementary budget that has been brought to this House, I want to state clearly on behalf of the committee that we have not received the documents to make any ruling on the supplementary budget. Hon. Speaker, this is contributed and attributed to the confusion that the Members have raised. We have continuously written letters to the treasury and we have been receiving letters from two CEC members namely Waziri Igambi and Waziri Kahiga.

It is good that you have ruled who the substantive CEC Finance is at this point. Therefore, let the members of the public know that it is not the County Assembly that is sitting on the supplementary budget but that this is caused by the confusion on the Executive side.

Secondly Madam Speaker, I want to state that the CEC for Finance heads a key docket and that several documents cannot come to this Assembly unless by the CEC. These documents are such as the County Integrated Development Plan (CIDP), ADP, the County Fiscal Strategy Paper, budget estimates and the finance bill. This confusion has made the Assembly not to pass the Annual Development plan for the Financial year 2020-2021 which was supposed to have been brought to the floor of the House by 30th August last year. To date, the County Fiscal strategy paper that sets the policy framework and gives finances is almost coming to the Assembly yet we have not passed the Annual Development Plan which the CFSP must draw policies from the past ADP. Madam Speaker, there are several roles that the CEC for Finance plays and I wish to highlight a few. They include; Management of the emergency fund – if today we had a problem as Nairobi that needed emergency funding then we cannot access those funds because of the confusion.

Secondly, to initiate public participation on all the documents that I have listed. The other day we had a commission at charter hall because the documents that were brought for the CFSP were for the previous year.

Madam Speaker, under PFM section 148, the CEC finance is supposed to appoint accounting officer for every department and that has not been done because of the ongoing confusion. He is also supposed to give waivers and as we speak that has not been done resulting to the county loosing revenue. As *Mheshimiwa* Ogada put it, as a county we are sitting on our deathbed unless this Assembly takes stern actions on the said matters. *Mheshimiwa* Ogonda has stated her concerns on her ward projects and I do not want to sound pessimistic because I do not see any visible projects being done in this financial year if we continue with this trend. I want to promise this honorable House that we are going to bring a report on the status of the confusion that we have at this point. We as the Finance and Budget appropriations committee are continuously being frustrated by the confusion. I rest my case. Thank you Madam Speaker.

(Applause)

Hon. Speaker: Hon. Member, this is a motion that needs no question being put. Listening to the Chair for Budget, I think that as a County, we have failed and this can cause problems with the Auditor General. It is therefore our mandate as an Assembly to unlock all these. Other counties have finalized their ceilings and we do not know how to face CRA. The County Secretary docket is a very critical one and the County Treasury has serious powers in the powers to be. Article 105 says that the functions and responsibilities of the County treasury are as follows;

“With prior notice, access any system of public finance management use by any of the County Government entities and the internal controls to monitor the system taking appropriate measures including the stoppage of funds to deal with any failure of a county government entity to comply with this Act. With prior notice, accessing the premises of a County Government entity and inspecting all records and other documents relating to the financial affairs of the County Government entity kept by that entity.”

It means that she has a right to come and see what the County assembly is doing. Therefore, let us not take the matter by Hon. Njihia very lightly. Chairman, I want clear information from the Executive in two days on the issue of finance. Invite Pauline Kahiga and Makodingo to the committee to explain on the issues above. We will not allow the Governor to interdict staff and not give us substitutes to take over.

So until we get communication on the new CEC finance, Pauline Kahiga remains the CEC Finance and Markodingo as CFO. Let the Governor follow procedure, gazette the names and table a report so that we get the assurance that Nairobi County is going to move forward, that employee salaries will be provided, suppliers need to be paid and Pumwani hospital payments need to be provided. We will write a letter to CBK, COB and treasury on the same matter discussed and that for the safety of the County, we will have to continue working with the said officers until we have names tabled to the House.

ADJOURNMENT

Hon. Speaker: There being no other business, we defer the two motions to tomorrow. The House adjourns to tomorrow the 26th at 2:30 p.m.

The House rose at 5.16 p.m.