

Paper laid
by Hon. Kabiro Mbugua

GOVERNMENT OF NAIROBI CITY COUNTY



Mf. Ag. Clerk
14/11/2019

THE NAIROBI CITY COUNTY ASSEMBLY

OFFICE OF THE CLERK

SECOND ASSEMBLY-THIRD SESSION

NBI CA. PLC. 20189/ (73)

14th November, 2019

PAPER LAID

Pursuant to Standing Order 205(4)(b), I beg to lay the following Paper on the Table of the Assembly, today 14th November, 2019.

THE REPORT OF THE AD HOC COMMITTEE ON ITS INVESTIGATION OF THE APPOINTMENT OF MR. JACOB NGWELE AS THE CLERK OF THE NAIROBI CITY COUNTY ASSEMBLY.

(Hon. Kabiro Mbugua, Chairperson, Ad Hoc Committee)

Approved
Blair
14/11/2019

Copies to:
The Speaker
The Clerk
Hansard Editor
Hansard Reporters
The Press

Report tabled on 14/11/19
by Hon. Kabiro Mbuqa

COUNTY GOVERNMENT OF NAIROBI CITY



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Ag. Clerk.

NAIROBI CITY COUNTY ASSEMBLY

SECOND ASSEMBLY-THIRD SESSION

REPORT

OF THE AD-HOC COMMITTEE

ON

INVESTIGATION INTO THE CIRCUMSTANCES SURROUNDING EMPLOYMENT OF MR. JACOB
NGWELE AS THE CLERK OF THE NAIROBI CITY COUNTY ASSEMBLY

Approved
Blain
14/11/2019

Clerk's Chambers
City Hall Buildings
NAIROBI

NOVEMBER, 2019

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- a) Submissions by the Clerk of the Senate/Secretary PSC vide letter Ref.99003885/80
- b) Secondment letter of Mr. Jacob Ngwele to the Nairobi City County Assembly by the Transition Authority (TA) Ref. TA/HRM/6 dated 25th February, 2015.
- c) Release letter from the Parliamentary Service Commission for Mr. Jacob Ngwele upon his secondment to the County Assembly by the TA Ref. 99003885/40 dated 29th April, 2013.
- d) Notice by the PSC for termination of Mr. Ngwele's secondment to NCCA Ref. 99003885/56 dated 14th October, 2014.
- e) Request letter by Mr. Ngwele to PSC for extension of secondment dated 11th December, 2014.
- f) Request letter by Speaker Magelo to PSC for extension of Mr. Ngwele's secondment Ref. NBI.SCA/PARLMT/04/2015 dated 19th May, 2015.
- g) Request letter by Mr. Ngwele to PSC for extension of secondment/unpaid leave of three (3) years dated 20th May, 2015.
- h) Letter by PSC granting Mr. Ngwele 3 years unpaid leave Ref. 99003885/68 dated 1st September, 2015.
- i) Resignation letter by Mr. Ngwele to PSC Ref. 99003885 dated 21st July, 2017.
- j) Acknowledgement letter from PSC to Mr. Ngwele on his resignation from PSC dated 8th September, 2017.
- k) Confirmation letter for Mr. Jacob Ngwele to the position of Clerk of the Assembly.
- l) CASB minutes for the meeting that confirmed Mr. Ngwele to the position of Clerk dated 10th June, 2014.
- m) Consent between Mr. Jacob Ngwele and the CASB.
- n) Public Service Commission guidelines on secondment of staff in the public service (Excerpt).
- o) Employment and Labour Relations Court Petition Number 194 of 2019 and the attendant conservatory court orders.
- p) Official Hansard Report of the Nairobi City County Assembly sitting held on Wednesday, 26th November, 2014(Excerpt).
- q) Witness invitation letters:-
 - Letter Ref. NCCA/ADH/2019/001 dated 12th June, 2019 (Hon. Alex Ole Magelo, the former Chairperson of CASB)
 - Letter Ref. NCCA/ADH/2019/004 dated 12th June, 2019 (Hon. Ahwa Mailyun, the former Member of CASB)
 - Letter Ref. NCCA/ADH/2019/002 dated 12th June, 2019 (Hon. Elias Otieno the former Member of CASB)


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- Letter Ref. NCCA/ADH/2019/003 dated 12th June, 2019 (Hon. Abdi I Hassan, the former Member of CASB)
 - Letter Ref. NCCA/ADH/2019/003 dated 12th June, 2019 (Mr. Jacob Ngwele)
- d) Excerpts of the relevant legislations, policies and regulations.
- i) County Governments Act, 2012(Section 13)
 - ii) County Assembly Services Act, 2017 (Section 18)



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ACRONYMS

CASB	-	County Assembly Service Board
DCI	-	Director of Criminal Investigations
DPP	-	Director of Public Prosecutions
EACC	-	Ethics and Anti-corruption Commission
NCAA	-	Nairobi City County Assembly
TA	-	Transition Authority

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1.0. PREFACE

1.1. Establishment and the mandate of the Ad-hoc Committee

Hon. Speaker,

The Ad-hoc Committee on investigation into the circumstances surrounding the employment of **Mr. Jacob Ngwele** as the Clerk of the Nairobi City County Assembly was established by a resolution of the County Assembly on **Thursday, 7th November, 2019**. The resolution was adopted vide a motion moved by **Hon. Kabiro Mbugua, MCA** in accordance with Standing Order 56 (h) (*a motion raising a question of privilege and moved without notice*) and as amended by **Hon. Wilfred Odalo, MCA**. The specific mandate of the Committee was to inquire into and report on:-

- i) How did Mr. Jacob Ngwele find himself in the Assembly service?
- ii) What procedure was used to confirm/employ Mr. Jacob Ngwele as the Clerk of the Assembly and whether the same met all the legal requirements relating to the employment of a Clerk of a legislature (Assembly) in Kenya?
- iii) Propose recommendations on how to resolve the matter.

1.2. Membership

Hon. Speaker,

The membership of the Committee comprised of the following Members:-

- | | | |
|-----------------------------------|---|-------------------------|
| 1. Hon. Kabiro Mbugua, MCA | - | Chairperson |
| 2. Hon. Kennedy Oyugi, MCA | - | Vice Chairperson |
| 3. Hon. Millicent Jagero, MCA | - | Member |
| 4. Hon. Nancy Muthami, MCA | - | Member |
| 5. Hon. Julius Maina Njoka, MCA | - | Member |
| 6. Hon. Elijah Mputhia, MCA | - | Member |
| 7. Hon. Patricia Mutheu, MCA | - | Member |
| 8. Hon. Rose Ogonda, MCA | - | Member |
| 9. Hon. Patrick Musili, MCA | - | Member |
| 10. Hon. David Ayoi, MCA | - | Member |
| 11. Hon. Mary Ariviza, MCA | - | Member |



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1.3. Executive Summary

Hon. Speaker,

On Tuesday 5th November, 2019, Hon. Maurice Gari, MCA rose on the floor of the Assembly pursuant to Standing Order 56 (h) and moved a motion [*annexure 1 (a)*] questioning the procedure used to employ the Clerk of the County Assembly Mr. Jacob Ngwele. The Member noted that Mr. Ngwele's continued holding of the position was in gross violation of Section 18 (1) & (2) of the County Assembly Services Act, 2017. The Member urged the Assembly to revoke the employment of Mr. Jacob Ngwele as the Clerk of the County Assembly by the Nairobi City County Assembly Service Board (CASB). Several Members who contributed to the motion were in agreement with the Member and unanimously agreed to revoke the said appointment. Equally, on Wednesday, 6th November, 2019, Hon. Peter Imwatok, MCA moved a motion [*annexure 1 (b)*] pursuant to Standing Order 56 (h) whose resolution required the CASB in accordance with Section 36 of the County Assembly Services Act, 2017, to table reports of its operations, including the establishment and functioning of the Office of the Clerk, for the period 2013 to 2017 including the period when the County Assembly had adjourned *sine die* pending the 2017 general elections. Similarly, on Thursday, 7th November, 2019, Hon. Kabiro Mbugua, MCA, rose pursuant to Standing Order 56 (h) and in reference to the two previous resolutions of the House, moved a motion seeking the establishment of an *Ad-hoc* Committee to investigate the circumstances surrounding the employment of Mr. Jacob Ngwele as the Clerk of the Nairobi City County Assembly (NCAA). This was informed by the fact that there was an existing Court Order barring the operations of the CASB and therefore resolutions arising from both the motions of Hon. Peter Imwatok and Hon. Maurice Gari could not be executed yet the Office of the Clerk was central in operations of the County Assembly. The said motion was subsequently adopted. In her directions to the Assembly, the Speaker maintained that the *Ad-hoc* Committee would not delve into the matters before the Employment and Labour Relations Court in the Petition No 194 of 2019. The Speaker directed the Committee to restrict itself with the subject of the motion establishing the Committee i.e. circumstances surrounding the employment of the Clerk.

Upon reviewing its mandate pursuant to Hon. Kabiro's motion, the Committee identified the following as the issues it was expected to establish:-


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1. Whether Mr. Jacob Ngwele was among persons recruited by the Transition Authority (TA) and subsequently seconded to the Nairobi City County Assembly (NCCA) as Interim Clerk prior to the 2013 general elections. What were the terms of the secondment?
2. Did the County Assembly Service Board (CASB) competitively recruit Mr. Ngwele as the Clerk of the Assembly by advertising for the position at the end of the transition period and held interviews as required under the law?
3. Was the name of Mr. Jacob Ngwele submitted to the County Assembly by the Service Board for approval in accordance with Section 18 of the County Assembly Services Act, 2017, Section 13 of the County Governments Act, 2012 and the Parliamentary Service Act, 2000 (repealed) which was the national legislation on employment of a Clerk of Parliament during that period.
4. What is the validity of the consent entered between Mr. Jacob Ngwele and CASB, Speaker NCCA and the County Assembly regarding Mr. Ngwele's employment as the Clerk of NCCA?
5. Should the CASB proceed and competitively fill the position of the Clerk as required under the relevant legislations.
6. Is there need for any further investigations and prosecutions?

In its inquiry, the Committee invited Members of CASB during the term of the First Assembly and Mr. Ngwele himself to provide both oral and written submissions on the matter. Equally, the Committee sought the opinion of the Parliamentary Service Commission and reviewed the relevant documents on record with respect to the service of Mr. Ngwele in the County Assembly. In addition, the Committee also considered all applicable legislations, policies and regulations. The Committee further reviewed parliamentary practices, traditions and precedents as they apply to the employment of a Clerk of a Legislature.

The Committee established that the then CASB during the term of the First County Assembly erred in law by failing to competitively recruit a Clerk of the County Assembly at the end of the transition period and also failed to submit the name of Mr. Jacob Ngwele to the County Assembly for approval in accordance with Section 18 of the County Assembly Services Act, 2017 and Section 13 of the County Governments Act, 2012. In


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addition, Mr. Ngwele and the former Speaker Hon. Alex Ole Magelo, MCA constantly misled the Parliamentary Service Commission (PSC) that he was still an employee of the Commission by requesting the Commission to extend his secondment period on two occasions yet he was all aware that the Service Board had purportedly confirmed him to the position of the Clerk of the Assembly thus drawing benefits from two public institutions concurrently. In the forgoing, the Committee upheld an earlier decision of the County Assembly vide Hon. Maurice Gari's motion to nullify the purported appointment of Mr. Jacob Ngwele as the Clerk of the County Assembly. The Committee recommended that the CASB should immediately commence a process of recruiting a Clerk of the County Assembly in accordance with Section 18 of the County Assembly Services Act, 2017 and all other enabling legislations once the order barring it to execute its mandate is vacated. In the meantime, due to the centrality of the Office of the Clerk in operations of the Assembly, the Committee resolved that the decision by CASB to designate one of the Assembly Officers to act in the position of the Clerk in accordance with Section 21 of the County Assembly Services Act, 2017 was noble and should be supported by the County Assembly.

1.4. Committee Meetings

Hon. Speaker,

Due to the urgency of this matter, the Committee held **three (3)** sittings at the County Assembly precincts and a retreat during which Members considered all the material evidence on this matter that culminated into this report. Minutes of the Committee's sittings and the submissions presented/reviewed are annexed to this report.

1.5. Acknowledgement

Hon. Speaker,

The Committee wishes to take this opportunity to thank the Offices of the Speaker and the Office of the Ag. Clerk for the services extended to facilitate the technical and administrative work of the Committee. I also I wish to register my appreciation to fellow Honorable Members of the Committee for their utmost commitment and delivering this task despite the short period. The Committee also thanks witnesses who presented either oral or written submissions.


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Finally, the Committee appreciates the support of the Secretariat staff that assisted and facilitated the process of preparing this report.

Hon. Speaker,

It is now my pleasant duty to table this report of the Ad-hoc Committee on investigation into the circumstances surrounding the employment of Mr. Jacob Ngwele as the Clerk of the Nairobi City County Assembly for consideration and adoption by the House.


Signed

**Hon. Kabiro Mbugua, MCA
(Chairperson)**

**Ad-hoc Committee on investigations into the circumstances surrounding the
employment of Mr. Jacob Ngwele as the Clerk of the County Assembly**

Dated thisth..... day of.....*November*.....2019


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2.0. INTRODUCTION

2.1. County Assembly Resolutions

On Thursday 7th November, 2019 the County Assembly passed a resolution to establish an Ad-hoc Committee to investigate the circumstances surrounding the employment of Mr. Jacob Ngwele as the Clerk of the Nairobi City County Assembly. The resolution was adopted vide a motion moved by Hon. Kabiro Mbugua, MCA in accordance with Standing Order 56 (h) (*a motion raising a question of privilege and moved without notice*). This had been preceded by adoption of two related motions. The first motion was moved by Hon. Maurice Gari, MCA which resolved the revocation of the employment of Mr. Jacob Ngwele as the Clerk of the County Assembly by the Nairobi City County Assembly Service Board (CASB) for violating Section 18 of the County Assembly Services Act, 2017. The second motion was moved by Hon. Peter Imwatok which resolved that the CASB tables reports of its operations, including the establishment and functioning of the Office of the Clerk, for the period 2013 to 2017 including the period when the County Assembly had adjourned *sine die* pending the 2017 general elections. The motion by Hon. Kabiro was aimed at giving effect to the previous two resolutions of the House since there was an existing Court Order barring the operations of the CASB. In reference to the *Employment and Labour Relations Court Petition No. 194 of 2019*, the Speaker directed the Committee to restrict itself with the subject of the motion i.e. on the procedure of employment of the Clerk and avoid issues that may prejudice the fair determination of the matters in the petition.

2.2. Committee Inquiry

2.2.1. Mode of Operation

The Adhoc-Committee has conducted an in-depth and detailed inquiry into the circumstances surrounding the employment of Mr. Jacob Ngwele as the Clerk of the Assembly by reviewing documents on record on this matter and also inviting submissions from different key witnesses especially the Members of the CASB during the term of the First Assembly. The Committee restricted itself to the resolution of the House, which was that; ***“to investigate the circumstances surrounding the employment of Mr. Jacob Ngwele as the Clerk of the Nairobi City County Assembly.”***

In order to efficiently address the House resolution, the Committee resolved to establish the following:-

- i) What was the employment status of Mr. Jacob Ngwele prior to his coming to the County Assembly Service?
- ii) Was Mr. Jacob Ngwele among the persons recruited by the Transition Authority (TA) and subsequently seconded to the Nairobi City County Assembly (NCCA) as Interim Clerk prior to the 2013 general elections. What were the terms of the secondment?
- iii) Did the County Assembly Service Board (CASB) competitively recruit Mr. Ngwele as the Clerk of the Assembly by advertising for the position at the end of the transition (secondment) period and held interviews as required under the law prior to his confirmation as the Clerk of NCCA?
- iv) Was the name of Mr. Jacob Ngwele submitted to the County Assembly by the Service Board for approval in accordance with Section 18 of the County Assembly Services Act, 2017, Section 13 of the County Governments Act, 2012 and the Parliamentary Service Act, 2000 (repealed)?
- v) What is the rational and the validity of the consent purportedly entered between CASB and Mr. Jacob Ngwele regarding the former's employment as the Clerk of NCCA? Was there any collusion between the then Board Members and Mr. Ngwele to have him confirmed as the Clerk? Was there any mischief being hidden?
- vi) Has the County Assembly been operating with an illegal Clerk (imposter)?
- vii) Should the CASB proceed and competitively fill the position of the Clerk as required under the relevant legislations.
- viii) Is there need for any further investigations and prosecutions?

2.2.2. Employment and Labour Relations Court Petition Number 194 of 2019.

In the Speaker's directions to the Committee, Members were made aware of the ongoing proceedings in the Employment and Labour Relations Court Petition Number 194 of 2019. In the petition, the petitioner Mr. Jacob Ngwele who is the subject of the Committee's inquiry had sought orders barring the Speaker and the CASB from removing him/suspending him from office. Equally the petitioner had sought orders barring the newly nominated Members of the Service Board from taking up their positions. The Court had issued conservatory orders to this effect pending determination of the matter. Aware of this case, the Committee sought to establish as to whether proceeding with its inquiry

would be *sub judicial*. The Committee observed that Standing Order 94(2) of the Nairobi Standing Orders provides as follows:-

“(2) A matter shall be considered to be sub judice when it refers to active criminal or civil proceedings and the discussion of such matter is likely to prejudice its fair determination”.

Thus, if a matter is active but its discussion does not prejudice its fair determination, then it is not sub judice. To this end, the Committee established that the issues under inquiry by the Committee were unrelated to the issues in court and therefore consideration of the same would not pre-judice fair determination of the matters in court.

2.3. Establishment of the Office of the Clerk – The Legal Framework

The Office of the Clerk of the County Assembly is established pursuant to Section 18 of the County Assembly Services Act, 2017 and Section 13 of the County Governments Act, 2012.

2.3.1. Appointment of the Clerk

Regarding appointment of the Clerk, Section 13 of the County Governments Act, 2012 provides that:-

“(1) there shall be a Clerk of the County Assembly, appointed by the County Assembly service board with the approval of the County Assembly”.

Section 18 of the County Assembly Services Act, 2017 further expounds on the appointment process as follows:-

“18. (1) The nomination of a person for appointment as a Clerk of the County Assembly under section 13 of the County Governments Act shall be done through an open, transparent and competitive recruitment process.

(2) The name of a person nominated by the Board for appointment as the Clerk of the county assembly shall be submitted to the county assembly for approval in accordance with the Standing Orders of the county assembly.

(3) The Board shall, within seven days of receipt of the resolution of the county assembly approving a person for appointment as Clerk of the county assembly, appoint that person as Clerk of the county assembly.

The import of these two critical provisions of the law is that CASB has the primary mandate of sourcing (recruiting) a person to serve in the position of the Clerk and in doing so, CASB must competitively recruit that person. However, the person so recruited by the Service Board cannot assume office unless he/she is approved by the County Assembly. Any violation of this process renders the recruitment process null and void.

2.3.2. Appointment of the Clerk during the 2013 transition period and the immediate period after the transition.

The Transition to the Devolved Government Act, 2012 (repealed) was the legal framework that guided the establishment of County Governments. The Transition Authority established under Section 4 of the said Act was responsible for advising on the effective and efficient rationalization and deployment of the human resource to either level of government. It is against this backdrop that among the staff the TA seconded to County Governments were Interim Clerks of County Assemblies to serve during the transition period. The Transition period ended after three (3) years after the March 2013 elections i.e. in March, 2016. Upon conclusion of the transition period, officers seconded had an option to revert to their previous work stations or compete for positions in the devolved unit. It should be noted that in filling the positions, the devolved units, which includes the County Assemblies would do so in accordance with the existing legislations i.e. the County Governments Acts 2012 or in accordance with the national legislation with necessary modifications. During this period and on this matter, the existing legislation was the County Governments Act, 2012 while the national legislation was the Parliamentary Services Act, 2000 (repealed).

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3.0. SUBMISSIONS AND EVIDENCE

Following the County Assembly resolution, the Ad-hoc Committee resolved to engage key witnesses on this matter among them Members of the CASB during the term of the First Assembly. The Committee also reviewed the relevant documents on record with respect to the service of Mr. Ngwele in the County Assembly. In addition, the Committee sought an advisory opinion from the Public Service Commission and also considered all applicable legislations. The Committee further reviewed various parliamentary practices, traditions and precedents as they apply to the employment of a Clerk of a Legislature. This section of the report will enumerate the Committee's findings.

3.1. Submissions by the Clerk of the Senate/ Secretary to the PSC.

In a letter Reference 99003885/80 dated 6th November, 2019, the Clerk of the Senate and the Secretary of the Parliamentary Service Commission (PSC), Mr. Jeremiah Nyegenye, informed as follows:-

- i) That Mr. Jacob Ngwele was deployed by the Transition Authority to serve as the Interim Clerk of Nairobi City County Assembly on secondment with effect from 12th of February, 2013. He was subsequently released by the PSC to report at the County Assembly on 29th April, 2013.
- ii) That on 18th December, 2014, Mr. Jacob Ngwele wrote to the Clerk of the Senate/Secretary PSC requesting for an extension of his secondment to allow him complete the process of recruitment of a substantive Clerk of the Nairobi City County Assembly and oversee the smooth handing over the Office by or before 30th June, 2015.
- iii) That on 19th of February, the PSC at its 205th meeting held on 19th February, 2015 granted Mr. Ngwele a six month extension of his secondment to the Nairobi City County Assembly.
- iv) That on 19th of May 2015, the Speaker of Nairobi City County Assembly wrote to the Clerk of the Senate/Secretary, PSC requesting for an extension of Mr. Ngwele's secondment to the County Assembly for a period of three (3) years within which the Nairobi City County Assembly would be paying his salary and allowances. This was in order to assist the Assembly in implementing the plans and programs which the Board had put in place.



- v) That Mr. Ngwele subsequently wrote to Clerk of the Senate/Secretary, PSC requesting the Commission to grant him leave of absence for a period of three (3) years without pay. The PSC at its 214th meeting held on 24th August, 2015 granted Mr. Ngwele a three year non-renewable leave of absence effective 1st of July, 2015.
- vi) That on the 21st of July, 2017, Mr. Ngwele tendered his resignation from the PSC effective 1st of August, 2017 on account of having been appointed as the Clerk of the County Assembly of Nairobi.

3.2. Review of Documents on record regarding the service of Mr. Jacob Ngwele in the County Assembly.

The Committee reviewed the following documents:-

- a) Secondment letter of Mr. Jacob Ngwele to the Nairobi City County Assembly by the Transition Authority (TA) Ref. TA/HRM/6 dated 25th February, 2015.
- b) Release letter from the Parliamentary Service Commission for Mr. Jacob Ngwele upon his secondment to the County Assembly by the TA Ref. 99003885/40 dated 29th April, 2013.
- c) Notice by the PSC for termination of Mr. Ngwele's secondment to NCCA Ref. 99003885/56 dated 14th October, 2014.
- d) Request letter by Mr. Ngwele to PSC for extension of secondment dated 11th December, 2014.
- e) Request letter by Speaker Magelo to PSC for extension of Mr. Ngwele's secondment Ref. NBI.SCA/PARLMT/04/2015 dated 19th May, 2015.
- f) Request letter by Mr. Ngwele to PSC for extension of secondment/unpaid leave of three (3) years dated 20th May, 2015.
- g) Letter by PSC granting Mr. Ngwele 3 years unpaid leave Ref. 99003885/68 dated 1st September, 2015.
- h) Resignation letter by Mr. Ngwele to PSC Ref. 99003885 dated 21st July, 2017.
- i) Acknowledgement letter from PSC to Mr. Ngwele on his resignation from PSC dated 8th September, 2017.
- j) Confirmation letter for Mr. Jacob Ngwele to the position of Clerk of the Assembly.



- k) CASB minutes for the meeting that confirmed Mr. Ngwele to the position of Clerk dated 10th June, 2014.

Upon scrutiny of the aforementioned documents, the Committee established as follows:-

- i) Mr. Jacob Ngwele was initially an employee of the Parliamentary Service Commission where he served as a Principal Legal Counsel (Litigation) [(Annexure 3 (a))].
- ii) Mr. Jacob Ngwele was seconded to the County Assembly by the TA to serve as an Interim Clerk with effect from 12th February, 2013 during the transition period. Transition period was supposed to end in March, 2016. However, according to the PSC the secondment was to end on 31st December, 2014, meaning Mr. Ngwele was to serve as Interim Clerk for (1) year and 10 months[(Annexure 3 (c))].
- iii) Mr. Ngwele and the Hon. Former Speaker Alex Ole Magelo requested the PSC to extend the secondment of Mr. Ngwele on two occasions. First, Mr. Ngwele requested for extension of the secondment until May, 2015 while Hon. Magelo requested for extension for three (3) years. However, the PSC extended the secondment up to 30th June, 2015 i.e. for six (6) months. Secondly, Mr. Ngwele requested for three (3) years leave of absence so that he can continue serving in the Assembly. The PSC granted Mr. Ngwele the requested leave up to 1st of July, 2018[(Annexures 3 (e, f, g and h))].
- iv) The request for extension by Mr. Ngwele as evidenced in his letter of 11th December, 2014 was to allow for recruitment of a Clerk so that he can smoothly hand over to the Clerk who was to be recruited. According to him, the Assembly was to engage the services of a HR consultancy firm to facilitate the recruitment process [(Annexure 3 (e))].
- v) The County Assembly Service Board confirmed the appointment of Mr. Ngwele as the Clerk on 10th June, 2014 before the end of the transition period and before the period granted by PSC for his secondment which was to end on 31st December, 2014. The appointment was based on alleged petition to the Board by Hon. Diana Kapeen and Hon. Wilson Ochola. Several glaring anomalies were observed in the minutes of the sitting that purportedly confirmed the officer as follows:-
 - It is not clear whether the fourth Member was part of the decision since she was neither listed as present or absent.

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- Mr. Ngwele who was the subject of discussion was present in a meeting he was being confirmed hence conflict of interest. Best practice would have been that another officer would be present to provide secretarial services.
 - The Minutes were confirmed on the same date the meeting was held i.e. 10th June, 2014.
 - The confirmation letter for Mr. Ngwele was written on the same date the meeting confirming him was held.
 - The authenticity of Hon. Magelo's signature was in doubt.
- vi) Mr. Ngwele despite having been confirmed by the Board on 10th June, 2014, he continued being an employee of the PSC until 1st August, 2017 meaning he was holding to public positions.
- vii) That Members of the County Assembly attempted to remove Mr. Ngwele from Office in the year 2014. The Officer went in Court and on the same date he wrote a resignation letter from Parliament, consent was entered between the Mr. Ngwele and CASB, Speaker and the County Assembly that the former had been duly appointed as the Clerk of the County Assembly.
- viii) There was no record in terms of adopted motion, papers laid, order paper, votes and proceedings and Hansard report signifying the approval of Mr. Jacob Ngwele as the Clerk of the County Assembly. The only Hansard report on record dated Wednesday, 26th November, 2014 shows Hon. Ken Ng'ondi(former Deputy Speaker) issuing a communication from the Chair confirming that Mr. Jacob Ngwele was not an employee of the County Assembly and that a motion for Mr. Ngwele's confirmation would be introduced [*annexure 3(p)*]. The Hansard reads in part ***"The Clerk is neither paid by the Assembly so he is not a staff of the County Assembly.....I now direct that a Notice of Motion on confirmation of the name of the Clerk of the Assembly to be given tomorrow, Thursday 27th November, 2014 as it was approved by the County Assembly Service Board"***. The said motion was never introduced in the Assembly according to official records.


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3.3. Submissions by former CASB Members

a) Appearance of Hon. Alex Ole Magelo – Former Chairperson CASB

The Committee invited Hon. Alex Ole Magelo, the former Chairperson of CASB vide letter Ref. NCCA/ADH/2019/001 dated 12th November, 2019. The Honorable Member was at liberty to provide oral or written submissions. However, the Hon. Member did not respond to the Committee.

b) Appearance of Hon. Ahwa Mailyun – Former Member, CASB

The Committee invited Hon. Ahwa Mailyun, the former Member of CASB vide letter Ref. NCCA/ADH/2019/004 dated 12th November, 2019. The Honorable Member was at liberty to provide oral or written submissions. However, the Committee was informed that the Member was out of the country.

c) Appearance of Hon. Elias Otieno, MCA – Former Member, CASB

The Committee invited Hon. Elias Otieno, the former Member of CASB vide letter Ref. NCCA/ADH/2019/002 dated 12th November, 2019. The Honorable Member was at liberty to provide oral or written submissions. However, the Hon. Member did not respond to the Committee.

d) Appearance of Hon. Abdi I Hassan, MCA – Former Member, CASB

The Committee invited Hon. Abdi I Hassan, MCA, the former Member of CASB vide letter Ref. NCCA/ADH/2019/003 dated 12th November, 2019. The Honorable Member was at liberty to provide oral or written submissions. However, the Hon. Member did not respond to the Committee.

e) Appearance of Mr. Jacob Ngwele

The Committee invited Mr. Jacob Ngwele, vide letter Ref. NCCA/ADH/2019/003 dated 12th November, 2019. The Officer was at liberty to provide oral or written submissions. Mr. declined to appear before the Committee on account the matter was in court.

3.4. Review of the applicable legislations

3.4.1. Acts of Parliament

The Committee reviewed all the applicable legislation on this matter and in particular, the Constitution of Kenya, the County Governments Act, 2012, the County Assembly Services Act, 2017 and the Transition to Devolved Government Act, 2012. The Committee established that the legislations required competitive recruitment of the Clerk especially

after the transition period. However, the person so recruited by the Service Board cannot assume office unless he/she is approved by the County Assembly.

3.4.2. Public Service Commission guidelines on secondment in the Public Service

The Committee reviewed the guidelines on secondment in the Public Service as they apply to this matter. The guidelines define secondment as *‘a temporary movement or ‘loan’ of an employee to a different organization’*. It further defines secondment as *‘an arrangement in which a pensionable employee is temporarily released from an organization within the public service to another organization which does not have reciprocal pension arrangements, to provide critical skills or acquire new skills while preserving the pension rights of the employee’*. The guidelines further stipulates that secondment of officers to other Public Service organizations shall be for a period not exceeding three (3) years and shall be non-renewable. The implications of the guidelines is that at the end of the secondment period, the Officer in question must return to the parent organization or resign and compete for the position if there is a vacancy and in accordance with the applicable legislation.

3.5. Review of Parliamentary Practices, Traditions and Precedents as they apply to the employment of a Clerk of a Legislature.

Since the County Assembly partly relies on the parliamentary practices, traditions, and precedents from other national and sub-national Assemblies/Parliaments especially from the Commonwealth, the Committee reviewed on how they recruit their Clerks. In Kenya, the Committee found out that for both the Senate and the National Assembly the Parliamentary Service Commission which is equivalent to our County Assembly Service Board competitively recruits their Clerks and thereafter submits their names to the plenary for approval. The recent Clerk who went through the process was Mr. Michael Sialai the Clerk of the National Assembly. Among the forty seven (47) County Assemblies, all but Nairobi County Assembly, had competitively recruited the Clerks after the transition period and their names approved by their respective Assemblies. The recent Assembly to go through the process was Kakamega County Assembly which finished its recruitment in the month of November, 2019. In the United Kingdom, the Clerk of House of Commons is competitively recruited by the Speaker and senior Members of the House and appointed by the Crown.



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4.0. COMMITTEE OBSERVATIONS

In light of the forgoing, the Committee made the following observations:

1. That Mr. Jacob Ngwele was initially an employee of the Parliamentary Service Commission where he served as a Principal Legal Counsel (Litigation) [(Annexure 3 (a & j))].
2. That during the transition period, Mr. Jacob Ngwele was seconded to the County Assembly by the TA to serve as an Interim Clerk. The transition period was supposed to end in March, 2016. However, according to the PSC the secondment was to end on 31st December, 2014, meaning Mr. Ngwele was to serve as Interim Clerk for (1) year and 10 months[(Annexure 3 (c))].
3. That according to Public Service Commission guidelines on secondment, Mr. Ngwele was supposed to return to the parent organization i.e. the Parliamentary Service Commission upon expiry of the three years. Alternatively, Mr. Ngwele was at liberty to compete for the position of the Clerk if advertised [(Annexure 3 (n))].
4. That Mr. Ngwele together with the former Speaker Hon. Alex Ole Magelo made several requests to the Parliamentary Service Commission requesting the extension of the secondment period for Mr. Ngwele. The PSC granted the first extension up to 30th June, 2015 i.e. for six (6) months and later for three years fashioned as un-paid leave period which was to end on 1st of July, 2018. The objective of the extension as evidenced in Mr. Ngwele's letter of 11th December, 2014 was to allow for recruitment of a Clerk so that he can smoothly hand over to the new Clerk who was to be recruited. This never happened [(Annexures 3 (e, f, g and h))].
5. That despite both Mr. Ngwele and Hon. Magelo requesting the PSC to extend the secondment period for Mr. Ngwele up to 1st of July, 2018, the two had participated in a decision to confirm Mr. Ngwele as the Clerk of NCCA on 10th June, 2014. The two public officers misled the PSC that CASB had initiated a process to recruit a Clerk through a HR Consulting firm. As such, Mr. Ngwele was enjoying both benefits of a substantive Clerk of the Assembly and a Principal Officer of the PSC from June 2014 to July, 2017 when the officer officially resigned from PSC. This amounts to unethical conduct and against our values as contained in the Constitution. [(Annexures 3 (e, f, g, h and k))].


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6. That CASB did not competitively conduct a recruitment process for the position of the Clerk of the Assembly as required under paragraph B.5 of the Human Resource Policies and Procedure Manual for the Public Service on recruitment and selection especially for such a senior position which provides that:- ***'recruitment would be undertaken on the basis of competition and merit, representation of Kenya's diverse communities, adequate and equal opportunities to all gender, youth, members of all ethnic groups, persons with disabilities and minorities'***. In addition, the recruitment was evidently contrary to Section 18 of the County Assembly Services Act, 2017, Section 13 of the County Governments Act, 2012 and the Parliamentary Service Act, 2000 (repealed, 2017) which was the national legislation on employment of a Clerk of Parliament during that period. Instead, the CASB on 10th June, 2014 purportedly confirmed Mr. Ngwele in the position and purportedly consented with him on 21st July, 2017 confirming his employment.
7. That the following were the anomalies in the appointment and confirmation process as noted by the Committee thus rendering the whole process a nullity:-
- i) The position was not advertised and the need for confirmation was allegedly through a petition by **Hon. Diana Kapeen** and **Hon. Wilson Ochola** to the Board. There is no advert for the position nor the alleged petition by the two Honorable Members.
 - ii) Since the position was not advertised to allow for competition, there was no list of applicants, long-listed and shortlisted persons. Equally, interviews were not held.
 - iii) There is no any scientific report inform of an appraisal to confirm that Mr. Ngwele had performed exemplary as alleged in the Board's minutes to warrant a decision to confirm him to the position.
 - iv) Recruitment is a process and not an event that can be concluded in a day as evidenced in the Board minutes and the confirmation letter for Mr. Ngwele. The speed at which the exercise was conducted raises suspicion [(Annexures 3 (I)].
 - v) There is no offer letter and appointment letter indicating terms of service issued to Mr. Ngwele by the Board as required under HR practices.


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vi) The authenticity of the Board minutes where Mr. Ngwele was confirmed are in doubt.

vii) Mr. Ngwele who was the subject of discussion was present in a meeting he was being confirmed/discussed hence raising a question of conflict of interest. Best practice would have been that another officer would be present to provide secretarial services

8. That Mr. Ngwele despite having been confirmed by the Board on 10th June, 2014, he continued being an employee of the PSC until 1st August, 2017 meaning he was holding two public positions. Apparently the same date he sent a letter of resignation to the PSC i.e. 21st July, 2017 is the same date he entered consent in court over his employment. In fact, it is now evident that the Legal Department of the Assembly was not involved. Furthermore, the Assembly had adjourned *sine die*. Meaning the Board had been rendered redundant.
9. That despite CASB having failed to conduct a competitive recruitment exercise for the position of the Clerk, it knowingly refused to submit the name of Mr. Jacob Ngwele to the Assembly for approval before his appointment contrary to Section 18 of the County Assembly Services Act, 2017 and Section 13 of the County Governments Act, 2012. In addition, this went against the established parliamentary practices, traditions, and precedents as set by other national and sub-national Assemblies/Parliaments especially from the Commonwealth.
10. That the purported consent [*annexure 3(m)*] dated 21st July, 2017 entered between CASB, Speaker of the County Assembly and the County Assembly and Mr. Ngwele on the other side regarding Mr. Ngwele's appointment as Clerk of the County Assembly of Nairobi City has no force of law since it was aimed at sanitizing a fatally flawed legal process and should be disregarded as never entered and termed as an abuse of the court process. In fact the same was entered at a time the Board comprised of only two (2) Members in accordance with Section 5(a) (i) of the County Governments Act, 2012 since the Assembly had adjourned. Equally, the County Assembly which was party to the consent was non-existent since it had adjourned *sine die* awaiting general elections. Such a significant decision of the magnitude of employment of a Clerk of the Assembly could not have happened during such a period of temporary incumbency hence the actions borders on



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collusion and fraud. In addition, there is no evidence that the Legal Department of the Assembly was involved in the consent process.

11. That the argument that County Assembly approval process for the Clerk was not a requirement under the legal regime at that time does not hold water. In any case, the Section 13 of the County Governments Act, 2012 provided in mandatory terms for the approval of the Clerk by the Assembly irrespective of whether the person holding the position was on secondment or not. Any other interpretation should be disregarded. The defunct TA's interpretation of the aforesaid section of the law was misleading and cannot be used to circumvent the law. In fact, TA has no mandate of interpreting the law. In addition, Section 8 of the same Act rightly provided that on matters not legislated at that time the national legislation would apply with necessary modification. Indeed, established parliamentary practice demand approval of Clerks of Parliaments.
12. That Nairobi City County Assembly cannot be exceptional in the appointment process of its Clerk by creating its own procedure. All the forty seven (47) County Assemblies have competitively recruited their Clerks after the transition (secondment) period and their names approved by their respective Assemblies. The recent Assembly to go through the process was Kakamega County Assembly which finished its recruitment in the month of November, 2019 [*annexure 3(s)*].
13. That the actions of CASB in recruitment of Mr. Ngwele have put the Assembly in an awkward position in as far as the position of the Clerk is concerned since one cannot explain under what circumstances has Mr. Ngwele been serving in the Assembly in the period between the end of secondment period (June, 2014) and when the House adopted the resolution on his re-vocation on Tuesday, 5th November, 2019. The actions of the Clerk who is an authorized officer may be put to question.
14. That Mr. Jacob Ngwele as the Interim Clerk and a Lawyer himself knowingly refused to advise the Board on the recruitment process of a Clerk. The instantaneous confirmation of the Officer by the Board in a meeting in which he was the Secretary explains the sinister motive behind the process.
15. That the malpractices committed in the irregular recruitment of Mr. Jacob Ngwele warrants further investigations of all the persons involved in the process by the



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Director of Criminal Investigations (DCI), the Auditor General and the Ethics and Anti-corruption Commission (EACC). In particular, the investigations should center on Mr. Ngwele's actions as the Accounting Officer of the Assembly since he has been serving in that position since 2013.


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Based on its observations, the Committee recommends the following:-

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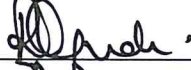



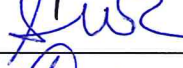

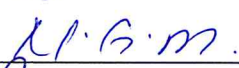
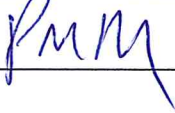
NAIROBI CITY COUNTY ASSEMBLY
ADOPTION LIST OF THE REPORT OF THE
AD-HOC COMMITTEE INVESTIGATING APPOINTMENT OF JACOB NGWELE

DATE.../4/11.../2019.....

TIME ...11:40 A.M.....

VENUE...Committee Room No.5.....

We the undersigned Members append our signatures to signify our agreement with the report.

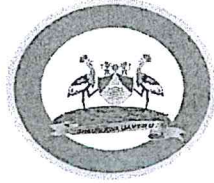
S/NO	NAME	SIGN
1.	Kabiro Mbugua	
2.	Junior Wania Wjoka	
3.	Rose Ogonda	
4.	Mary A Mwarini	
5.	Millicent Jagero	
6.	Mutelu Mugimi	
7.	Elijah Muthisi	
8.	Kennedy Ougi	
9.	Nancy Muthami	
10.	Patrick Musili	
11.		
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ANNEXURES

Annex (1) (a)

GOVERNMENT OF NAIROBI CITY COUNTY

Approved to be debated
5/11/2019
Blair



NAIROBI CITY COUNTY ASSEMBLY

SECOND ASSEMBLY

(3rd Session)

The Hon. Speaker,
Nairobi City County Assembly
City Hall buildings
NAIROBI

MOTION OF PRIVILEGE

Madam Speaker, I beg to give the following Motion pursuant to Standing Order 56 (h) of Nairobi City County Assembly.

AWARE that, Article 73 (2) (d) and (e) of the Constitution of Kenya provides for accountability of a state officer, for decisions and actions as a key guiding principle of leadership and integrity, further aware that Section 18 (2) of the County Assembly Services Act provides that, "*the name of a person nominated by the Board for appointment as the Clerk of County Assembly shall be submitted to the County Assembly for approval in accordance with the Standing Orders of the County Assembly*". This Assembly **RESOLVES** to revoke the appointment of the Mr. Jacob Ngwele as the Clerk of this Assembly on the following ground;

1. GROSS VIOLATION OF SECTION 18(2) OF THE COUNTY ASSEMBLY SERVICES ACT.

As per the provisions of this Act, the name of Mr. Jacob Ngwele was not tabled on the floor of this Assembly for approval. This depicts that the appointment of office bearer was an illegality.

Hon. Maurice Gari, MCA

MEMBER FOR NAIROBI WEST WARD

Date: 05/11/2019.....

Motion Moved by Hon
Peter Imwator, MCA
6/11/2019

GOVERNMENT OF NAIROBI CITY COUNTY



NAIROBI CITY COUNTY ASSEMBLY
SECOND ASSEMBLY

6/11/2019

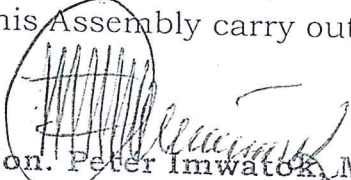
Annex
1(c)

The Hon. Speaker,
Nairobi City County Assembly
City Hall buildings
NAIROBI

MOTION OF PRIVILEGE

Madam Speaker, I beg to give the following Motion pursuant to Standing Order 56 (h) of Nairobi City County Assembly.

AWARE that, Section 36 of the County Assembly Services Act, 2017 provides that at the end of each calendar year, the County Assembly Service Board ought to table a report in the Assembly concerning its operations for the year in question, **NOTING**, that the key issues that the Board is supposed to highlight in its annual report include but not limited to; *activities undertaken in the course of the year, self-appraisal information of the service and attendant challenges*, **ACKNOWLEDGING** the strength of the foregoing and bolstered by Article 10 (2) (c) of the Constitution of Kenya, 2010 which delineates the values of accountability and transparency which binds all State organs, State officers, public officers and all persons serving across the civil service spectrum. **NOW THEREFORE**, this Assembly **RESOLVES** that the Nairobi City County Assembly Service Board tables within five (5) calendar days(s) of adoption of this motion, the said report(s) and/or any other material including the overall functioning and establishment of the Office of the Clerk between the year 2013 and 2017 when the Assembly was in *sine die* that the Board might deem relevant in helping this Assembly carry out its mandate.


Hon. Peter Imwator, MCA
MEMBER FOR MAKONGENI WARD

Approved

6/11/2019

THE NAIROBI CITY COUNTY ASSEMBLY
SECOND ASSEMBLY (THIRD SESSION)


HON. KABIRO MBUGUA, MCA

Subject: Establishment of Ad Hoc Committee

Hon. Speaker, I beg to give Notice of the following Motion pursuant to Standing Order 56 (h): -

THAT, aware that the County Assembly on Tuesday, 5th November, 2019 resolved to revoke the appointment of Mr. Jacob Ngwele as the Clerk of the County Assembly on the gross violation of Section 18(2) of the County Assembly Service Act, 2017; further aware that on Wednesday, 6th November, 2019, the County Assembly resolved that the Nairobi City County Assembly Service Board table report(s) and/ any other material including the overall function and establishment of the office of the Clerk between the year 2013 and 2017; concerned that the process of recruitment of the Clerk of the County Assembly was not procedural as the name of Mr. Jacob Ngwele was never submitted to the County Assembly for approval in accordance with the provisions of the Law; acknowledging that the office of the Clerk of the County Assembly plays a very important role in the operations of the County Assembly; noting that currently the County Assembly does not have a Board in place by virtue of a Court Order, this Assembly resolves to establish an Ad Hoc Committee consisting of the following eleven Members to investigate the circumstances surrounding the employment of Mr. Jacob Ngwele as the Clerk of the Nairobi City County Assembly:-

- i. The Hon. Kabiro Mbugua, MCA – Chairperson
- ii. The Hon. Kennedy Oyugi, MCA – Vice-Chairperson
- iii. The Hon. Millicent Jagero, MCA
- iv. The Hon. Nancy Muthami, MCA
- v. The Hon. Julius Maina Njoka, MCA
- vi. The Hon. Elijah Mputhia, MCA
- vii. The Hon. Patricia Mutheu, MCA
- viii. The Hon. Rose Ogonda, MCA
- ix. The Hon. Peter Imwatok, MCA
- x. The Hon. David Ayoi, MCA
- xi. The Hon. Mary Arivisa, MCA


HON. KABIRO MBUGUA, MCA
MEMBER OF THE COUNTY ASSEMBLY

Approved


7/

MINUTES OF THE 1ST SITTING OF THE AD-HOC COMMITTEE ON INVESTIGATION INTO THE CIRCUMSTANCES SURROUNDING EMPLOYMENT OF MR. JACOB NGWELE AS THE CLERK OF THE NAIROBI CITY COUNTY ASSEMBLY HELD ON MONDAY, 11TH NOVEMBER, 2019 IN ROOM 5 AT 10.00 AM

PRESENT

- | | | |
|---------------------------------|---|------------------|
| 1) Hon. Kabiro Mbugua, MCA | - | Chairperson |
| 2) Hon. Kennedy Oyugi, MCA | - | Vice Chairperson |
| 3) Hon. Millicent Jagero, MCA | - | Member |
| 4) Hon. Nancy Muthami, MCA | - | Member |
| 5) Hon. Julius Maina Njoka, MCA | - | Member |
| 6) Hon. Elijah Mputhia, MCA | - | Member |
| 7) Hon. Patricia Muthau, MCA | - | Member |
| 8) Hon. Rose Ogonda, MCA | - | Member |
| 9) Hon. Patrick Musili, MCA | - | Member |
| 10) Hon. David Ayoi, MCA | - | Member |
| 11) Hon. Mary Ariviza, MCA | - | Member |

IN ATTENDANCE

- | | | |
|------------------------|---|-----------------|
| 1. Mr. Sammy Kiptoo | - | Clerk Assistant |
| 2. Ms. Shirley Achieng | - | Clerk Assistant |

MIN. NO./ADHC/001/2019:

- Preliminaries

The Chairperson called the meeting to order at 10.00 am and opened the meeting with a word of prayer. He then briefed the Members on the day's agenda which was subsequently adopted as follows as proposed by Hon. David Ayoi and seconded by Hon. Millicent Jagero :-

AGENDA

1. *Preliminaries*
2. **Preliminary Meeting**
 - Adoption of the work-plan
 - Understanding Terms of Reference (ToR) of the Committee
 - Reviewing existing documents (including laws & policies) relating to the subject matter and identifying which additional documents to be requested
3. *Any Other Business*
4. *Adjournment*

SIGNATURE.....
(Chairperson)

DATE

MINUTES OF THE 2ND SITTING OF THE AD-HOC COMMITTEE ON INVESTIGATION INTO THE CIRCUMSTANCES SURROUNDING EMPLOYMENT OF MR. JACOB NGWELE AS THE CLERK OF THE NAIROBI CITY COUNTY ASSEMBLY HELD ON TUESDAY, 13TH NOVEMBER, 2019 IN ROOM 5 AT 10.00 AM

PRESENT

- | | | |
|---------------------------------|---|------------------|
| 1) Hon. Kabiro Mbugua, MCA | - | Chairperson |
| 2) Hon. Kennedy Oyugi, MCA | - | Vice Chairperson |
| 3) Hon. Millicent Jagero, MCA | - | Member |
| 4) Hon. Nancy Muthami, MCA | - | Member |
| 5) Hon. Julius Maina Njoka, MCA | - | Member |
| 6) Hon. Elijah Mputhia, MCA | - | Member |
| 7) Hon. Patricia Mutheu, MCA | - | Member |
| 8) Hon. Rose Ogonda, MCA | - | Member |
| 9) Hon. Patrick Musili, MCA | - | Member |
| 10) Hon. David Ayoi, MCA | - | Member |
| 11) Hon. Mary Ariviza, MCA | - | Member |

IN ATTENDANCE

- | | | |
|------------------------|---|-----------------|
| 1. Mr. Sammy Kiptoo | - | Clerk Assistant |
| 2. Ms. Shirley Achieng | - | Clerk Assistant |

MIN. NO./ADHC/004/2019:

- PRELIMINARIES

The Chairperson called the meeting to order at 10.00 am and opened the meeting with a word of prayer. He then briefed the Members on the day's agenda which was subsequently adopted as follows as proposed by Hon. Nancy Muthami and seconded by Hon. Patrick Musili:-

AGENDA

1. Preliminaries
2. Reviewing of existing documents on Mr. Jacob Ngwele's appointment (including laws & policies).
3. Any Other Business
4. Adjournment

MIN. NO./ADHC/005/2019:-

REVIEWING EXISTING DOCUMENTS

— The Secretariat availed to the Committee the relevant documents. The Clerk Assistant informed the Committee that some of the documents had been sourced from the Speaker's Office who had requested the Parliamentary Commission to provide a chronology of events regarding Mr. Ngwele's appointment.

— Upon scrutiny of the documents, the Committee established as follows:-

- i) Mr. Jacob Ngwele was initially an employee of the Parliamentary Service Commission where he served as a Principal Legal Counsel (Litigation)
- ii) Mr. Jacob Ngwele was seconded to the County Assembly by the TA to serve as an Interim Clerk with effect from 12th February, 2013 during the transition period. Transition period was supposed to end in March, 2016. However, according to the PSC the secondment was to end on 31st December, 2014, meaning Mr. Ngwele was to serve as Interim Clerk for (1) year and 10 months.
- iii) Mr. Ngwele and the Hon. Former Speaker Alex Ole Magelo requested the PSC to extend the secondment of Mr. Ngwele on two occasions. First, Mr. Ngwele requested for extension of the secondment until May, 2015 while Hon. Magelo requested for extension for three (3) years. However, the PSC extended the secondment up to 30th June, 2015 i.e. for six (6) months. Secondly, Mr. Ngwele requested for three (3) years leave of absence so that he can continue serving in the Assembly. The PSC granted Mr. Ngwele the requested leave up to 1st of July, 2018
- iv) The request for extension by Mr. Ngwele as evidenced in his letter of 11th December, 2014 was to allow for recruitment of a Clerk so that he can smoothly hand over to the Clerk who was to be recruited. According to him, the Assembly was to engage the services of a HR consultancy firm to facilitate the recruitment process
- v) The County Assembly Service Board confirmed the appointment of Mr. Ngwele as the Clerk on **10th June, 2014** before the end of the transition period and before the period granted by PSC for his secondment which was to end on 31st December, 2014. The appointment was based on alleged petition to the Board by Hon. Diana Kapeen and Hon. Wilson Ochola. Several glaring anomalies were observed in the minutes of the sitting that purportedly confirmed the officer as follows:-
 - It is not clear whether the fourth Member was part of the decision since she was neither listed as present or absent.
 - Mr. Ngwele who was the subject of discussion was present in a meeting he was being confirmed hence conflict of interest. Best practice would have been that another officer would be present to provide secretarial services.
 - The Minutes were confirmed on the same date the meeting was held i.e. 10th June, 2014.

- The confirmation letter for Mr. Ngwele was written on the same date the meeting confirming him was held.
 - The authenticity of Hon. Magelo’s signature was in doubt.
- vi) Mr. Ngwele despite having been confirmed by the Board on 10th June, 2014, he continued being an employee of the PSC until 1st August, 2017 meaning he was holding to public positions.
- vii) That Members of the County Assembly attempted to remove Mr. Ngwele from Office in the year 2014. The Officer went in Court and on the same date he wrote a resignation letter from Parliament, consent was entered between the Mr. Ngwele and CASB, Speaker and the County Assembly that the former had been duly appointed as the Clerk of the County Assembly.
- viii) There was no record in terms of adopted motion, papers laid, order paper, votes and proceedings and Hansard report signifying the approval of Mr. Jacob Ngwele as the Clerk of the County Assembly. The only Hansard report on record dated Wednesday, 26th November, 2014 shows Hon. Ken Ng’ondi(former Deputy Speaker) issuing a communication from the Chair confirming that Mr. Jacob Ngwele was not an employee of the County Assembly and that a motion for Mr. Ngwele’s confirmation would be introduced [annexure 3(p)]. The Hansard reads in part *“The Clerk is neither paid by the Assembly so he is not a staff of the County Assembly.....I now direct that a Notice of Motion on confirmation of the name of the Clerk of the Assembly to be given tomorrow, Thursday 27th November, 2014 as it was approved by the County Assembly Service Board”*. The said motion was never introduced in the Assembly according to official records.
- The Committee resolved to hold a retreat at Windsor Hotel on 13th November, 2019 to receive further evidence on the matter from invited witnesses and write its report.

MIN. NO./ADH/006/2019: - A.O.B & ADJOURNMENT

There being no other business to transact, the Chairperson adjourned the meeting at a half past Twelve O’clock.

SIGNATURE.....
(Chairperson)

DATE

MINUTES OF THE 3RD SITTING OF THE *AD-HOC* COMMITTEE ON INVESTIGATION INTO THE CIRCUMSTANCES SURROUNDING EMPLOYMENT OF MR.JACOB NGWELE AS THE CLERK OF THE NAIROBI CITY COUNTY ASSEMBLY HELD ON THURSDAY, 14TH NOVEMBER, 2019 IN ROOM 5 AT 11.00 AM

PRESENT

1) Hon. Kabiro Mbugua, MCA	-	Chairperson
2) Hon. Kennedy Oyugi, MCA	-	Vice Chairperson
3) Hon. Millicent Jagero, MCA	-	Member
4) Hon. Nancy Muthami, MCA	-	Member
5) Hon. Julius Maina Njoka, MCA	-	Member
6) Hon. Elijah Mputhia, MCA	-	Member
7) Hon. Patricia Mutheu, MCA	-	Member
8) Hon. Rose Ogonda, MCA	-	Member
9) Hon. Patrick Musili, MCA	-	Member
10) Hon. David Ayoi, MCA	-	Member
11) Hon. Mary Ariviza, MCA	-	Member

*Annex
2(iii)*

IN ATTENDANCE

- | | | |
|------------------------|---|-----------------|
| 1. Mr. Sammy Kiptoo | - | Clerk Assistant |
| 2. Ms. Shirley Achieng | - | Clerk Assistant |

MIN. NO./ADHC/007/2019: - **PRELIMINARIES**

The Chairperson called the meeting to order at 11.00 am and opened the meeting with a word of prayer. He then briefed the Members on the day's agenda which was subsequently adopted as follows as proposed by Hon. Rose Ogonda and seconded by Hon. Elijah Mputhia:-

AGENDA

1. *Preliminaries*
2. *Meeting with Hon. Alex Ole Magelo, former Speaker*
3. *Adoption of the report.*
4. *Confirmation of minutes*
5. *Any Other Business*
6. *Adjournment*

- The Chair informed that Hon. Magelo had been invited to appear before the Committee to shed more light on the matter. Hon. Magelo had confirmed to attend the meeting but had not turned up.
- The Committee extensively deliberated on the matter and resolved to proceed with its report without Hon. Magelo's oral submissions and would base its findings on documents on record.

- The Chair took members through the entire draft report.
- **The report was then unanimously adopted by the Committee as proposed by Hon. Hon. Julius Maina Njoka and seconded by Hon. Patrick Musili, MCA** with following recommendations:-

- 1) The County Assembly upholds its decision to revoke the appointment of Mr. Jacob Ngwele Muvengi as the Clerk of the County Assembly since the same was irregular.
- 2) That once orders barring the County Assembly Service Board from performing its duties are vacated, the Service Board should immediately commence the process of recruiting a Clerk of the County Assembly in accordance with Section 18 of the County Assembly Services Act, 2017, Section 13 of the County Governments Act, 2012 and all other enabling legislations. Mr. Jacob Ngwele should be at liberty to apply for the position just like any other Kenyan. In the meantime, due to the centrality of the Office of the Clerk in the operations of the County Assembly, the Assembly should support the decision of CASB to designate another Officer within the Assembly Service to act in the position of the Clerk in accordance with Section 21 of the County Assembly Services Act, 2017.
- 3) That the purported consent dated 21st July, 2017 entered between the CASB and Mr. Jacob Ngwele regarding the former's appointment as Clerk of the County Assembly of Nairobi City has no force of law since it was aimed at sanitizing a fatally flawed legal process and should be disregarded as never entered and termed as an abuse of the court process.
- 4) That the DCI, the EACC and the Auditor General should form a multi-agency team to investigate all the persons involved in the irregular appointment of Mr. Jacob

Ngwele as the Clerk of the County Assembly of Nairobi City and if a sinister motive is detected, those culpable should be prosecuted by the Director of Public Prosecutions (DPP). In particular, the investigations should centre on Mr. Ngwele's actions as the Accounting Officer of the Assembly since he has been serving in that position since 2013.

- 5) That the Nairobi City County Assembly Service Board once operational should surcharge benefits the Officer drew from the Assembly while serving irregularly as the substantive Clerk of the Assembly and the same time as the Principal Legal Counsel in Parliament. For avoidance of doubt, the period should cover between 10th June, 2014 and 1st August, 2017.

MIN. NO./ADHC/10/2019:- **CONFIRMATION OF MINUTES**

- Minutes of the 1st sitting were confirmed as the true record of the sitting as proposed by Hon. Kennedy Oyugi and seconded by Hon. Elijah Mputhia
- Minutes of the 2nd sitting were confirmed as the true record of the sitting as proposed by Hon. Mary Ariviza and seconded by Patricia Mutheu

MIN. NO./ADHC/11/2019:- **A.O.B & ADJOURNMENT**

There being no other business to transact, the Chairperson adjourned the meeting at a quarter to Twelve Noon.

SIGNATURE.....

(Chairperson)

DATE

REPUBLIC OF KENYA



Telegraphic Address
'Bunge', Nairobi
Telephone 2848000
Fax: 2243694

E-mail: [csenate@parliament.go.ke](mailto:cenate@parliament.go.ke)

PARLIAMENT

Parliamentary Service Commission
Parliament Buildings
P. O. Box 41842 -00100
NAIROBI, Kenya

CLERK OF THE SENATE/ SECRETARY TO THE PARLIAMENTARY SERVICE COMMISSION

Ref. No. 99003885/80

6th November, 2019

Dr. Hon. Beatrice K. Elachi,
Speaker, Nairobi City County Assembly/
Chairperson, Nairobi County Assembly Service Board,
P.O Box 45844-00100,
NAIROBI.

Dear

Hon. Speaker,

RE: REQUEST FOR DOCUMENTATION ON THE SECONDMENT OF MR. JACOB NGWELE AS INTERIM CLERK- NAIROBI CITY COUNTY ASSEMBLY

Your letter Ref: NCCASB/CORR/10(4) dated 30th October, 2019 on the above subject refers.

The following is a chronology of events in regards to the secondment of Mr. Jacob Ngwele to the Nairobi City County Assembly.

Mr. Jacob Ngwele was deployed by the Transition Authority to serve as the Interim Clerk for Nairobi City County Assembly on secondment with effect from the 12th of February 2013. He was subsequently released by the Parliamentary Service Commission to report at the County Assembly on the 29th of April 2013.

On 18th December 2014, Mr. Jacob Ngwele wrote to the Clerk of the Senate/Secretary requesting for an extension of his secondment to allow him complete the process of recruitment of a substantive Clerk for the Nairobi City County Assembly and oversee the smooth handing over of the Office by or before 30th June, 2015.

On the 19th of February 2015 the Parliamentary Service Commission at its 205th meeting held on 19th February 2015 granted Mr. Ngwele a six months extension of his secondment to the Nairobi City County Assembly.

On 19th of May 2015 the Speaker of the Nairobi City County Assembly wrote to the Clerk of the Senate/Secretary, PSC requesting for an extension of Mr. Ngwele's secondment to the County Assembly for a period of three (3) years within which the Nairobi City County

Assembly would be paying his salary and allowances. This was in order to assist the Assembly in implementing the plans and programmes which the Board had put in place.

Subsequently, Mr. Jacob Ngwele wrote to the Clerk of the Senate/Secretary to the Parliamentary Service Commission on 20th May 2015, requesting the Commission to grant him leave of absence for a period of three (3) years without pay.

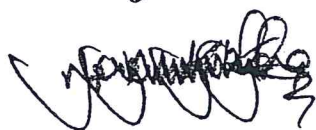
The Parliamentary Service Commission at its 214th meeting held on 24th August 2015 granted Mr. Ngwele a three year non-renewable leave of absence effective 1st of July 2015.

On the 21st of July 2017, Mr. Ngwele tendered his resignation from the Parliamentary Service Commission effective 1st of August 2017 on account of having been appointed as the Clerk of the County Assembly of Nairobi.

Attached herewith please find certified copies of the following documents in regards to Mr. Jacob Ngwele's secondment to the Nairobi City County Assembly;

1. Deployment letter from the Transition Authority dated 25th February 2013;
2. Release letter from the Parliamentary Service Commission dated 29th April 2013;
3. Notice to resume duties at the Parliamentary Service Commission dated 14th October 2014;
4. Request by Mr. Jacob Ngwele for extension of secondment dated 11th December 2014;
5. Approval for extension of secondment dated 27th February 2015;
6. Request for extension of secondment by the Speaker of the Nairobi City County Assembly dated 19th May 2015;
7. Request by Mr. Jacob Ngwele for Leave of absence dated 20th May 2015;
8. Approval for leave of absence dated 1st September 2015;
9. Letter by Mr. Jacob Ngwele on resignation from the Parliamentary Service Commission dated 21st July 2017;
10. Letter acknowledging notice to resign from the Parliamentary Service Commission dated 8th September 2017.

Yours truly,



**J.M NYEGENYE, C.B.S,
CLERK OF THE SENATE /SECRETARY,
PARLIAMENTARY SERVICE COMMISSION.**



Annex 3 (b)

Telephone: +254-0710287080
E-mail: infotransauthority@gmail.com

KICC Building 5th Floor
P.O. Box 10736-00100
NAIROBI

Ref. No.TA/HRM/6

25th February, 2013

Jacob Ngwele

Thro'

The Secretary
Parliamentary Service Commission
NAIROBI.

Dear Sir/Madam,

DEPLOYMENT AS INTERIM CLERK OF COUNTY ASSEMBLY

This is to convey the decision of the Public Service of Kenya (PSC(K) vide their letter Ref. No.PSC/ADM/91 dated 25th February, 2013 that you be deployed to the Transition Authority with effect from 12th February, 2013 as an Interim Clerk Of County Assembly. You are therefore deployed to Nairobi County and you should report to the County Commissioner.

You will also be responsible for the following amongst other relevant duties-;

- (i) advising on and initiating the establishment of County Assembly Service, its structures/organs and administration;
- (ii) providing leadership regarding operational mechanisms, execution of roles and functions of the Assembly;
- (iii) ensuring timely processing and orderly disposal of the agenda of the county assembly; and
- (iv) carrying out administrative chores necessary for the operations of the county Assembly and any other duty assigned by the TA or the Speaker of the County Assembly.

For Clerk of Senate / Secretary
Parliamentary Service Commission
Parliament Building
P.O. Box 41842, Nairobi

Your terms and conditions of service will be as per your current appointment in the Parliamentary Service Commission .You will be deployed on temporary basis to the county and will continue drawing your salaries and all other allowances from the Parliamentary Service Commission. However you will be paid an Allowance of Kshs.60,000/-(Sixty Thousand Kenya Shillings) per month for extra responsibilities given to you.

Please signify in writing your acceptance of this deployment within one week from the date of this letter by signing in the space provided below and returning a copy of this letter to the undersigned.

On behalf of the Transition Authority Board, I take this opportunity to congratulate you for your new Appointment and wish you the best in ushering the new County Government. Due to the urgency of this Appointment you are expected to report to the County not later than 27th February, 2013.

Yours faithfully,



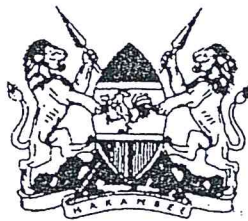
STEPHEN K. MAKORI
SECRETARY/ CEO

NAME JACOB NGWELE P/NO. 9900 3885

ID/NO. 20930151 SIGN [Signature]

DATE 13th March, 2013

REPUBLIC OF KENYA



Telegraphic Address
'Bunge', Nairobi
Telephone: 2221291
Fax: 2243694
E-mail: clerk@parliament.go.ke
When replying please quote

2
Annex 3
(c).
PARLIAMENT
Parliament Buildings
P. O. Box 41842-00100
NAIROBI
KENYA

Ref No: 99003885/40

29th April, 2013

Mr. Jacob Ngwele Muvengei,

Dear Sir,

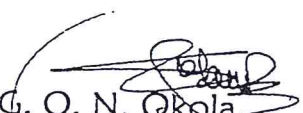
RE: DEPLOYMENT AS INTERIM CLERK
NAIROBI COUNTY ASSEMBLY

Following your deployment as the Interim Clerk of the Nairobi County Assembly, I am pleased to inform you that the Parliamentary Service Commission has consented that you be, and are hereby released to report to your new station.

Your terms and conditions of service will be as per your current appointment with the Parliamentary Service Commission. Your deployment is on temporary basis and you will continue drawing your salary and other allowances from the Parliamentary Service Commission.

I wish you all the best in your new assignment.

Yours faithfully,


G. O. N. Okola,
FOR: CLERK OF THE NATIONAL ASSEMBLY

For Clerk of Senate / Secy
Parliamentary Service Comm.
Parliament Building
P. O. Box 41842, Nairobi

Annex
3(d)

REPUBLIC OF KENYA

Telegraphic Address
'Bunge', Nairobi
Telephone: 2848000
Fax: 2243694
E-mail: cSenate@parliament.go.ke
When replying please quote



Parliament of Kenya
Parliament Buildings
P. O. Box 41842-00100
NAIROBI
KENYA

Ref No: 99003885/56

14th October, 2014

Jacob Ngwele Muvengei
Interim Clerk, Nairobi County
P.O. Box 45844 00100
NAIROBI - KENYA

Dear Sir

RE: SECONDMENT TO COUNTY ASSEMBLY

This is to inform you that it has been decided that your secondment at the County Assembly comes to an end on the 31st December, 2014. It is expected that on expiry of the period, you will resume your normal duties with the Parliamentary Service Commission before 1st of January, 2015.

It is however, noted that if you wish to serve the County Assembly beyond the stipulated period then your service with the Parliamentary Service Commission will be deemed to have been terminated on 31st December, 2015.⁴

Yours faithfully


G. O. N. Okora

For: CLERK OF THE SENATE / SECRETARY,
PARLIAMENTARY SERVICE COMMISSION

Copy to: Director, Legal Services
National Assembly

For Clerk of Senate / Sec
Parliamentary Service Comm
Parliament Building
P. O. Box 41842, Nairobi

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Annex 3 (e).

Jacob Ngwele Muvengei

Principal Legal Counsel
Directorate of Litigation & Compliance

Date: 11th December, 2014

The Clerk of the Senate/Secretary
Parliamentary Service Commission
Parliaments Buildings
NAIROBI



Dear Sir,

RE: SECONDMENT TO THE COUNTY ASSEMBLY

The above mater and your letter reference No. 99003885/56 and dated 14th October, 2014 refer.

I hereby acknowledge receipt of the above referenced letter and confirm that I have noted its contents. Through a letter by the Speaker of the Nairobi City County Assembly to the Speaker/ Chairperson of the Parliamentary Service Commission (PSC) Ref. No. SCA/PARLMT/1/2014 and dated 25th March, 2014 (*copy attached*), the Speaker had requested the PSC to allow me continue serving the Assembly for the period of transition as the Assembly build its own capacity. Further to this, in my letter dated 7th April, 2014 (*copy attached*), I had requested the Commission to extent my period of secondment as the Interim Clerk at the Nairobi City County Assembly by a further period of one (1) year with effect from May, 2014.

I have discussed the issue of my secondment to the County Assembly with the Nairobi City County Assembly Service Board and I have communicated to the Board of my intention to terminate my secondment to the County Assembly and resume my duties with the Parliamentary Service Commission immediately the Board recruits a substantive Clerk for me to hand over to.

The Board will Commence the process of recruitment of a substantive Clerk once the Assembly resumes from the December recess next year and I expect that the process will be over on or about April or May 2015 given that the Board intends to engage the service of a HR Consultancy Firm to undertake the process on its behalf and I therefore anticipate that I will have completely handed over by 30th June, 2015 and reported back to Parliament by 1st July, 2015.

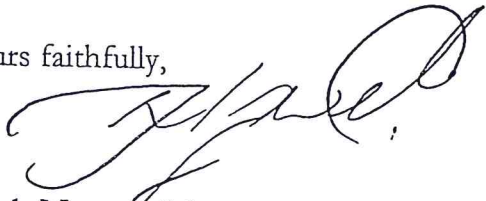
For Clerk of Senate / Secy
Parliamentary Service Comm.
Parliament Building

This is therefore to request you to consider the earlier requests made by the Speaker of the County Assembly and myself to enable me complete the smooth transition process for which I was seconded to the Assembly to perform by handing over to a substantive Clerk.

Once again, with all humility, I wish to thank the Parliamentary Service Commission for giving me an opportunity to serve the Country during this monumental period when the Country has just transited into the new system of devolution.

Thanking you in advance.

Yours faithfully,

A handwritten signature in black ink, appearing to be 'J. Ngwele Muvengi', written in a cursive style.

Jacob Ngwele Muvengi

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Anex 3(f)
62

99003885/62

February 27, 2015

Mr. Jacob Ngwele Muvengei

Thro'

The Director, Litigation & Compliance
Parliament Buildings
NAIROBI


Dear Sir,

RE: EXTENSION OF SECONDMENT PERIOD

The Parliamentary Service Commission during its 205th meeting held on 19th February 2015, considered your request for an extension of your secondment period and approved six months extension commencing the 1st of January 2015 up to 30th June 2015.

Please note that you will be expected to resume your duties at Parliament on or before the 1st of July 2015.

Yours faithfully,


D. A. NG'ANG'A
For: CLERK OF THE SENATE / SECRETARY,
PARLIAMENTARY SERVICE COMMISSION

For Clerk of Senate / Secy
Parliamentary Service Comm
Parliament Building
P. O. Box 41842, Nairobi

Annex 3(g)

Jacob Ngwele Muvengei*Principal Legal Counsel
Directorate of Litigation & Compliance*

Date: 20th May, 2015

Mr. J.M. Nyegenye, C.B.S.,
The Clerk of the Senate/Secretary
Parliamentary Service Commission
Parliaments Buildings
NAIROBI

Dear Sir,

RE: SECONDMENT TO THE NAIROBI CITY COUNTY ASSEMBLY

The above matter and letter reference No. 99003885/62 and dated 27th February, 2015 signed by the Director, Administration Services refer.

I take this opportunity to thank the Parliamentary Service Commission (PSC) for the opportunity given to me to serve the people of Nairobi as the first Clerk of the County Assembly. Since my secondment to the Transition Authority to be the pioneer Clerk of the Nairobi County Assembly, I have gained considerable experience and exposure in both legislative and administrative matters at the county level.

I brought to the attention of the Nairobi City County Assembly Service Board the above referenced letter where my secondment to the County Assembly was extended to 30th June, 2015 and the Board felt that given the ongoing transitional activities I am handling in setting up the structures, systems and building the capacity of both the staff and members of the nascent Assembly, my services are still required for a longer period of time than envisaged.

Consequently, the Board resolved to request the PSC that for extension of my secondment to the County Assembly for a period of three (3) years within which the Nairobi City County Assembly will be paying my salaries and allowances.

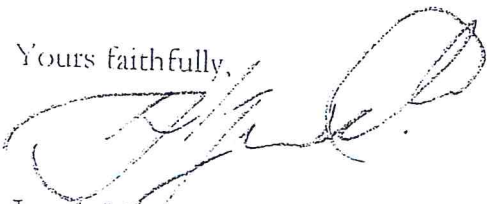
In view of the foregoing, I hereby request you to consider the request of the Nairobi City County Assembly Service Board and in line with the PSC's scheme of service I be given leave of absence for a period three (3) years without pay.

For Clerk of Senate / Sec:
Parliamentary Service Comm.
Parliament Building
P.O. Box 41842, Nairobi

Once again, with all humility, I wish to thank the Parliamentary Service Commission for giving me an opportunity to serve the Country during this monumental period when the Country has just transited into the new system of devolution.

Thanking you in advance.

Yours faithfully,

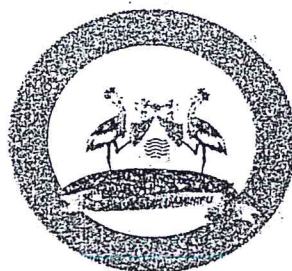


Jacob Ngwele Muvengi

NAIROBI CITY COUNTY ASSEMBLY

Annex
3 (f)

Telegraphic Address
Telephone 020 2216151
Email: speaker@nrbcountryassembly.go.ke
Web: www.nrbcountryassembly.go.ke



OFFICE OF THE SPEAKER
County Assembly
City Hall Buildings
P O Box 45844-00100
Nairobi, Kenya

OFFICE OF THE SPEAKER

NBI.SCA/PARLMT/ 04/2015

19th May, 2015

Mr. J. M. Nyegenye, C.B.S
Clerk of the Senate/ Secretary
Parliamentary Service Commission
Parliament Buildings
NAIROBI

RE: MR. JACOB NGWELE- EXTENSION OF SECONDMENT TO THE NAIROBI CITY COUNTY ASSEMBLY.

We refer to the above matter.

First and foremost on behalf of the Nairobi City County Service Board, I wish to thank you and the Parliamentary Service Commission for seconding one of your able officers to be the pioneer clerk of the Nairobi City County Assembly.

Indeed, Mr. Jacob Ngwele has shown tremendous energy, drive and skill in running the affairs of the Assembly more so in establishing the new structures of the Assembly. Some of the notable milestones we have so far archived include the establishing the key structures of an effective legislature; building the capacity of the both the staff and Members of the County Assembly, and establishing robust administrative strictures including an effective County Assembly Service Board and Board of management.

All the above processes are still on going and we feel that the officer has got more to offer to this County if only he is given adequate time to implement the plans and programmes which the Board has put into place. Like any other new institution, the Assembly still experience a lot of challenges both from within and without which can only be surmounted if you have the services of an experienced Clerk.

Due to the foregoing we kindly request if you can extend the secondment of the officer to the Assembly for a period of three (3) years to enable us benefit from is enormous skill and experience as we navigate the transitional challenges inherent in all the devolved institutions. During the period of secondment, the Nairobi City County Assembly will pay the salary and the allowances of the officer.

For Clerk of Senate / Sec
Parliamentary Service Comm.
Parliament Building
P.O. Box 41842, Nairobi

Please accept assurance of my highest consideration.

Yours

A handwritten signature in black ink, appearing to read 'Alex Ole Magelo', written over the word 'Yours'.

Hon. Alex Ole Magelo
SPEAKER

REPUBLIC OF KENYA

Telegraphic Address
Bunge, Nairobi
Telephone: 2221291
Fax: 2243694

Website: www.parliament.go.ke



Parliamentary Service Commission
Parliament Buildings
P.O. Box 41842 - 00100
NAIROBI, KENYA

When replying please Quote

99003885/68

PARLIAMENT

September 1, 2015

Mr. Jacob Ngwele Muvengei

Thro'
The Director,
Litigation & Compliance
Parliament Buildings
NAIROBI

Dear Sir,

RE: LEAVE OF ABSENCE

The Parliamentary Service Commission during its 214th meeting held on 24th August 2015 considered your request for leave of absence and approved the same on the following terms;

- (a) The leave of absence shall be for a non-renewable term of three years commencing 1st July 2015 to 30th June 2018.
- (b) None of your emoluments shall be paid by the Parliamentary Service Commission during the period of your leave of absence.
- (c) The leave will be treated for pension purposes as leave granted not on grounds of public policy and the period involved will accordingly not be pension earning.
- (d) You will lose all rights to annual incremental credits during the period of absence.
- (e) Your position shall be retained in the establishment for the period of absence.

Please note that you will be expected to resume your duties at Parliament on or before the 1st of July 2018.

Yours faithfully,


D.A. NG'ANG'A

**For: CLERK OF THE SENATE / SECRETARY,
PARLIAMENTARY SERVICE COMMISSION**

For Clerk of Senate / Sec.
Parliamentary Service Com.
Parliament Building
P.O. Box 41842, Nairobi

9
Annex



Jacob Ngwele Muvengei

Principal Legal Counsel
Directorate of Litigation & Compliance

Ref. No. 99003885

Date: 21st July, 2017

The Clerk of the Senate/Sec
Parliamentary Service Commis:
Parliaments Buildings
NAIROBI

Dear Sir,

RE: RESIGNATION FROM THE PARLIAMENTARY SERVICE
COMMISSION AS PRINCIPAL LEGAL COUNSEL LITIGATION, PSC 12.

The above mater refer.

I hereby tender my resignation from the Parliamentary Service Commission (PSC) as a Principal Legal Counsel Litigation (PSC 12) effective from 1st August 2017.

As you are aware, in March 2013, I was seconded by the PSC to the Transition Authority as the Interim Clerk to the Nairobi City County Assembly. Subsequent thereto, the Nairobi City County Assembly Service Board appointed me as the Clerk of the County Assembly, upon which I seconded by the PSC for a period of three years ending on 1st July 2018.

In view of the said appointment and the time and resources the Assembly has invested in me, I feel that it will be better if I continue with my appointment at the Assembly. I wish to thank the Parliamentary Service Commission for the opportunity they gave me to serve the Commission, first as a Clerk Assistant and later as a Legal Counsel. It is indeed an opportunity of a life time and working in Parliament was the greatest thing that has ever happened to me.

I would also wish to thank you for the support and the encouragement that you have given me throughout the period I have been the Clerk of the County Assembly and I urge you to continue with the same for the betterment of the Nairobi City County Assembly.

Thank you.

Yours faithfully,

Jacob Ngwele Muvengei

For Clerk of Senate / Sec.
Parliamentary Service Commis:
Parliament Building
P.O. Box 41842, Nairobi

99003885
710-3385
Telegraphic Address
'Bunge', Nairobi
Telephone 2848000
Fax: 2243694
E-mail: csenate@parliament.go.ke



PARLIAMENT

75 Anna 3(0)
Parliamentary Service Commission
Parliament Buildings
P. O. Box 41842 -00100
NAIROBI, Kenya

CLERK OF THE SENATE/ SECRETARY TO THE PARLIAMENTARY SERVICE COMMISSION

PSC/COS/2017/120

8th September, 2017

Mr. Jacob Ngwele Muvengei
Clerk,
Nairobi City County Assembly,
City Hall Building,
NAIROBI.

Dear Sir,

**RE: RESIGNATION FROM THE PARLIAMENTARY SERVICE COMMISSION
AS PRINCIPAL LEGAL COUNSEL, LITIGATION, PSC 12**

We acknowledge with thanks receipt of your letter Ref. No. 99003885 of 21st July, 2017 on the above matter.

Your resignation as aforesaid with effect from 1st August, 2017 is acknowledged and accepted.

We wish you all the best in your future endeavours.

Yours Truly,

**J. M. NYEGENYE, CBS,
CLERK OF THE SENATE/SECRETARY,
PARLIAMENTARY SERVICE COMMISSION.**

Copy to: Sen. Beatrice Elachi,
Speaker,
Nairobi City County Assembly,
NAIROBI.

For Clerk of Senate / Sec
Parliamentary Service Comm.
Parliament Buildings
P. O. Box 41842, Nairobi

Telegraphic Address 3
Telephone: +254 20 2034 1021
E-mail: speaker@nrbcountryassembly.go.ke
Web: www.nrbcountryassembly.go.ke



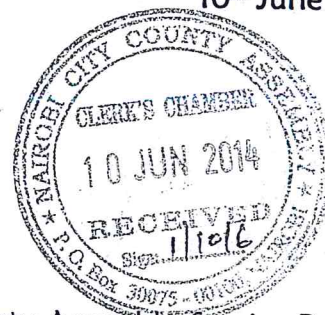
Office of the Speaker
County Assembly
City Hall Buildings
P. O. Box 45844-00100
NAIROBI, Kenya

7
Annex
3(K)

OFFICE OF THE SPEAKER

MR. JACOB NGWELE MUVENGEI
P O BOX 2050-00100
ID NO.20930151
NAIROBI

10th June 2014



RE: LETTER OF CONFIRMATION OF APPOINTMENT

I am pleased to convey the resolution of Nairobi City County Assembly Service Board in its sitting held on 10th June 2014 that you be confirmed and appointed as Clerk to Nairobi City County Assembly.

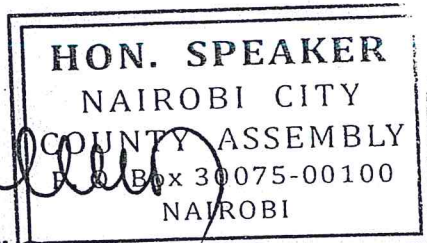
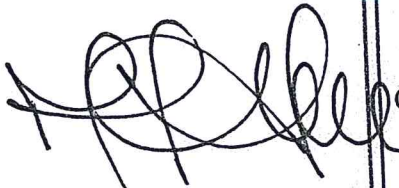
Consequently, you are hereby appointed as Clerk to Nairobi City County Assembly with immediate effect and your duties and responsibilities shall include:-

- (i) The Accounting Officer/Authorised Officer for the County Assembly
- (ii) Secretary to the County Assembly Service Board of Nairobi
- (iii) Responsible for implementation of all policy decisions of the County Assembly Service Board
- (iv) Responsible for enhancing public understanding and knowledge of the work of the County Assembly and increasing public accessibility
- (v) The Principal Advisor on all legislative procedures, practices, conventions and traditions to the Speaker of the County Assembly, other Presiding Officers and All Honorable Members
- (vi) The Chief Advisor to the Speaker in the exercise of all powers and functions that belong to the Speaker and through the Speaker, to the House. He acts under authority and takes decisions in the name of the Speaker. Orders passed by the Clerk are orders in the name of the Speaker, and the latter accepts full responsibility for those orders
- (vii) Responsible for marshaling legislative measures passed by the County Assembly
- (viii) Any other duty that you may be assigned by the Service Board and or Speaker of Nairobi County Assembly.

You will be entitled to salary and other benefits as approved by the Service Board in consultation with the Salaries Remuneration Commission.

On behalf of Nairobi County Assembly and Nairobi County Assembly Service Board, I take this opportunity to congratulate you on this appointment.

Yours sincerely



HON. ALEX OLE MAGELO
SPEAKER OF THE NAIROBI COUNTY ASSEMBLY
CHAIRMAN, NAIROBI COUNTY ASSEMBLY SERVICE BOARD

MINUTES OF MEETING OF THE NAIROBI CITY COUNTY ASSEMBLY SERVICE BOARD
(CASB) HELD ON 10TH JUNE, 2014 IN THE OFFICE OF THE SPEAKER AT 11.00 A.M.

Members Present:

- | | | |
|-------------------------|---|--------------------------------------------------|
| 1. Hon. Alex Ole Magelo | - | Speaker of County Assembly – Chairman |
| 2. Hon. Elias O. Okumu | - | Leader of Majority – Vice Chairman |
| 3. Hon. Abdi Hassan | - | Leader of Minority - Member |
| 4. Mr. Jacob Ngwele | - | Interim Clerk of the County Assembly – Secretary |

AGENDA

1. Confirmation of Minutes
2. Staff matters
3. Any Other Business.



The Chairman called the meeting to order at 11.00 a.m. and made the opening prayers.

MIN: 174/6/2014 – CONFIRMATION OF MINUTES OF THE LAST MEETING

The minutes of the meeting held on 28th May, 2014 were presented to Members for review. The minutes were proposed by Hon. E Otieno and seconded by Hon. I. Hassan as a true reflection of the deliberations.

MIN: 175/6/2014 - MATTERS ARISING

The Clerk reported that Bank Accounts had been opened with Family Bank and a deposit made on Tuesday of Kshs. 254M made to enable Members access Kshs. 2M each in respect of the Car Loan Facility. However, due to financial constraints still affecting the County there was still a balance to be paid to set off the Mortgage Scheme Facility.

Members deliberated and mandated the Clerk to further engage with the Executive on the remaining balance of Kshs. 126M to ensure it is paid within an agreed time limit.

It was resolved that

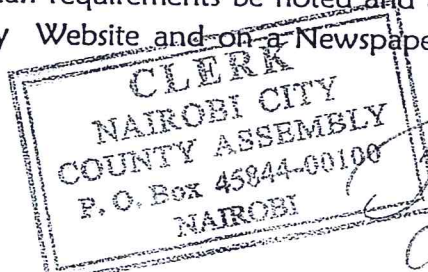
- The Clerk engage with the County Treasury with a view to ensuring that the balance of KSh. 126M is paid as soon as possible.

MIN: 176/6/2014 STAFF MATTERS

(i) STAFF REQUIREMENTS

The Clerk tabled a list of the proposed staff requirements for the County Assembly to be filled in, for the Boards noting and approval. (See appended list)

Resolution: Resolved that the appended list of staff requirements be noted and approved and that the vacancies be advertised on the Assembly Website and on a Newspaper of National circulation.



(ii) APPOINTMENT OF MR. JACOB NGWELE AS CLERK OF THE NAIROBI CITY COUNTY ASSEMBLY

The Chairman tabled before members petitions to the CASB received from Hon. Diana Kapeen and Hon. Wilson Ocholla on filling in of the positions of Clerk and Deputy Clerk with substantive office Holders.

The Chairman noted that the interim Clerk, Mr. Jacob Ngwele was seconded to the Assembly in March 2013 by the Transitional Authority. It was also noted that since his posting, the Interim Clerk has performed his duties efficiently and effectively and has produced tangible results in facilitating the Assembly to fulfill its constitutional mandate. Mr. Ngwele has enjoyed a reasonable working relationship with MCA's and the Board.

The Chairman further noted that the Transitional Authority in a letter ref: TA/8/48(19) dated 20th January, 2014 and addressed to all Governors, Chairpersons of County Public Service Boards and County Assembly Service Boards gave detailed advise on retention or release of all interim Officers posted to the Counties.

Members deliberated and having considered the provisions of Section 13(1)(2) of the County Governments Act, together with Mr. Ngwele's qualifications and professional experience gained from Parliament, the Board resolved that Mr. Jacob Ngwele be appointed and confirmed as the Clerk to Nairobi City County Assembly with immediate effect. The resolution was proposed by the Leader of Minority and seconded by the leader of Majority party.

Resolution: The Board unanimously resolved to confirm the Interim Clerk to the Position of Clerk of Nairobi City County Assembly and that a letter of confirmation be issued.

MIN: 177/6/2014 A.O.B

(i) POSITION OF 4TH MEMBER OF COUNTY ASSEMBLY SERVICE BOARD

The Speaker tabled a letter ref: CIC/3/24 dated 4th June, 2014 from the Chairman of the Commission for the Implementation of the Constitution (CIC) on the composition of the Nairobi City County Assembly Service Board on the need for the position of 4th Member of the CASB to be filled in.

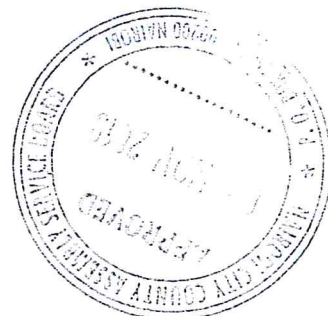
Members deliberated on the contents of the letter and resolved that the position be re-advertised in view of the fact that the present composition of the CASB does not meet the 1/3rd gender rule. Only one woman was interviewed and there is therefore need to seek for more female candidates.

Resolution: Resolved that the letter from CIC be noted and that the position of 4th Member of the Nairobi City County Assembly Service Board be re-advertised and priority be given to female candidates.

(ii) OVERTIME PAYMENT

The Clerk tabled to Members a list of ten officers who have been seconded to the Assembly from the Executive to perform various duties as follows;

1. Samuel Mbaluka - Driver
2. Josephat Luyundi – Driver
3. Ali Adan Garacha – Security
4. Simon Nyaga Njeru – Security
5. Olow Kassin Adan – Security
6. John waweru Gichiani - Security
7. John Kitelet Mwiya – Security
8. Moses Milto Govoga – Security
9. Joseph Oncheke Ongagi – Security
10. Kimanthi Muthami – Personal aide



The Clerk requested that they be considered for payment of overtime. Members deliberated and resolved that the request by the Clerk be approved.

Resolution: Board Members resolved that the ten officers on secondment be paid overtime allowance in line with the County Assembly policy on overtime, with effect from 1st June, 2014.

(iii) RETREAT FOR MEMBERS OF THE CASB

Members resolved that a retreat be organized for the CASB to be held at the Masaai Mara from 19th to 23rd June 2014. The objective of the retreat will be for Members of the CASB to review the 2013/2014 financial Year.

Resolution: That a retreat be organized from 19th to 23rd June at the Masaai Mara to review the 2013/14 Financial year.

There being no other business the meeting adjourned at 1.00 p.m.

Confirmed: [Signature] Date 10/6/14
Chairperson

Confirmed: [Signature] Date 10/6/14
Secretary

Annex 3 (m)

OF KENYA AT NAIROBI

CAUSE NO. 2108 OF 2014

JACOB NGWELE MUVENGEI CLAIMANT

VERSUS

SPEAKER NAIROBI CITY COUNTY ASSEMBLY 1ST RESPONDENT

NAIROBI CITY COUNTY ASSEMBLY SERVICE BOARD 2ND RESPONDENT

COUNTY ASSEMBLY OF NAIROBI 3RD RESPONDENT

(In Court on 20th July, 2017 before The Hon. Lady Justice Monica Mbaria)

ORDER

UPON HEARING THIS MATTER coming up for mention for adoption of the Consent dated 19th July 2017 in the presence of the Counsel for the Claimant and the Counsel for the Respondent;

IT IS HEREBY ORDERED BY CONSENT:

1. That by the Consent of all Parties, the Claimant JACOB NGWELE MUVENGEI is hereby declared to have been duly appointed as the Clerk to the NAIROBI CITY COUNTY ASSEMBLY under Section 13 of the County Government Act.
2. That this suit be marked as settled with no orders as to costs.

GIVEN UNDER my hand and the seal of the Court this 20th day of July, 2017.

ISSUED at NAIROBI this 21st day of July 2017

True copy of the Original

Registrar Employment and
Labour Relations Court

**DEPUTY REGISTRAR
EMPLOYMENT AND LABOUR RELATIONS COURT**

Annex (3(n)).



REPUBLIC OF KENYA

Public Service Commission

**GUIDELINES ON SECONDMENT IN
THE PUBLIC SERVICE**

OCTOBER 2016

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1.0 Introduction

The current policy on secondment is provided in Section B.33 of the Human Resource Policies and Procedures Manual for the Public Service (2016). The Policy provides a framework for sharing of the existing critical skills and competencies within the Public Service. It acts as a stop-gap measure as well as builds capacity for newly created Public Service organizations at the initial stage of their set up. The policy also allows officers to be exposed to fields and experiences that are new to the Service for purposes of transferring skills.

Over the years, there has been increase in secondment of officers to various Public Service organizations and donor-funded projects and programmes in different professional areas.

The above notwithstanding, some challenges have been experienced in the implementation of the policy. Secondment of officers with critical skills to other Public Service organizations has led to skills gap and shortage of human resources in key areas in the civil service. This has been compounded by the fact that critical positions could not be filled due to scarcity of such skills in the labour market thereby compromising service delivery. Officers on secondment continue to be held against their substantive positions thereby denying other officers opportunity for promotion to those positions.

Further, the management of secondment has not been streamlined leading to officers exceeding the approved period of secondment while others lose their pension rights. It has also been observed that officers on secondment who have committed acts which are a breach of discipline have been released back to the parent Ministry/organization without preferring any disciplinary action.

Secondment, however, still remains a viable tool of management of critical skills that need to be shared within the service, providing opportunity for exposure and capacity building while preserving the employees' pension and career progression rights. It has

however, become necessary to review the secondment policy in the Public Service.

1.1 Purpose

To ensure proper management of secondment arrangements, together with providing clarity on the obligations, expectations and accountabilities of all parties to secondment arrangements; this guidelines sets out to ensure a structured, systematic and consistent approach to be adopted in relation to secondment arrangements. It sets out the arrangements to be followed where an employee is seconded to an external organization and outlines principles to be adhered.

Overall, secondment is recognized as a valuable tool for development, offering career development for employees, and the opportunity for the Service to develop its skills base.

1.2 Definition

Secondment is a temporary movement or 'loan' of an employee to a different organization. Secondment means an arrangement in which a pensionable employee is temporarily released from an organization within the public service to another organization which does not have reciprocal pension arrangements, to provide critical skills or acquire new skills while preserving the pension rights of the employee.

2.0 General provisions

The following general provisions on secondment shall apply:

- i) Secondment shall be restricted to officers on permanent and pensionable terms of service who have been confirmed in their appointments, and shall be authorized only in cases where an officer is joining an institution that has not been declared 'Public Service' for pension purposes;
- ii) Secondment shall be restricted to officers in Job Group 'M' (or its equivalent) and above. Secondment of officers at lower levels shall be considered on a case by case basis;

- iii) Secondment of officers to other Public Service organizations shall be for a period not exceeding three (3) years, non-renewable;
- iv) Officers who have attained fifty five (55) years and above shall not be eligible for secondment. They will be required to retire under the '50 year rule' or resign from the Service;
- v) Secondment from the Civil Service to other Public Service organizations shall be approved by the Ministry responsible for Public Service, while secondment of officers from other organizations to the Civil Service shall be approved by the Public Service Commission;
- vi) Officers or organizations to which officers are seconded shall remit pension contribution to the Director of Pensions at 31% of their Civil Service basic salary, or the prevailing rates during the period of secondment, to avoid loss of pension or delays in processing of pension dues upon retirement. Where the organization pays the pension contribution for the officer, such amount shall be recovered from the officer's service gratuity;
- vii) Staff of newly established organizations who continue to be paid salary by the parent ministry at the Civil Service salary levels, will be deemed to be on deployment and will not be required to remit the 31% of their Civil Service basic salary or the prevailing rate as pension contribution until a new salary structure is approved for the entity and the officer is formerly seconded;
- viii) Where an officer on secondment commits an act which is a breach of discipline, the case shall be handled by the organization to which the officer is seconded and the recommendations and decisions thereof forwarded to the parent Ministry/Organization for further action in line with the prevailing regulations;
- ix) Officers on secondment to other organizations shall be eligible for promotion in the Civil Service; and
- x) Officers appointed to international organizations shall be considered for unpaid leave in accordance with the prevailing regulations.

3.0 Areas for Secondment

Secondment may be recommended for the following areas:

- i) A new project;
- ii) On reciprocal arrangements for bilateral or multilateral government programmes;
- iii) Introduction of a new initiative;
- iv) Establishment of a public service organization;
- v) Policy development;
- vi) A specific task of limited duration or with an uncertain future (normally up to two years);
- vii) A short-term appointment to start a new work area prior to making a permanent appointment; and
- viii) Research work.

This is not an exhaustive list and secondment may be considered for other purposes as may be approved by the Public Service Commission.

3.1 Initiating Secondment

Secondment arrangements may be initiated by:

- i) Individual employees; and
- ii) Notification from an public service agency seeking secondment of civil service staff

3.2 Benefits of Secondment

3.2.1 Benefits for the seconded officer include:

- i) The opportunity of wider career and personal development;
- ii) To acquire valuable experience in project management;
- iii) The ability to test and apply specific skills in a different organizational environment; and
- iv) To gain new skills and experiences in challenging areas.

3.2.2 Benefits for the seconding organization include:

- i) The opportunity to gain enhanced employee skills, team working and cross-functional communications;

Annex 3(0)

Annex 3(0)

REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT OF KENYA AT NAIROBI
PETITION NO. 194 OF 2019

THE CLERK, NAIROBI CITY COUNTY ASSEMBLY PETITIONER
 ~VERSUS~
 THE SPEAKER, NAIROBI CITY COUNTY ASSEMBLY 1ST RESPONDENT
 THE NAIROBI CITY COUNTY ASSEMBLY SERVICE BOARD 2ND RESPONDENT

(IN COURT ON 23RD OCTOBER, 2019 BEFORE THE HON. JUSTICE ONESMUS MAKAU)

ORDER

Application for orders

This Application is hereby certified urgent and service thereof is hereby dispensed with in the first instance;

2. A *Conservatory Order* restraining Respondents, whether acting directly or through third parties, agents and/or proxies, from suspending, terminating and/or otherwise removing the following persons from their respective offices pending the service, hearing and determination of this Application:

- a. *Muvengei Jacob Ngwele*, currently serving as the Clerk of the Assembly and Secretary of the 2nd Respondent;
- b. *Guyo Abdi Hassan*, currently serving as the representative of the Majority Party/Coalition in the membership of the 2nd Respondent;
- c. *Okumu Elias Otieno*, currently serving as the representative of the Minority Party/Coalition in the membership of the 2nd Respondent;
- d. *Adah Awuor Onyango*, currently serving as the Deputy Clerk of the Nairobi City County Assembly;
- e. *Philomena Kavinya Nzuki*, currently serving as the Principal Accountant of the Nairobi City County Assembly;
- f. *Frederick Macharia Mwangi*, currently serving as the Senior Finance Officer of the Nairobi City County Assembly;
- g. *Nancy Cherono Mutai*, currently serving as the Principal Human Resource Officer of the Nairobi City County Assembly;
- h. *Garvin Romeo Castro*, currently serving as the Acting Principal Clerk Assistant of the Nairobi City County Assembly.

3. A *Conservatory Order* restraining 1st Respondent, whether acting directly or through third parties, agents and/or proxies, from illegally or irregularly reconstituting the membership of the 2nd Respondent whether at the behest of the Governor of the Nairobi City County, the Orange Democratic Movement Party, the Jubilee Party or any other person or authority pending the service, hearing and determination of this Application.

4. A *Conservatory Order* suspending the operation and/or implementation of purported changes in the membership of the 2nd Respondent as published by the 1st Respondent in *Gazette Notice No. 9978 (Volume CXXI-No. 144) dated 22nd October 2019* pending the service, hearing and determination of this Application.

INTER-PARTES:

5. An *Injunction* restraining Respondents, whether acting directly or through third parties, agents and/or proxies, from suspending, terminating and/or otherwise removing the following persons from their respective offices pending the service, hearing and determination of the Petition herein:

- a. *Muvengei Jacob Ngwele*, currently serving as the Clerk of the Assembly and Secretary of the 2nd Respondent;

- b. *Guyo Abdi Hassan*, currently serving as the representative of the Majority Party/Coalition in the membership of the 2nd Respondent;
 - c. *Okumu Elias Otieno*, currently serving as the representative of the Minority Party/Coalition in the membership of the 2nd Respondent;
 - d. *Adah Awuor Onyango*, currently serving as the Deputy Clerk of the Nairobi City County Assembly;
 - e. *Philomena Kavinya Nzuki*, currently serving as the Principal Accountant of the Nairobi City County Assembly;
 - f. *Frederick Macharia Mwangi*, currently serving as the Senior Finance Officer of the Nairobi City County Assembly;
 - g. *Nancy Cherono Mutai*, currently serving as the Principal Human Resource Officer of the Nairobi City County Assembly; and
 - h. *Garvin Romeo Castro*, currently serving as the Acting Principal Clerk Assistant of the Nairobi City County Assembly.
6. *An Injunction* restraining 1st Respondent, whether acting directly or through third parties, agents and/or proxies, from illegally or irregularly reconstituting the membership of the 2nd Respondent whether at the behest of the Governor of the Nairobi City County, the Orange Democratic Movement Party, the Jubilee Party or any other person or authority pending the service, hearing and determination of the Petition herein.
 7. *A Conservatory Order* suspending the operation and/or implementation of purported changes in the membership of the 2nd Respondent as published by the 1st Respondent in *Gazette Notice No. 9978 (Volume CXXI-No. 144) dated 22nd October 2019* pending the service, hearing and determination of the Petition herein.
 8. *The costs* of and incidental to this Application shall abide in the outcome of the Petition herein.
 9. Such other, further, incidental or alternative reliefs as the Honourable Court may deem just and expedient.

UPON READING the Application presented to this Court on 23rd October, 2019 under certificate of urgency by the Petitioner dated 23rd October, 2019 (*Under Article 23 of the Constitution of Kenya, 2010; Rule 23 of the Constitution of Kenya (Protection of Rights and Fundamental Freedoms) Practice and Procedure Rules, 2013; Rule 17 of the Employment and Labour Relations Court (Procedure) Rules, 2016 and all other enabling provisions of the law*) AND UPON reading the Supporting Affidavit of **JACOB MUVENGEI NGWELE** sworn on 23rd October, 2019 and the annexures thereto AND UPON HEARING the counsel for the Petitioner exparte;

IT IS HEREBY ORDERED

1. THAT the matter herein be and is hereby certified extremely urgent
2. THAT Conservatory Order be and is hereby granted restraining Respondents, whether acting directly or through third parties, agents and/or proxies, from suspending, terminating and/or otherwise removing the following persons from their respective offices pending interpartes hearing of the application on the 11th November, 2019.
 - a. *Muvengei Jacob Ngwele*, currently serving as the Clerk of the Assembly and Secretary of the 2nd Respondent;
 - b. *Guyo Abdi Hassan*, currently serving as the representative of the Majority Party/Coalition in the membership of the 2nd Respondent;
 - c. *Okumu Elias Otieno*, currently serving as the representative of the Minority Party/Coalition in the membership of the 2nd Respondent;
 - d. *Adah Awuor Onyango*, currently serving as the Deputy Clerk of the Nairobi City County Assembly;
 - e. *Philomena Kavinya Nzuki*, currently serving as the Principal Accountant of the Nairobi City County Assembly;

- f. *Frederick Macharia Mwangi*, currently serving as the Senior Finance Officer of the Nairobi City County Assembly;
 - g. *Nancy Cherono Mutai*, currently serving as the Principal Human Resource Officer of the Nairobi City County Assembly; and
 - h. *Garvin Romeo Castro*, currently serving as the Acting Principal Clerk Assistant of the Nairobi City County Assembly.
3. A Conservatory Order be and is hereby granted restraining 1st Respondent, whether acting directly or through third parties, agents and/or proxies, from illegally or irregularly reconstituting the membership of the 2nd Respondent whether at the behest of the Governor of the Nairobi City County, the Orange Democratic Movement Party, the Jubilee Party or any other person or authority pending interpartes hearing of the application on 11th November, 2019.
 4. A Conservatory Order suspending the operation and/or implementation of purported changes in the membership of the 2nd Respondent as published by the 1st Respondent in *Gazette Notice No. 9978 (Volume CXXI-No. 144) dated 2nd October 2019* pending interpartes hearing of the application on 11th November, 2019.

GIVEN under my Hand and Seal of the Honourable Court this on 23rd day of October, 2019.

ISSUED at Nairobi this 23rd day of October 2019.


DEPUTY REGISTRAR
EMPLOYMENT AND LABOUR RELATIONS COURT OF KENYA AT NAIROBI

Certified True copy of the Original
Sign:

Deputy Registrar Employment and


PENAL NOTICE:

Labour Relations Court
dated 23rd October 2019
TAKE NOTICE that any disobedience or non-observance of the order of the court given on the 23rd day of October, 2019 served herewith will result in penal consequences to you and any other person(s) so disobeying and not observing the same.

AND FUTHER that if this order is not obeyed, an application shall be made citing you and any other such person(s) so disobeying for Contempt of Court seeking therein your detention and other punishment for you and such person(s) together with any other remedy available in Law.

Annex 3(p).



NAIROBI CITY COUNTY ASSEMBLY

OFFICIAL REPORT

First County Assembly – Second Session

Wednesday, 26th November, 2014

The House met at 2.30 p.m.

(Mr. Deputy Speaker in the Chair)

PRAYERS

Hon. Deputy Speaker (Mr. Kenneth Ngondi): Hon. Members, I have a communication to make.

COMMUNICATION FROM THE CHAIR

This is on behalf of the Nairobi Assembly Service Board and it is on the issue regarding the Interim Clerk of Nairobi Assembly. Hon. Members, the Board has established that the name of the Clerk is not in the list of the employees of the County Assembly of Nairobi. The Clerk is neither paid by the Assembly so he is not a staff of the County Assembly. Further, as you are aware, the Clerk went to court on Monday 24th November, 2014 and the case is actively in court and it has a mention date for 28th November, 2014 hence *sub judice*. Hon. Members, I wanted to reiterate my earlier communication pursuant Section 71 of the County Government Act, 2012 and state that the said section of the Act does not apply on the issue of the Clerk. This is after I have been advised by the Clerk on the same.

I now direct that a Notice of Motion on confirmation of the name of the Clerk of the Assembly to be given tomorrow, Thursday 27th November, 2014 as it was approved by the County Assembly Service Board. Hon. Members, the communication from the Department of Human Resource Management of the Nairobi City Assembly and addressed to the Chair, County Assembly Service Board on the pay roll of the County Assembly. I read, *"The above matter refers. Following your request I wish to inform you that the*

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Clerk to the County Assembly is not in the Nairobi City County IPPD system. Therefore, his pay slip cannot be generated." It is signed by Catherine Mwikali Muya, Interim County Pay Roll Master. Thank you.

Hon. Member for Ngara Ward (Mr. James Chege): I thank you, Mr. Speaker, for that explicit information that you have given us. I think that is the way to go because after a lot of pressure, you realize that we are not talking from hot air. Mr. Speaker, tomorrow, God willing, we will be waiting with bated breath to see that Notice of Motion being brought so that we do what is supposed to be done. County Assemblies Services and County Government Act number 12 spells out the work of the County Service Board is supposed to do that is to approve or disapprove. So, tomorrow we will be waiting and please ensure that the Notice of Motion sees the light of the day so that we can now discharge our duty accordingly. Thank you, Mr. Speaker.

Hon. Member for Njiiru (Hon. Karen Wanjiku): Mr. Speaker Sir, thank you for giving me this opportunity. It is good to learn that our Clerk has been a volunteer in this house. It is unfortunate and we are not going to take that lightly, whether he goes to court or not. What we are not accepting is what the first lady Mumo has said that the matter be discussed tomorrow because since I am going to Nakuru right now for education.

Hon. Speaker: Order Member! Let me jog your mind a bit, I have talked of the notice of Motion which is coming up tomorrow.

Hon. Karen Wanjiku: What is the difference? Without quorum there is no notice of Motion Mr. Speaker.

Hon. Speaker: Let's believe that tomorrow we have an Assembly. Hon Petronilla.

Hon. Member for Dagoretti North (Hon. Petronilla Achieng): Thank you Mr. Speaker. Wait! I need the attention of the chair.

(Loud consultations)

Hon. Speaker: Order Members! Proceed Honorable Member.

Hon. Petronilla Achieng: It is indeed a sad day. After we have sat for two years and passed the budget for the Clerk of Nairobi County Assembly, we have confirmed he is not an employee of this Assembly. He has travelled far and wide to the best countries in this world such as Britain, America, Denver and New York. He does not like china because the allowance is not a lot. It is sad to note that while the Honorable Members cannot get their mortgage, Ngwele can afford to move to all the countries.

According to the statement of travels we saw in this Assembly, the money spent was quite frightening. I feel that for us to be able to continue with this House, I support the Members to adjourn and discuss Ngwele. We also need to check the accounts on how he has been spending because I saw in the

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Annex 3(7)
(i).

NAIROBI CITY COUNTY ASSEMBLY

Telegraphic Address
Tel: 020 221039/2 ,0202216151
Email: clerk@nairobiassembly.go.ke
Web: www.nairobiassembly.go.ke



County Assembly
City Hall Buildings
P O Box 45844-00100
Nairobi, Kenya

OFFICE OF THE CLERK

NCCA/ADH/2019/001

12th November, 2019

Hon. Alex Ole Magelo

Former Chairperson, Nairobi City

County Assembly Service Board

NAIROBI

RE: MEETING WITH THE NAIROBI CITY COUNTY ASSEMBLY ADHOC COMMITTEE ON INVESTIGATION INTO THE CIRCUMSTANCES SURROUNDING EMPLOYMENT OF MR.JACOB NGWELE AS THE CLERK OF THE NAIROBI CITY COUNTY ASSEMBLY.

The above subject refers.

On **Thursday, 7th November, 2019** the Nairobi City County Assembly passed a resolution to establish an Adhoc Committee to investigate the circumstances surrounding the employment of **Mr. Jacob Ngwele** as the Clerk of the Nairobi City County Assembly. The resolution was adopted vide a motion moved by Hon. Kabiro Mbugua, MCA in accordance with Standing Order 56 (h) (a motion raising a question of privilege and moved without notice).

The specific mandate of the Committee is to inquire into and report on:-

- i) How did Mr. Jacob Ngwele find himself in the Assembly service?
- ii) What procedure was used to confirm/employ Jacob Ngwele as the Clerk of the Assembly and whether the same met all the legal requirements relating to the employment of a Clerk of a legislature (Assembly) in Kenya?
- iii) Propose recommendations on how to resolve the matter.

The said Committee has until **Thursday, 14th November, 2019** to have completed its work and tabled a report on the aforementioned issues. As such, due to the urgency of the matter, the Committee at its meeting held on **Monday 11th, November, 2019** and pursuant to Article 195 of the Constitution, resolved to invite you as the Chairperson of the defunct Nairobi City County Assembly Service Board during the term of the first Assembly to its meeting to be held on **Wednesday, 13th November, 2019**. The objective of the meeting is to enable you clarify on the following issues:-

- i) Was Mr. Jacob Ngwele seconded to the County Assembly as interim Clerk of the Assembly by the defunct Transition Authority? If yes, what were the terms of the secondment?
- ii) How was Mr. Jacob Ngwele confirmed as the Clerk of the County Assembly?
- iii) Did you on behalf of the County Assembly Service Board consent in Court with Mr. Jacob Ngwele regarding his employment as the Clerk of the Assembly?

This is therefore to request you to attend the aforementioned meeting on **Wednesday 13th November, 2019** at **Windsor Golf Hotel and Country Club** at **10:30am**.

Should you find this notice of invitation too short to honor, you are at liberty to submit written responses to the aforementioned issues to the office of the undersigned by **5.00 pm** on **Wednesday 13th November, 2019**.



MONICAH MUTHAMI

Ag. CLERK, NAIROBI CITY COUNTY ASSEMBLY

NAIROBI CITY COUNTY ASSEMBLY

Annex
3 (a)
(ii)

Telegraphic Address
Tel: 020 221039/2 ,0202216151
Email: clerk@nairobiassembly.go.ke
Web: www.nairobiassembly.go.ke



County Assembly
City Hall Buildings
P O Box 45844-00100
Nairobi, Kenya

OFFICE OF THE CLERK

NCCA/ADH/2019/004

12th November, 2019

Hon. Hawa Maliyun Mohamed

Former Member, Nairobi City

County Assembly Service Board

NAIROBI

RE: MEETING WITH THE NAIROBI CITY COUNTY ASSEMBLY ADHOC COMMITTEE ON INVESTIGATION INTO THE CIRCUMSTANCES SURROUNDING EMPLOYMENT OF MR.JACOB NGWELE AS THE CLERK OF THE NAIROBI CITY COUNTY ASSEMBLY.

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- i) Was Mr. Jacob Ngwele seconded to the County Assembly as interim Clerk of the Assembly by the defunct Transition Authority? If yes, what were the terms of the secondment?
- ii) How was Mr. Jacob Ngwele confirmed as the Clerk of the County Assembly?
- iii) Whether you are aware of a consent purportedly entered between the County Assembly Service Board and Mr. Jacob Ngwele regarding his employment as the Clerk of the Assembly?

This is therefore to request you to attend the aforementioned meeting on **Wednesday 13th November, 2019** at **Windsor Golf Hotel and Country Club** at **11:30am**.

Should you find this notice of invitation too short to honor, you are at liberty to submit written responses on the aforementioned issues to the office of the undersigned by **5.00 pm** on **Wednesday 13th November, 2019**.



MONICAH MUTHAMI

Ag. CLERK, NAIROBI CITY COUNTY ASSEMBLY

Annex 3(9) - (B)
(B1)

NAIROBI CITY COUNTY ASSEMBLY

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County Assembly
City Hall Buildings
P O Box 45844-00100
Nairobi, Kenya

NCCA/ADH/2019/003²

12th November, 2019

Hon. Elias Otieno, MCA

Former Member, Nairobi City

County Assembly Service Board

NAIROBI

RE: MEETING WITH THE NAIROBI CITY COUNTY ASSEMBLY ADHOC COMMITTEE ON INVESTIGATION INTO THE CIRCUMSTANCES SURROUNDING EMPLOYMENT OF MR.JACOB NGWELE AS THE CLERK OF THE NAIROBI CITY COUNTY ASSEMBLY.

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- ii) What procedure was used to confirm/employ Jacob Ngwele as the Clerk of the Assembly and whether the same met all the legal requirements relating to the employment of a Clerk of a legislature (Assembly) in Kenya?
- iii) Propose recommendations on how to resolve the matter.

The said Committee has until **Thursday, 14th November, 2019** to have completed its work and tabled a report on the aforementioned issues. As such, due to the urgency of the matter, the Committee at its meeting held on **Monday 11th, November, 2019** and pursuant to Article 195 of the Constitution, resolved to invite you as a member of the defunct Nairobi City County Assembly Service Board during the term of the first Assembly to its meeting to be held on **Wednesday, 13th November, 2019**. The objective of the meeting is to enable you clarify on the following issues:-

- i) Was Mr. Jacob Ngwele seconded to the County Assembly as interim Clerk of the Assembly by the defunct Transition Authority? If yes, what were the terms of the secondment?
- ii) How was Mr. Jacob Ngwele confirmed as the Clerk of the County Assembly?
- iii) Whether you are aware of a consent purportedly entered between the County Assembly Service Board and Mr. Jacob Ngwele regarding his employment as the Clerk of the Assembly?

This is therefore to request you to attend the aforementioned meeting on **Wednesday 13th November, 2019** at **Windsor Golf Hotel and Country Club** at **12:30pm**.

Should you find this notice of invitation too short to honor, you are at liberty to submit written responses on the aforementioned issues to the office of the undersigned by **5.00 pm** on **Wednesday 13th November, 2019**.



MONICAH MUTHAMI

Ag. CLERK, NAIROBI CITY COUNTY ASSEMBLY

Annex 3(q)
(iv)

NAIROBI CITY COUNTY ASSEMBLY

Telegraphic Address
Tel: 020 221039/2 ,0202216151
Email: clerk@nairobiassembly.go.ke
Web: www.nairobiassembly.go.ke



County Assembly
City Hall Buildings
P O Box 45844-00100
Nairobi, Kenya

OFFICE OF THE CLERK

NCCA/ADH/2019/003

12th November, 2019

Hon. Abdi I Hassan, MCA

Former Member, Nairobi City

County Assembly Service Board

NAIROBI

RE: MEETING WITH THE NAIROBI CITY COUNTY ASSEMBLY ADHOC COMMITTEE ON INVESTIGATION INTO THE CIRCUMSTANCES SURROUNDING EMPLOYMENT OF MR.JACOB NGWELE AS THE CLERK OF THE NAIROBI CITY COUNTY ASSEMBLY.

The above subject refers.

On **Thursday, 7th November, 2019** the Nairobi City County Assembly passed a resolution to establish an Adhoc Committee to investigate the circumstances surrounding the employment of **Mr. Jacob Ngwele** as the Clerk of the Nairobi City County Assembly. The resolution was adopted vide a motion moved by Hon. Kabiro Mbugua, MCA in accordance with Standing Order 56 (h) (a motion raising a question of privilege and moved without notice).

The specific mandate of the Committee is to inquire into and report on:-

- i) How did Mr. Jacob Ngwele find himself in the Assembly service?
- ii) What procedure was used to confirm/employ Jacob Ngwele as the Clerk of the Assembly and whether the same met all the legal requirements relating to the employment of a Clerk of a legislature (Assembly) in Kenya?
- iii) Propose recommendations on how to resolve the matter.

The said Committee has until **Thursday, 14th November, 2019** to have completed its work and tabled a report on the aforementioned issues. As such, due to the urgency of the matter, the Committee at its meeting held on **Monday 11th, November, 2019** and pursuant to Article 195 of the Constitution, resolved to invite you as a member of the defunct Nairobi City County Assembly Service Board during the term of the first Assembly to its meeting to be held on **Wednesday, 13th November, 2019**. The objective of the meeting is to enable you clarify on the following issues:-

- i) Was Mr. Jacob Ngwele seconded to the County Assembly as interim Clerk of the Assembly by the defunct Transition Authority? If yes, what were the terms of the secondment?
- ii) How was Mr. Jacob Ngwele confirmed as the Clerk of the County Assembly?
- iii) Whether you are aware of a consent purportedly entered between the County Assembly Service Board and Mr. Jacob Ngwele regarding his employment as the Clerk of the Assembly?

This is therefore to request you to attend the aforementioned meeting on **Wednesday 13th November, 2019** at **Windsor Golf Hotel and Country Club** at **2:00pm**.

Should you find this notice of invitation too short to honor, you are at liberty to submit written responses on the aforementioned issues to the office of the undersigned by **5.00 pm** on **Wednesday 13th November, 2019**.



MONICAH MUTHAMI

Ag. CLERK, NAIROBI CITY COUNTY ASSEMBLY

NAIROBI CITY COUNTY ASSEMBLY

Telegraphic Address
Tel: 020 221039/2 ,0202216151
Email: clerk@nairobiassembly.go.ke
Web: www.nairobiassembly.go.ke



County Assembly
City Hall Buildings
P O Box 45844-00100
Nairobi, Kenya

OFFICE OF THE CLERK

NCCA/ADH/2019/005

12th November, 2019

Mr. Jacob Ngwele

P.O BOX

NAIROBI

Tel: 0727092177

RE: MEETING WITH THE NAIROBI CITY COUNTY ASSEMBLY ADHOC COMMITTEE ON INVESTIGATION INTO THE CIRCUMSTANCES SURROUNDING EMPLOYMENT OF MR.JACOB NGWELE AS THE CLERK OF THE NAIROBI CITY COUNTY ASSEMBLY.

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On Thursday, 7th November, 2019 the Nairobi City County Assembly passed a resolution to establish an Adhoc Committee to investigate the circumstances surrounding the employment of **Mr. Jacob Ngwele** as the Clerk of the Nairobi City County Assembly. The resolution was adopted vide a motion moved by Hon. Kabiro Mbugua, MCA in accordance with Standing Order 56 (h) (a motion raising a question of privilege and moved without notice).

The specific mandate of the Committee is to inquire into and report on:-

- i) How did Mr. Jacob Ngwele find himself in the Assembly service?
- ii) What procedure was used to confirm/employ Jacob Ngwele as the Clerk of the Assembly and whether the same met all the legal requirements relating to the employment of a Clerk of a legislature (Assembly) in Kenya?
- iii) Propose recommendations on how to resolve the matter.

The said Committee has until **Thursday, 14th November, 2019** to have completed its work and tabled a report on the aforementioned issues. As such, due to the urgency of the matter, the Committee at its meeting held on **Monday 11th, November, 2019** and pursuant to Article 195 of the Constitution, resolved to invite you to its meeting to be held on **Wednesday, 13th November, 2019**. The objective of the meeting is to enable you clarify on the following issues:-

- i) When were you seconded to the Nairobi City County Assembly by the Transition Authority and what were the terms of the secondment?
- ii) What was your previous work station before being seconded to the County Assembly?
- iii) How were you confirmed to the position of the Clerk of the County Assembly?
- iv) What was the rational of the consent purportedly entered between yourself and the County Assembly Service Board regarding your employment as the Clerk of the Assembly?

This is therefore to request you to attend the aforementioned meeting on **Wednesday 13th November, 2019** at **Windsor Golf Hotel and Country Club** at **3:00pm**.

Should you find this notice of invitation too short to honor, you are at liberty to submit written responses on the aforementioned issues to the office of the undersigned by **5.00 pm** on **Wednesday 13th November, 2019**.



MONICAH MUTHAMI

Ag. CLERK, NAIROBI CITY COUNTY ASSEMBLY

KAKAMEGA COUNTY ASSEMBLY

P. O. BOX 1470 – 50100, KAKAMEGA



Annex
Kakamega
County Assembly

COUNTY ASSEMBLY SERVICE BOARD

VACANCY

Pursuant to section 18 of the County Assembly Services Act, 2017, the nomination of a person for appointment as a Clerk of the County Assembly under Section 13 of the County Governments Act, 2012, shall be done through an open, transparent and competitive recruitment process. Consequently, the County Assembly Service Board invites applications from suitably qualified Kenyan citizens to fill the following position on permanent and pensionable terms.

CLERK OF THE COUNTY ASSEMBLY & SECRETARY TO THE COUNTY ASSEMBLY SERVICE BOARD

Reporting to the Board, the Clerk shall be the Administrative Head of the County Assembly and the Principal Advisor on all County Assembly procedures. A detailed job description and minimum requirements for consideration for this position can be accessed on our website: www.kakamega-assembly.go.ke/vacancies

How to apply

All applications, accompanied by;

1. A copy of National Identity Card or Passport
2. Copies of academic and professional certificates, Curriculum Vitae and other testimonials including but not limited to Thesis, Journals and Publications.
3. Clearance Certificates from:
 - (i) Ethics and Anti-Corruption Commission
 - (ii) Directorate of Criminal Investigations (Certificate of Good Conduct)
 - (iii) Credit Reference Bureau
 - (iv) Kenya Revenue Authority
 - (v) Higher Education Loans Board
 - (vi) Commission for Higher Education (applicable to those with foreign degrees only)

Should be delivered in a sealed envelope and addressed to:

**The Secretary,
County Assembly Service Board,
Kakamega County Assembly,
P.O. Box 1470– 50100,
Kakamega.**

Or hand delivered to the office of the Clerk of County Assembly at the County Assembly Headquarters (Former County Council of Kakamega offices, next to the County Commissioner's office) to be received on or before Monday, 23rd September, 2019 at 4.00 p.m.

Kakamega County Assembly is an equal opportunity employer.

Chairperson – County Assembly Service Board

Dated: 6th September, 2019

CLERK TO THE COUNTY ASSEMBLY (ONE POSITION) – CASB SCALE ‘2’/JOB GROUP ‘S’

The Clerk of the Assembly is the Chief Administrative Officer of the County Assembly and is responsible for the day-to-day management and functioning of the County Assembly. The Clerk also serves as the Secretary to the County Assembly Service Board and is responsible to the Chairperson of the Board and the Board for the general working and efficient conduct of business of the Service. In addition, the Clerk is;

1. the Chief Executive Officer of the Board;
2. the Accounting Officer of the Board;
3. the Administrative Head of the Service;
4. the Custodian of the Board's records;

Duties and Responsibilities

1. Enhancing public understanding and knowledge of the work of the County Assembly and increasing public accessibility;
2. Rendering of expert, non-partisan and impartial advice to the Speaker and Members of the County Assembly on the legislative process, and parliamentary procedure and practice;
3. Marshalling all decisions arrived at and all legislative measures passed by the County Assembly
4. Assignment of duties and supervision of the staff of the Board;
5. Ensuring staff compliance with public service values, principles and ethics
6. Execution of the decisions of the Board
7. Preparation and submission of the programmes necessary for the achievement of the Board's mandate for approval by the Board;
8. Causing to be kept records of the proceedings and minutes of the meetings of the Board and such other records as the Board may direct;
9. Preparation of the Annual Performance Report of the County Assembly;
10. Coordination of external relations including inter-County Assembly relations, conferences and protocol;

Requirements for Appointment

The candidate must meet the following minimum requirements;

1. Is a citizen of Kenya;
2. Holds a Degree from a university recognized in Kenya;
3. Has a minimum of 5 years relevant professional experience;
4. Holds a Certificate in Leadership from a recognized institution;
5. Meets the requirements of leadership and integrity set out in Chapter Six of the Constitution;

The following qualifications will an added advantage:

1. Served in, and shown proven and enduring flair for parliamentary procedures and practice, and have wide experience on the role, functions and operation of a legislature through exhaustive service in relevant spheres of a legislative body.
2. A Master's Degree in the relevant discipline from a university recognized in Kenya.
3. Membership to a professional body or association in good standing

Annex
d(i).

(5) A member of the county assembly service board shall vacate office—

- (a) if the person is a member of the county assembly—
 - (i) at the end of the term of the county assembly; or
 - (ii) if the person ceases to be a member of the county assembly; or
- (b) if the person is an appointed member, on revocation of the person's appointment by the county assembly; or
- (c) if the person is the Speaker, when the person ceases to be such Speaker.

(6) Despite subsection (5), when the term of the county assembly ends, a member of the county assembly service board under subsection (3)(d) shall continue in office until a new member has assumed office in the member's place in the next assembly.

(7) The county assembly service board is responsible for—

- (a) providing services and facilities to ensure the efficient and effective functioning of the county assembly;
- (b) constituting offices in the county assembly service, and appointing and supervising office holders;
- (c) preparing annual estimates of expenditure of the county assembly service and submitting them to the county assembly for approval, and exercising budgetary control over the service;
- (d) undertaking, singly or jointly with other relevant organizations, programmes to promote the ideals of parliamentary democracy; and
- (e) performing other functions—
 - (i) necessary for the well-being of the members and staff of the county assembly; or
 - (ii) prescribed by national legislation.

[Act No. 24 of 2017, s. 46.]

13. Clerk and staff of the county assembly

(1) There shall be a clerk of the county assembly, appointed by the county assembly service board with the approval of the county assembly.

(2) A person shall not be qualified for appointment as a clerk of the county assembly unless such person—

- (a) is a citizen of Kenya;
- (b) holds a degree from a university recognised in Kenya or its equivalent;
- (c) has had at least five years relevant professional experience;
- (d) meets the requirements of leadership and integrity set out in Chapter Six of the Constitution.

(3) The functions and powers of the clerk of a county assembly shall be as set out under section 19 of the County Assembly Services Act.

(4) For the purposes of this Act, the clerk of a county assembly is an authorized officer.

(5) The office of the clerk of the county assembly and the offices of members of the staff of the clerk of the county assembly shall be offices in the county assembly service board.

(6) The remuneration of the clerk and staff of the county assembly shall be determined by the county assembly service board upon the advice of the Salaries and Remuneration Commission.

[Act No. 24 of 2017, s. 47.]

14. Procedure and committees of the county assembly

(1) A county assembly—

- (a) may make standing orders consistent with the Constitution and this Act regulating the procedure of the county assembly including, in particular, orders for the proper conduct of proceedings; and
- (b) subject to standing orders made under paragraph (a), may establish committees in such manner and for such general or special purposes as it considers fit, and regulate the procedure of any committee so established.

(2) The county assembly proceedings are valid despite—

- (a) there being a vacancy in its membership at the particular time; or
- (b) the presence or participation at the particular time of a person not entitled to be present at, or to participate in, the proceedings of the county assembly.

(3) In considering any appointment for which approval of the county assembly is required under the Constitution, an Act of Parliament or county legislation—

- (a) the appointment shall be considered first by a committee of the county assembly;
- (b) the committee's recommendation shall be tabled before the county assembly for approval; and
- (c) the proceedings of the committee and the county assembly shall be open to the public.

(4) The county assembly shall in establishing committees under this section ensure that each member of the county assembly is appointed to at least one committee.

(5) A county assembly may jointly with another county assembly, establish committees consisting of members of both county assemblies.

(6) If a county assembly establishes a joint committee with another county assembly, the election of members and regulation of the conduct of the business of the joint committee shall be as agreed between the two county assemblies.

(7) Until a county assembly makes its standing orders under subsection (1), the standing orders of the National Assembly shall, with the necessary modifications, apply to that county assembly.

(8) Without limiting the generality of subsection (1), the Standing Orders made under this section shall provide for the matters specified in the Second Schedule.

15. Right to petition county assembly

(1) A person has a right to petition a county assembly to consider any matter within its authority, including enacting, amending or repealing any of its legislation.

(2) Each county assembly shall prescribe a procedure for exercising the right under subsection (1).

Annex (d) (ii)

(2) The Secretary shall be responsible to the chairperson of the Board and the Board for the general working and efficient conduct of business of the Service.

(3) The Board may delegate to the Secretary such of its functions as are necessary to carry out the day to day management of the Service, and subject to such directions as may be given by the Board.

(4) The Secretary may, in consultation with the Board, assign or delegate any of the functions under this section to an employee of the Service.

PART IV —THE CLERK AND OTHER STAFF

★ 18. (1) The nomination of a person for appointment as a Clerk of the county assembly under section 13 of the County Governments Act shall be done through an open, transparent and competitive recruitment process.

Appointment.

No 17 of 2012.

(2) The name of a person nominated by the Board for appointment as the Clerk of the county assembly shall be submitted to the county assembly for approval in accordance with the Standing Orders of the county assembly.

(3) The Board shall, within seven days of receipt of the resolution of the county assembly approving a person for appointment as Clerk of the county assembly, appoint that person as Clerk of the county assembly.

19. In addition to the functions conferred under section 16 as Secretary to the Board, the Clerk shall be—

Functions of the Clerk.

- (a) the chief administrative officer of the county assembly; and
- (b) responsible for the day-to-day management and functioning of the county assembly.

20. (1) The procedural functions of the Clerk shall include—

Procedural functions of the Clerk

- (a) the rendering of expert, non-partisan and impartial advice to the members of the county assembly on the legislative process, and parliamentary procedure and practice; and
- (b) the carrying out such other duties and exercising powers as may be conferred on him or her by law

or by the Standing Orders and practices of the county assembly.

(2) In carrying out the functions specified in subsection (1), the Clerk shall be assisted by such other officers of the Service as may be necessary.

(3) Subject to this Act and any other written law, the Clerk shall, in carrying out and exercising the power conferred on him or her by the Standing Orders and practices of the county assembly, be under the direction of the Speaker.

(4) At any time when the office of the Speaker is vacant or the holder of the office is unable for any reason to carry out the duties and exercise the powers and functions of his or her office, the Clerk shall, during that period and in relation to the carrying out of the duties and exercise of the powers and functions referred to in this section, be under the direction of the Deputy Speaker of the assembly.

21. If the office of the Clerk is vacant, or if for any reason the Clerk is unable to exercise the functions of his or her office, the Deputy Clerk or, in the absence of the Deputy Clerk, any other officer in the Service appointed by the Board may exercise all the functions, duties and powers of the Clerk.

Exercise of
functions of a Clerk
during vacancy or
inability

22. The Board may suspend or remove from office, the Clerk for—

Suspension or
removal of the
Clerk

- (a) inability to perform the functions of the office, whether arising from infirmity of body or mind;
- (b) gross misconduct or misbehaviour;
- (c) incompetence;
- (d) bankruptcy;
- (e) violation of the provisions of the Constitution, including Chapter Six of the Constitution; or
- (f) violation of the provisions of this Act.

23. (1) Where the Board considers it necessary to remove the Clerk under section 20, the Board shall—

Procedure for
removal of the
Clerk

- (a) frame a charge or charges against the Clerk;
- (b) forward the statement of the said charge or charges to the Clerk together with a brief

