

(T&J/CR/009/2020)

GOVERNMENT OF NAIROBI CITY COUNTY



THE NAIROBI CITY COUNTY ASSEMBLY

SECOND ASSEMBLY  
(FOURTH SESSION)

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NOTICE OF MOTION

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Hon. Speaker, I beg to give notice of the following motion:-

**THAT, this Assembly Adopts THE REPORT OF THE SELECT COMMITTEE ON POWERS AND PRIVILEGES ON INVESTIGATION INTO THE ALLEGED ABSENTEESM FROM THE ASSEMBLY PLENARY SITTINGS BY THE MEMBER FOR MATOPENI/SPRING VALLEY WARD, HON. ABDI IBRAHIM HASSAN, MCA, laid on the Table of the Assembly today, Tuesday, 9<sup>th</sup> June 2020.**

**(Chairperson, Select Committee on Powers and Privileges)**

*Notice of Motion  
moved on 9th June 20  
by Mr. Fred Hassan*

*Approved!  
Hassan  
9/6/2021*



COUNTY GOVERNMENT OF NAIROBI CITY



NAIROBI CITY COUNTY ASSEMBLY

*Adm. moved by  
Hon. Javed Akaria  
on 20th June 2020  
Debate moved and  
Adm. adopted*

REPORT OF THE SELECT COMMITTEE ON POWERS & PRIVILEGES

ON

INVESTIGATION INTO ALLEGED ABSENTEEISM FROM ASSEMBLY PLENARY  
SITTINGS BY THE HONOURABLE MEMBER FOR MATOPENI/ SPRING VALLEY  
WARD, THE HON. ABDI IBRAHIM HASSAN, MCA

Clerk's Chambers  
City Hall Buildings  
NAIROBI JUNE, 2020

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## **1.0. PREFACE**

### **1.1. Mandate of the Committee**

#### **Hon. Members;**

The Select Committee on Powers and Privileges is established in accordance with Section 15 of the County Assemblies Powers and Privileges Act, 2017, herein after referred to as 'the Act' which provides:-

*'The Committee of Privileges shall, either of its own motion or as a result of a complaint made by any person, inquire into any alleged breach by any Member of the Assembly of the Code of Conduct issued under section 9, or into any conduct of any Member of the Assembly within the precincts of the Assembly (other than the Chamber) which is alleged to have been intended or likely to reflect adversely on the dignity or integrity of the Assembly or the Member thereof, or to be contrary to the best interests of the Assembly or the Members thereof'.*

The Committee exercises its mandate by investigating any matter pertaining conduct of Members of the County Assembly and Staff of the Assembly within the precincts of the Assembly. Further, as envisaged under Section 18 of the Act as read with Article 195 of the Constitution of Kenya, the Committee has the same powers as the High Court with respect to summoning of witnesses for purposes of providing information.

### **1.2. Committee Membership**

The Committee currently comprises of the following Members:-

1. **Hon. Beatrice Elachi, MCA - Speaker/Chairperson**
2. **Hon. Naftaly Mathenge, MCA - Vice Chairperson**
3. Hon. Abdikadir Mohamed, MCA
4. Hon. Maurice Gari, MCA
5. Hon. Geoffery Ng'ang'a Mbuthia, MCA
6. Hon. Mbugua Kabiro, MCA
7. Hon. Millicent Jagero, MCA



8. Hon. Fredrick Njogu, MCA
9. Hon. Jeremiah Themendu, MCA
10. Hon. Maurice Ochieng, MCA
11. Hon. David Ayoi, MCA
12. Hon. Jared Akama, MCA
13. Hon. Osman Khalif, MCA

#### **Committee Secretariat**

1. Ms. Pauline Akuku – Ag. Clerk
2. Mr. Adam Kibwana – Ag. Senior Clerk Assistant (L&P)
3. Mr. Robert Otieno – Clerk Assistant

### **1.3. Background**

On **Tuesday, 16<sup>th</sup> March, 2020**, rising under Standing Order 242 of the Nairobi City County Assembly Standing Orders, **Hon. Mary Ariviza, MCA** notified the Chair that **Hon. Abdi I Hassan**, Member for Matopeni Spring Valley Ward had missed eleven (11) plenary sittings and therefore he was in breach of Article 194 (1) (b) of the Constitution. The aforesaid Standing Order provides as follows:-

*(1) If, during any Session, a Member is absent from eight sittings of the County Assembly without permission, in writing from the Speaker, the Speaker shall report the matter to the County Assembly and the matter shall stand referred to the Committee of Privileges for hearing and determination.*

Consequently, the Chair referred the matter to the Select Committee on Powers and Privileges for consideration and reporting. Pursuant to the provisions of Standing Order 183 as read together with Section 15 of the Act, the Committee held a meeting to consider, deliberate and lay modalities on how to proceed with matters that had been placed before the Committee for investigation. This was necessary for the effective discharge of the Committee's mandate. Subsequently, the Committee held its first sitting on the **5<sup>th</sup> June 2020 virtually** (through the Zoom Video Conferencing application). During the said sitting, the Committee interrogated the evidence adduced by Hon. Mary Ariviza and further resolved to invite the accused Member

so that to respond to the allegations raised therein. Consequently, in accordance with protocols adopted by the County Assembly during the Covid -19 pandemic, the Member was invited electronically by the Office of the Clerk to appear before the Committee virtually on Monday, 8<sup>th</sup> June, 2020 at 10.00 am. Meeting I.D and password was shared with the Member. On **Monday, 8<sup>th</sup> June, 2020**, the Committee held its virtual meeting where the Member attended. However, the Member declined to respond to the accusations leveled against him on grounds that he had received the invitation on short notice.

The Committee having, interrogated the evidence submitted by Hon. Mary Ariviza, the official Assembly records on Members' attendance and having listened to the accused Member, made observations, findings and recommendations as contained in Chapters three(3), four (4) and five(5) of this report.

#### **1.4. Acknowledgements**

**Hon. Members**, I wish to acknowledge with gratitude the Members of the Committee for the dedication in undertaking their mandate and particularly while inquiring on this matter. My sincere appreciation also goes to the office of the Clerk of the County Assembly for offering sound legal and procedural advice on the this case.

**Hon. Members**, it is therefore my pleasant duty and privilege to table this report on investigation into alleged absenteeism from Assembly(Plenary) sittings by the Hounorable Member for Matopeni Spring Valley Ward, the Hon. Abdi I Hassan, MCA.

SIGNED ..... *For Chairman* *[Signature]* .....

**Hon. Beatrice. K. Elachi, MCA (Speaker/Chairperson)**

DATE ..... *9/06/2020* .....



## 2.0. INTRODUCTION

### 2.1. Background Information

On **Tuesday, 16<sup>th</sup> March, 2020**, during a plenary session in the County Assembly the Honorable Mary Ariviza, MCA rose on a point of order on the floor of County Assembly and brought to the attention of the Speaker of an alleged long absence of the Hon. Ibrahim Abdi Hassan, MCA for Matopeni Spring Valley Ward from the sittings of the Assembly in violation of Standing Order 242 and requested the Speaker to give directions on the same.

The Hon. Speaker directed the matter be taken up by the Select Committee on Powers and Privileges for investigation and report in accordance with Standing Order 242. At the Committee's sitting held on 5<sup>th</sup> June 2020, the Committee resolved to commence an investigation into the matter. In particular, the Committee analyzed the official attendance records of the Assembly, the evidence provided by Hon. Mary Ariviza and the statements by the accused Member during a virtual meeting held on Monday 8<sup>th</sup> June, 2020.

### 2.2. Inquiry into Privileges Breaches

#### i. Relevant Enabling Laws

The Select Committee on Powers and Privileges (the Committee) draws its mandates and powers from various Constitutional and statutory provisions, as well as parliamentary dictates derived from long standing practice and procedure. Primarily the enabling law to the mandate of the Committee is Section 15 of the County Assemblies Powers and Privileges Act, 2017 and the Nairobi County Assembly Standing Orders, which draws its legality and powers from County Governments Act, 2012. Further, the Constitution of Kenya, 2010 provides for the powers and privileges of Committees which is further domesticated under Standing Order 183, which provides as follows:-

*Committees shall enjoy and exercise all the powers and privileges bestowed on County Assembly by the Constitution and statute, including the power to summon*



*witnesses, receive evidence and to request for and receive papers and documents from the Government and the public.*

The Committee's powers to summon witnesses for purposes of giving evidence is provided for under Article 196 of the Constitution, thus –

*“A county assembly or any of its committees has power to summon any person to appear before it for the purpose of giving evidence or providing information. For the purposes of clause (1), an assembly has the same powers as the High Court to –*

- a) enforce the attendance of witnesses and examining them on oath, affirmation or otherwise;*
- b) compel the production of documents; and*
- c) Issue a commission or request to examine witnesses abroad”*

Section 16 of the County Assemblies Powers and Privileges Act, 2017 states what constitutes to be a breach of privileges and Section 15 of the Act gives the Committee the mandate to inquire into conduct of a Member whose conduct is alleged to constitute a breach of privileges in terms of Section 16. The Act under Section 17 provides for determination of breach of privileges while Section 26 provides for the Prohibited Acts in respect of a County Assembly and its members.

**In addition, Section 10 of the Act, prohibits questioning of the proceedings or decisions of this Committee in any court.**

On this matter, Standing Order 242 provides as follows:-

*242 (1) If, during any Session, a Member is absent from eight sittings of the County Assembly without permission, in writing from the Speaker, the Speaker shall report the matter to the County Assembly and the matter shall stand referred to the Committee of Privileges for hearing and determination.*

*(2) The Committee of Privileges shall inquire into a matter referred to it under paragraph (1) within fourteen days from the date the matter is referred to it and shall thereupon submit a report to the County Assembly.*

Furthermore, Article 194 of the Constitution provides that:-

194 (1) *the office of a member of a county assembly becomes vacant –*

*(b) if the member is absent from eight sittings of the assembly without permission, in writing, of the speaker of the assembly, and is unable to offer satisfactory explanation for the absence;*

## **ii. Events Occasioning Breaches and the Inquiry**

The matter for which the Committee now undertakes this inquiry arises from the allegations of breach of privilege by a Member within the precincts of the Assembly. In accordance with Section 16 (e) the County Assemblies Powers and Privileges Act, 2017 this breach of privilege may likely reflect adversely on the dignity or integrity of the County Assembly and its Members contrary to the best interests of the County Assembly. In addition, the matter is a likely contravention of article 194(1) (b) of the Constitution.

The Speaker was notified by Hon. Mary Ariviza that Hon. Abdi I Hassan had missed eleven (11) sittings between the Months of January and March, 2020. The Committee therefore resolved to undertake the following:-

- (a) Whether indeed the Member missed eleven(11) sittings as alleged by Hon. Mary Ariviza;
- (b) If indeed the Member missed the eleven (11) sittings, was there any written reason (s) to the Speaker by the accused Member for missing the eleven (11) sittings;
- (c) Which sanctions can be imposed on the Member if found culpable

### 3.0. COMMITTEE FINDINGS

In order to inquire into this matter, the Committee reviewed the evidence adduced by **Hon. Mary Ariviza**, Official records on Members attendance during the period under review and oral submissions by the accused Member as follows:

#### 3.1. Meeting with Hon. Ibrahim Abdi Hassan, MCA

In order to give the Member a fair hearing, the Committee wrote to the Member vide a letter **Ref. NCCA/P&PC/CORR/2020/010** dated **5<sup>th</sup> June, 2020** for him to respond to the accusations leveled against him. The letter was delivered electronically and received by the Member on the same date. The Member was required to appear before the Committee virtually on **8<sup>th</sup> June, 2020** at **10.00 am** vide zoom application (meeting I.D. 2971074986, password 091836).

On **Monday, 8<sup>th</sup> June, 2020**, the Member appeared before the Committee virtually but declined to respond citing that the notice issued to him to respond was insufficient. The Committee prevailed upon the Member that the matter before the Committee required mere substantiation on whether he attended the sittings as accused or not thus the notice of invitation was sufficient enough. However, the Member remained adamant that he would not respond and instead chose to refer to the Committee arrogantly as a '*kangaroo*' court and logged off from the session without the Chairperson's authority.

#### 3.2. Review of Documents Submitted by the Hon. Mary Ariviza and Official Assembly records on Members' attendance.

Upon careful analysis of the documents submitted namely **biometric attendance register** and the **sitting allowance payment schedules** it was revealed that the Member had missed the following sittings:-

- **9<sup>th</sup> January, 2020 - Special Sitting;**
- **18<sup>th</sup> February, 2020;**

- 19<sup>th</sup> February, 2020;
- 20<sup>th</sup> February, 2020;
- 25<sup>th</sup> February, 2020;
- 26<sup>th</sup> February, 2020;
- 27<sup>th</sup> February, 2020;
- 3<sup>rd</sup> March, 2020;
- 4<sup>th</sup> March, 2020;
- 5<sup>th</sup> March, 2020; and
- 10<sup>th</sup> March, 2020.



#### 4.0. COMMITTEE OBSERVATIONS

Upon review of documentary evidence and examination of the witness, the Select Committee on Powers and Privileges made the following observations;

- i) That Hon. Abdi I Hassan, MCA missed sittings on the following days:-*9<sup>th</sup> January, 2020 (Special Sitting), 18<sup>th</sup> February, 2020, 19<sup>th</sup> February, 2020, 20<sup>th</sup> February, 2020, 25<sup>th</sup> February, 2020, 26<sup>th</sup> February, 2020, 27<sup>th</sup> February, 2020, 3<sup>rd</sup> March, 2020, 4<sup>th</sup> March, 2020, 5<sup>th</sup> March, 2020, and 10<sup>th</sup> March, 2020.*
- ii) That there is nothing written on record by Hon. Abdi I Hassan explaining to the Speaker why he missed the aforementioned sittings.
- iii) That Hon. Abdi I Hassan even after having been given a fair hearing refused to respond to the allegations leveled against him and opted to abuse the Committee as a 'Kangaroo' court.
- iv) That Hon. Abdi I Hassan by failing to attend eleven (11) sittings, without any justifiable reason, he is in breach of Standing Order 242 and Article 194 (1) (b) of the Constitution whose consequence is the declaration of a vacancy in the seat of the Member for Matopeni Spring valley Ward.
- v) That there is precedent set on this matter by the County Assembly as evidenced in the cases of Hon. Elias Okumu Otieno, Hon. Habiba Ibrahim Hussein and Hon. Fuad Hussein.

## 5.0. COMMITTEE RECOMMENDATIONS

In light of the Committee's observations and findings, the Committee recommends that the Assembly **RESOLVES** as follows –

### **THAT: -**

**Noting** that the **Hon. Ibrahim Abdi Hassan, MCA** deliberately refused to respond as to why he missed more than eight (8) sittings without permission in writing from the Hon. Speaker as contemplated under the Constitution of Kenya, 2010 as read together with the Standing Orders, **further noting** that the Hon. Member undermined the authority of the Committee by insulting the Committee and its members, the Committee resolves **not** to invoke the provisions of Article 194 (1) (b) but in the alternative the Member be **suspended, with immediate effect, from the Assembly and its precincts for a period of Four (4) Months Assembly Sittings pursuant to provisions of Standing Order 114 (1) (g) and Section 17 (3) (g) of the County Assemblies Powers and Privileges Act, 2017.**

**MINUTES OF THE 25th SITTING OF THE NAIROBI CITY COUNTY ASSEMBLY SELECT COMMITTEE ON POWERS & PRIVILEGES HELD ON 8<sup>TH</sup> JUNE, 2020 THROUGH THE ZOOM VIDEO CONFERENCING AT 10.00AM.**

**MEMBERS PRESENT**

- |   |               |
|---|---------------|
| 1. Hon. Naftaly Mathenge, MCA-          | Vice Chairman |
| 2. Hon. Maurice Gari, MCA-              | Board Member  |
| 3. Hon. Maurice Ochieng, MCA            |               |
| 4. Hon. Mbugua Kabiro, MCA              |               |
| 5. Hon. Jared Akama, MCA                |               |
| 6. Hon. Osman Khalif, MCA               |               |
| 7. Hon. Jeremiah Themendu, MCA          |               |
| 8. Hon. David Ayo, MCA                  |               |
| 9. Hon. Francis Njogu, MCA              |               |
| 10. Hon. Geoffery Ng'ang'a Mbuthia, MCA |               |
| 11. Hon. Milicent Jagero, MCA           |               |

**MEMBERS ABSENT**

- |                                  |                      |
|----------------------------------|----------------------|
| 1. Hon. Beatrice Elachi, MCA-    | Speaker/ Chairperson |
| 2. Hon. Abdi Kadir Mohammed, MCA | Deputy Majority Whip |

**IN ATTENDANCE – POWERS & PRIVILEGES SECRETARIAT**

- |                        |                  |
|------------------------|------------------|
| 1. Mr. Robert Otieno – | Clerk Assistant. |
|------------------------|------------------|

**MIN 001/P&PC/JUNE/2020 – PRELIMINARY**

Meeting was called to order at 10.00 am, and opening prayers was conducted by the Hon. Vice Chairperson Naftaly Mathenge who took members through the Agenda of the meeting which was adopted as follows:-

**MIN 002/P&PC/JUNE/2020 – AGENDA**

- a) Preliminaries (prayers & adoption of the Agenda),
- b) Inquiry into the alleged absenteeism by the hounorable member of Matopeni Spring Valley ward from the plenary sittings,
- c) Any Other Business
- d) Adjournment



**MIN 003/P&PC/JUNE/2020 – INQUIRY INTO THE ALLEGED ABSEENTISM BY THE HONOURABLE MEMBER OF MATOPENI SPRING VALLEY WARD FROM THE**

The Vice Chairperson started off by reminding members on the resolution reached by the committee on Friday 5<sup>th</sup> June 2020 on inviting the accused Hon. Ibrahim Abdi Hassan to appear before it today 8<sup>th</sup> June 2020 through the Zoom Video Conference Application at 10:00am. He asked the Committee Clerk if the office of the Clerk had dispensed the letter to named honourable member which was confirmed as being done so.

The Vice Chairperson informed the members that today's sitting was going to focus on one agenda which was to receive the testimony from the Hon. Ibrahim Abdi Hassan regarding his alleged abseentism from the plenary sittings.

- i) He welcomed the witness who appeared before the committee and went further to touch on background information of the allegations against him which was brought to the floor of the Assembly by the Hon. Mary Ariviza in the Plenary sitting on 16<sup>th</sup> March 2020 alleging the named honourable member of missing plenary sittings of the Assembly in violation of Standing Order 242. He further informed the accused member that the committee did its investigation arising from the Report of the ICT department which provided an analysis of the Plenary Attendance and it was evident from the findings of the investigations that indeed the accused honourable member never attended the plenary sittings as from the period of 9<sup>th</sup> January to March 10<sup>th</sup> and records further indicated he missed 11 sittings as from missed sittings on the following days:- 9<sup>th</sup> January, 2020 (*Special Sitting*), 18<sup>th</sup> February, 2020, 19<sup>th</sup> February, 2020, 20<sup>th</sup> February, 2020, 25<sup>th</sup> February, 2020, 26<sup>th</sup> February, 2020, 27<sup>th</sup> February, 2020, 3<sup>rd</sup> March, 2020, 4<sup>th</sup> March, 2020, 5<sup>th</sup> March, 2020, and 10<sup>th</sup> March, 2020.

The witness was invited to respond to the following questions as queried by the honourable members:-

- i) To introduce himself to the Committee
- ii) If he was aware why he had been invited to appear before the Committee?
- iii) If he was aware of the provisions of Article 194 of the Constitution of Kenya as read together with Standing Order 242?
- iv) If he had attended any plenary sitting between the period of 9<sup>th</sup> January 2020 to 10<sup>th</sup> March 2020?
- v) Where he was during the said period?
- vi) If he had written to the Speaker of his absence from the Plenary?



vii) If he was aware of a breach of his privilege as a hon. member to fail to attend 8 consecutive sittings?

viii) If he had anything to say about the whole investigation?

When called upon to answer the above questions the witness blatantly refused and stated he cannot proceed on with the meeting as well as answer any questions from the committee because the notice issued to him to respond was insufficient. The Committee prevailed upon the Member that the matter before the Committee required mere substantiation on whether he attended the sittings as accused or not thus the notice of invitation was sufficient enough. However, the Member remained adamant that he would not respond and instead chose to refer to the Committee arrogantly as a 'kangaroo' court as well as its members 'goons' and logged off from the session without the Vice Chairperson's authority.

The Committee proceeded to go ahead and penalize the honourable member on the basis of non co-operation, disrespect and sufficient evidence from the committee's investigations that found the honourable member culpable of missing 11 sittings in the plenary without any communication to the Speaker.

The Committee Clerk was asked to give an advisory opinion on the different penalties and appropriate actions taken against members found to be in breach of privilege. The Committee Clerk gave the following ADVISORY in accordance to the Powers and Privileges Act, 2017 Section 17(3):-

Where a county assembly finds that a Member has committed a breach of privilege, the county assembly may, in addition to any other penalty to which the Member may be liable under this Act or any other law, impose any or more of the following penalties-

- a formal warning;
- a reprimand;
- an order to apologize to the county assembly or a person in a manner to be recommended by the Committee of Powers and Privileges;
- the withholding, for a specific period of time, of the member's right to the use or enjoyment of any

The committee having keenly looked at the different penalties from the County Assemblies Powers and Privileges Act, 2017 Section 17(3) supported by the sufficient evidence from its findings and the uncouth behavior of the accused honourable member; the Committee unanimously resolved not to invoke provisions of Article 194 (1) (b) that states *the office of a member of a county assembly becomes vacant if the member is absent from eight sittings of*

*the assembly without permission, in writing to the speaker of the assembly, and is unable to offer satisfactory explanation for the absence;* but instead to suspend the honourable member Ibrahim Abdi Hassan with immediate effect from the Assembly and its precincts for four calendar months pursuant to provisions of Standing Order 114 (1) (g) and Section 17 (3) (g) of the County Assemblies Powers and Privileges Act, 2017.

**MIN 004/P&PC/JUNE/2020 – A.O.B & ADJOURNMENT**

The Committee having dispensed with the business of the day and the time being ten minutes past twelve the Chair adjourned the meeting to Tuesday 9<sup>th</sup> June, 2020

**Confirmed as true records of the proceedings**

Chairperson ..... *For Chairman H. O. Ode* ..... Date *9/6/2020* .....

Secretary ..... *[Signature]* ..... Date *9/6/2020* .....



**MINUTES OF THE 24th SITTING OF THE NAIROBI CITY COUNTY ASSEMBLY SELECT COMMITTEE ON POWERS & PRIVILEGES HELD ON 5<sup>TH</sup> JUNE, 2020 THROUGH THE ZOOM VIDEO CONFERENCING AT 10.00AM.**

**MEMBERS PRESENT**

1. Hon. Naftaly Mathenge, MCA- Vice Chairman
2. Hon. Maurice Ochieng, MCA
3. Hon. Jared Akama, MCA
4. Hon. Osman Khalif, MCA
5. Hon. Jeremiah Themendu, MCA
6. Hon. Francis Njogu, MCA

**MEMBERS ABSENT**

1. Hon. Beatrice Elachi, MCA- Speaker/ Chairperson
2. Hon. Abdi Kadir Mohammed, MCA Deputy Majority Whip
3. Hon. Maurice Gari, MCA- Board Member
4. Hon. Mbugua Kabiro, MCA
5. Hon. David Ayoi, MCA
6. Hon. Milicent Jagero, MCA
7. Hon. Geoffery Ng'ang'a Mbuthia, MCA

**IN ATTENDANCE – POWERS & PRIVILEGES SECRETARIAT**

1. Mr. Robert Otieno – Clerk Assistant.

**MIN 001/P&PC/JUNE/2020 – PRELIMINARY**

Meeting was called to order at 10.00 am, and opening prayers was conducted by the Hon. Vice Chairperson Naftaly Mathenge who took members through the Agenda of the meeting which was adopted as follows;-

**MIN 002/P&PC/JUNE/2020 – AGENDA**

- a) Preliminaries (prayers & adoption of the Agenda),
- b) Embracing new hounorable members to the Committee on Powers and Privileges
- c) Inquiry into the alleged abseentism by the hounorable member of Matopeni Spring Valley ward from the plenary sittings,
- d) Any Other Business
- e) Adjournment

## **MIN 003/P&PC/JUNE/2020 – EMBRACING NEW HONOURABLE MEMBERS TO THE COMMITTEE ON POWERS AND PRIVILEGES**

The Vice Chairman welcomed the new members who were carefully chosen to be part of the Committee and were officially unveiled on the floor of the Assembly on 4<sup>th</sup> June 2020. The Vice Chairman congratulated each one of them and proceeded to highlight the mandates of the Committee as follows.

To inquire into the conduct of a member whose conduct is alleged to constitute a breach of privilege;

To investigate, table reports and make recommendations to the floor of the house

To Issue summons to witnesses to appear before the committee,

To receive evidence and to request for and receive papers and documents from the Government and publics

He further informed members on the importance of being conversant with the County Assemblies Powers and Privileges Act, 2017 and assured them of being inducted soon at a later date that will be communicated by the Secretariat.

## **MIN 004/P&PC/JUNE/2020 – INQUIRY INTO THE ALLEGED ABSEENTISM BY THE HOUNORABLE MEMBER OF MATOPENI SPRING VALLEY WARD FROM THE PLENARY SITTINGS**

The Vice Chairman informed the members of the committee that allegations on an inquiry into an alleged abseentism by the honourable member of Matopeni Spring Valley ward from the plenary sittings was committed to the committee from the direction of the Speaker on the floor of the assembly on 16<sup>th</sup> March, 2020 where the Hon. Mary Ariviza rose on a point of order under Standing Order 242 and brought to the attention of the Speaker on the absence of the honourable member of Matopeni Spring Valley ward having missed 11 plenary sittings without any writing of the same and was in breach of article 103 (1) (b) of the Constitution, Standing Order 242 of the Nairobi City County Assembly Orders. The Vice Chairman further informed the committee that the Secretariat had findings from their own investigation which they had undertook arising from the Report of the ICT department which provided an analysis of Plenary Attendances.

The Vice Chairman called upon the Secretariat to give the findings of their investigations and take the members through the procedures which the committee is supposed to initiate on the matter. The Committee Clerk highlighted the following.

- i) From the findings the honourable member of Matopeni Spring Valley ward never



attended sittings on the mentioned dates of January 9<sup>th</sup> to March 2020 and specifically missed sittings on the following days from the said period:- *9th January, 2020 (Special Sitting), 18th February, 2020, 19th February, 2020, 20th February, 2020, 25th February, 2020, 26th February, 2020, 27th February, 2020, 3rd March, 2020, 4th March, 2020, 5th March, 2020, and 10th March, 2020.* Therefore was in breach of the Nairobi City County Assembly Standing Order 242.

- ii) The Committee in the interest of justice needed to invite the named honorable member to appear before it and shed light on the allegations
- iii) The Committee after concluding its sittings on the matter referred to it from Plenary should embark on consideration of the evidence received and prepare a comprehensive report for tabling.
- iv) The witness should appear before the Committee through the Zoom Video Conferencing on a date that shall be agreed upon due to the unfortunate circumstances brought about by the COVID19 national pandemic; however a physical meeting can as well be an alternative but for it to happen there shall be consultations with the Chairperson/Speaker on its arrangement and a strict adherence to the National Government guidelines on social distancing and COVID19 prevention measures.
- v) The Committee resolved the Committee Clerk through the office of the clerk to immediately write an invitation letter to the witness to appear before it and shed light on the allegations before him through the Zoom Video Conferencing Application on Monday 8<sup>th</sup> June, 2020 as from 10:00am.

#### MIN 005/P&PC/JUNE/2020 – A.O.B & ADJOURNMENT

The Committee having dispensed with the business of the day and the time being ten minutes past Eleven Thirty the Vice Chair adjourned the meeting to Monday 8<sup>th</sup> June, 2020

**Confirmed as true records of the proceedings**

Chairperson ..... *FOR CHAIRMAN* ..... Date ..... *9/6/2020* .....

Secretary ..... *[Signature]* ..... Date ..... *9/6/2020* .....

