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COUNTY GOVERNMENT OF NAIROBI CITY

THE NAIROBI CITY COUNTY ASSEMBLY

SECOND ASSEMBLY (THIRD SESSION)

REPORT OF

THE SELECT COMMITTEE ON POWERS AND PRIVILEGES

ON THE INQUIRY INTO THE UNETHICAL CONDUCT OF HONORABLE MEMBERS AND ALLEGATIONS OF BRIBERY OF MEMBERS OF THE SECTORAL COMMITTEE ON LABOUR AND SOCIAL WELFARE AND SECTORAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS

Clerk's Chambers,
City Hall Building,
Nairobi.

February, 2019





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1.0 Preface

The Select Committee on Powers and Privileges (hereinafter "the Committee") is established pursuant to Section 15 of the County Assemblies Powers and Privileges Act, 2017 (hereinafter "the Act"). The Committee enjoys exclusive mandate in so far as the powers, privileges and immunities of the Assembly, members and staff are concerned. In terms of its operations, the Committee may, either of its own motion or as a result of a complaint made by any person, inquire into the conduct of a member alleged to constitute a breach of privilege in terms of Section 16 of the Act, within fourteen days of receipt of a complaint, and report to the Assembly its findings together with such recommendations as it considers appropriate.

The Standing Orders similarly provide for avenues through which matters may be referred to the Committee for consideration. The Committee is charged with overseeing the enforcement of the Codes of Conduct under Chapter Six of the Constitution, the Leadership and Integrity Act, the Public Officer Ethics Act and the provisions of the County Assemblies Powers and Privileges Act, 2017 and to recommend necessary sanctions following a disciplinary hearing.

Section 15 (6) of the Act provides that *the Committee of Powers and Privileges shall, within fourteen days of the conclusion of an inquiry, table its findings in the relevant county assembly together with such recommendations as it considers appropriate.* This Report sums up the Committee's findings into various inquiries forwarded to it for consideration regarding the alleged misconduct of Members on diverse dates, and presents those findings as hereunder.

1.1 Acknowledgement

The Chairperson of the Committee takes this opportunity to thank Members of the Committee for their immense contributions to the inquiries that have culminated in this Report. The Committee wishes to also thank the Offices of the Speaker and the Clerk of the County Assembly for the support extended to it in the execution of its mandate. The Committee further wishes to record its appreciation for the services rendered by the staff of the County Assembly that enabled the timely preparation of this Report.

On behalf of the Committee, I have the honour and pleasure to present the Report to the Assembly.

THE HON. CHEGE MWAURA, MCA

SPEAKER OF THE COUNTY ASSEMBLY/CHAIRPERSON

2.0 ESTABLISHMENT AND MEMBERSHIP OF THE COMMITTEE

2.1 Establishment of the Committee on Powers and Privileges

The Committee on Powers and Privileges is established pursuant to Section 15 of the County Assemblies Powers and Privileges Act, 2017. The Committee consists of Eleven (11) Members, being the Speaker as the Chairperson and ten (10) other Members of the Assembly appointed in accordance with the Standing Orders. The Committee was formally constituted on Thursday 17th October, 2018.

2.2 Membership of the Committee on Powers and Privileges

The Committee Membership currently comprises of:

Ag. Speaker/ Chairperson
Hon. Chege Mwaura, MCA

Members

1. Hon. Naftaly Mathenge, MCA – Vice-Chairperson
2. Hon. Abdi I. Hassan, MCA – Majority Leader
3. Hon. Patrick Musili, MCA
4. Hon. Peter Wahinya Njau, MCA
5. Hon. George Majiwa, MCA
6. Hon. Evans Otiso, MCA
7. Hon. Carolyne Mayunzu
8. Hon. Jacinta Wanjiru, MCA
9. Hon. Margaret Mbote, MCA
10. Hon. Sylvia Moseiya, MCA

Committee Secretariat

The Committee Secretariat currently comprises of the following officers: -

1. Mr. Gavin R. Castro - Ag. Deputy Clerk
2. Ms. Judy Aaron Anyango - Second Clerk Assistant
3. Mr. Munase Mukhombwa - Intern

2.3 MANDATE OF THE COMMITTEE

The foundational basis for the mandate of the Select Committee on Powers and Privileges is Article 196 of the Constitution, which speaks to *public participation and county assembly powers, privileges and immunities*. Specifically, Article 196 (3) provides thus, *Parliament shall enact legislation providing for the powers, privileges and immunities of county assemblies, their committees and members.*

It is on the basis of the foregoing that Parliament enacted the County Assemblies Powers and Privileges Act, 2017, from whence the Committee draws its specific mandate under Section 15. In terms of its duty to enforce codes of ethical conduct and integrity, the Committee also draws its mandate from the Public Officers Ethics Act, 2003, the Leadership and Integrity Act, 2012 and the Regulations thereon, and the County Assembly Standing Orders. The Committee's mandate as outlined under Section 15 of the Act includes, to:

a. **Inquire into the conduct of a member whose conduct is alleged to constitute a breach of privilege; and**
b. **Either of its own motion or a result of a complaint made by any person, inquire into the conduct of a member whose conduct is alleged to constitute a breach of privilege**
c. **Investigate, table reports and make recommendations to the floor of the house**
d. **Issue summons to witnesses to appear before the committee,**
e. **Receive evidence and to request for and receive papers and documents from the Government and the public.**

For purposes of carrying out its functions effectively, the Committee under Section 18 of the Act as read together with Article 195 of the Constitution, 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.**

2.4 Procedure for considering the Report by the Committee

Section 16(5) of the County Assemblies Powers and Privileges Act, 2017 sets in Motion the Committee's inquiry and consideration of any such matter either forwarded to it or taken up on its own Motion. The said Section provides thus, *the Committee of Powers and Privileges shall, either of its own motion or as a result of a complaint made by any person, inquire into the conduct of a Member*

whose conduct is alleged to constitute a breach of privilege in terms of section 16, within fourteen days of receipt of a complaint.

Further, Section 15 (6) provides that *the Committee of Powers and Privileges shall, within fourteen days of the conclusion of an inquiry, table its findings in the relevant county assembly together with such recommendations as it considers appropriate.*

The manner of considering a Report of the Committee of Powers and Privileges is anchored under the Standing Orders, as provided for under Section 16 (7) of the enabling Act, which provides thus, *each county assembly shall, in accordance with its Standing Orders, consider the report and the recommendations thereon and may take such action against the Member concerned as may be appropriate*. Specifically, the processing of a Committee Report is domiciled under Standing Order 191 of the County Assembly Standing Orders.

Accordingly, a Motion for adoption of a Report of the Committee on Powers and Privileges is debated in the usual manner and in the open; except that –

i. in exceptional circumstances to be determined by the Speaker, strangers may be ordered to withdraw throughout the debate; and
ii. no amendment may be moved, other than an amendment of the disciplinary action recommended by the Report or an amendment to the effect that the Report is referred back to the Committee for further inquiry.

Where the Assembly adopts any recommendation of the Report for disciplinary action, with or without amendment, the Speaker is required to forthwith take action accordingly.

2.5 THE LAW PERTAINING TO CONDUCT

2.5.1 The Constitution of Kenya

The Constitution under Article 73 provides broadly for the responsibilities of leadership. The guiding principles of leadership and integrity under Chapter Six include, amongst others -

a. *objectivity and impartiality in decision making, and in ensuring that decisions are not influenced by nepotism, favoritism, other improper motives or corrupt practices;*
b. *selfless service based solely on the public interest, demonstrated by--*
    i. *honesty in the execution of public duties; and*
    ii. *the declaration of any personal interest that may conflict with public duties;*
c. *accountability to the public for decisions and actions; and*
d. *discipline and commitment in service to the people.*

Article 73(1) (a) (iii) of the Constitution bestows upon State Officers the responsibilities of leadership and requires authority assigned to a State officer to bring honour to the nation and dignity to the office. Further, Article 75(1)(c) of the Constitution provides that "*A State officer shall behave, whether in public and official life, in private life, or in association with other persons, in a manner that avoids demeaning the office the officer holds.*" Further, Articles 75(2) and 103(1) (c) of the Constitution detail sanctions for contravention of Article 75(1). By so doing, the Constitution sets the broad spectrum within which to understand Leadership and Integrity under the law.

2.5.2 The Leadership and Integrity Act, 2012

The Leadership and Integrity Act, 2012 was enacted to give effect to, and establish procedures and mechanisms for the effective administration of Chapter Six of the Constitution. The Act is meant to ensure that State officers respect the values, principles and requirements of the Constitution. Section 11(b) of the Act requires a State Officer to "*treat members of the public and other public officers with courtesy and respect.*"

Section 41(1) provides that, "*subject to subsection (2), a breach of the Code amounts to misconduct for which the State officer may be subjected to disciplinary proceedings. ... Where an allegation of breach of the Code has been made against a State officer in respect of whom the Constitution or any other law provides the procedure for removal or dismissal, the question of removal or dismissal shall be determined in accordance with the Constitution or that other law*'.

2.5.3 The Public Officer Ethics Act, 2003

The Public Officer Ethics Act, 2003 similarly speaks to issues of ethics and integrity for state and public officers. The Act was enacted to advance the ethics of public officers by providing for a Code of Conduct and Ethics for public officers and requiring financial declarations from certain public officers. Part II of the Act provides for Specific Codes of Conduct and Ethics, *which requires entities such as the County Assembly to prepare and publish a specific Code of Conduct and Ethics for the public officers for which it is responsible*. Part III of the Act speaks to *General Code of Conduct and Ethics,* amongst which is the provision of Section 20 (1) provides that 'a public officer shall conduct his private affairs in a way that maintains public confidence in the integrity of his office.'

2.5.4 County Assemblies Powers and Privileges Act, 2017

As highlighted earlier in this Report, this law is the enabling statute for the operations and functions of the Committee on Powers and Privileges in so far as the protection of the powers

and privileges of the Assembly and of the Members is concerned. Specifically, Section 16(e) of the County Assemblies Powers and Privileges Act, 2017 provides that '*the Committee of Powers and Privileges may find a Member to be in breach of privilege if a Member conducts himself or herself in a manner which, in the opinion of the Committee of Powers and Privileges, is intended, or is likely to reflect adversely on the dignity or integrity of Parliament, or of the Members or to be contrary to the best interests of Parliament or its Members*'.

The sanctions attendant thereto and the penalties for breaches of privilege are detailed under Section 17. Section 17(1) provides thus, a *county assembly shall have all the powers necessary for inquiring into and pronouncing upon any act or matter constituting breach of privilege in terms of section 16.*

3.0 INQUIRIES BEFORE THE COMMITTEE

The Committee, having been moved, and of its Motion seizing itself of issues of misconduct, undertook inquiries into the following: -

3.1. Conduct of Members on 10th September, 2018 Within Precincts, Office of The Speaker

On or about Monday, 10th September, 2018, at around 11.00am, a section of Members of the County Assembly sought to have an audience with the Hon. Beatrice Elachi in the Office of the Speaker. The Hon. Beatrice Elachi was then having a Press Briefing, which was aired live on NTV and Citizen TV. A commotion then ensued at the Office of the Hon. Speaker, during which it is alleged Members of the County Assembly attempted to eject the Hon. Beatrice K. Elachi from office.

It was alleged that Members who sought to evict the Hon. Beatrice Elachi from office had based their actions on their having successfully carried out impeachment proceedings against the Hon. Speaker on Thursday 6th September, 2018. Police were subsequently called, presumably by the Hon. Elachi, to calm the situation, while sergeants at arm equally rushed to the Office of the Speaker. Teargas canisters were lobbed in the ensuing fracas at the Assembly precincts as the MCAs attempted to evict the speaker from office.

The commotion and or fracas at the Office of the Speaker of the County Assembly on Monday 10th September, 2018 forms the basis upon which the Select Committee on Powers and Privileges resolved to conduct an inquiry into the conduct of Hon. Members on the said material day.

3.2 Conduct of The Hon. Mary Ariviza, MCA on 25th September, 2018 On The Floor Of The Assembly

At its sitting of Tuesday 25th September, 2018, the Assembly, amongst other things in the day's Order of Business, had scheduled the Election of an Acting Speaker pursuant to Section 9 of the County Governments Act, 2012. Upon calling of the said Order, (*Election Of Ag. Speaker*), the then presiding Chair, The Hon. John Kamangu, MCA, made a communication to the Assembly, in which he directed all those interested to propose their names or the names of others, upon which after secondment, such names be entered as Candidates for the position of Acting Speaker for purposes of carrying out an election pursuant to Standing Order 12 of the County Assembly Standing Orders.

The Hon. Waithera Chege, MCA, rising in her place, made her remarks upon which she proceeded to nominate the Hon. Chege Mwaura, MCA, which nomination was accordingly seconded by the Hon. Wilson Ocholla, MCA. Similarly, the Hon. Peter Imwatok, MCA, rising in his place, nominated the Hon. Mary Ariviza, MCA, but which nomination failed at having not been seconded.

Hon. Millicent Mugadi, MCA, rising in her place, similarly proposed the Hon. Mary Njambi, MCA, who declined the nomination and instead voiced her support for the Hon. Chege Mwaura, MCA's candidature. Shortly thereafter, in the course of proceedings, the Hon. Mary Ariviza, MCA walked into the Chamber, and loudly protested her nomination in absentia. At her continued loud protestations, the presiding Chair directed the Serjeant-at-Arms to escort Hon. Mary out of the Chamber.

The Hon. Mary Ariviza, MCA was then forcefully ejected out of the Chamber, while continuing to protest her nomination. The presiding Chair subsequently ordered that her conduct be investigated by the Select Committee on Powers and Privileges. It is on this basis that the Committee seized itself of investigations and this inquiry into the conduct of the Hon. Mary Ariviza, MCA during the plenary proceedings of 25th September, 2018.

3.3 Allegations of Bribery against members of the Sectoral Committee on Labour and Social Welfare

On or around Jun 13, 2018, Citizen TV carried a news report titled "*Bribery claims rock Nairobi county gov't*" in which it was reported that Members of the County Assembly Sectoral Committee on Labour and Social Welfare had allegedly received bribes for the award of a

Health Insurance Contract to AAR Healthcare Kenya Limited by the Nairobi City County Executive.

An audio recording later emerged, purported to belong to a member of the Sectoral Committee, who was allegedly recorded stating the Committee had received bribes while at a working retreat in Mombasa with members of the County Executive of the Nairobi City County Government. The Member in question was allegedly identified as Utalii MCA, George Ochola.

In the said Audio recording, aired by Citizen TV, the voice is heard to state -

"We as Members of County Assembly are fighting corruption....we were very shocked when we were given KSh 1 million that we hadn't worked for. I even asked what the money was for. I realized it (money) was from CEO AAR. After investigations we found that this money was KSh 10 million and the money that was brought to Mombasa was KSh 5 million. Instead of KSh 5 million we were given KSh 1 million. Where is the rest of the money...?"

It was further alleged in the media reports that the Member in question had disclosed the bribe was shared equally amongst the committee members in order to alter facts of a certain report and ensure AAR got the tender to supply health insurance for Nairobi County workers.

The Committee, having seized itself of the serious bribery allegations raised by the Media Reports, resolved to analyze the media reports including the audio recording and newspaper publications with a view to determining the specific Members of the Sectoral Committee on Labour and Social Welfare affected by the bribery allegations and the nature and veracity of those allegations.

3.4 Allegations of Bribery against Members of the Sectoral Committee on Justice and Legal Affairs

On or around August 25, 2018, K24 TV carried a news report titled *"EACC detectives arrest Parklands MCA for soliciting bribe."* In the report, it was alleged that the Hon. Jayendra Malde, MCA, Chairperson of the Sectoral Committee on Justice and Legal Affairs, was arrested by EACC detectives for allegedly soliciting a Kshs5.7M bribe from a city hotelier. The Member was accused of demanding the bribe from the proprietor of Concord Hotel, a Mr. Rahim Chatur, in Nairobi's Parklands in order to forestall its demolition for allegedly being built on riparian land.

A further report carried by the Star Newspaper on its publication of September, 15th 2018, titled *"Parklands MCA arrested for alleged extortion, blames Sumra for woes"* in which it was alleged that the Kshs5.7M bribe was allegedly to be shared among the nineteen (19) members of the Sectoral

Committee on Justice and Legal Affairs to ostensibly help the proprietor of Concord Hotel forestall its demolition for allegedly being built on riparian land.

It was further alleged that solicitation for the said bribe had occurred while the Committee was conducting a site visit at Concord Hotel. The Committee had visited the said hotel to ascertain whether the property had encroached on a public access road to a Slum within the area.

The Committee, having seized itself of the serious bribery allegations raised by the Media Reports, resolved to analyze the media reports including the audio recording and video clips with a view to determining the specific Members of the Sectoral Committee on Justice and Legal Affairs affected by the bribery allegations and the nature and veracity of those allegations.

3.5 Committee Sittings

The Committee held a total of twenty one (21) Sittings during which oral evidence was received from witnesses and video footage, as well audio and print media publications reviewed by the committee. During the sittings, witnesses were summoned to appear and adduce evidence in chief. The Committee held sittings on 25th, 26th, 27th 28th, 29th and 30th September and; 2nd, 3rd, 4th, 9th 18th, 23rd 24th, 30th and 31st October and; 6th and 7th November 2018, as well as 15th, 16th,18th and 19th February, 2019.

Witnesses

The Committee identified the following Members as persons of interest to be invited to adduce evidence on the various matters referred to it, as follows:-

a) **Regarding Conduct Of Members On 10th September, 2018 Within Precincts, Office Of The Speaker, the Committee Invited:**

1. Hon. Abdi Ibrahim Hassan, MCA
2. Hon. Elias Otieno Okumu, MCA
3. Hon. Peter Imwatok, MCA
4. Hon. Peter Wahinya Kimuhu, MCA,
5. Hon. Mary Njambi, MCA
6. Hon. Anthony Kiragu, MCA
7. Hon. Mwangi Njihia, MCA
8. Hon. Redson Otieno, MCA
9. Hon. Laura Mwende, MCA
10. Hon. Nancy Muthami, MCA

11. Hon. Osman Khalif, MCA
12. Mr. Robinson Thuku - for. Nairobi County Police Commander

b) **Regarding Conduct of The Hon. Mary Ariviza, MCA on 25th September, 2018 On The Floor of The Assembly, the Committee Invited:**

1. Hon. Peter Imwatok, MCA
2. Hon. Mary Ariviza, MCA

c) **Regarding Allegations of Bribery Against The Sectoral Committee On Labour And Social Welfare, the Committee Invited:**

1. Hon. Geoffrey Ng'ang'a Mbuthia, MCA
2. Hon. Rose Ogonda, MCA
3. Hon. Habiba Hassan, MCA
4. Hon. Wilson Ongele Ochola, MCA
5. Hon. Eve Malenya, MCA
6. Hon. Jared Akama, MCA
7. Hon. Eunice Wanjiku Marimbi, MCA
8. Hon. John Ng'ang'a Mukiri, MCA
9. Ms. Josephine Kamau, Clerk Assistant (Secretary to the Committee)

d) **Regarding Allegations Of Bribery Against The Sectoral Committee On Justice And Legal Affairs, the Committee Invited:**

1. Hon. Doris Kanario, MCA
2. Hon. June Juliet Ndegwa, MCA
3. Hon. Elijah Mputhia, MCA
4. Hon. Moses Ogeto, MCA
5. Hon. Sumra Ishrad, MCA
6. Hon. Malde Jayendra, MCA
7. Hon. Samora Mwaura, MCA
8. Hon. Jackline Apondi, MCA
9. Hon. Anthony Kimemia, MCA
10. Hon. David Ayoi, MCA
11. Hon. Sumra Ishrad
12. Mr. Chatur Rahim
13. Mr. Erick Njoga – Clerk Assistant (Committee secretary)

The Committee, having gathered evidence from oral submissions, audio submissions and video footage held a further two sittings in Ruiru, on Friday 15th and Saturday 16th February, 2019 to analyze the evidence presented before it, and a final sitting on 19th February, 2019 for adoption of its Report for onward transmission to the Assembly.

The sittings saw the Committee review the video footage of County Assembly proceedings of 25th September, 2018 as recorded by the County Assembly Broadcasting Unit to ascertain whether or not the Hon. Mary Ariviza had conducted herself in the manner alleged; audio recordings alleging misconduct on the part of Members of the Sectoral Committees on Labour and Social Welfare and Justice and Justice and Legal Affairs.

The relevant minutes of these sittings form part of the Report and are appended hereto in accordance with the Standing Orders. Hansard record, both audio and written transcripts, is separately preserved by the Clerk of the County Assembly.

3.6 Proceedings of The Committee

3.7 Evidence

The Committee obtained and reviewed evidence as carried in newspaper articles and TV stations regarding allegations of bribery against Members of the Sectoral Committee on Justice and Legal Affairs. The Committee also obtained audio evidence regarding recordings alleged to constitute solicitation on the part of the Members of the Sectoral Committee on Labour and Social Welfare.

The Committee similarly obtained and reviewed video evidence from the County Assembly Broadcasting Unit regarding the conduct of the Honourable Mary Ariviza, MCA on 25th September, 2018 during the said day's plenary proceedings.

Further, the Committee invited Members of the County Assembly to whom certain statements relayed by the media and other statements in the public domain were attributed to as having knowledge of the allegations as to the conduct of certain Members around the time the events arising these allegations occurred.

Proceedings

Appearance of Witnesses before the Committee

The Committee received oral submissions from the identified Members and other witnesses, appearing before it on diverse dates as follows –

3.8 ON CONDUCT OF MEMBERS ON 10TH SEPTEMBER, 2018 WITHIN PRECICNTS, OFFICE OF THE SPEAKER

The following witnesses appeared before the Committee on diverse dates, namely: -

a) **Hon. Elias Okumu, MCA – The Leader of Minority Coalition**

The Hon. Elias Okumu, MCA appeared before the Committee on Wednesday, 26th September, 2018. He was presented with the following evidence attributed to him-

i. A video clip from Nation Television station in which he gave a Press Conference from within the Office of the Speaker; and
ii. Newspaper articles in The Daily Nation newspaper of 11th September, 20018 and The People Daily newspaper of 11th September, 20018, which contained statements attributed to him, made during the altercation at the Office of the Speaker.

In response to questions put to him by the Committee regarding events that transpired on or about 10th September, 2018, the Hon. Elias Otieno, MCA submitted as follows: -

- **On his knowledge of events on or about 10th September 2018 at the Speaker's office, the Hon. Elias Okumu stated;**
  (1) That he was in his office when he heard noises within the precincts.
  (2) That he had rushed to the scene of the scuffle and being Leader of the Minority Party, tried to calm the situation.
  (3) That he asked members who were in the office of the Speaker to leave the office and let him and the Majority Leader consult with the Hon. Beatrice Elachi.
  (4) That he had sought to find an amicable end to the standoff to allow the Hon. Elachi exit the Office without much acrimony.
- **Regarding his contribution to the commotion on the material day and whether in his opinion his conduct was reprehensible, he stated;**
  (1) That on the contrary, he had done whatever possible within his means as a Leader of Minority to calm the situation, asking agitated members to leave the

office of the Speaker and let him and the Majority Leader consult with the Hon. Elachi on a peaceful end to the scuffle.

(2) That he stood next to the Hon. Elachi to ask members not to come near her, possibly forestalling any physical aggression towards her.

- **On whether he took any measures to stop members from storming the office of the Speaker, he stated;**

(1) That some members were already charged to storm the office because the Speaker had called a press conference which provoked the members as she was no longer in office according to them.

(2) That he did not incite members to go to the office but on the contrary he tried to stop them.

- **On Whether the events of the day were detrimental or otherwise to the best interests of the Assembly, he stated;**

(1) That the manner in which the Hon. Elachi was evicted from office was uncalled for, despite the Members having every right to seek her audience over her being in office when they had voted for her removal.

(2) That the Hon. Elachi had similarly contributed to the agitation by holding a press conference in her office and making statements that provoked agitated Members resulting in the commotion.

(3) That he had done his best to end the scuffle and at no time did he ever utter abusive words nor conduct himself in any unbecoming manner.

b) **Hon. Abdi I Hassan, MCA- Leader of Majority Party**

The Hon. Abdi I. Hassan, MCA appeared before the Committee on Wednesday, 26th September, 2018. He was presented with the following evidence attributed to him-

i. A video clip from Nation Television station in which he gave a Press Conference from within the Office of the Speaker; and

ii. Newspaper articles in The Daily Nation newspaper of 11th September, 20018 and The People Daily newspaper of 11th September, 20018, which contained statements attributed to him, made during the altercation at the Office of the Speaker.

In response to questions put to him by the Committee regarding events that transpired on or about 10th September, 2018, the Hon. Abdi I. Hassan, MCA submitted as follows: -

- **On his Knowledge of events on or about 10th September 2018 at the Speaker's office, he stated;**
  (1) That the scuffle had its origins in the impeachment proceedings against the Speaker on 6th September, 2018.
  (2) That Members had been agitated by the Hon. Elachi's presence within precincts, having voted to remove her from office by an overwhelming majority.
  (3) That he did not participate in the forceful entry into the Speaker's office nor in the scuffle that ensued.
  (4) That he had heard noises and commotion along the corridors while in his office, and had sought to establish the source of the commotion.
  (5) That he went to the Office of the Speaker long after the commotion had begun and had tried to calm down the situation together with the Leader of Minority, noting that the most he had done on the material day was to repeatedly ask members to act with decorum.
- **On whether he played any role in the scuffle on or about 10th September 2018, he stated;**
  (1) That in his opinion, what transpired on 10th September, 2018 was not a scuffle but an engagement between members and their former speaker.
  (2) That as a Leader of the Majority Party, he asked members repeatedly to leave the office to allow the Hon. Elachi leave the office peacefully.
- **Regarding his thoughts on appropriateness of the conduct of members on 10th September 2018, and whether there was a Kamukunji prior to the scuffle at the Office of the Speaker, he stated:**
  (1) That what transpired at the Office of the Speaker was normal when Members seek audience with their Speaker.
  (2) That indeed there was a Kamukunji, but it was called for purposes of discussing members' welfare.
  (3) That Members went to the Office of the Speaker on their own motion, as is expected of Members looking to engage the Speaker on any matter, and that therefore no Member had been directed either from Kamukunji or otherwise to storm the Speaker's office as alleged.

c) **Hon. Peter Wahinya Kimuhu, MCA**

The Hon. Peter Wahinya, MCA appeared before the Committee on Wednesday, 26th September, 2018. He was presented with the following evidence attributed to him -

i. A video clip from Nation Television station in which he is seen in or around the Office of the Speaker at the time of the commotion.

In response to questions put to him by the Committee regarding events that transpired on or about 10th September, 2018, the Hon. Peter Wahinya Kimuhu, MCA submitted as follows: -

- **On his Knowledge of the events of 10th September 2018 at the Speaker's office, he stated:**
  (1) The Honourable member stated that the matter began with a Kamukunji inside the assembly.
  (2) That on the material day, one of the Agendas was to discuss the impeachment of Hon. Beatrice Elachi.
  (3) That Hon. Mary Njambi was given an opportunity to speak at the Kamukunji, during which she suggested that the members present proceed to the Office of the Speaker where Hon. Elachi was conducting a press conference instead of holding the Kamukunji.
  (4) That she suggested that members walk to the Office of the Speaker and request her (the Speaker) to leave the precincts of the assembly.
  (5) That it was suggested at the Kamukunji that lady Members of the County Assembly lead the way to the office of the speaker.
- **Regarding who made the suggestion that female members lead the way to the Speaker's office, he stated;**
  (1) That he could not remember specific names, but it was one of the members present, which suggestion was unanimously agreed to.
  (2) That the lady Members of the County Assembly present at the Kamukunji led the way to the Office of the Speaker, and had found the door to the Office locked.
  (3) That there was a Police officer manning the entrance to the Office of the Speaker.
  (4) That when Members found the door to the Office of the Speaker locked and a cop manning the door, some began shouting, and the commotion ensued.
  (5) That one of the Members present at the Office of the Speaker at the material time managed to open a door to the speaker's office.
  (6) That as far as he is concerned, there was neither commotion nor scuffle. That Members merely sought audience with the Speaker and some had conversed in high tones.

- **Whether he was present in the office of the Speaker at the material time of the commotion, he stated;**
    (1) That indeed he was at the office of the Speaker at the time of the commotion.
    (2) That he merely went to the Office to seek audience with the Speaker and had neither spoken nor taken any actions that would create disorder.
    (3) That the most he did on the material day was to appear in the office of the Speaker, but he did not in any way speak either softly or loudly.
    (4) That he had been at the Speaker's Office merely for the curiosity of it, and had not participated in any way in the commotion.
- **On whether the behavior of Members on the material day negatively impacted the dignity of the Assembly, he stated:**
    (1) That it did not but suggested that speaking in loud voices was not proper.

d) **Hon. Mary Njuguna Njambi, MCA**

The Hon. Mary Njuguna Njambi, MCA appeared before the Committee on Wednesday, 26th September, 2018. She was presented with the following evidence attributed to her -

1) A video clip from Nation Television station in which she is seen in or around the Office of the Speaker at the time of the commotion.

In response to questions put to her by the Committee regarding events that transpired on or about 10th September, 2018, the Hon. Mary Njuguna Njambi, MCA submitted as follows:

- **On her Knowledge of events on or about the 10th September, 2018 at the Speaker's office, Hon. Mary Njambi stated;**
    (1) That indeed she was within the precincts of the Assembly, specifically the Office of the Speaker.
    (2) That she had walked with other members to the Speaker's Office to seek audience with her.
    (3) That upon her entering the Office of the Speaker, she was assaulted with pepper spray by the Hon. Elachi.
- **Regarding her contribution to the commotion on the material day, Hon. Mary Njambi stated;**
    (1) That she did not contribute in any way or form to the fracas that transpired at the office of the Speaker, but she acknowledged that she was ahead of other members when walking towards the office.

(2) That at no point did she neither utter nor use abusive language towards anyone.

- **On whether her Presence at the Office of the Speaker was justified given the circumstances, Hon. Mary Njambi stated;**
  (1) That her presence in the office of the Speaker on the material day was justified and that she did not use force to access the office of the Speaker.
  (2) That she had visited the Office of the Speaker as any Member would on any given day.
  (3) That she only became hysterical and complained in protest after she and others in the Office were pepper sprayed.
  (4) That she could not understand why the Hon. Elachi would use pepper spray on Honourable Members who had merely gone to visit with her in her office.
- **On whether she was under the influence of alcohol, as evidenced by a photo that circulated online purporting to show herself and other members taking alcohol before the commotion, Hon. Mary Njambi stated;**
  (1) That indeed she was in a hotel with other members that morning on 10th September 2017.
  (2) That she was having tea and not alcohol as portrayed by publications online.
  (3) That she is an avid Christian and reiterated that she is a believer in Christ.
  (4) That her presence in the photo was because she had paid a visit to a friend who was using the alcohol at the time.
- **Regarding her thoughts on what contributions her conduct had made to the public's perception of the Assembly, she stated:**
  (1) That there were many other ways to air grievances and seek audience with the Hon. Speaker than was done on the material day.
  (2) That this commotion would not have happened had the security at the door allowed members audience with the Speaker.

e) **Hon. Anthony Karanja Kiragu, MCA**

The Hon. Anthony Karanja Kiragu, MCA appeared before the Committee on Thursday, 27th September, 2018. He was presented with the following evidence attributed to him -

1) A video clip from Nation Television station in which he is seen in or around the Office of the Speaker at the time of the commotion.

In response to questions put to him by the Committee regarding events that transpired on or about 10th September, 2018, the Hon. Anthony Karanja Kiragu, MCA submitted as follows:

- **On his knowledge of the events that transpired on or about of 10th September 2018 at the Speaker's office, Hon. Anthony Kiragu stated;**
  (1) That he and other Members went to the office of the Speaker to kindly request her to leave as she was a stranger in the office and the Assembly precincts after being impeached on the 6th of September, 2018.
  (2) That the membership then considered the Speaker a *persona non gratta*.
- **Regarding his contribution to the common on the material day, he stated;**
  (1) That he was just an observer.
  (2) That the main reason for the commotion witnessed in the Speaker's office was because the Honorable Speaker pepper sprayed Members who were urging her to leave the office; and therefore they were scampering for safety.
  (3) That he recorded a statement with the police on the same.
- **On whether he had a personal grudge against the Hon. Elachi, he stated;**
  (1) That he had no personal issues with the Hon. Elachi.
  (2) That he was just undertaking his oversight duties in ensuring the County resources are well managed.
- **On whether he had taken alcohol as evidenced by a photo circulating online purporting to show members taking alcohol prior to the Commotion, he stated that;**
  (1) That he does not take alcohol, being a teetotaler.
  (2) That on that day as per the photo, he was taking tea and not alcohol but he interacts with the all Members of the Assembly of which some take alcohol.
  (3) That indeed there was a bottle of beer on the table as per the photo but he was not aware of the contents in the bottle.
- **On his thoughts on Court Order and whether he believes in court orders**
  (1) That he respects the court orders; however, he noted that the impeachment happened before the court orders were issued.
  (2) That in any case, he had not seen the court orders staying Hon. Elachi's removal from office.

f) **Hon. Peter Imwatok, MCA**

The Hon. Peter Imwatok, MCA appeared before the Committee on Tuesday, 25th September, 2018. He was presented with the following evidence attributed to him -

1) A video clip from Nation Television station in which he is seen in or around the Office of the Speaker at the time of the commotion.
2) A video clip from Nation Television station in which he gave a Press Conference from the area around the Office of the Speaker.

In response to questions put to him by the Committee regarding events that transpired on or about 10th September, 2018, the Hon. Peter Imwatok, MCA submitted as follows:

- **On his knowledge of events that transpired on or about the 10th September 2018 at the Speaker's office, Hon. Peter Imwatok, MCA stated;**
  - (1) That members had a Kamukunji after the impeachment of the speaker on 10th September, 2018.
  - (2) That while walking towards his office that day, he noticed lady members were complaining that they had been pepper sprayed.
  - (3) That he rushed to his office and came out shortly afterwards to address the media on the events of the day.
  - (4) That after the press briefing he saw the OCS and OCPD Central Nairobi around the Assembly premises.
  - (5) That he sought to know from them if they have permission to enter the premises and they confirmed they did not have communication and that they were waiting for the same.
  - (6) That he had then requested them to assist in calming down the situation.
  - (7) That he had asked all members to come out of the office of the Speaker.
  - (8) That he briefed the media on the on goings, alerting them that the Speaker was hiding in her toilet and the leadership of the Assembly, himself included, were doing whatever possible to assist her leave peacefully.
  - (9) That the entire leadership calmed the situation and members left the office leaving behind the leadership.
  - (10) That it was him that went to call the OCPD and OCS into the office of the Speaker to confirm if her life was in danger.
  - (11) That they had then assured the Speaker that she was safe and asked her to leave peacefully.
  - (12) That the Hon. Elachi was then escorted together with the OCS, KICC out of precincts.

- **On whether he had received summons to appear before the EACC,** he stated;
  (1) That he only came to know of the summons through the committee as the summons was not personally served to him.
  (2) That the EACC was overtaking its mandate by not allowing internal mechanisms to settle the dispute first.
- **On whether there was a Kamukunji on that day to plan the ejection of the speaker from office, he stated;**
  (1) That there was no such Kamukunji for purposes of evicting the Hon. Elachi from Office.
  (2) That indeed a Kamukunji was only organized but the previous day to give members a way forward on the events leading to and after there was a vacancy in the office of the speaker.
- **On whether he had played any role in instigating the fracas, given how well organized the ejection was executed, he stated;**
  (1) That there was no such communication to members nor planning for the ejection, even though the Office of the Speaker was vacant having been impeached.
  (2) That the presence of the Speaker within the precincts after a vote of no confidence was held had provoked the members who wanted audience with her to find out why she was within precincts.
- **On what he would do as a leader to prevent re-occurrence of such fracas in future, he stated;**
  (1) That he condemned the behavior of Madam Speaker stating that if members don't have confidence in you, you should set aside and not confront them in court.
  (2) That the Committee had powers to punish any member they found culpable.

g) **Hon Nancy Muthami, MCA**

The Hon. Nancy Muthami, MCA appeared before the Committee on Tuesday, 2nd October, 2018. She was presented with the following evidence attributed to her -

1) A video clip from Nation Television station in which she is seen in or around the Office of the Speaker at the time of the commotion.

In response to questions put to her by the Committee regarding events that transpired on or about 10th September, 2018, the Hon. Nancy Muthami, MCA submitted as follows:

- **On her Knowledge of events that transpired on or about the 10th September 2018 at the Speaker's office, Hon. Nancy Muthami, MCA stated;**
    (1) That on the material day as a member of the Assembly Women caucus she had gone to the Speaker's office to find out what was going on after learning of the commotion at the said office.
    (2) That her presence at the Office was out of the fact that the speaker had not called members of the women caucus to brief them on what was going on in the Assembly.
    (3) That when she heard that members of the fourth estate were at the office, she went to the speaker for her to shed some light on the on-goings.
- **On whether she was aware of the Kamukunji by members earlier on the material day, and if she had been at the Kamukunji, Hon Nancy Muthami stated;**
    (1) That she was not aware of any Kamukunji by members as members were in recess.
- **Regarding her actions upon arriving at the Office of the Speaker on the material day, she stated;**
    (1) That when she got to the office and there were many people inside including members of the press.
    (2) She, the Speaker, requested her to help her get the media out of the office.
    (3) That she did manage to remove members of the press from the room by requesting them to leave the office.
- **On her knowledge of events that transpired after Members of the press left the Speaker's Office, she stated;**
    (1) That she left the room soon after the press left since the Hon. Elachi had used pepper spray that personally affected her and she felt dizzy.
    (2) That shortly after leaving the office, she collapsed and found herself in Nairobi Hospital.
- **On whether she had taken alcohol as evidenced by a photo circulating online purporting to show members taking alcohol prior to the Commotion, she stated that;**
    (1) That she does not take alcohol.
    (2) That she is a mother and a member of the church choir.
    (3) That she was not pleased with whoever posted the photo, having brought a lot of issues for her including members of the choir in her church questioning her conduct.
    (4) That she condemned the photo and stated that there were many people there.

(5) That the only reason she is in the photo is because she went to the table to ask how she can get assistance for her ward members.

- **On whether she stormed into the office of the Speaker, she stated that:**
  (1) That she did not storm into the office of the Speaker.
  (2) That she went to the Office of the Speaker like she normally would, since the Office of the Speaker is open to all Members.
- **In response to questions regarding her conduct, including shouting on that day around the office of the Speaker, she stated:**
  (1) That she had not shouted nor conducted herself in an undignified manner.
  (2) She requested to be shown video of her shouting, to which footage of the incidence was played to the committee.
  (3) She responded by noting that she hit the door and shouted because she thought the speaker's life was in danger as she had been locked in the office.
  (4) That she thought there were goons inside the office, and worried for the Speaker's welfare, being a friend and family.
- **On whether she had found the goons upon entering the Speaker's Office, she stated that;**
  (1) That there were about 30 members of the media and a few uniformed police officers when she entered the office.
  (2) That it was not a normal day at the office of the Speaker given what was ongoing at the time.
- **On evidence of her being taken to hospital after collapsing following use of pepper spray, she stated:**
  (1) That indeed she had collapsed and was rushed to hospital and would submit to the committee documents of that day from Nairobi Hospital.

h) **Hon. Osman Khalif, MCA**

The Hon. Osman Khalif, MCA appeared before the Committee on Tuesday, 2nd September, 2018. He was presented with the following evidence attributed to him -

1) A video clip from Nation Television station in which she is seen in or around the Office of the Speaker at the time of the commotion.

In response to questions put to him by the Committee regarding events that transpired on or about 10th September, 2018, the Hon. Osman Khalif, MCA submitted as follows:

- **On his Knowledge of events that transpired on or about the 10th September 2018 at the Speaker's office, Hon. Osman Khalif, MCA stated;**
  (1) That he was present at the assembly precincts at the Human Resource department on the said day.
  (2) That as he went down to the office of the Honourable minority whip, he saw several members and other persons unknown to him at the Office of the Speaker.
  (3) That he was not aware of what was happening within the precincts of the Speaker's Office.
  (4) That he saw Serjeant-at-arms at the office, and sought to know from them and other persons nearby what was transpiring at the Speaker's Office.
  (5) That he found out that the speaker was in the office, and that her presence had triggered the gathering.
  (6) That he then proceeded to the office of the Minority whip.
- **On whether he was under any person's or member's directive on that day, he stated;**
  (1) That he couldn't have been at any persons directives when he was going about his business at the Human Resource Office
  (2) That he saw the leadership of the Political parties inside the office of the Speaker and left them to deal with the fracas as they were trying to calm down members and resolve the situation.
  (3) That he therefore continued with his walk towards the office of the Minority whip.
- **On his thoughts regarding the conduct of members and himself on the said day, he stated;**
  (1) That he was not aware of what was happening and when he saw the leadership in the office he knew they would sort out the issue.
  (2) That he cannot judge but condemns the incident.
- **Regarding his knowledge of a Kamukunji on that day and whether he participated in the Kamukunji, he stated that;**
  (1) That he was not aware there was a Kamukunji on 10th September 2018 and he did not take part in any Kamukunji that morning.
  (2) That he only came to know about the incident through the media and when he moved from the Human Resource to the minority whip's office.

i) **Hon. Mwangi Abraham Njihia, MCA**

The Hon. Mwangi Abraham Njihia, MCA appeared before the Committee on Wednesday, 3rd October, 2018. He was presented with the following evidence attributed to him -

1) A video clip from Nation Television station in which she is seen in or around the Office of the Speaker at the time of the commotion.

In response to questions put to him by the Committee regarding events that transpired on or about 10th September, 2018, the Hon. Mwangi Abraham Njihia, MCA submitted as follows:

- **On his Knowledge of events that transpired on or about the 10th September 2018 at the Speaker's office, Hon. Mwangi Njihia, MCA, stated;**
  (1) That he was at city hall when he heard that the speaker who was in office despite having been impeached.
  (2) That he came to the office of the speaker and found the common ongoing.
- **Regarding a photograph that circulated on social media of himself and other members allegedly having alcohol prior to the fracas, Hon. Mwangi Njihia stated:**
  (1) That the incident occurred when Members were on recess, thus members have their private lives and that on the said day he had met with other members.
  (2) That those who met and whose picture was taken had met for a breakfast get together and that indeed there was tea, mandazi, samosas and alcohol.
- **On whether he was present at the Speaker's Office on the 10th September, 2018, he stated;**
  (1) That when he arrived at City Hall that morning, he had leanrt that there was commotion at the Speaker's office.
  (2) That upon further enquiry, he had leanrt that there were strangers in the office of the Speaker who were not Members of the County Assembly.
  (3) That when he got to the Speaker's office he found the door locked and pushed it open, gaining entry into the Speaker's office.
  (4) That his intention upon entering the office was to check on the Speaker's welfare.
  (5) That no directions were issued by anyone for members to go eject the speaker from office.
  (6) That indeed he was present at the Speaker's Office.
  (7) That he had found many other persons present at the Office and had sought to know what was happening.

- **Regarding his knowledge of a Kamukunji on the morning of 10th September 2018, he stated;**
  (1) That indeed there was a Kamukunji held in the chamber that morning.
  (2) That the Kamukunji resolved that they will not allow the Speaker into the office as she had been impeached.
  (3) That at the Kamukunji the court order staying Hon. Elachi's removal was discussed, save that the order came after the impeachment yet the order was to stop the impeachment process.
- **On whether he used abusive language on that day, he stated that;**
  (1) That he neither used abusive language nor shouted at anyone.
  (2) That his conduct and anything he might have said can be reviewed and his innocence attested and corroborated by video footage.
  (3) That he did not contribute to the fracas on the material day and affirmed that what happened was regrettable.
  (4) That he was remorseful for whatever role he may have played on the said day and asked the committee to forgive him if he did anything wrong.

j) **Hon. Redson Otieno, MCA**

The Hon. Redson Otieno, MCA appeared before the Committee on Tuesday, 2nd October, 2018. He was presented with the following evidence attributed to him -

1) A video clip from Nation Television station in which he is seen in or around the Office of the Speaker at the time of the commotion.

In response to questions put to him by the Committee regarding events that transpired on or about 10th September, 2018, the Hon. Redson Otieno, MCA submitted as follows:

- **On his Knowledge of events that transpired on or about the 10th September 2018 at the Speaker's office, Hon. Mwangi Njihia, MCA, stated;**
  (1) That he was within the precincts on 10th September 2018.
  (2) That he was not involved nor did he actively participate in the incidence.

k) **Hon. Laura Mwende, MCA**

The Hon. Laura Mwende, MCA appeared before the Committee on Tuesday, 2nd October, 2018. She was presented with the following evidence attributed to her -

1) A video clip from Nation Television station in which she is seen in or around the Office of the Speaker at the time of the commotion.

In response to questions put to her by the Committee regarding events that transpired on or about 10th September, 2018, the Hon. Laura Mwende, MCA submitted as follows:

- **On her Knowledge of events that transpired on or about the 10th September 2018 at the Speaker's office, Hon. Mwangi Njihia, MCA, stated;**
  (1) That she had come to see the majority leader on that day on appointment.
  (2) That she found confrontation around the office of the Speaker.
  (3) That she went into the office of the Speaker but was hit with some smell which she termed as "a chemical".
  (4) That all present in the office of the Speaker were coughing.
  (5) That she got angry as to why the speaker would use such a chemical on Members.
- **On her knowledge of a Kamukunji on that day, she stated:**
  (1) That she was not aware of such a Kamukunji and she had not been sent by anyone.
- **Regarding why she was shouting, hurling insults and whether it was the best way a member could handle herself in the circumstances, she stated;**
  (1) That she was provoked by a member of the public who wanted to drag the name of The Governor into the scuffle.
- **On whether she has been summoned by the EACC on the matter, she stated;**
  (1) That he had only been summoned as a member of the Sectoral Committee on Labor and Social Welfare.
- **Regarding a photograph that circulated on social media of herself and other members allegedly having alcohol prior to the fracas, Hon. Laura Mwende, stated:**
  (1) That she does not drink alcohol and she only has friends even at the assembly who drink.
- **On whether she regrets using the language she used on the material day as captured on video footage, she stated;**
  (1) That she regrets using the abusive language.
  (2) That she regrets using her words against the speaker and quoting of Madam Speaker's foreign trip to the United States of America to members of the media.
  (3) That indeed the incident had made her lose respect from members of public.

Witnesses from outside the County Assembly membership

l) **Mr. Robinson Thuku – for Nairobi County Police Commander**

As earlier indicated, the Committee had similarly summoned the County Police Commander to answer to the deployment of several National police officers to the County Assembly precincts, other than those authorized and deployed to the Assembly, led by the OCS Central Police Station, which deployment was not clear who authorized and therefore in contravention of Section 31 of the County Assemblies Powers and Privileges Act, 2017.

On Thursday, 27th September, 2018 at 10.00 am, the OCPD, Nairobi Central, Mr. Robinson Thuku, appeared before the Committee on behalf of the County Police Commander to shed light on the presence of the National Police Service officers in the Assembly precincts on the material day.

In his submissions, the OCPD informed the Committee as follows:

- **Regarding Police practice in circumstances such as the events that occurred on 10th September,2018 at the Assembly Speaker's office, he stated;**
  (1) That their attention was drawn by persons outside the County Assembly who were making noises.
  (2) That, through the police radio control room he was reached as the OCPD Nairobi.
  (3) That he made a call to the OCS KICC and instructed her to go along Wabera Street and brief him about whatever was happening.
  (4) That he requested him to talk to the persons and to inform him that it was not the right time to demonstrate.
  (5) That she later reported to him that she talked to them and they left.
  (6) That he was also informed that the Honorable Speaker had called the radio and informed her that her life was in danger.
  (7) That the OCS, KICC went to the precincts to find out if the life of the Speaker was in danger.
  (8) That she confirmed that the danger to the life of Madam Speaker had been stabilized by the Serjeant-At-Arms and the Assembly stationed Inspector Muala. Madam Speaker had hid in her office toilet. There was however shouting by the members.
  (9) That the OCPD came to the premises but the life of the Speaker having been stabilized there was nothing much they could do as issues of the County

Assembly are government by the various laws of the County Assembly including the Constitution of Kenya, The County Governments Act and the County Assemblies Powers and Privileges Act, 2017 established under Article 196 of the Constitution of Kenya.

(10) That he found commotion in the Speaker's Office and that the Speaker had locked herself in the toilet.

(11) That the Speaker told him of her situation and that she requested the OCPD to leave as she would leave the precincts on her own.

- **Regarding the unauthorized presence of National Police officers in the Assembly, he stated;**

  (1) That the officers were deployed outside the Assembly precincts only.

- **On his knowledge of the County Assemblies Powers And Privileges Act, 2017, the OCPD stated;**

  (1) That he was aware no member of the National Police Service can be admitted into the precincts to the Assembly but only by invite from the speaker and can only enter with a Sergeant-At-Arms.

  (2) That only three (3) senior offices were in the precincts of the County Assembly, having been invited by the Hon. Elachi.

  (3) That a dozen other officers however, were stationed outside of the precincts with anti-riot gear.

- **Whether his officers were armed with batons and accessed the Assembly precincts, he stated;**

  (1) That the batons are a typical anti-riot gear and would not be termed as being armed as it was part of police tools for such duty.

- **Regarding his thoughts on whether there was need to use force on the material day, the OCPD stated;**

  (1) That there was no need for force despite the "misconduct" from the members, the Members of the County Assembly were within their mandate and the Speaker was not attacked and there was no fight but simply shouting by the members.

  (2) That there was no cause of alarm and that members were only performing their normal of duties.

  (3) He acknowledged the laws governing County Assemblies and went ahead to give an example that if the events were happening in Chambers then he could

not have power or authority to go inside to calm the situation unless there is a threat to the right to life as envisaged under Article 26 of the Constitution.

3.9 ON CONDUCT OF THE HON. MARY ARIVIZA, MCA ON 25TH SEPTEMBER, 2018 ON THE FLOOR OF THE ASSEMBLY

As earlier indicated, the Committee called two (2) witnesses for purposes of preparing a comprehensive report on alleged unethical conduct of the Honorable Mary Ariviza, MCA and subsequent breaches of the County Assemblies Powers and Privileges Act, 2017 as relates to the events witnessed in the Assembly plenary on the 25th day of September 2018. The Committee reviewed the footage of the incident and invited the witnesses to testify.

Pursuant to Section 18 of the County Assemblies Powers and Privileges Act, 2017, the Acting Clerk, under the direction of the Speaker, wrote and issued Summonses for the witnesses to appear before the Select Committee on Powers and Privileges on Tuesday 4th October 2018 at 10.00am at the Chamber Boardroom, City Hall Buildings, to answer to the alleged involvement and unethical conduct of the Member in the plenary on Monday 25th September, 2018 contract to clear provisions of the County Assemblies Powers and Privileges Act, 2017, namely –

1.) Hon. Peter Imwatok, MCA
2.) Hon. Mary Ariviza, MCA

Appearance before the committee

Statements and oral testimony from witnesses were reviewed and noted as follows.

a) **Hon. Mary Ariviza, MCA**

The Hon. Mary Ariviza, MCA appeared before the Committee on Thursday, 4th October, 2018. She was presented with the following evidence attributed to her -

1) A video clip from County Assembly Broadcasting Unit and Media Houses in which she is seen being generally disorderly to the detriment conduct of the business of the assembly.

In response to questions put to her by the Committee regarding events that transpired on 25th September, 2018, during that day's plenary sitting, she submitted as follows:

- **On her knowledge of events around the 25th September 2018 during the plenary, Hon. Mary Ariviza stated;**

  (1) That it all started with the Speaker, Hon. Beatrice Elachi, being dismissed and Hon. Mary Ariviza taking a stand that she supported the former speaker as she thought she was competent for the position.

  (2) That in her opinion, she felt that the process of holding a vote of no confidence for Hon. Beatrice Elachi was not procedural. She quoted the instance of changing Standing Order 65 of the Nairobi City County Assembly Standing Orders on the procedure of removal of a Speaker. She stated it was not right for the members to eject the Speaker without giving her a right of audience.

  (3) That with the reasons aforementioned, she did not want to participate in plenary on the material day, 25th September 2018.

  (4) That she therefore sat at the members' lounge on the day.

  (5) That she heard the presiding speaker of the day mention her name as one of the contenders to replace Hon. Beatrice Elachi despite her stand as "pro-Elachi" being known to the whole assembly. She stated she had stated even to members of the fourth estate that she believed in the leadership of Hon. Beatrice Elachi. She felt this was very disrespectful and dishonoring to her as an Hon. Member.

  (6) She came into the plenary upset to see who could have suggested her name to be the next Speaker of the County Assembly. She learnt that it was the Hon. Minority whip who had suggested her name.

  (7) That Hon. Peter Imwatok had suggested her name without consulting her. She stated that following the incidence, Hon Minority Whip had already de-whipped her from the Sectoral Committee on Transport and Infrastructure.

- **On why she did not follow procedure when she got into the plenary by bowing to the Chair and peacefully taking her seat and to raise an issue with the speaker, she stated;**

  (1) That while she did not follow the procedure as asked, her not doing so did not hurt anybody but instead told the committee that she was hurt and embarrassed of how the male Serjeant-at-arms came to take her out of the plenary despite the Assembly having female Sergeant-at-arms.

  (2) That she was mishandled instead despite being disabled. She stated that her intention as she came to the plenary was not to dishonor or disrespect anyone.

  (3) That she felt her Constitutional right to Association was being violated.

(4) That, she had decided to be associated with Hon. Beatrice Elachi. She apologized to the committee if it felt that she was dishonorable and reiterated that she did not fight anyone on the day.

(5) She questioned whether the committee had invited Hon. Peter Imwatok to give evidence why he called her name on the floor of the Assembly.

The video footage of the incident was viewed by the committee at this point.

- **Regarding the nomination of Hon. Mary Njambi's candidature and her respectful decline of the nomination, she stated;**
  (1) That she suspects the Hon. Mary Njambi had been consulted first before her name was mentioned for the position.
- **Whether she was familiar with Standing Order 118 on *Action to be taken on refusal to withdraw*, Hon. Mary Ariviza stated;**
  (1) That she did not refuse to withdraw and she was not ordered to withdraw.
- **Whether she was familiar with Standing Order 113 and 114, and her opinion on how the committee should proceed in dispensing with her matter, she stated;**
  (1) That she neither willfully declined to obey an order of the Speaker nor did she obstruct anyone.
  (2) That instead she was carried out in an embarrassing manner.
  (3) That she did not defy the ruling of the Speaker.
  (4) That she was not addressed by the chair of the day but instead the chair instructed the sergeant-at-arms to directly remove her from the house.
- **On whether in her opinion the force used was justified, she stated;**
  (1) That she was still ill from the incidence and the force of strong men was too much for her. That since that day, her leg problems has become worse.
- **Whether she recognized that there were proceedings in the house before she entered the plenary shouting, she stated;**
  (1) That there was a court order and the Assembly should not have continued with the proceedings.
  (2) That from a legal perspective, in her opinion the proceeding was an illegal gathering trying to install an acting Speaker. That it was a sitting that was in contempt of a court order.
  (3) That the issue of electing an Acting speaker is a serious issue and that members playing with other member's names in proposition for the position actually showed that the Assembly was not taking itself seriously as an Honorable house.

- **Regarding her thoughts on her behavior and conduct on the material day, she stated;**
    (1) That her conduct may have made some members angry and she apologized but added that when one is demeaned and not treated like an Honorable member, as a human being one may take measures that may not please other members. She reiterated that her action was not meant to demean any member of the County Assembly.
- **On her remarks on the events of the material day, Hon Mary Ariviza stated;**
    (1) That whatever was happening at the Assembly at the time had brought a lot of disrepute to Nairobi County Leadership.
    (2) That she is apologetic for the incident and reiterated her intention was not to dishonor any member but maintained her stand that the proceedings on that day were not legal.
    (3) That she respects the Chairperson of the Select committee on Powers and Privilege, the leadership of the Assembly and the Assembly but in her opinion Hon. Peter Imwatok, MCA, started the whole scene by mentioning her name in proceedings which she did not wish to be party to.

Review of evidence before the committee

The evidence presented before the committee showed the Honorable Minority Whip propose the name of Honorable Mary Ariviza for the position of acting Speaker and Honorable Mary Ariviza entering the plenary asking the house why it was playing with her name. A scene is witnessed leading to the forceful removal of Hon. Mary Ariviza out of the Plenary on 25th September 2018.

b) **Hon. Peter Imwatok, MCA- Minority Chief Whip**

The Hon. Peter Imwatok, MCA appeared before the Committee on Thursday, 4th October, 2018. He was presented with the following evidence attributed to him -

1) A record of the Hansard in which the Member is on record on the material day stating that he had consulted the Honorable Mary Ariviza, MCA regarding her nomination as candidate for Acting Speaker of the County Assembly.

In response to questions put to him by the Committee regarding events that transpired on 25th September, 2018, during that day's plenary sitting, he submitted as follows:

- **On whether he had consulted the Hon. Mary Ariviza as noted in his remarks, he stated;**
  (1) That he is mandated as Minority Whip to consult members' every so often on matters of importance to the Minority Party.
  (2) That he went round the precincts on that day mobilizing members to attend the day's sitting as the assembly would conduct important business of electing and/or appointing an acting Speaker.
  (3) That Honorable Mary Ariviza who was sited with Hon. Melab was also informed of the reasons to attend the sitting.
  (4) That Honorable Mary Ariviza did not inform him that she could not attend the sitting.
- **On whether if he was performing on his mandate as chief whip if a member could behave in that manner in his presence, Hon. Peter Imwatok, MCA stated;**
  (1) That as the Minority Whip he had already taken action by de-whipping Hon. Mary Ariviza from some committees including the Sectoral Committee on Transport and Infrastructure.
  (2) That her actions whether she was consulted or not were unjustified given that Hon. Mary Njambi's was similarly proposed but her reaction was a dignified decline.
- **Whether he misled the Assembly by stating that he had consulted with Hon. Mary Ariviza before proposing her name for the position of Acting Speaker, he stated;**
  (1) That he had whipped all the minority whip coalition members, of which Hon. Mary Ariviza belongs.
  (2) That he informed Hon. Mary Ariviza that she should not miss the sitting as there was an important business to transact and that she, Hon. Ariviza, was a target for promotion on the business of the day.
  (3) That as a Minority Chief Whip it is his mandate to select which member serves in whatever committee or a candidate on behalf of the coalition.
  (4) That in any case he did not need to consult Hon Mary Ariviza before proposing her name as the presiding Chairs opened the floor for proposals and members proposed several names.
  (5) That if Hon. Ariviza felt the position was not worthy of her, she should have declined with honor.
  (6) That he had settled on Hon. Mary Ariviza because after the vote of no confidence was held against Hon. Beatrice Elachi, members of the County

Assembly accused the leadership of being male chauvinism and he believes in women empowerment. That he perceived the Honorable member to be best qualified for the position.

(7) That had her name been on the ballot on the said day, he would have voted for Hon Mary Ariviza.

- **On measures he would take as the Minority Whip to ensure that such an incident does not occur again, he stated;**

(1) That he had taken certain measures to ensure Members of his Coalition familiarize themselves with the relevant statutes on conduct to avoid falling afoul of them.

(2) That he had withdrawn her from some committees and had written to her for a meeting. That he was working on further ways to prevent this in future.

Review of evidence before the committee

The evidence presented before the committee showed the Honorable Minority Whip propose the name of Honorable Mary Ariviza, MCA for the position of acting Speaker and Honorable Mary Ariviza entering the plenary asking the house why it was playing with her name. A scene is witnessed leading to the forceful removal of Hon. Mary Ariviza, MCA out of the Plenary on 25th September, 2018.

3.10 BRIBERY ALLEGATIONS

3.11 ON ALLEGATIONS OF BRIBERY AGAINST THE SECTORAL COMMITTEE ON LABOUR AND SOCIAL WELFARE

a) **Hon. Wilson Ongele Ochola, MCA**

The Hon. Redson Otieno, MCA appeared before the Committee on Thursday, 18th October, 2018. He was presented with the following evidence attributed to him -

1) An audio clip attributed to him allegedly making statements to the effect that Members of the Sectoral Committee on Labour and Social Welfare had been bribed to facilitate the award of a tender to AAR Healthcare Limited while at a retreat in Mombasa with members of the executive of Nairobi City County government.

In response to questions put to him by the Committee regarding bribery allegations against himself and Members of the Sectoral Committee on Labour and Social Welfare, the Hon. Wilson Ochola, MCA submitted as follows:

- **Regarding his knowledge of the allegations leveled against members of the Sectoral Committee on Labor and Social Welfare per claims in the audio recording, the Hon. Wilson Ochola, MCA, stated;**
  (1) That he was neither aware nor had he heard of such allegation.
- **On what he knew about the said allegations, he stated;**
  (1) That he only heard about the allegations on radio.
  (2) That the allegations had affected the execution of the mandate of the Sectoral Committee on Labor and Social Welfare.
  (3) That the allegation was wrongly before the committee because it is Hon. George Ochola's voice on the recording and not him as alleged.
  (4) That he suspected someone had tried mimicking his voice, giving examples of people who mimic other leaders including the President.
  (5) That the voice in the audio recording was similar to his but it was not him.
  (6) That the matter had gone before EACC and members of the committee had appeared to give statements at the Commission.
  (7) That the commission had apologized for the miscommunication as it was George Ochola and not Wilson Ochola from the recordings.
- **On whether he knew a Mr. George Ochola, the person whose voice he alleges was recorded and not him, he stated;**
  (1) That he knew George Ochola as a former MCA in the First Assembly from Hospital Ward.
  (2) That they served together as Members of County Assembly in the previous term (2013- 2017).
  (3) That he had not been in contact with the Hon. Ochola George after losing his re-election bid.
  (4) That the Committee must however note that his were just suppositions seeing as "there are so many George Ochola's in Kenya, he could not say with certainty that he is the one in the recording".
- **On what actions he had taken since learning a voice similar to his as he alleges was in circulation over serious allegations of misconduct, he stated;**
  (1) That he had taken the legal step of reporting the matter to police, though he could not recall the case number, and instituting a case for defamation.
  (2) That he did not know the author and therefore the matter was still under investigation.

- **Whether he had received a letter from EACC, he stated;**
    (1) That indeed he had received summons to appear before the EACC.
    (2) That the EACC had dropped the matter as they were investigating someone who was not a member of the Assembly at the time.
- **On his knowledge of the AAR tender, which formed the basis of the allegations, he stated;**
    (1) That he did not know anything about the AAR tender as it was neither discussed in the committee meetings nor did he personally know anything to do with the company and its business at the County Executive.
- **On his knowledge of what business the Sectoral Committee had gone to transact in Mombasa for the retreat, he stated;**
    (1) That the committee held a joint sitting with officials of the County Workers Union to discuss issues of the uniforms for staff of the County and improvement of facilities for workers.
    (2) That at the said meeting AAR was not an Agenda for discussion during the retreat.

b) **Hon. Jared Akama, MCA**

The Hon. Jared Akama, MCA appeared before the Committee on Thursday, 18th October, 2018. He was presented with the following evidence attributed to him -

1) An audio clip attributed of an alleged Member of the Committee making statements to the effect that Members of the Sectoral Committee on Labour and Social Welfare had been bribed to facilitate the award of a tender to AAR Healthcare Limited while at a retreat in Mombasa with members of the executive of Nairobi City County government.

In response to questions put to him by the Committee regarding bribery allegations against himself and Members of the Sectoral Committee on Labour and Social Welfare, the Hon. Jared Akama, MCA submitted as follows:

- **On his Knowledge of the allegations of bribery of members of the Sectoral committee on Labor and Social Welfare for the award of a Health Insurance contract to AAR, Hon. Jared Akama stated;**
    (1) That he is a member of the Sectoral Committee on Labor and Social Welfare.
    (2) That he received a letter dated 16th October 2018 summoning him to appear before the Select Committee on Powers and Privileges

(3) That indeed he knew about the allegations and had received summons to appear before the Ethics and Anti-Corruption Commission for investigation of the same.

(4) That he also heard about the allegation from the Media, in which it was reported that a member of the Sectoral Committee on Labor and Social Welfare had alleged that the Committee had solicited for a bribe in the award of the Health Insurance Contract to AAR.

(5) That it was his knowledge that the member who is alleged to have said this has since denied stating the allegation.

(6) That the person alleged to have made statements alleging the bribery had been identified as George Ochola and not Wilson Ochola as it had been reported, and that he knew Hon. George Ochola.

(7) That the AAR contract was awarded during the First Assembly and not during the Second Assembly in which he is a member.

(8) That it would be injustice to purport that he would influence decisions made by members of the first assembly.

- **On the nature of Business the committee had gone to transact in Mombasa, he stated;**

(1) That the agenda of the committee at the retreat was to discuss issues affecting workers of Nairobi County and not any particular company.

(2) That the retreat was sponsored by the County executive, being a joint sitting of the Trade Union, the Board, PSM and members of the County Assembly.

(3) That the main agenda was discussion of early retirement of workers and the workers' welfare.

c) **Hon. Geoffrey Ng'ang'a, MCA**

The Hon. Geoffrey Ng'ang'a, MCA, appeared before the Committee on Thursday, 18th October, 2018. He was presented with the following evidence attributed to him -

1) An audio clip attributed of an alleged Member of the Committee making statements to the effect that Members of the Sectoral Committee on Labour and Social Welfare had been bribed to facilitate the award of a tender to AAR Healthcare Limited while at a retreat in Mombasa with members of the executive of Nairobi City County government.

In response to questions put to him by the Committee regarding bribery allegations against himself and Members of the Sectoral Committee on Labour and Social Welfare, the Hon. Geoffrey Ng'ang'a, MCA submitted as follows:

- **On his knowledge of allegations of bribery leveled against Members of the Sectoral Committee on Labor and Social Welfare for the award of a Health Insurance contract to AAR, Hon. Geoffrey Ng'ang'a stated;**
    (1) That he was not aware of such allegations and that what he had heard was that there was a voice recording alleging members of the Sectoral Committee on Labor and Social Welfare while in Mombasa received bribes for the award of a Health Insurance contract to AAR.
    (2) That he is the Vice-Chairman of the Sectoral Committee on Labor and Social Welfare and the committee as a whole did not receive any bribe for that or any other reason.
    (3) That the Agenda of the workshop had nothing to do with award of any contract to AAR but it was to deliberate on the Welfare of the county staff together with members of the executive, the Board and PSM.
- **On his knowledge of the recording and what actions he had taken on the same, he stated;**
    (1) That when the Committee heard the recording, it summoned the member alleged to have issued the statements for questioning and the member disputed that it was him.
    (2) That he was therefore neither in a position to comment authoritatively on the veracity of the recording nor to determine who it belonged to.
- **Whether he had any interest in AAR, he stated;**
    (1) That he had no interest in AAR and the award of such contracts was not the mandate of the Sectoral Committee on Labor and Social Welfare.
- **Whether the Committee was considering any issues to do with AAR at the material time, he stated;**
    (1) That there was no matter before the Committee regarding the AAR tender.
    (2) That the said contract was awarded during the previous term of the Assembly and it therefore did not appear before the Sectoral Committee on Labor and Social Welfare in the Second Assembly.

d) **Hon. Eunice Wanjiku, MCA**

The Hon. Eunice Wanjiku, MCA, appeared before the Committee on Thursday, 18th October, 2018. She was presented with the following evidence attributed to her -

1) An audio clip attributed of an alleged Member of the Committee making statements to the effect that Members of the Sectoral Committee on Labour and Social Welfare had

been bribed to facilitate the award of a tender to AAR Healthcare Limited while at a retreat in Mombasa with members of the executive of Nairobi City County government.

In response to questions put to her by the Committee regarding bribery allegations against herself and Members of the Sectoral Committee on Labour and Social Welfare, the Hon. Eunice Wanjiku, MCA submitted as follows:

- **Regarding her knowledge of the allegations of bribery of members of the Sectoral Committee on Labor and Social Welfare for the award of a Health Insurance contract to AAR, Hon. Eunice Wanjiku stated;**
  (1) That she was not aware of the allegations.
- **Whether she was aware of an audio recording of a Honorable member alleging bribery of members of the Sectoral committee on Labor and Social Welfare for the award of a Health Insurance contract to AAR, she stated;**
  (1) That she was aware of the recording but the alleged Member, the Hon. Wilson Ochola, had denied that it was him in the recording.
  (2) That the Committee dealt with no such matter during its retreat in Mombasa at the material time.
  (3) That only matters of County Staff Welfare were discussed, and neither she nor the committee had interest in AAR's business at the County and it was not in their mandate to award such tenders.

e) **Hon. Rose Ogonda, MCA**

The Hon. Rose Ogonda, MCA, appeared before the Committee on Thursday, 18th October, 2018. She was presented with the following evidence attributed to her -

1) An audio clip attributed of an alleged Member of the Committee making statements to the effect that Members of the Sectoral Committee on Labour and Social Welfare had been bribed to facilitate the award of a tender to AAR Healthcare Limited while at a retreat in Mombasa with members of the executive of Nairobi City County government.

In response to questions put to her by the Committee regarding bribery allegations against herself and Members of the Sectoral Committee on Labour and Social Welfare, the Hon. Rose Ogonda, MCA submitted as follows:

- **Regarding her knowledge of the allegations of bribery of members of the Sectoral committee on Labor and Social Welfare for the award of a Health Insurance contract to AAR, Hon. Rose Ogonda stated;**
  (1) That she was not aware of the allegations.

(2) That the Sectoral Committee on Labor and Social Welfare was having a meeting with the Union, Public Service Board and the members of the committee at Travellers Beach resort in Mombasa.

(3) That the Agenda was discussion of welfare of members and staff of the County.

(4) That prior to this meeting, staff had been retrenched or relocated from their offices prompting many of them to go to court.

(5) That on the Agenda there was no business relating to the award of a contract for Health Insurance.

- **On her knowledge of the bribery claims and what actions the Committee had taken since becoming aware of the recording, she stated;**

(1) That she only heard of the allegations through members of the fourth estate and the voice recording was played to her while attending a meeting with the EACC.

(2) That she could not identify the voice in the recording.

f) **Ms. Josephine Kamau, Clerk to the Sectoral Committee on Labor and Social Welfare**

Ms. Josephine Kamau, Clerk to the Sectoral Committee on Labor and Social Welfare, appeared before the Committee on Thursday, 30th October, 2018. She was presented with the following evidence attributed to her -

1) An audio clip attributed of an alleged Member of the Committee making statements to the effect that Members of the Sectoral Committee on Labour and Social Welfare had been bribed to facilitate the award of a tender to AAR Healthcare Limited while at a retreat in Mombasa with members of the executive of Nairobi City County government.

In response to questions put to her by the Committee regarding bribery allegations against Members of the Sectoral Committee on Labour and Social Welfare, Ms. Josephine Kamau submitted as follows:

- **On her knowledge of the allegations of bribery of members of the Sectoral committee on Labor and Social Welfare for the award of a Health Insurance contract to AAR, Ms. Josephine Kamau stated;**

(1) That she was aware of the allegations as she came across the allegation through print media.

(2) That however, she was not aware if the bribery took place.

(3) That she was aware of summons to attend a meeting with EACC and that she had gone to EACC to give her statement.

- **Regarding her knowledge of the audio recording alleging bribery against the committee for the award of Health Insurance contract to AAR, she stated;**
    (1) That she was aware and that she had even listened to the recording of the alleged recording of the Honorable member as it had circulated on Social media.
    (2) That she felt she knew the voice but she wasn't sure who it was as it was an audio recording.
- **On whether at its retreat in Mombasa the Committee allocated time to discuss medical cover by AAR on its Agenda, she stated;**
    (1) That the Committee had discussed medical cover for staff of the County Executive as a budget item during the budget making process.
    (2) That the issue was discussed only concerning the Budget for the staff and not the award of any tender.

3.12 ON ALLEGATIONS OF BRIBERY AGAINST THE SECTORAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS

a) **Hon. June Juliet Ndegwa, MCA**

The Hon. June Juliet Ndegwa, MCA appeared before the Committee on Wednesday, 24th October, 2018. She was presented with the following evidence attributed to her -

1) Alleged audio recordings of the Chairperson of the Committee allegedly soliciting for a bribe, Publications by the Star Newspapers and Video footage from Citizen TV, NTV and KTN attributing the alleged solicitation as meant for Members of the Sectoral Committee on Justice and Legal Affairs to help forestall the demolition of the Concord Hotel, which is allegedly sitting on riparian land.

In response to questions put to her by the Committee regarding bribery allegations against Members of the Sectoral Committee on Sectoral Committee on Justice and Legal Affairs, Hon. June Juliet Ndegwa, MCA submitted as follows:

- **On her knowledge of the allegations of bribery of members of the Sectoral committee on Justice and Legal Affairs, Hon. June Ndegwa stated;**
    (1) That what she knew is what is already from members of the fourth estate.
    (2) That she he had also seen forwarded messages and videos via the WhatsApp platform and social media.

(3) She stated that in the news it was alleged that the Member of County Assembly for Parklands Ward had been arrested for soliciting a bribe. On the media, photos of Hon. Jayendra Malde with handcuffs were trending.

- **On whether Hon. Jayendra Malde, MCA, Chairperson of the Committee, solicited the alleged bribe on behalf of the committee, she stated;**
  (1) That the allegations were false, and that no such matter had been discussed at any time during the committee's meetings.
- **As to whether the Committee had undertaken a site visit to the Concord Hotel around the time of the allegations of bribery, she stated;**
  (1) That the committee did not at any material time around the time the allegations emerged undertaken an inspection visit to the Concord Hotel.
  (2) That instead the Honorable member noted that the committee had conducted a site visit to Chandarana Supermarket in Westlands, Nairobi.
  (3) That Concord was neither officially nor unofficially discussed by the committee.
  (4) That she had never heard of Concord Hotel until the day the alleged bribery was reported on by the media.

b) **Hon. Anthony Kimemia, MCA**

The Hon. Anthony Kimemia, MCA, appeared before the Committee on Wednesday, 24th October, 2018. He was presented with the following evidence attributed to him -

1) Alleged audio recordings of the Chairperson of the Committee allegedly soliciting for a bribe, Publications by the Star Newspapers and Video footage from Citizen TV, NTV and KTN attributing the alleged solicitation as meant for Members of the Sectoral Committee on Justice and Legal Affairs to help forestall the demolition of the Concord Hotel, which is allegedly sitting on riparian land.

In response to questions put to him by the Committee regarding bribery allegations against him and Members of the Sectoral Committee on Justice and Legal Affairs, the Hon. Anthony Kimemia, MCA submitted as follows:

- **On his knowledge of the allegations of bribery of members of the Sectoral committee on Justice and Legal Affairs, Hon. Anthony Kimemia stated;**
  (1) That he did not know much about the allegations as he only came to know about the allegation from the members of the fourth estate and social media.
  (2) That he could therefore not speak to their veracity.

- **Whether it was true that the Hon. Malde Jayendra took the alleged bribe on behalf of the Sectoral Committee on Justice and Legal Affairs, he stated;**
    (1) That he did not know whether it was true as he did not know much about the allegations.
    (2) That he only came to know about the allegation from social media.

c) **Hon. Samora Mwaura, MCA**

The Hon. Samora Mwaura, MCA, appeared before the Committee on Wednesday, 24th October, 2018. He was presented with the following evidence attributed to him -

1) Alleged audio recordings of the Chairperson of the Committee allegedly soliciting for a bribe, Publications by the Star Newspapers and Video footage from Citizen TV, NTV and KTN attributing the alleged solicitation as meant for Members of the Sectoral Committee on Justice and Legal Affairs to help forestall the demolition of the Concord Hotel, which is allegedly sitting on riparian land.

In response to questions put to him by the Committee regarding bribery allegations against him and Members of the Sectoral Committee on Justice and Legal Affairs, the Hon. Samora Mwaura, MCA submitted as follows:

- **On his knowledge of the allegations of bribery of members of the Sectoral committee on Justice and Legal Affairs, Hon. Samora Mwaura stated;**
    (1) That he was not privy to the matters under investigation having not been aware of the bribery allegations.
    (2) That he only came to know of the allegations from members of the fourth estate and social media.
- **As to whether Hon. Malde was receiving the bribe on behalf of the Sectoral committee on Justice and Legal Affairs, he stated;**
    (1) That it is not true and that he had no prior knowledge of the allegations nor their veracity.
    (2) That he only learned about it the allegations via media outlets.
- **Whether he had visited the site at Concord Hotel around the time the bribery is alleged to have occurred, he stated;**
    (1) That he had never visited the Concord Hotel.
    (2) That he was aware there are Members who visited the Concord Hotel for a site visit.

- **On why the committee visited Concord Hotel around the time the alleged bribery is said to have occurred, he stated;**
    (1) That it is a mandate of Committees to plan and visit different sites where there is a need for such a visit.
    (2) That the committee had therefore planned to visit the site in line with its mandate of oversight.
- **On whether evidence and records of facilitation for the said visit can be obtained from the office of the Clerk, he stated;**
    (1) That he was not aware whether such a visit had been facilitated by the Office of the Clerk, nor was he present at a meeting where such a visit may have been discussed.
    (2) That after the Committee visited the site and the bribery allegations broke out, the Committee had not discussed the visit.
    (3) That he did not know members who visited the site.

d) **Hon. Doris Kanario, MCA**

The Hon. Doris Kanario, MCA, appeared before the Committee on Tuesday, 23rd October, 2018. She was presented with the following evidence attributed to her -

1) Alleged audio recordings of the Chairperson of the Committee allegedly soliciting for a bribe, Publications by the Star Newspapers and Video footage from Citizen TV, NTV and KTN attributing the alleged solicitation as meant for Members of the Sectoral Committee on Justice and Legal Affairs to help forestall the demolition of the Concord Hotel, which is allegedly sitting on riparian land.

In response to questions put to her by the Committee regarding bribery allegations against herself and Members of the Sectoral Committee on Justice and Legal Affairs, the Hon. Doris Kanario, MCA submitted as follows:

- **On her knowledge of the allegations of bribery of members of the Sectoral committee on Justice and Legal Affairs, Hon. Doris Kanario stated;**
    (1) That she knew about the allegations but only through the media when the story broke out.
    (2) That it was not true that Hon. Malde Jayendra received the alleged bribe on behalf of the committee and therefore as far as she is concerned, the committee had not received any bribe.

- **On her knowledge of a site visit undertaken by the Committee to Concord Hotel, she stated;**
    (1) That she knew the Concord Hotel and the committee had done a site visit to the said Hotel.
    (2) That the committee only came to know of the allegations after the site visit through media.
    (3) That she reaffirmed to the Committee that the Sectoral committee on Justice and Legal Affairs clerk can produce minutes and findings from the site visit.

e) **Hon. Moses Ogeto, MCA**

The Hon. Moses Ogeto, MCA, appeared before the Committee on Tuesday, 23rd October, 2018. She was presented with the following evidence attributed to him -

1) Alleged audio recordings of the Chairperson of the Committee allegedly soliciting for a bribe, Publications by the Star Newspapers and Video footage from Citizen TV, NTV and KTN attributing the alleged solicitation as meant for Members of the Sectoral Committee on Justice and Legal Affairs to help forestall the demolition of the Concord Hotel, which is allegedly sitting on riparian land.

In response to questions put to him by the Committee regarding bribery allegations against him and Members of the Sectoral Committee on Justice and Legal Affairs, the Hon. Moses Ogeto, MCA submitted as follows:

- **On his knowledge of the allegations of bribery of members of the Sectoral committee on Justice and Legal Affairs, Hon. Moses Ogeto, MCA stated;**
    (1) The he learnt of the allegations through the media.
    (2) That everything he knew was based off of what he had learnt from the media reports and the arrest of the Hon. Malde, Chairperson of the Committee.
- **As to whether there is any truth in the allegation that the Hon. Malde Jayendra received the bribe on behalf of the Sectoral committee on Justice and Legal Affairs, he stated;**
    (1) That to the best of his knowledge he cannot speak to the truth or otherwise of the allegations.
    (2) That the committee had not had a meeting to discuss the bribery allegations before or after the incidence.
    (3) That he knew Concord Hotel as the Committee had conducted a site visit to the said Hotel.

- **On his knowledge of what the committee was investigating at Concord Hotel, he stated;**
    (1) That the Chairperson, Hon. Malde Jayendra, member for Parklands/Highridge ward had brought before the committee a matter for investigation.
    (2) That the chair had informed the committee that there was a developer who had blocked a public access road in Parklands Ward.
    (3) That this information prompted the site visit.
    (4) That after the site visit, the committee's findings are that indeed there was a generator blocking a public access road to the deep sea slum in the area.
    (5) That the matter has since been taken up by the Planning department.
- **Regarding the presence of other persons other than members of the Sectoral Committee on Justice and Legal Affairs during the site visit, he stated;**
    (1) That only members of the committee and the secretariat attended the site visit but members of the public were also within the vicinity.
    (2) That after the visit the committee did talk to the residents of deep sea slum through their Chairman.

f) **Hon. David Ayoi, MCA**

The Hon. David Ayoi, MCA, appeared before the Committee on Wednesday 24th October 2018. He was presented with the following evidence attributed to him -

1) Alleged audio recordings of the Chairperson of the Committee allegedly soliciting for a bribe, Publications by the Star Newspapers and Video footage from Citizen TV, NTV and KTN attributing the alleged solicitation as meant for Members of the Sectoral Committee on Justice and Legal Affairs to help forestall the demolition of the Concord Hotel, which is allegedly sitting on riparian land.

In response to questions put to him by the Committee regarding bribery allegations against him and Members of the Sectoral Committee on Justice and Legal Affairs, the Hon. David Ayoi, MCA submitted as follows:

- **On his knowledge of the allegations of bribery of members of the Sectoral committee on Justice and Legal Affairs, he stated;**
    (1) That he was not aware of the allegations, and that the Hon. Malde had not received the bribe on behalf of the committee to the best of his knowledge.
    (2) That he learnt of the allegations only through media.

- **On whether the committee conducted a site visit to Concord Hotel, he stated;**
    (1) That it was true the committee visited Concord Hotel to conduct a site visit.
    (2) That he was part of the members that conducted the site visit.
    (3) That the visit was prompted after a petition was filed to the committee by a resident in the Parklands ward claiming a developer (Concord Hotel) had encroached on a public access road blocking residents of deep sea slum.
    (4) That the site visit was attended by the Hon. Malde Jayendra, Hon. Moses Ogeto, Hon. Doris Kanario and Hon. Elias Otieno Okumu and the Clerk of the Committee.

g) **Hon. Jackline Apondi, MCA**

The Hon. Jackline Apondi, MCA, appeared before the Committee on Wednesday 24th October 2018. She was presented with the following evidence attributed to her -

1) Alleged audio recordings of the Chairperson of the Committee allegedly soliciting for a bribe, Publications by the Star Newspapers and Video footage from Citizen TV, NTV and KTN attributing the alleged solicitation as meant for Members of the Sectoral Committee on Justice and Legal Affairs to help forestall the demolition of the Concord Hotel, which is allegedly sitting on riparian land.

In response to questions put to her by the Committee regarding bribery allegations against herself and Members of the Sectoral Committee on Justice and Legal Affairs, the Hon. Jackline Apondi, MCA submitted as follows:

- **On her knowledge of the allegations of bribery of members of the Sectoral committee on Justice and Legal Affairs, Hon. Jackline Apondi stated;**
    (1) That she was aware of the allegations but had only came to know about them through social media and members of the fourth estate.
    (2) That she was not aware of what transpired at the material time.
    (3) That she has never had any discussion with Hon. Malde on the issue under investigation.
- **On whether the Committee at any point discussed the matter under inquiry, she stated;**
    (1) That the matter had not been discussed and if it had then she was not present at the said meeting.

- **On her knowledge of a site visit to Concord Hotel by members of the Sectoral committee on Justice and Legal Affairs, she stated;**
    (1) That she was not aware of a site visit to Concord Hotel.
    (2) That she knew about the said site visit after it had gone viral in the media.
    (3) That on the material day when the visit is alleged to have been undertaken she was not within the precincts of the Assembly.

h) **Hon. Elijah Mputhia, MCA**

The Hon. Elijah Mputhia, MCA, appeared before the Committee on Wednesday 24th October 2018. He was presented with the following evidence attributed to him -

1) Alleged audio recordings of the Chairperson of the Committee allegedly soliciting for a bribe, Publications by the Star Newspapers and Video footage from Citizen TV, NTV and KTN attributing the alleged solicitation as meant for Members of the Sectoral Committee on Justice and Legal Affairs to help forestall the demolition of the Concord Hotel, which is allegedly sitting on riparian land.

In response to questions put to him by the Committee regarding bribery allegations against him and Members of the Sectoral Committee on Justice and Legal Affairs, the Hon. Elijah Mputhia, MCA submitted as follows:

- **On his knowledge of the allegations of bribery of members of the Sectoral committee on Justice and Legal Affairs, Hon. Elijah Mputhia stated;**
    (1) That the Hon. Malde is the chair of the Sectoral Committee on Justice and Legal affairs.
    (2) That at the material time when the bribery is alleged to have happened, he was in the United States of America.
    (3) That he was informed of the allegations of bribery of the committee upon his return.
    (4) That he was therefore not in a position to know the events leading to and the involvement of the committee in the bribery allegation. Hon. Elijah Mputhia told the Committee on Powers and Privileges that he did not know the location of Concord Hotel.
    (5) That he had sought to know from the Hon. Malde the veracity of the allegations, and that the Hon. Malde had informed him that the allegations were fabricated case by one Hon. Sumra Ishrad.

i) Mr. Rahim Chatur- Director, Concord Hotel

Mr. Rahim Chatur appeared before the committee on Wednesday, 7th November 2018. The witness introduced himself as the owner and Director of Concord Hotel.

The witness was sworn in and in response to the questions asked the witness stated the following;

- **Regarding his knowledge of the allegations of bribery of Hon. Jayendra Malde and members of the Sectoral committee on Justice and Legal Affairs, Mr. Rahim Chatur stated;**
  (1) That the Hon. Malde Jayendra had invited him to Hindu Council for a meeting with him.
  (2) That at the said meeting, Mr. Chatur Rahim presented to Hon. Malde all the legal documents of the gate that is said to have blocked the public access road.
  (3) That the documents included a court order and Nairobi County planning approvals.
- **On whether he was aware that the Sectoral committee on Justice and Legal Affairs was investigating the matter of a blocked access to a public road by Concord Hotel, he stated;**
  (1) That he was not aware the Committee was conducting an inspection visit at the material time.
  (2) That the Hon. Malde Jayendra only came to him stating that he had built an illegal gate and the gate should be removed.
- **Regarding how much money was demanded and whether Hon. Malde received any amount of money from him, he stated;**
  (1) That he did not issue any money to anyone on behalf of the Committee, nor did Hon. Malde receive any amount from him.
  (2) That when Hon. Malde asked him for the money, he (Mr. Chatur), reported the incident to Hon. Sumra Ishrad who took up the matter.
- **Regarding who one Hon. Sumra Ishrad is to him and what their relationship is, he stated;**
  (1) That Hon. Sumra Ishrad is a legal adviser to the Concord group and would always advise them on such issues.
  (2) That he requested Hon. Sumra Ishrad to help him as Hon. Malde was requesting for money from him and he, Hon. Sumra, advised him that if he is

requesting for money then Mr. Chatur should record him when asking/ soliciting for the money.

- **On who reported the matter to the Ethics and Anti-Corruption Commission (EACC), he stated;**
  (1) That it was Hon. Sumra who reported the issue to the EACC and not him.
  (2) That he delegated it to Hon. Sumra and therefore at the EACC Hon. Sumra Ishrad is the complainant.
  (3) That he was not aware how and where Hon. Malde Jayendra was arrested.
- **On whether he was aware that asking for a bribe is a criminal offence; whether there is a police station within the locality of the Concord Hotel; and whether he reported to the police station, he stated;**
  (1) That he was aware soliciting for a bribe is a criminal offence.
  (2) That indeed there is a police station within the locality of the Hotel.
  (3) That however, he did not report the matter but only informed Hon. Sumra who took over the issue.
- **On his knowledge of a Miss Preeti, he stated;**
  (1) That he knew her as a tenant at Diamond Plaza.
  (2) That the Hon. Malde had used her to invite him (Chatur) for a meeting where he solicited for the money.
- **As to whether indeed the Concord gate was erected on a road reserve, he stated;**
  (1) That it was not and in fact he had all the necessary approvals, copies of which he submitted to the committee.
- **On whether he had any case against Hon. Malde Jayendra, he stated;**
  (1) That he did not have any case against Hon. Malde in court but the EACC was investigating a case against Hon. Malde Jayendra.
  (2) That at the EACC he was not the complainant but was part of the case as a witness.
- **On whether he had received any notice to demolish the gate, he stated;**
  (1) That he had received a notice to remove the gate in 2014, which prompted the group to go to court and the court issued an order restraining the County from demolishing the said gate.
  (2) That the notice was quashed by the court on 27th June 2017.

- **Regarding who called the EACC to Hon. Malde Jayendra's house despite him, Mr. Chatur, not issuing money to Hon. Malde Jayendra, he stated;**
  (1) That he was not aware who had called the EACC detectives to Hon. Malde's house.
- **Regarding whose money it was that was shown on social media and to members of the fourth estate with the allegation that Hon. Malde had received a bribe, he stated;**
  (1) That he was not aware whose money it was but it was not from him.
  (2) That he also saw the money on Social Media.
  (3) That he has no idea when the money was eventually taken.
  (4) That he never seen the money up to date, evidence that it wasn't his money in the first place.
  (5) That he did not know Hon. Malde before this incident and that Hon. Malde had never been to his resident but only visited the hotel in his absence.

j) **Hon. Ishrad Sumra, MCA**

The Hon. Ishrad Sumra appeared before the committee on Wednesday, 7th November 2018. The witness introduced himself as Hon. Ishrad Sumra the former Member of Parliament for Embakasi South.

The witness was sworn in and in response to the questions asked the witness stated the following;

- **Regarding his knowledge of the allegation of bribery of Hon. Jayendra Malde and members of the Sectoral committee on Justice and Legal Affairs, Hon. Ishrad Sumra stated;**
  (1) That he was aware of the allegations of bribery.
- **As to whether he was aware of the arrest of Hon. Malde Jayendra, he stated;**
  (1) That he aware the Hon. Jayendra Malde was arrested by the officers of EACC and is currently out on bond.
  (2) That Hon. Malde was yet to be charged before a court of law.
  (3) That Mr. Chatur Rahim was not responsible for the arrests but he, Hon. Sumra Ishrad, was the one handling the matter.
  (4) The he, Hon. Sumra Ishrad, is the complainant in the matter at EACC.
  (5) That it is true the Hon. Malde Jayendra had been pestering Mr. Chatur to issue him with money despite having all the approvals from Nairobi City County government.

- **Regarding his knowledge of the recordings of Hon. Malde allegedly soliciting for bribes, he stated;**
    (1) That he was the one that planned all the recordings and he had them in his custody.
    (2) That that some were recorded by Mr. Rahim Chatur.
    (3) That he would forward all the recordings to the Chairman of the Committee on the same day 7th November 2018.
    (4) That he had organized even the recording between the meeting of Hon. Malde Jayendra, Mr. Rahim Chatur and Ms. Preeti.
- **Regarding the whereabouts of Ms. Preeti, having been summoned and failed to honour summons from the Committee, he stated;**
    (1) That Ms. Preeti was a tenant at Diamond Plaza but had gone to attend 'Diwali' in India.
- **On his relationship with Mr. Chatur Rahim, he stated;**
    (1) That he was a friend to the father of Mr. Chatur Rahim.
    (2) That Mr. Chatur was like a son to him.
    (3) That in his position as a law maker, he was often consulted by the family for matters law.
    (4) That in the present case he took over the matter as a friend to the family of Chatur.

3.13 Procedural Fairness

In the interest of fairness, all members accused of breach of the Code of Conduct and breach of privilege were given –

a) a prompt and clear statement of the precise allegations against them;
b) adequate opportunity to consider taking legal advice and have legal assistance throughout;
c) the opportunity to be heard in person;
d) the opportunity to call relevant witnesses at the appropriate time;
e) the opportunity to examine other witnesses;
f) the opportunity to attend meetings at which evidence is given, and to receive transcripts of evidence.
g) In determining a Member's guilt or innocence, the criterion applied at all stages is that at least the allegation is proved on the balance of probabilities

4.0 OBSERVATIONS, FINDINGS AND RECOMMENDATIONS

4.1 Observations and Findings

Having reviewed the audio and video clips containing allegations of alleged impropriety attributed to various Members of the County Assembly who appeared before the Committee as witnesses; the oral evidence adduced by the witnesses; as well as a review and examination of the footage of the County Assembly proceedings of 25th September, 2018 recorded by the County Assembly Broadcasting Unit, the Committee observes that –

On Conduct of Members within Precincts', specifically the Office of the Speaker on 10th September, 2018 –

1.) That indeed there was a Kamukunji on the morning of 10th September, 2018, but it was difficult to ascertain the Agenda of the said Kamukunji given the contradictory statements issued by witnesses.
2.) That it is difficult to establish whether there was a conspiracy to evict the Speaker by the Members who went to the Speaker's office.
3.) That the Hon. Beatrice Elachi on the morning of 10th September, 2018 had presented herself at her office and had called for a press conference and it was during the said press briefing that Members walked into her office.
4.) That several Members gathered at the Speaker's office and were denied access by security officers manning her door, and shortly thereafter they had somehow accessed the office.
5.) That the Hon. Mwangi Njihia, MCA had been first to access the Speaker's Office, when other Members joined him, and a fracas ensued shortly thereafter.
6.) That sergeants at arm were called to quell down the situation, who were later joined by uniformed police officers.
7.) That the Hon. Beatrice K. Elachi sprayed pepper spray in the office.
8.) That whereas there were several Members at the Speaker's Office, most were standing by and spectating peaceably.
9.) That the Hon. Mary Njambi, MCA; Hon. Laura Mwende, MCA; Hon. Nancy Muthami, MCA conducted themselves in a disorderly manner contrary to the provisions of the Standing Orders and Powers and privileges Act, 2017.
10.) That the Leaders of the Majority and Minority Parties had addressed a Press Conference in the Speaker's Office in which they tried to urge Members to leave the Office and let the Hon. Elachi vacate the office peacefully.

11.)That other Members present as captured on video footage, whereas not shouting, had aided the fracas by crowding the Office of the Speaker.

12.) By shouting, hurling insults and generally being disorderly, Members had conducted themselves in ways worth inquiry and recommendation of appropriate sanction.

On the Conduct of the Honorable Mary Ariviza, MCA during the sitting of 25th September, 2018 –

1.) That the Hon. Peter Imwatok, MCA had not consulted the Hon. Mary Ariviza, MCA before nominating her for the position of Ag. Speaker.

2.) That the Hon. Imwatok did not need to consult the Hon. Ariviza as other members had equally nominated candidates, who had respectfully declined the nominations, for instance the Hon. Mary Njambi, MCA.

3.) That whereas the Hon. Ariviza had every right to protest her nomination as she claimed, she should have done so with decorum and in line with House rules.

4.) That the Hon. Mary Ariviza, MCA conducted herself in a manner contrary to the Standing Orders and the enabling provisions on the conduct of state officers of her caliber.

5.) That the presiding chair had repeatedly ordered the Hon. Member out of the chamber, which Orders the Member continuously disobeyed.

6.) That failure to disobey the Speaker's Orders had necessitated the presiding Chair to resort to force, inviting the Sergeants at arms to throw the Hon. Member out of Plenary.

On the allegations of bribery against the Sectoral Committee on Justice and Legal affairs –

1.) Every witness who appeared before the Committee on this matter denied ever having received any sums of money from the owner of Concord Hotel, Mr. Chatur.

2.) No evidence was produced showing Hon. Jayendra Malde receiving the bribe of Kenya Shillings five million, seven hundred thousand (Kshs. 5,700,000) as alleged.

3.) That Mr. Rahim Chatur never issued any amount of money to Hon. Malde Jayendra neither did he know whose money it was that was shown on Social media and to members of the fourth estate.

4.) In the absence of expert voice analysis to ascertain the veracity of the recordings, it is not possible for the committee to determine that indeed it was Hon. Malde soliciting for bribes in the audio recordings presented before the Committee.

5.) It is difficult to ascertain the extent of involvement of Members of the Sectoral Committee on Justice and legal Affairs in the bribery claims, as no evidence was tabled showing either their direct or indirect involvement save for media reports linking the

larger committee Membership to the bribery claims, a fact reiterated by Mr. Chatur who denied ever giving any monies to Committee members.

On the allegations of bribery against the Sectoral Committee on Labour and Social Welfare –

1.) Every witness who appeared before the Committee on this matter denied ever having received any sums of money from AAR Insurance to facilitate the award of a tender.

2.) No evidence was produced showing that Committee Members received bribes as alleged in sections of the media and the audio recording tabled before the Committee.

3.) In the absence of expert voice analysis to ascertain the veracity of the recordings, it is not possible for the committee to determine that indeed it was Hon. Wilson Ochola speaking in the audio recordings presented before the Committee.

4.) It was equally difficult to ascertain that the voice in the audio recording belonged to Hon. George Ocholla, former MCA for Hospital Hill Ward as described by some witnesses who appeared before the Committee, or Hon. Wilson Ochola, MCA, the current MCA for Utalii Ward and Member of the affected committee.

5.) The Committee could not ascertain the extent of involvement of Members of the Sectoral Committee on Labour and Social Welfare in the bribery claims, as no evidence was tabled showing either their direct or indirect involvement save for media reports linking the larger committee Membership to the bribery claims.

5.0 Recommendations

Committee Recommendations

In consideration of the above observations and findings, the Committee recommends as follows:-

I. **On the inquiry into the conduct of various Honorable members on 10th September, 2018 within the precincts of the Assembly, specifically the office of the Speaker:**

THAT -

a. the Assembly pursuant to Section 17 (3) (a) of the County Assemblies Powers and Privileges Act, 2017, issue a formal warning to the **Hon. Abdi I. Hassan, MCA; the Hon. Elias Okumu Otieno, MCA; the Hon. Peter Imwatok, MCA; the Hon. Mwangi Njihia, MCA; the Hon. Osman Khalif, MCA; the Hon. Redson Otieno, MCA; the Hon. Anthony Kiragu, MCA and the Hon. Peter Wahinya Kimuhu, MCA** for conducting themselves in a manner likely to reflect adversely on the dignity or integrity of the assembly contrary to section 16(e) of the County Assemblies Powers and Privileges Act, 2017;

b. pursuant to Standing Order 114 (2) (a) and Section 17 (3) (g) of the County Assemblies Powers and Privileges Act, 2017, the **Hon. Mary Njuguna Njambi, MCA; the Hon. Laura Mwende, MCA and the Hon. Nancy Muthami, MCA,** be suspended from the Assembly for **ten (10) calendar days** upon adoption of this report for conducting themselves in a manner intended, and is likely to reflect adversely on the dignity or integrity of the county assembly, or of the Members or to be contrary to the best interests of a county assembly or its Members contrary to section 16(e) of the County Assemblies Powers and Privileges Act, 2017 and Standing Order 114 (2) (a); and

c. the Assembly pursuant to Section 17 (3) (b) of the County Assemblies Powers and Privileges Act, 2017 orders the **Hon. Mary Njambi, MCA;** the **Hon. Laura Mwende, MCA** and the **Hon. Nancy Muthami, MCA,** to apologize to the Assembly and the Members for conducting themselves in a manner that reflected adversely on the dignity and integrity of the County Assembly and its Members contrary to section 16(e) of the County Assemblies Powers and Privileges Act, 2017.

II. On the inquiry into the conduct of the Hon. Mary Ariviza, MCA on 25th September 2018 on the floor of the Assembly:

THAT; -

a. pursuant to Standing Order 114 (2) (a) and Section 17 (3) (g) of the County Assemblies Powers and Privileges Act, 2017, the **Hon. Mary Ariviza, MCA,** be suspended from the Assembly for twenty one (21) calendar days upon adoption of this report for conducting herself in a manner likely to reflect adversely on the dignity and integrity of the County Assembly and its Members contrary to section 16(e) of the County Assemblies Powers and Privileges Act, 2017 and the provision of Standing Order 114(2)(a).

d. the Assembly pursuant to Section 17 (3) (b) of the County Assemblies Powers and Privileges Act, 2017 orders the **Hon. Mary Ariviza, MCA,** to apologize to the Assembly and the Members for conducting herself in a manner that reflected adversely on the dignity and integrity of the County Assembly and its Members contrary to section 16(e) of the County Assemblies Powers and Privileges Act, 2017.

ADOPTION OF THE REPORT BY THE COMMITTEE

WE, the undersigned Members of the Committee of Powers and Privileges, having considered this Report on the investigations into alleged unethical conduct of members within the precincts of the Assembly on 10th September, 2018, do hereby confirm our agreement with the content of the Report and request the Chairperson to present the Report to the Assembly -

Name	Signature
1. Hon. Chege Mwaura, MCA- Chairperson	
2. Hon. Naftaly Mathenge, MCA- V. Chairperson	
3. Hon. Abdi I. Hassan, MCA- Majority Leader	
4. Hon. Patrick Musili, MCA- D. Minority Leader	
5. Hon. Geoffrey Majiwa, MCA	
6. Hon. Evans Otiso, MCA	
7. Hon. Carolyne Mayunzu	
8. Hon. Jacinta Wanjiru, MCA	
9. Hon. Margaret Mbote, MCA	
10. Hon. Sylvia Moseiya, MCA	
11. Hon. Peter Wahinya Njau, MCA	





MINUTES OF THE 8TH SITTING OF THE NAIROBI CITY COUNTY ASSEMBLY POWERS AND PRIVILEDGES COMMITTEE HELD ON 25 SEPTEMBER, 2018 IN THE RESOURCE CENTRE AT 9:30 A.M

MEMBERS PRESENT

1. Hon. Naftali Mathenge, MCA- Vice Chairman
2. Hon. Wanjiru Kariuki, MCA
3. Hon. Margaret Mbote, MCA
4. Hon. Carolyne Mayunzu, MCA
5. Hon. Patrick Musili, MCA
6. Hon. Evans Otiso

MEMBERS ABSENT

1. Hon. Chege Mwaura, MCA- Ag. Speaker/ Chairman
2. Hon. Abdi I. Hassan, MCA- Leader of Majority
3. Hon. Kennedy Obuya
4. Hon. Sylvia Moseiya

SECRETARIAT

1. Monica Muthami- Principal Clerk Assistant (L&P)
2. Robert Otieno- Clerk Assistant
3. Munase Klinsman- Intern

MIN.001/P&P/SEPT/2018: PRELIMINARIES

The Vice-Chairperson called the meeting to order at 9:42PM. He welcomed Members present to the meeting. The agenda of the meeting was then adopted as proposed by Hon. Patrick Musili and seconded by Hon. Evans Otiso.

AGENDA

1. Preliminaries
2. Appearance before the committee by:
   a) Hon. Jayendra Malde, MCA
   b) Hon. Peter Imwatok, MCA
   c) Hon. Geoffrey Nganga Mbuthia, MCA
3. A.O.B
4. Adjournment

MIN.002/P&P/SEPT/2018 APPEARANCE BEFORE THE COMMITTEE

A) HON. JAYENDRA MALDE, MCA

The Witness was summoned and appeared before the committee. The Chairperson issued a statement on establishment and the Mandate of the Powers and privileges Committee. He specifically informed the Witness that the committee has the mandate to investigate conduct and breach of privileges of all members.

The witness, Hon. Malde Jayendra was sworn in as is required for all witnesses attending the committee seating.

The Witness was asked the following questions;

1. Brief the committee on matters of the alleged bribery of members of the Justice committee.

   Hon. Malde- Our Committee went to a site visit at Concord Hotel in Parlands. Members of public had complained that the hotel was built on a road reserve and hence had blocked the road from access by the public. The Justice committee informed management to open the way

B) HON PETER IMWATOK

The Witness was summoned and appeared before the committee. The Chairperson issued a statement on establishment and the Mandate of the Powers and privileges Committee. He specifically informed the Witness that the committee has the mandate to investigate conduct and breach of privileges of all members.

The witness, the honourable Minority whip was sworn in as is required for all witnesses attending the committee seating.

The Witness was asked the following questions;

1. To brief the committee on the events of 10th September 2018 at the office of the Speaker.

The Honorable member introduced himself and his role at Nairobi county assembly. He stated that the members had a Kamukunji after the impeachment of the speaker. As he was moving to his office, he notice lady members were complaining that they had been pepper spray. He rushed to his office and came out shortly afterwards to address the media on the events of the day. After the press briefing he saw the OCS and OCPD around the premises. He asked them if they have permission to enter the premises and they confirmed they did not have communication and that they were waiting He asked them to assist in calming down the situation. He asked all members to come out of the office of the Speaker. He briefed the media of the information of the Speaker being in her toilet. He submitted that the entire leadership calmed the situation and members left the office leaving behind the leadership. He added that it was him that went to call the OCPD and OCS into the office of the Speaker to confirm if her life was in danger.

2. On whether he had been summoned by EACC to appear before them.

Hon. Peter Imwatok confirmed and acknowledged the Powers and privileges Committee which he subscribes to. He put it on record that he only came to realize of the summons through the committee as the summons were not personally served to him. He stated that the EACC was overtaking its mandate by not allowing internal mechanisms to settle the dispute first.

3. On whether the leadership had planned a "kamukunji" to plan the ejection of the speaker from office.

He refuted of such a Kamukunji and stated that a kamukunji was only organized the previous day to give members a way forward after the vote of no confidence was held and after there was a vacancy in the office of the speaker.

4. On his role on the day

The Hon Minority Whip stated that he generally tried to calm the situation down.

C) HON PETER WONYOIKE

He appeared before the committee but the committee resolved to call him and members of the Labour Committee on a later date.

MIN.004/P&P/AUGUST/2018 AOB

The Vice-chair informed members that the following day, 26th September 2018 the committee would hear Hon. Abdi Hassan, Hon. Elias Okumu, Hon. Peter Wahinya, Hon. Mary Njambi and Hon. Anthony Kiragu to testify and give evidence of events of 10th September 2018 at the office of the Speaker.

MIN.005/P&P/AUGUST/2018 ADJOURNMENT

There being no other business, the Chairperson adjourned the meeting at 12:58 PM.

	SIGN	DATE
CHAIRPERSON	.....	19/2/19
SECRETARY	.....	(9/2/19





MINUTES OF THE 9TH SITTING OF THE NAIROBI CITY COUNTY ASSEMBLY POWERS AND PRIVILEDGES COMMITTEE HELD ON 26 SEPTEMBER, 2018 IN THE ASSEMBLY CHAMBER BOARD ROOM AT 9:30 A.M

MEMBERS PRESENT

1. Hon. Naftali Mathenge, MCA- Vice- Chairman
2. Hon. Wanjiru Kariuki, MCA
3. Hon. Kennedy Obura, MCA
4. Hon. Margaret Mbote, MCA
5. Hon. Carolyne Mayunzu, MCA
6. Hon. Patrick Musili, MCA
7. Hon. Evans Otiso, MCA

MEMBERS ABSENT

1. Hon. Chege Mwaura, MCA- Ag. Speaker/ Chairman
2. Hon. Abdi I. Hassan, MCA- Leader of Majority
3. Hon. Sylvia Moseiya

SECRETARIAT

1. Romeo Castro- Ag. Deputy Clerk
2. Monica Muthami- Principal Clerk Assistant (L&P)
3. Robert Otieno- Clerk Assistant
4. Munase Klinsman- Intern

MIN.006/P&P/SEPT/2018: PRELIMINARIES

The Vice-Chairperson called the meeting to order at 9:50 AM. He welcomed Members present to the meeting. The agenda of the meeting was then adopted as proposed by Hon. Kennedy Obuya and seconded by Hon. Evans Otiso.

AGENDA

1. Preliminaries (Prayers and Adoption of the Agenda)
2. Consideration and investigation on the conduct of Hon. Mary Ariviza on the floor of the Assembly on 25th September 2018.
3. Appearance before the committee by:
   a) Hon. Abdi Ibrahim Hassan, MCA
   b) Hon. Elias Otieno Okumu, MCA
   c) Hon. Peter Wahinya, MCA
   d) Hon. Peter Wanyoike, MCA
   e) Hon. Mary Njambi, MCA

f) Hon. Anthony Kiragu, MCA

4. A.O.B
5. Adjournment

MIN.007/P&P/SEPT/2018 APPEARANCE BEFORE THE COMMITTEE

A) HON. ABDI IBRAHIM HASSAN, MCA

The Witness was summoned and appeared before the committee. The Chairperson issued a statement on establishment and the Mandate of the Powers and privileges Committee. He specifically informed the Witness that the committee has the mandate to investigate conduct and breach of privileges of all members.

The witness, Hon. Abdi Hassan was sworn in as is required for all witnesses appearing before the committee.

The Witness was asked the following questions;

1. To brief the committee on the events of 10th September 2018 at the office of the Speaker.

The Honorable Member introduced himself before the committee and took the Committee through the events that led to the scuffle. He indicated that on September 6th 2018, Honorable members took a vote of no confidence in the Speaker.
In his evidence in chief, he stated that he did not participate in the forceful entry into the Speaker's office. However, he came later to calm down the situation together with the Leader of Minority. He added that his role was mainly asking members to act with decorum.

2. On his role in the scuffle on 10th September 2018, Hon. Abdi I Hassan stated

In his opinion he felt that what happened was not a scuffle but an engagement between members and their former speaker. As a majority leader he asked members to leave the office so that the speaker leaves with decorum.

3. On his opinion on the conduct of members on 10th September 2018, and whether there was a Kamukunji prior to the ejection, Hon. Abdi I Hassan stated

That, according to him, the conduct was normal and confirmed that there was a Kamukunji but to discuss members' welfare. He reiterated that the members went to the office on their own motion but neither through the Kamukunji nor direction from the leadership.

4. On if he supported the impeachment, Hon. Abdi I Hassan stated

That he indeed supported the impeachment.

B) HON ELIAS OKUMU

The Witness was summoned and appeared before the committee. The Chairperson issued a statement on establishment and the Mandate of the Powers and privileges

Committee. He specifically informed the Witness that the committee has the mandate to investigate conduct and breach of privileges of all members.

The witness, the honourable Minority whip was sworn in as is required for all witnesses attending the committee seating.

The Witness was asked the following questions;

1. To brief the committee on the events of 10th September 2018 at the office of the Speaker.

The honourable member informed the Committee that he was in his office when he heard noise within the precincts. He rushed to the scene of the scuffle and as a leader he tried to calm the commotion that was being witnessed in and around the office of the Speaker. He stated that on arrival, he asked the members who were in the office to go out of the office and let him and the Majority leader to have a talk with Hon. Beatrice Elachi. He reminded the members that madam speaker, as she then was, is not only a leader but also a mother. In essence, the members were to eject the speaker with decorum

2. On his contribution on the material day and whether in his opinion he thought his conduct was reprehensible, Hon. Elias Okumu stated

That as a leader he tried to calm down the situation by asking the members to leave the office and let him and the majority leader to eject the speaker as she then was with decorum. It was his evidence that he stood next to her to ask members not to come near the Speaker.

3. On whether he had been summoned by EACC for unethical conduct and what role he played to stop members from storming the office, Hon. Elias Okumu stated as follows;

Some members were already charged to storm the office because the Speaker had called a press conference which provoked the members as she was not in office according to them. He categorically stated that he did not incite members to go to the office but on the contrary he tried to stop them.

4. On his opinion of the events of the day vis-à-vis the best interest of the Assembly, Hon. Elias Okumu stated

The actions were justifiable as members had already held a vote of no confidence in the speaker and she was illegally in office but he added that he felt the manner in which members went to eject the speaker was uncalled for and they would have done it in a better way despite provocation by the press conference. He felt that as a leader of minority he performed his duty to calm the situation. He further stated that he did not use abusive language on the day.

C) HON PETER WAHINYA

Honorable Peter Wahinya also appeared before the committee on Wednesday, 26th September, 2018, for purposes of giving evidence on events of 10th September 2018 now under inquiry

Below are the questions the witness was asked and his subsequent responses:

1. To brief the committee of the events of 10th September 2018 at the Speaker's office by the Committee. Hon. Peter Wahinya stated

That the matter began with a Kamukunji at the assembly. On the material day, one of the Agenda was to discuss the impeachment of madam Elachi. The kamukunji was to deliberate on a way forward. He stated that the members were to be briefed on what was to go on. He stated that Hon. Mary Njambi was given an opportunity to speak. She suggested that the members should not speaking at the kamukunji when the speaker was in the office. He stated that she suggested that the the members should go and request her to leave. The kamukunji made a suggestion that, as Madam Speaker was a lady, the ladies should lead the way to the office. He stated that the male members followed.

2. On who made the suggestion for the female members to lead the way into the Speaker's, Hon. Peter Wahinya stated

In response when asked who made the suggestion, he stated he could not remember but it was one of the members. He stated that it was unanimously agreed. The ladies led the way and found the door locked. There was a police officer at the entrance. That prompted noises to begin. He stated that one of the members managed to open the other door to the speaker's office. He reiterated in his opinion, there was no proper discipline in ejecting the speaker or an orderly manner. He stated that members spoke in loud tones but were not shouting.

3. If he appeared inside the office of the Speaker, Hon. Peter Wahinya stated

He was at the office. He described his conduct as only appearing in the office but did not speak either softly or loudly. He told the committee that he was a none participant but only a spectator. He concluded when asked how long he stayed in the office that he was there for 30 minutes.

4. On his opinion, of the behaviour of members that day and whether it negatively impacted on the dignity of the house he stated that it did not but suggested that speaking in loud voices was not proper.

D) <u>HON. MARY NJAMBI, MCA</u>

Honorable Mary Njambi appeared before the committee on Wednesday, 26th September, 2018, for purposes of giving evidence on events of 10th September 2018 now under inquiry.

The witness was sworn in and asked the following questions.

1. To brief the committee of the events of 10th September 2018 at the Speaker's office by the Committee, Hon. Mary Njambi stated

That she was within the precincts of the Assembly. The members had agreed that she should not be in office. She was ahead of other members. On arrival at the office, she found the speaker and other people. According to the members they came to talk to the speaker. She was hit by pepper spray in the office and she was hurt.

2. On her contribution on the day, Hon. Mary Njambi stated

According to her she did not contribute but acknowledged that she was ahead of other members in walking towards the office. She stated that she did not use abusive language.

3. When asked if her entering into the office was justified, Hon. Mary Njambi stated

It was justified and that she did not use force to enter. The Honourable member complained that she only cried in protest of pepper spray. She asked to know why the Hon. Speaker used pepper on her members.

4. Through a photo that had circulated on social media of herself with other honorable members, the witness was asked if she was under the influence of alcohol, Hon. Mary Njambi stated

She stated that they were in a hotel with other members that morning on 10th September 2017. She stated that she was having tea and not alcohol. She said that she is a saved Christian and reiterated that she is a believer in Christ. She justified her presence in the photo as a visit she had paid to a friend who was using the alcohol at the time.

5. When asked of her opinion on how the public perceives the Assembly currently, the Honorable member stated that the assembly should redeem its image as it has tarnished. She suggested that indeed there were many other ways to transact the business other than the way that was adopted by members. She concluded by stating all this was caused by the security at the door.

E) HON PETER WANYOIKE

He appeared before the committee but the committee resolved to call him together with members of the Sectoral Committee on Labour.

F) HON ANTHONY KIRAGU

The member did not appear. The Committee resolved to call him to appear on Thursday 27th September 2018.

MIN.008/P&P/SEPT/2018 AOB

The committee resolved to travel to Mombasa to write the report of the investigations after all witnessed who were summoned to appear have appeared.

MIN.009/P&P/SEPT/2018 ADJOURNMENT

There being no other business, the Chairperson adjourned the meeting at 1:20 PM.

	SIGN	DATE
CHAIRPERSON	.....	19/2/19
SECRETARY	.....	19/2/19

P/Clerk

MINUTES OF THE 10TH SITTING OF THE NAIROBI CITY COUNTY ASSEMBLY POWERS AND PRIVILEDGES COMMITTEE HELD ON 27th SEPTEMBER, 2018 IN THE ASSEMBLY CHAMBER BOARD ROOM AT 9:30 A.M

MEMBERS PRESENT

1. Hon. Chege Mwaura, MCA- Ag. Speaker/ Chairman
2. Hon. Naftali Mathenge, MCA- Vice- Chairman
3. Hon. Wanjiru Kariuki, MCA
4. Hon. Kennedy Obura, MCA
5. Hon. Margaret Mbote, MCA
6. Hon. Carolyne Mayunzu, MCA
7. Hon. Patrick Musili, MCA
8. Hon. Evans Otiso, MCA

MEMBERS ABSENT

1. Hon. Abdi I. Hassan, MCA- Leader of Majority
2. Hon. Sylvia Moseiya

SECRETARIAT

1. Romeo Castro- Ag. Deputy Clerk
2. Monica Muthami- Principal Clerk Assistant (L&P)
3. Robert Otieno- Clerk Assistant
4. Munase Klinsman- Intern

MIN.001/P&P/SEPT/2018: PRELIMINARIES

The Vice-Chairperson called the meeting to order at 9:50 AM. He welcomed Members present to the meeting. The agenda of the meeting was then adopted as proposed by Hon. Kennedy Obuya and seconded by Hon. Evans Otiso.

AGENDA

1. Preliminaries (Prayers and Adoption of the Agenda)
2. Consideration and investigation on the unethical conduct against members of the County Assembly involved in a scuffle at the Office of the Speaker on 10th September, 2018.
3. A.O.B
4. Adjournment

MIN.002/P&P/SEPT/2018 APPEARANCE BEFORE THE COMMITTEE

A.) NAIROBI COUNTY POLICE COMMANDER

The Witness was summoned and appeared before the committee. The Chairperson issued a statement on establishment and the Mandate of the Powers and privileges Committee. He specifically informed the Witness that the committee has the mandate to investigate conduct and breach of privileges of all members.

The witness, The Nairobi County Police Commander was sworn in as is required for all witnesses appearing before the committee.

The Witness was asked the following questions;

1. To brief the Committee on the police practice in circumstances such as the events that occurred on 10th September,2018 in the Nairobi County Assembly Speaker's office, the OCPD Nairobi informed the Committee that:

Their attention was drawn by persons outside the County Assembly who were making noises. That, through the police radio control room he was reached as the OCPD Nairobi. He made a call to the OCS KICC and instructed her to go along Wabera Street and brief him about whatever was happening. He requested him to talk to the persons and to inform him that it was not the right time to demonstrate. She later reported to him that she talked to the members of the public and requested them to leave the street. He stated that he was also informed that the Honourable Speaker had called the radio and informed her that her life was in danger.
The OCS, KICC went to the precincts to find out if the life of the Speaker was in danger. She confirmed that the danger to life of Madam Speaker had been stabilized by the Sergeant-at-Arms and the Assembly stationed Inspector Muala. Madam Speaker hid in her office toilet. There was however shouting by the Members.
The OCPD came to the premises but the life of the Speaker having been stabilized there was nothing much they could do as issues of the County Assembly are government by the various laws of the County Assembly including the Constitution of Kenya, The County Governments Act and the County Assemblies Powers and Privileges Act, 2017 established under Article 196 of the Constitution of Kenya.

He added that inside the office of the Speaker, he found commotion and that the Speaker had locked herself in the toilet. He further stated that the Speaker told him of her situation and that she requested to the OCPD to leave now as she would leave the precincts on her own.

2. On the unauthorized presence of National Police officers in the Assembly, the OCPD Nairobi informed the Committee that

The officers were deployed outside the Assembly precincts only.

3. On his knowledge of the County Assemblies Powers and Privileges Act, 2017, the OCPD Nairobi stated that;

He informed the Committee that no member of the National Police Service shall be admitted into the precincts to the Assembly but only by invite from the Speaker and will only enter with a Sergeant-at-Arms.
The OCPD submitted that only 3 senior offices were in the precincts of the County Assembly. He added that a dozens of officers however, were outside of the precincts with anti-riot gear.

4. if the officers were armed,

He responded by stating that it cannot be termed as being armed if one is using their normal working regalia and gave an analogy of a clerk using a pen.

5. on his opinion on whether there was need to use force on the material day, the OCPD responded as follows;

He stated that there was no need for force despite the "misbehavior" from the members, the Members of the County Assembly were within their mandate and the Speaker was not attacked and there was no fight but simply shouting by the Members.

In conclusion he stated that there was no cause of alarm and that members were only performing their nature of duties. He acknowledged the laws governing County Assemblies and went ahead to give an example that if the events were happening in Chambers then he could not have power or authority to go inside to calm the situation unless there is a threat to the right to life as envisaged under Article 26 of the Constitution.

MIN.002/P&P/SEPT/2018 ADJOURNMENT

There being no other business, the Chairperson adjourned the meeting at 1:20 PM.

	SIGN	DATE
CHAIRPERSON	.....	19/2/19
SECRETARY	.....	19/2/19

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MINUTES OF THE 16TH SITTING OF THE NAIROBI CITY COUNTY ASSEMBLY POWERS AND PRIVILEDGES COMMITTEE HELD ON 2nd OCTOBER, 2018 IN THE ASSEMBLY CHAMBER BOARD ROOM AT 9:30 A.M

MEMBERS PRESENT

1. Hon. Naftali Mathenge, MCA- Vice- Chairman
2. Hon. Wanjiru Kariuki, MCA
3. Hon. Kennedy Obura, MCA
4. Hon. Margaret Mbote, MCA
5. Hon. Carolyne Mayunzu, MCA
6. Hon. Patrick Musili, MCA
7. Hon. Evans Otiso, MCA

MEMBERS ABSENT

1. Hon. Chege Mwaura, MCA- Ag. Speaker/ Chairman
2. Hon. Abdi I. Hassan, MCA- Leader of Majority
3. Hon. Sylvia Moseiya

SECRETARIAT

1. Romeo Castro- Ag. Deputy Clerk
2. Monica Muthami- Principal Clerk Assistant (L&P)
3. Robert Otieno- Clerk Assistant
4. Munase Klinsman- Intern

MIN.006/P&P/OCT/2018: PRELIMINARIES

The Vice-Chairperson called the meeting to order at 9:50 AM. He welcomed Members present to the meeting. The agenda of the meeting was then adopted as proposed by Hon. Jacinta Wanjiru and seconded by Hon. Evans Otiso.

AGENDA

1. Preliminaries (Prayers and Adoption of the Agenda)
2. Consideration and investigation on the unethical conduct against members of the County Assembly involved in a scuffle at the Office of the Speaker on 10th September, 2018.
3. A.O.B
4. Adjournment

MIN.007/P&P/OCT/2018 APPEARANCE BEFORE THE COMMITTEE

A) HON NANCY MUTHAMI, MCA

The Witness was summoned and appeared before the committee. The Chairperson issued a statement on establishment and the Mandate of the Powers and privileges Committee. He specifically informed the Witness that the committee has the mandate to investigate conduct and breach of privileges of all members.

The witness, Hon. Nancy Muthami was sworn in as is required for all witnesses appearing before the committee.

The Witness was asked the following questions;

1. Brief the Committee on the events of 10th September 2018 at the Speaker's office, Hon. Nancy Muthami, MCA stated as follows;

The Hon. Member introduced herself and stated that on that day as a Member of the Women caucus she had gone to the Speaker's office to find out what was going on in the Assembly. Her presence there was out of the fact that the Speaker had not called Members of the women caucus to brief them on what was going on in the Assembly. When she heard Members of the Fourth Estate were at the office, she went to the Speaker for her to shed some light on the on-going.

2. She was asked if she was aware of the Kamukunji by Members.

She stated that she was not aware of any Kamukunji by Members as Assembly was on recess.

3. She was asked if she went to the office to find out issues of the Women caucus,

She stated that there were members of the press in her office and I went to learn what the press briefing was about"

4. On what she did in the Speaker's office on arrival, Hon. Nancy Muthami, MCA stated that;

She got to the office and there were many people inside including members of the press. She, the Speaker, requested Hon. Muthami Nancy to help her get the media out of the office. She confirmed that she did manage to remove members of the press from the room by requesting them to leave the office.

5. what happened after members of the press left, the Honourable Member stated that;

She also left the room as there was a spray that personally affected her and she felt dizzy. She added that shortly after leaving the office she collapsed and found herself in Nairobi Hospital.

6. On a photo that was circulating on social media of herself and other Honorable members taking alcohol on that material day, Hon Nancy Muthami stated that

She does not take alcohol. She added that she is a mother and a member of the church choir. She informed the Committee that she was not pleased with whoever posted the photo. It had brought a lot of issues for her including members of the choir in her church questioning her conduct. She condemned the photo and stated that there were many people there. She added that she did not sit there for long. She went to the table to ask how she can get assistance for her ward members. She reiterated that she does not take alcohol.

7. On if she stormed into the office of the Speaker, Hon. Muthami categorically stated,

She did not storm into the office and the office of the Speaker is open to Members.

8. On her conduct including shouting on that day around the office,

Hon. Muthami Nancy requested to be shown the video of that. The footage of the incidence was played to the Member. She afterwards responded by stating that she hit the door and shouted because she thought the Speaker's life was in danger as she had been locked in the office. She stated that she thought there were goons inside the office. She added that the Speaker was a friend and family.

9. On after getting into the office if she found the goons as she had alleged which she used to try to justify her hitting the door to help the Speaker, Hon. Nancy Muthami, MCA stated that,

There were about 30 members of the media and a few uniformed police officers. She confirmed it was not a normal day at the office of the Speaker.

10. On the recap of her being taken to hospital

She promised to submit to the Committee documents of that day from Nairobi Hospital.

B) HON. OSMAN KHALIF, MCA

The Witness was summoned and appeared before the committee. The Chairperson issued a statement on establishment and the Mandate of the Powers and privileges Committee. He specifically informed the Witness that the committee has the mandate to investigate conduct and breach of privileges of all members.

The witness, Hon. Osman Khalif was sworn in as is required for all witnesses appearing before the committee.

The Witness was asked the following questions;

1. To brief the Committee on the events of 10th September 2018 at the Speaker's office, Hon. Osman Khalif, MCA stated as follows;

That he was present at the Assembly precincts at the Human Resource department. As he was on his way to the office of the Honourable Minority Chief Whip, he found a lot of Members and persons at the Office of the Speaker. He was not aware of what was happening within the premises. He saw the Sergeant-at-Arms at the office. He tried

to inquire into the issue by asking persons who were nearby. He found out that the Speaker was in the office and that was what triggered the gathering. He proceeded to the office of the Minority Chief Whip.

2. On his response when asked whether he was under any person's or Member's directive on that day, Hon. Osman Khalif reiterated,

His movement on that day from the Human Resource office. He added that he saw the leadership inside the office of the Speaker and he left them to deal with it. He said that no one sent him there. He was simply on transit to the office of the Minority Chief Whip.

3. On his take or opinion on the incidence,

Hon. Osman Khalif stated that he was not aware of what was happening and when he saw the leadership in the office he knew they would have sought out the issue. He stated that he cannot judge but he condemned the incident that happened.

4. On whether he knew there was a kamukunji on that day and whether he participated in the Kamukunji, he stated that,

He was not aware there was a kamukunji on 10th September 2018 morning and he did not take part in a kamukunji that morning. He only came to know about the incident on media and when he moved from the Human Resource to the Minority Chief Whip's office. He reiterated that he saw the leadership in the office of the Speaker and knew all was well.

He agreed that what was happened on that day was not proper and he did not support such incident.

C) HON MWANGI ABRAHAM NJIHIA, MCA

The Witness was summoned and appeared before the committee. The Chairperson issued a statement on establishment and the Mandate of the Powers and privileges Committee. He specifically informed the Witness that the committee has the mandate to investigate conduct and breach of privileges of all members.

The witness, Hon. Osman Khalif was sworn in as is required for all witnesses appearing before the committee.

The Witness was asked the following questions;

1. To brief the Committee on the events of 10th September 2018 at the Speaker's office, Hon. Mwangi Njihia, MCA stated as follows;

He was at City Hall when he heard that the Speaker who Members had impeached was in office. He came to the office and found a scene at the office. He informed the Committee that he does not condone the incident and did not wish the incident to occur again.

2. About the photograph that circulated on social media of himself and other Members having alcohol, Hon. Mwangi Njihia stated that

The incident occurred when Members were on recess. He added that Members have their private lives and that on the said day, they met with other Members. The Members were having breakfast. He confirmed that there was tea, mandazi, samosa's and alcohol. He confirmed that he was the one taking alcohol.

3. If he went to the Speaker's office,

He confirmed that indeed he went to the office of the Speaker when he arrived from City Hall. He confirmed there were many people and there was a commotion.

4. About a Kamukunji on the morning of 10th September 2018,

Hon. Mwangi Njihia stated that there was a Kamukunji held in the Chamber. The Kamukunji resolved that they will not allow the Speaker into the office as she had been impeached. He confirmed that a court order was served and it was discussed at the Kamukunji save that the order came after the impeachment yet the order was to stop the impeachment process.

He informed the Committee that he heard that there were some people inside the office of the Speaker who were not Members of the County Assembly, he pushed the door to enter into the office. His intention was to go and excuse the Speaker to leave the office. He stated that there was no one who informed Members to go and eject the Speaker.

5. on whether he used abusive language on that day,

He stated that he neither used abusive language nor did he shout at anyone. He stated that, that could be attested to by the Honourable Speaker and corroborated by review of the footage.

He added that he did not contribute on that material day and affirmed that what happened was regrettable. He stated that he regretted the whole incidence. He asked the Committee to forgive him if he did anything wrong. He concluded that he would like to see a better Assembly united.

He advised the Committee that the Assembly needs a dialogue including the Leadership. He stated that indeed the Assembly was divided despite being united in the vote of no confidence against the Speaker.

D.) HON. REDSON OTIENO ONYANGO

The Witness was summoned and appeared before the committee. The Chairperson issued a statement on establishment and the Mandate of the Powers and privileges Committee. He specifically informed the Witness that the committee has the mandate to investigate conduct and breach of privileges of all members.

The witness, Hon. Redson Otieno Onyango was sworn in as is required for all witnesses appearing before the committee.

The Witness was asked the following questions;

1. To brief the Committee on the events of 10th September 2018 at the Speaker's office, Hon. Redson Otieno, MCA stated as follows;

He was within the precincts on 10th September 2018. He was not involved nor did he actively participate in the incidence.

E.) HON. LAURA MWENDE, MCA

The Witness was summoned and appeared before the committee. The Chairperson issued a statement on establishment and the Mandate of the Powers and privileges Committee. He specifically informed the Witness that the committee has the mandate to investigate conduct and breach of privileges of all members.

The witness, Hon. Laura Mwende was sworn in as is required for all witnesses appearing before the committee.

The Witness was asked the following questions;

1. To brief the Committee on the events of 10th September 2018 at the Speaker's office, Hon. Laura Mwende, MCA stated as follows;

That she had come to see the Majority Leader on that day as she had an appointment with him on personal issue as she was travelling to Mombasa on that day. She found confrontation around the office of the Speaker. She went into the office of the Speaker but was hit with some smell which she termed as "a chemical".

People were coughing. She got angry as to why the Speaker would do that.

2. If she was aware of a Kamukunji on that day,

She stated that she was not aware of such a Kamukunji and she had not been sent by anyone.

3. On her shouting, insults and whether it was the best way a Member could handle herself in the circumstances,

Hon. Laura Mwende stated that she was provoked by a member of the public who wanted to drag the name of The Governor into the scuffle.

4. On whether she has ever been summoned by EACC,

Hon Laura Mwende stated that she had only been summoned by EACC as a member of the Sectoral Committee on Labour and Social Welfare.

5. On the photograph on social media,

Hon. Laura Mwende, MCA stated that she does not drink alcohol but she has friends even at the Assembly who take alcohol.

6. If she regretted using the language she used, Hon. Laura Mwende, MCA stated t

She regretted using the abusive language. She also stated that she regretted using her words against the Speaker and quoting of Madam Speaker's foreign trip to the United States of America to members of the media.

She added that indeed the incident had made the Members of the Assembly lose respect from the public.

MIN.008/P&P/OCT/2018 ADJOURNMENT

There being no other business, the Chairperson adjourned the meeting at 1:20 PM.

	SIGN	DATE
CHAIRPERSON	.....	19/2/19
SECRETARY	.....	19/2/19

MINUTES OF THE 12TH SITTING OF THE NAIROBI CITY COUNTY ASSEMBLY POWERS AND PRIVILEDGES COMMITTEE HELD ON 4TH OCTOBER, 2018 IN THE BOARDROOM AT 9:30 A.M

MEMBERS PRESENT

1. Hon. Naftali Mathenge, MCA- Vice Chairman
2. Hon. Wanjiru Kariuki, MCA
3. Hon. Margaret Mbote, MCA
4. Hon. Carolyne Mayunzu, MCA
5. Hon. Patrick Musili, MCA
6. Hon. Evans Otiso

MEMBERS ABSENT

1. Hon. Chege Mwaura, MCA- Ag. Speaker/ Chairman
2. Hon. Abdi I. Hassan, MCA- Leader of Majority
3. Hon. Sylvia Moseiya

SECRETARIAT

1. Monica Muthami- Principal Clerk Assistant (L&P)
2. Robert Otieno- Clerk Assistant
3. Munase Klinsman- Intern

MIN.0010/P&P/SEPT/2018: PRELIMINARIES

The Vice-Chairperson called the meeting to order at 9:42PM. He welcomed Members present to the meeting. The agenda of the meeting was then adopted as proposed by Hon. Patrick Musili and seconded by Hon. Carolyne Mayunzu.

AGENDA

1. Preliminaries
2. Consideration and investigation on the conduct of Hon. Mary Ariviza on the floor of the Assembly on 25th September 2018.
3. A.O.B
4. Adjournment

MIN.0011/P&P/OCT/2018 APPEARANCE BEFORE THE COMMITTEE

A) HON. JAYENDRA MALDE, MCA

The Witness was summoned and appeared before the committee. The Chairperson issued a statement on establishment and the Mandate of the Powers and privileges

Committee. He specifically informed the Witness that the committee has the mandate to investigate conduct and breach of privileges of all members.

The witness, Hon. Mary Ariviza was sworn in as is required for all witnesses attending the committee seating.

The Witness was asked the following questions;

1. To brief the Committee on the events of 25th September 2018 during the plenary, Hon. Mary Ariviza stated as follows;

That it all started with the Speaker, Hon. Beatrice Elachi, being dismissed and Hon. Mary Ariviza taking a stand that she supported the former Speaker as she thought she was competent for the position. In her opinion, Hon. Mary Ariviza felt that the process of conducting a vote of no confidence for Hon. Beatrice Elachi was not procedural. She quoted the instance of changing Standing Order 65 of the Nairobi City County Assembly Standing Orders on the procedure of removal of a Speaker. She stated it was not right for the members to eject the Speaker without giving her a right of audience.

The Honourable Member stated that with the reasons aforementioned, she did not want to participate in plenary on the material day, 25th September 2018. She therefore sat at the Members' lounge on that day. As she was seated at the lounge, she heard the presiding Speaker of the day mention her name as one of the contenders to replace Hon. Beatrice Elachi despite her stand as "pro-Elachi" being known to the whole Assembly. She informed that she had stated even to members of the Fourth Estate that she believed in the leadership of Hon. Beatrice Elachi. She felt this was very disrespectful and dishonoring to her as an Hon. Member.

She came into the plenary upset to see who could have suggested her name to be the next Speaker of the County Assembly. She learnt that it was the Hon. Minority Chief Whip who had suggested her name. She stated that Hon. Peter Imwatok had suggested her name without consulting her. She further stated that following the incidence, Hon Minority Whip had already de-whipped her from the Sectoral Committee on Transport and Infrastructure.

2. On why she did not follow procedure when she got into the plenary by bowing to the Chair and peacefully seat and raise the issue with the Speaker, Hon. Mary Ariviza stated as follows;

The Honourable Member stated that in the process she did not hurt anybody but instead told the Committee that she was hurt and embarrassed of how the male Sergeant-at-Arms came to take her out of the plenary despite the Assembly having female Sergeant-at-arms. She added that she was mishandled instead despite being disabled. She stated that her intention as she came to the plenary was not to dishonor or disrespect anyone.

She informed the Committee that she felt her Constitutional right to Association was being violated, that she had decided to be associated with Hon. Beatrice Elachi. She apologized to the Committee if it felt that she was dishonorable and reiterated that she

did not fight anyone on that day. She questioned whether the Committee had invited Hon. Peter Imwatok to give evidence why he mentioned her name on the floor of the Assembly.

The footage of the incident was played by the Committee at this juncture for the Member to defend herself from the allegations.

3. when informed that Hon. Mary Njambi had similarly been proposed for the position of Speaker and Honorably declined and asked why she did not also honorably decline, Hon. Mary Ariviza stated that;

In her opinion perhaps Hon. Mary Njambi had been consulted first before her name was mentioned for the position.

4. if she was familiar with Standing Order 118 on Action to be taken on refusal to withdraw, Hon. Mary Ariviza stated as follows;

She did not refuse to withdraw and she was not ordered to withdraw.

5. if she was familiar with Standing Orders 113 and 114, and her opinion on how the Committee should proceed in dispensing with the matter, Hon. Mary Ariviza stated as follows;

She did not neither willfully decline to obey an order of the Speaker nor did she obstruct anyone instead she was carried out in an embarrassing manner. She added that she did not defy the ruling of the Speaker. She stated that she was not addressed by the Chair of the day but instead the Chair instructed the Sergeant-at-Arms to directly remove her from the Assembly.

6. if her opinion she felt the force used was justified, Hon. Mary Ariviza stated that;

She was still ill from the incidence and the force of strong men was too much for her. She stated that as from that occasion her leg has become worse.

7. if she recognized that there were proceedings in the house before she entered the plenary shouting, Hon. Mary Ariviza stated that;

There was a court order that stated that the Assembly should not continue with the proceedings. From a legal perspective in her opinion the proceeding was an illegal gathering trying to install an acting Speaker. It was a sitting that was a contempt of a court order.

She reiterated that the issue of electing an Acting Speaker is a serious issue and that Members playing with other Member's names in proposition for the position actually showed that the Assembly was not taking itself seriously as an Honourable Assembly.

8. On her behavior and conduct on the material day, Hon. Mary Ariviza stated that;

Her conduct may have made some Members angry and she apologized but added that when one is demeaned and not treated like an Honourable Member, as a human being one may take measures that may not please other Members. She reiterated that her action was not meant to demean any Member of the County Assembly.

9. On her remark on the events of the day, Hon Mary Ariviza stated;

That whatever was happening at the Assembly at the time had brought a lot of disrepute to Nairobi County Leadership. In particular, from the process of ejecting the Speaker. The Honourable Member was apologetic for the incident and reiterated her intention was not to dishonor any Member but maintained her stand that the proceedings on that day were not legal.

She concluded that she respected the Chairperson of the Select Committee on Powers and Privilege, the Leadership of the Assembly and the Assembly but in her opinion Hon. Peter Imwatok, MCA, started the whole scene by mentioning her name in proceedings which she did not wish to be party to.

B.) HON. PETER IMWATOK, MCA- MINORITY CHIEF WHIP

The Witness was summoned and appeared before the committee. The Chairperson issued a statement on establishment and the Mandate of the Powers and privileges Committee. He specifically informed the Witness that the committee has the mandate to investigate conduct and breach of privileges of all members.

The witness, Hon. Peter Imwatok was sworn in as is required for all witnesses attending the committee seating.

The Witness was asked the following questions;

1. On why despite his mandate to appoint and/or propose Members of the Minority Coalition to Committees of the Assembly, chaos erupted on the proceedings of the day as a result of his proposal of Hon. Mary Ariviza for the position of Acting Speaker.

The Honourable Minority Chief Whip stated that as he is mandated he went round the precincts on that day mobilizing Members to attend the day's sitting as the Assembly would conduct important business of electing and/or appointing an acting Speaker. He stated that Honourable Mary Ariviza who was seated with Hon. Melab was also informed of the reasons to attend the sitting. He stated that Honourable Mary Ariviza did not inform him that she could not attend the sitting.

2. if he was performing on his mandate as chief whip if a member could behave in that manner in his presence, Hon. Peter Imwatok stated that;

As the Minority Whip he had already taken action by de-whipping Hon. Mary Ariviza from some Committees including the Sectoral Committee on Transport and Public Works. He justified his action by informing the Committee on the reaction by Hon.

Mary Njambi when she was similarly proposed. He informed the Committee that Hon. Mary Njambi declined the offer with respect in the Assembly.

3. if he mislead the Assembly by stating that he had consulted with Hon. Mary Ariviza before proposing her name for the position of Acting Speaker, Hon. Peter Imwatok stated that;

He had whipped all the Minority Coalition Members. He stated that he informed Hon. Mary Ariviza she should not miss the sitting as there was an important business to transact and that she, Hon. Ariviza, was a target for promotion on the business of the day.

He confirmed to the Committee that as a Minority Chief Whip, it is his mandate to select which Member should go whichever Committee or a candidate on behalf of the Coalition. He said that he did not need to consult Hon. Mary Ariviza before proposing her name. He reiterated that if she felt the position was not worthy of her, she should have declined with honor.

He added that he settled on Hon. Mary Ariviza because after the vote of no confidence was held against Hon. Beatrice Elachi, the Members of the County Assembly accused the Leadership of being male chauvinists and he believes in women empowerment. He perceived the Honourable Member was best qualified for the position.

He added that were a vote to be cast he would have voted for Hon. Mary Ariviza.

4. what measures he would take as the Minority Chief Whip to ensure that such an incident does not occur again, Hon. Peter Imwatok stated that;

He stated that in his position he works with different documents including statutes. On the part of the Coalition he had withdrawn her from some Committees and had written to her to see him in his office. He stated he was working on further ways to prevent this in future.

In his final remark the Honourable Minority Chief Whip appreciated the Committee for taking up the matter and hoped that the committee sets a good precedence.

MIN.0012/P&P/OCTOBER/2018 ADJOURNMENT

There being no other business, the Chairperson adjourned the meeting at 12:58 PM.

	SIGN	DATE
CHAIRPERSON	.....	19/2/2019
SECRETARY	.....	19/2/2019

b/d Clerk

MINUTES OF THE 13TH SITTING OF THE NAIROBI CITY COUNTY ASSEMBLY POWERS AND PRIVILEDGES COMMITTEE HELD ON 18TH OCTOBER, 2018 IN THE BOARDROOM AT 9:30 A.M

MEMBERS PRESENT

1. Hon. Naftali Mathenge, MCA- Vice Chairman
2. Hon. Wanjiru Kariuki, MCA
3. Hon. Margaret Mbote, MCA
4. Hon. Carolyne Mayunzu, MCA
5. Hon. Patrick Musili, MCA
6. Hon. Evans Otiso

MEMBERS ABSENT

1. Hon. Chege Mwaura, MCA- Ag. Speaker/ Chairman
2. Hon. Abdi I. Hassan, MCA- Leader of Majority
3. Hon. Sylvia Moseiya

SECRETARIAT

1. Monica Muthami- Principal Clerk Assistant (L&P)
2. Robert Otieno- Clerk Assistant
3. Munase Klinsman- Intern

MIN.0014/P&P/OCT/2018: PRELIMINARIES

The Vice-Chairperson called the meeting to order at 9:42PM. He welcomed Members present to the meeting. The agenda of the meeting was then adopted as proposed by Hon. Patrick Musili and seconded by Hon. Carolyne Mayunzu.

AGENDA

1. Preliminaries
2. Consideration and investigation of bribery allegation of members of the sectoral committee on labour and social welfare.
3. A.O.B
4. Adjournment

MIN.0015/P&P/OCT/2018 APPEARANCE BEFORE THE COMMITTEE

A.) HON. WISLON ONGELE OCHOLA

The Witness was summoned and appeared before the committee. The Chairperson issued a statement on establishment and the Mandate of the Powers and privileges

Committee. He specifically informed the Witness that the committee has the mandate to investigate conduct and breach of privileges of all members.

The witness, Hon. Wislon Ongele Ochola was sworn in as is required for all witnesses attending the committee seating.

The Witness was asked the following questions;

1.) On what he knows about the allegation of bribery of Members of the Sectoral Committee on Labour and Social Welfare for the award of a contract to AAR, Hon. Wilson Ochola stated that

He was neither aware nor had he heard of such allegation.

2.) To brief the Committee on what he knew about the said allegation, Hon. Wilson Ochola stated that;

He had only heard about the allegation on radio. He said the allegations have affected the execution of the mandate of the Sectoral Committee on Labour and Social Welfare. He stated that the allegation was wrongly before the Committee because it is George Ochola's voice on the recording but it was hypothesized to be him.

He gave an example of people who mimic other leaders including the President. He therefore stated that the voice in the audio recording was similar to his but it was not him. He termed the incident political.

3.) On whether he was aware of the recording of an Honourable Member soliciting for a bribe, Hon. Wilson Ochola stated

He reiterated that the recording was not him but a person named George Ochola. He stated that the matter was before Ethics and Anti-Corruption Commission and that Members of the Committee had appeared to give statements at the Commission. He stated the Commission apologized for the miscommunication as it was George Ochola and not Wilson Ochola from the recordings.

4.) On whether he knew George Ochola, Hon. Wilson Ochola stated

That he knew George Ochola as a former colleague in the First Assembly from Hospital Ward. He stated that they served together as Members of the County Assembly in the previous term (2013- 2017). He further stated that he had not contacted Hon. Ochola George after losing on his re-election bid.

He however did not wish to be quoted as the one that said it was George Ochola. He stated that, "there are so many George Ochola's in Kenya, I am not therefore saying he is the one".

5.) On what he had done about the recording of a voice similar to his, Hon. Wilson Ochola stated;

That he had taken the legal step of reporting the matter to police and instituting a case for defamation. He however informed that he did not know the author and therefore

the matter was still under investigation. However, the Honourable Member stated he could not retrace/ recall the case number at that time.

6.) If he had received a letter from EACC, Hon. Wilson Ochola stated;

That he had received summons to appear before the Commission. He stated that EACC had dropped the matter as they were investigating someone who was not a member of the Assembly at the time.

7.) On what the Honourable member knew about AAR, Hon. Wilson Ochola stated;

That he did not know anything about AAR as it was neither discussed in the Committee meetings nor did he personally know anything to do with the company.

8.) On what the Sectoral Committee had gone to do in Mombasa for the retreat, Hon. Wilson Ochola stated;

That the Committee was having a joint sitting with officials of the County Workers Union to discuss issues of the uniforms for staff of the County and improvement of facilities for workers. He reiterated that AAR was not an Agenda for discussion during the retreat.

Resolution

The Committee having interrogated the Hon. Member resolved to request the Member to provide the case file number that he had reported at a police station.

B.) HON. JARED AKAMA

The Witness was summoned and appeared before the committee. The Chairperson issued a statement on establishment and the Mandate of the Powers and privileges Committee. He specifically informed the Witness that the committee has the mandate to investigate conduct and breach of privileges of all members.

The witness, Hon. Jared Akama was sworn in as is required for all witnesses attending the committee seating.

The Witness was asked the following questions;

1.) On what the Honourable Member knows about the allegation of bribery by Members of the Sectoral Committee on Labour and Social Welfare for the award of a Health Insurance contract to AAR, Hon. Jared Akama stated

That he is a Member of the Sectoral Committee on Labour and Social Welfare. He received a letter dated 16th October 2018 summoning him to appear before the Select Committee on Powers and Privileges. He stated indeed he knew about the allegation and had received summons to appear before the Ethics and Anti-Corruption Commission (EACC) for investigation of the same. The Honourable Member stated that he also heard about the allegation from members of the Fourth Estate.

He stated that a member of the Sectoral Committee on Labour and Social Welfare had alleged that the Committee had solicited for a bribe in the award of the Health Insurance Contract to AAR. He stated that the member who is alleged to have uttered the bribery issue has since denied stating the allegation.

He informed the Committee that the alleged Member in the audio was identified as George Ochola and not Wilson Ochola as it had been mistakenly perceived. He stated that if the alleged person who is said to have spoken about the bribery had denied, the burden of proof lied with the Select Committee on Powers and Privileges to show how the Committee solicited for a bribe.

He also stated that the AAR contract was awarded during the First Assembly and not during the Second Assembly in which he is a member. He concluded that it would be injustice to purport that he would influence decisions made by Members of the First Assembly.

He confirmed that he knew George Ochola.

2.) On the Agenda at the retreat of the Committee was, Hon. Jared Akama stated;

That the agenda of the Committee is to discuss about issues affecting workers of Nairobi County and not any particular company. He stated that the retreat was sponsored by the Executive. It was a joint sitting of the Trade Union, the Board, County Public Service Management and Members of the County Assembly.

The agenda was discussion of early retirement of workers and the workers' welfare.

3.) On whether there has been a statement with regard to award of the Health Insurance to AAR, Hon. Jared Akama stated;

That he was not aware.

4.) On what he was/ had done as a Member of the Sectoral Committee on Labour and Social Welfare to insure such incidences do not reoccur or the Committee does not tarnish the name of the Assembly, Hon. Jared Akama stated

That if such an incident reoccurs it is his intention to make sure that the public is aware and report such an incident to the Select Committee on Powers and Privileges.

C) HON. GEOFFREY NG'ANG'A

The Witness was summoned and appeared before the committee. The Chairperson issued a statement on establishment and the Mandate of the Powers and privileges Committee. He specifically informed the Witness that the committee has the mandate to investigate conduct and breach of privileges of all members.

The witness, Hon. Geoffrey Ng'ang'a was sworn in as is required for all witnesses attending the committee seating.

The Witness was asked the following questions;

1.) On what the Honourable Member knows about the allegation of bribery by Members of the Sectoral Committee on Labour and Social Welfare for the award of a Health Insurance contract to AAR, Hon. Geoffrey Ng'ang'a stated

That he was not aware.

He added that what he had heard was that there was a voice recording alleging Members of the Sectoral Committee on Labour and Social Welfare while in Mombasa received bribe for the award of a Health Insurance contract to AAR. He affirmed to the Committee on Powers and privileges that he as the Vice-Chairman of the Committee on Labour and Social Welfare and the Committee as a whole did not receive any bribe for that or any other reason. He corroborated with the Clerk and other members that the Agenda of the workshop had nothing to do with award of any contract to AAR but it was to deliberate on the Welfare of the County staff together with Members of the Executive, the County Public Service Board and County Public Service Management.

2.) On the claims of one of the members of his Committee being recorded claiming the Committee was bribed, Hon. Geoffrey Ng'ang'a stated

That when the Committee heard the recording, they summoned the member for questioning and the member disputed that it was not him. As such, Hon. Geoffrey Ng'ang'a felt he could not talk about the voice as the member disputed that it was not him.

3.) if he had any interest in AAR, Hon. Geoffrey Ng'ang'a stated

That he does not have any interest and the award of such contracts as it was not the mandate of the Sectoral Committee on Labour and Social Welfare.

4.) if there was any Statement before the Committee on the award of the Health Insurance contract to AAR, Hon. Geoffrey Ng'ang'a stated

That the contract was awarded during the previous term of the Assembly and it therefore did not appear before the Sectoral Committee on Labour and Social Welfare in the Second Assembly.

D) HON. EUNICE WANJIKU

The Witness was summoned and appeared before the committee. The Chairperson issued a statement on establishment and the Mandate of the Powers and privileges Committee. He specifically informed the Witness that the committee has the mandate to investigate conduct and breach of privileges of all members.

The witness, Hon. Eunice Wanjiku was sworn in as is required for all witnesses attending the committee seating.

The Witness was asked the following questions;

1.) On what the Honourable Member knows about the allegation of bribery by Members of the Sectoral Committee on Labour and Social Welfare for the award of a Health Insurance contract to AAR, Hon. Eunice Wanjiku stated

That she was not aware of the allegations.

2.) On whether she was aware of the recording of a Hon. member alleging bribery of Members of the Sectoral Committee on Labour and Social Welfare for the award of a Health Insurance contract to AAR, Hon. Eunice Wanjiku stated

That she was aware of the recording but Hon. Wilson Ochola denied that it was him in the recording. She added in corroboration that the Committee was in Mombasa to discuss the Welfare of the County staff. She further stated that neither she nor the Committee had interest in the insurance and it was not in their mandate to award such contract.

E) Hon. Rose Ogonda

The Witness was summoned and appeared before the committee. The Chairperson issued a statement on establishment and the Mandate of the Powers and privileges Committee. He specifically informed the Witness that the committee has the mandate to investigate conduct and breach of privileges of all members.

The witness, Hon. Rose Ogonda was sworn in as is required for all witnesses attending the committee seating.

The Witness was asked the following questions;

1.) On what the Honorable member knows about the allegation of bribery by Members of the Sectoral Committee on Labour and Social Welfare for the award of a Health Insurance contract to AAR, Hon. Rose Ogonda stated

That she was not aware of the allegation.

The Honourable Member stated that the Sectoral Committee on Labour and Social Welfare was having a meeting with the County Workers Union, the County Public Service Board and the Members of the Committee at Travellers Beach resort in Mombasa County. The Agenda was discussion of welfare of members and staff of the County. Prior to this meeting, the Hon. Member submitted that staff had been retrenched or relocated from their offices prompting many of them to go to court. She stated that on the Agenda there was no issue about awarding of a contract of Health Insurance.

2.) On the claims of one Honorable member been recorded that the Sectoral Committee on Labour and Social Welfare was bribed to award a Health Insurance contract to AAR and if true what measures had been taken by the Committee to the member, Hon. Rose Ogonda stated;

That she only heard of the allegation through members of the Fourth Estate and the voice recording was played to her while attending a meeting with the EACC. She stated that she could not identify the voice during the said meeting.

The Honorable member stated that the Committee had been summoned by EACC and had appeared before the Commission to record statements.

3.) On what he was/ had done as a member of the Sectoral Committee on Labour and Social Welfare to insure such incidences do not reoccur or the Committee does not tarnish the name of the Assembly, Hon. Rose Ogonda stated;

That as a Committee they had sat and agreed that the Chairperson of the Committee should forward the issue to the leadership of the Assembly to ensure the name of the Committee and the Assembly at large are not tarnished.

F) Ms. Josephine Kamau, Clerk to the Sectoral Committee on Labour and Social Welfare

The Witness was summoned and appeared before the committee. The Chairperson issued a statement on establishment and the Mandate of the Powers and privileges Committee. He specifically informed the Witness that the committee has the mandate to investigate conduct and breach of privileges of all members.

The witness, Ms. Josephine Kamau was sworn in as is required for all witnesses attending the committee seating.

The Witness was asked the following questions;

1.) On asked of what the officer knows about the allegation of bribery of members of the Sectoral Committee on Labour and Social Welfare for the award of a Health Insurance contract to AAR, Ms. Josephine Kamau stated

That she was aware of the allegations as she came across the allegation through print media. However, she was not aware if the bribery took place. She stated that she was aware of summons to attend a meeting with EACC and that she had gone to EACC to give her statement.

2.) whether she was aware that one of the members is recorded stating that the Committee was bribed for the award of Health Insurance contract to AAR, Josephine Kamau stated

That she was aware and that she had even listened to the alleged recording of the Honorable member as it had circulated on Social media. She further stated that she felt she knew the voice but she wasn't sure who it was as it was an audio recording.

3.) what measures the Committee had taken, Ms. Josephine Kamau stated

That the Committee was summoned to EACC and they appeared to give evidence and recorded statements. She informed that the Members had also been invited by the Select Committee on Powers and Privileges on the same issue. She was however not conversant of any other measures the Committee on its own motion had decided to take.

4.) if the Committee allocated time to discuss on a medical cover by AAR on its Agendas, Ms. Josephine Kamau stated

That during the making of the Budget, the Committee deliberated on a medical cover for staff of the County. The issue discussed was only concerning the Budget for the staff and not the award of any tender.

MIN.0016/P&P/OCTOBER/2018 ADJOURNMENT

There being no other business, the Chairperson adjourned the meeting at 12:58 PM.

	SIGN	DATE
CHAIRPERSON	.....	19/2/19
SECRETARY	.....	19/2/19

MINUTES OF THE 14TH SITTING OF THE NAIROBI CITY COUNTY ASSEMBLY POWERS AND PRIVILEDGES COMMITTEE HELD ON 24TH OCTOBER, 2018 IN THE BOARDROOM AT 9:30 A.M

MEMBERS PRESENT

1. Hon. Naftali Mathenge, MCA- Vice Chairman
2. Hon. Wanjiru Kariuki, MCA
3. Hon. Margaret Mbote, MCA
4. Hon. Carolyne Mayunzu, MCA
5. Hon. Patrick Musili, MCA
6. Hon. Evans Otiso

MEMBERS ABSENT

1. Hon. Chege Mwaura, MCA- Ag. Speaker/ Chairman
2. Hon. Abdi I. Hassan, MCA- Leader of Majority
3. Hon. Sylvia Moseiya

SECRETARIAT

1. Monica Muthami- Principal Clerk Assistant (L&P)
2. Robert Otieno- Clerk Assistant
3. Munase Klinsman- Intern

MIN.0014/P&P/OCT/2018: PRELIMINARIES

The Vice-Chairperson called the meeting to order at 9:42PM. He welcomed Members present to the meeting. The agenda of the meeting was then adopted as proposed by Hon. Evans Otiso and seconded by Hon. Carolyne Mayunzu.

AGENDA

1. Preliminaries
2. Consideration and investigations of the allegation of bribery of members of the sectoral committee on justice and legal affairs.
3. A.O.B
4. Adjournment

MIN.0017/P&P/OCT/2018 APPEARANCE BEFORE THE COMMITTEE

A.) HON. JUNE JULIET NDEGWA, MCA

The Witness was summoned and appeared before the committee. The Chairperson issued a statement on establishment and the Mandate of the Powers and privileges

Committee. He specifically informed the Witness that the committee has the mandate to investigate conduct and breach of privileges of all members.

The witness, Hon. June Ndegwa was sworn in as is required for all witnesses appearing before the committee.

The Witness was asked the following questions;

1.) On what the Honourable Member knows about the allegation of bribery by Members of the Sectoral Committee on Justice and Legal Affairs, Hon. June Ndegwa stated the following

That what she knew is what was seen from members of the Fourth Estate. She stated that she had also seen forwarding messages and videos via the whatsapp platform and social media. She stated that in the news it was alleged that the Member of County Assembly for Parklands Ward had been arrested for soliciting a bribe. On the media, photos of Hon. Jayendra Malde with handcuffs were trending.

2.) On whether Hon. Malde was receiving the bribe on behalf of the Committee, Hon. June Ndegwa stated

That it was not true as Hon. Malde Jayendra, MCA had not informed the Committee neither was it an agenda at any meeting of this dealings.

3.) On whether the Committee had done investigations after the, Hon. June Ndegwa stated;

That the Committee had not done such investigation nor had they discussed of the allegations. She further stated that the matter was not an agenda at any meeting of the Committee thus the Committee had not discussed the issue. However, she informed that the Committee had collected signatures for a vote of no confidence in the Chairman but opted to seek advice from the Hon. Majority and Minority Leaders. The matter was still under deliberation by the Leaders.

She added that the vote of no confidence was not just about the allegation but it was a resolution of the Committee as Members had lost faith in the Chairman.

4.) On whether the Committee had done a site visit to Concord Hotel, Hon. June Ndegwa stated;

That the Committee did not have any agenda for the Committee to conduct a site visit to Concord Hotel. Instead the Honourable Member stated that the Committee had conducted a site visit to Chandarana Supermarket in Westlands, Nairobi County. The issue the Concord hotel was neither officially nor unofficially discussed by the Committee. She reiterated that she had never heard of the Concord Hotel not until the day the alleged bribery was announced by members of the Fourth Estate.

5.) On what measures the Committee had put in place to ensure the reputation of the Nairobi City County Assembly is not put into jeopardy, Hon. June Ndegwa stated

That the Committee had not sat to deliberate on the issue as they were awaiting investigations to be concluded by the Select Committee on Powers and Privileges, but the Hon. Member promised to pick it up at the Committee meeting.

In her closing remarks, Hon June Ndegwa requested the Committee to dissociate the members of the Committee from the allegations as most them were not aware of the allegations. She stated that she was willing to hand over her phone for the Committee to see her communication with Hon. Malde Jayendra.

B.) HON. ANTHONY KIMEMIA, MCA

The Witness was summoned and appeared before the committee. The Chairperson issued a statement on establishment and the Mandate of the Powers and privileges Committee. He specifically informed the Witness that the committee has the mandate to investigate conduct and breach of privileges of all members.

The witness, Hon. Antony Kimemia was sworn in as is required for all witnesses appearing before the committee.

The Witness was asked the following questions;

1.) On what the Honourable Member knows about the allegation of bribery of Members of the Sectoral Committee on Justice and Legal Affairs, Hon. Anthony Kimemia stated;

That Hon. Jayendra Malde is the Chairperson of the Sectoral Committee on Justice and Legal Affairs which he, Hon. Anthony Kimemia, is a member. He stated that he did not know much about the allegations as he only came to know about the allegation from the members of the Fourth Estate and social media.

2.) On whether it was true Hon. Malde Jayendra took the bribe on behalf of the Sectoral Committee on Justice and Legal Affairs, Hon. Anthony Kimemia stated;

That he did not know whether it was true as he did not know much about the allegations. He reiterated that he only came to know about the allegation from social media.

3.) On what measures the Sectoral Committee on Justice and Legal Affairs had put in place to ensure such matters neither reoccur nor taint the reputation of the Assembly, Hon. Anthony Kimemia stated;

That Committees should stick to their mandate and commended the Select Committee on Powers and privilege to keep to its mandate on oversight of Members.

4.) On what would be the best way to deal with such matters in the Assembly, Hon. Anthony Kimemia stated;

That he acknowledged the mandate of the Sectoral Committee on Powers and privileges and stated that all Members of the County Assembly have an obligation to report to the Committee any incidences of bribery.

C.) HON. SAMORA MWAURA, MCA

The Witness was summoned and appeared before the committee. The Chairperson issued a statement on establishment and the Mandate of the Powers and privileges Committee. He specifically informed the Witness that the committee has the mandate to investigate conduct and breach of privileges of all members.

The witness, Hon. Samora Mwaura was sworn in as is required for all witnesses appearing before the committee.

The Witness was asked the following questions;

1.) On what the Honourable Member knows about the allegation of bribery by Members of the Sectoral Committee on Justice and Legal Affairs, Hon. Samora Mwaura stated;

He thanked the Committee for giving him an opportunity to shed light on the matters under investigation. He informed the Committee that he was not privy to the matters under investigation. He stated that he only came to know of the incident from members of the Fourth Estate and social media.

2.) On whether Hon. Malde was receiving the bribe on behalf of the Sectoral Committee on Justice and Legal Affairs, Hon. Samora Mwaura stated;

That it is not true and he had no prior knowledge. He only learned about the allegation via media outlets.

3.) On whether the Honourable Member visited the site at the Concord Hotel, Hon. Samora Mwaura stated;

That he was committed elsewhere at the time. In his knowledge however there were some members who visited the site.

4.) On the reason why the Committee visited the Concord Hotel, Hon. Samora Mwaura reminded the Committee that

It is a mandate of Committees to plan and visit different sites where there is a need for such a visit. The Committee had therefore planned to visit the site in line with its mandate of investigation. He informed the Committee that he was not privy of the reason for the visit.

5.) On whether the office of the Clerk has the Agenda for the visit and minutes of the site visit, Hon. Samora Mwaura stated;

That he did not know of such a meeting being planned as he was not present during the meeting to plan nor was he present during the site visit. He added that after the

visit the Committee having been caught unawares they did not discuss of this incidence. He stated he did not know Members who visited the site.

D.) HON. DORIS KANARIO, MCA

The Witness was summoned and appeared before the committee. The Chairperson issued a statement on establishment and the Mandate of the Powers and privileges Committee. He specifically informed the Witness that the committee has the mandate to investigate conduct and breach of privileges of all members.

The witness, Hon. Doris Kanario was sworn in as is required for all witnesses appearing before the committee.

The Witness was asked the following questions;

1.) On what the Honourable Member knows about the allegation of bribery of Members of the Sectoral Committee on Justice and Legal Affairs, Hon. Doris Kanario stated;

That she only came to know of the allegation through the media. She stated that it was not true that Hon. Malde Jayendra received the bribe on behalf of the Committee. The Honourable Member confirmed that the Committee had not received any bribe.

2.) On the measures the Sectoral Committee on Justice and Legal Affairs has put in place to ensure such an incidence neither reoccurs nor will the reputation of the Assembly be put into jeopardy, Hon. Doris Kanario stated;

That the Committee distanced itself from the allegation of bribery as it was not true that they solicited or received a bribe. She confirmed that she had not gotten a letter from EACC.

She suggested that the Committee on Powers and Privileges should take up issues of conduct of Members early enough before they summoned by EACC.

3.) On whether the Honourable Member is aware of Concord Hotel, Hon. Doris Kanario stated

She knew concord Hotel and the committee had done a site visit to the said Hotel. The committee only came to know of the allegation after the site visit through media. She reaffirmed to the Committee that the Sectoral committee on Justice and Legal Affairs clerk can produce minutes and findings from the site visit.

E.) HON. MOSES OGETO, MCA

The Witness was summoned and appeared before the committee. The Chairperson issued a statement on establishment and the Mandate of the Powers and privileges Committee. He specifically informed the Witness that the committee has the mandate to investigate conduct and breach of privileges of all members.

The witness, Hon. Moses Ogeto was sworn in as is required for all witnesses appearing before the committee.

The Witness was asked the following questions;

1.) On what the Honourable Member knows about the allegation of bribery of members of the Sectoral Committee on Justice and Legal Affairs, Hon. Moses Ogeto stated;

That he learnt of the allegations through media. He stated that as the Vice-chairperson of the Sectoral Committee on Justice and Legal Affairs he could not take the Committee through allegations as he only learned through members of the Fourth estate. He could only talk of what had been reported on media.

2.) On whether it is true Hon. Malde Jayendra received the bribe on behalf of the Sectoral Committee on Justice and Legal Affairs, Hon. Moses Ogeto stated;

The Honourable Member stated that it was not true. He added that the Committee had not sat to discuss on bribery of the Committee before or after the incidence. He further stated that he knew of the Concord Hotel as the Committee had conducted a site visit to the said Hotel.

3.) On what the Committee was investigating at the Concord Hotel, Hon. Moses Ogeto stated

The Chairperson, Hon. Malde Jayendra, Member for Parklands/Highridge Ward had brought before the Committee a matter for investigation, which was that there was a developer who had blocked a public access road in Parklands Ward. This prompted the site visit. Hon Moses Ogeto confirmed that after the site visit, the Committee's findings were that indeed there was a generator blocking a public access road to the deep sea slum in the area.

The Member stated that the matter has since been taken up by the Planning department.

4.) On whether there were other people other than Members of the Sectoral Committee on Justice and Legal Affairs during the site visit, Hon. Moses Ogeto stated;

That only the Members of the Committee and the Secretariat attended the site visit but members of the public were also within the vicinity. He stated that after the visit the Committee did talk to members of deep sea slum through their Chairman.

5.) on what would be the best way to deal with such incidences at the Assembly to ensure the reputation of the Assembly is not tainted, Hon. Moses Ogeto stated

The Select Committee on Powers and Privileges has all the powers and discretion to deal with this issues.

F.) HON. DAVID AYOI, MCA

The Witness was summoned and appeared before the committee. The Chairperson issued a statement on establishment and the Mandate of the Powers and privileges

Committee. He specifically informed the Witness that the committee has the mandate to investigate conduct and breach of privileges of all members.

The witness, Hon. David Ayoi was sworn in as is required for all witnesses appearing before the committee.

The Witness was asked the following questions;

1.) On what the Honourable Member knows about the allegation of bribery of members of the Sectoral Committee on Justice and Legal Affairs and whether Hon. Malde was receiving the bribe on behalf of the Committee, Hon. David Ayoi stated;

That the Sectoral Committee on Justice and Legal Affairs was chaired by Hon. Malde Jayendra. He denied that Hon. Malde received the bribe on behalf of the Committee. He stated the Committee works under its mandate and it was not true nor was it minuted that the Committee shall receive some money upon investigations at the Concord Hotel.

He stated that he learnt of the allegations only through media.

2.) On whether the Committee conducted a site visit to the Concord Hotel, Hon. David Ayoi stated;

That it was true the Committee visited the Hotel to conduct a site visit. He confirmed that he was part of the Members that conducted the site visit. This was prompted after a petition was filed to the Committee by a resident in the Parklands Ward claiming a developer of the Concord Hotel had encroached on a public access road blocking residents of deep sea slum.

Hon. David Ayoi confirmed that the following Members were present during the site visit; Hon. Malde Jayendra, Hon. Moses Ogeto, Hon. Doris Kanario and Hon. Elias Otieno Okumu and the Clerk of the Committee.

3.) On what measures the Committee had taken to ensure neither such an incidence reoccurs nor will the Committee tainted the image of the Assembly, Hon. David Ayoi stated;

As a Committee they have sat and discussed the matter and resolved to meet the leadership to get another chairman.

G.) HON. JACKLINE APONDI, MCA

The Witness was summoned and appeared before the committee. The Chairperson issued a statement on establishment and the Mandate of the Powers and privileges Committee. He specifically informed the Witness that the committee has the mandate to investigate conduct and breach of privileges of all members.

The witness, Hon. Jackline Apondi was sworn in as is required for all witnesses appearing before the committee.

The Witness was asked the following questions;

1.) On what the Honourable Member knows about the allegation of bribery of Members of the Sectoral Committee on Justice and Legal Affairs, Hon. Jackline Apondi stated;

That she was aware of the allegations but had only came to know about them through social media and members of the Fourth Estate. She was not aware of what transpired. She stated that she has never had communication with Hon. Malde on the issue under investigation.

2.) On what the Honorable member saw on social media as she had stated, Hon. Jackline Apondi stated

She saw that Hon. Malde had gone to Concord Hotel and picked money and informed the persons he was taking the money to the Committee on Justice and Legal Affairs.

3.) On whether the Committee has discussed the issue under investigation at the Committee meeting, Hon. Jackline Apondi stated;

That the matter had not been discussed and if it had then she was not present at the said meeting.

4.) On whether the Honourable Member was aware of a site visit to the Concord Hotel by members of the Sectoral Committee on Justice and Legal Affairs, Hon. Jackline Apondi stated;

That she was not aware of a site visit to the Concord Hotel. She knew about the said site visit after it had gone viral on media. However, the Honourable Member stated that on that material day she was not within the precincts of the Assembly. The Honourable Member stated she was in Mombasa on that day. She confirmed to have the knowledge of the location of the Concord Hotel.

5.) On what measures the Committee had put in place to ensure the incidence does not reoccur, Hon. Jackline Apondi stated;

That Committees should be straight in their mandate and work as a team.

H.) HON. ELIJAH MPUTHIA, MCA

The Witness was summoned and appeared before the committee. The Chairperson issued a statement on establishment and the Mandate of the Powers and privileges Committee. He specifically informed the Witness that the committee has the mandate to investigate conduct and breach of privileges of all members.

The witness, Hon. Elijah Mputhia was sworn in as is required for all witnesses appearing before the committee.

The Witness was asked the following questions;

1.) On what the Honourable Member knows about the allegation of bribery of Members of the Sectoral Committee on Justice and Legal Affairs and whether Hon. Malde Jayendra took a bribe on behalf of the Committee, Hon. Elijah Mputhia stated;

That Hon. Malde is the Chairman of the Sectoral Committee on Justice and Legal affairs. He stated that during the incidence, the Honourable Member, Elijah Mputhia was in the United States of America. He stated that he was informed of the allegation of bribery of the Committee upon coming back. He was therefore not in a position to know the events leading to and the involvement of the Committee in the bribery allegation. Hon. Elijah Mputhia told the Committee on Powers and Privileges that he did not know the location of the Concord Hotel.

He however confirmed that he was aware of the allegations but only after hearing from media, Social media and other Honourable Members. He stated that upon confronting Hon. Malde about the incident, Hon. Malde informed him that it was a fabricated case by Hon. Sumra Ishrad.

2.) if he was part of the site visit to Concord Hotel, Hon. Elijah Mputhia stated

He was not present and reaffirmed that he did not know the location of the said Hotel.

3.) On what the Committee has done to ensure the incident does not reoccur, Hon. Elijah Mputhia stated;

That as a Committee they have agreed that Hon. Malde is not fit for the position of Chairperson of the Committee. He stated that the Committee was working on ways with advice from the Assembly leadership of having another Chairperson for the Committee. He reiterated that the Committee was not involved in the incident but he believed there was an incident of bribery but Hon. Malde wanted to "make a kill for himself" without involving the Committee but using the name of the Committee.

He suggested that the Committee had reached a dead end as it is the Chairperson who calls for a meeting. He added that the Select Committee on Powers and Privileges had the mandate to recommend to their Committee what should happen or which direction the Sectoral Committee on Justice and Legal Affairs should take.

I.) MR. ERICK NJOGA- CLERK TO THE SECTORAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS

The Witness was summoned and appeared before the committee. The Chairperson issued a statement on establishment and the Mandate of the Powers and privileges Committee. He specifically informed the Witness that the committee has the mandate to investigate conduct and breach of privileges of all members.

The witness, Mr Erick Njoga was sworn in as is required for all witnesses appearing before the committee.

The Witness was asked the following questions;

1.) to brief the committee on the allegations against Hon. Malde and whether he was aware of the allegation of bribery of Members of the Sectoral Committee on Justice and Legal Affairs, Mr. Njoga Erick stated;

He was aware of the allegations of bribery of the Members of the Committee through their Chairman, Hon. Jayendra Malde. He stated that the committee had a site visit through a request to seat outside the precincts signed by the Speaker to Chandarana Supermarket. They had gone to investigate on the racial discrimination issue that is contrary to Article 27 of the Constitution of Kenya. When they reached Chandarana, the Chief Executive Officer (CEO) was not around. However, the CEO called members of the Committee through the Head of Human Resource department and informed the Committee to reschedule the visit. He added that the CEO was open to coming to meet the Committee within Precincts of the Assembly for the investigations. He stated the Site visit prematurely ended as the Committee stayed at the Supermarket for about 15 Minutes.

Some members had come with their own vehicles and others together with staff members came with the Assembly Van. As the van was leaving, the members who were aboard the Van decided to pass by Concord Hotel. For him he knew that members had decided to go for lunch at the said Hotel. Members of staff remained in the van but members alighted to go to the Hotel. He thereafter concluded that the request to sit outside granted was for Chandarana Supermarket and not Concord Hotel. Subsequently, it had not been discussed at the Committee meetings nor was it an agenda for the day. He stated that he only came to learn of the arrest of the Hon. Chairman on that following weekend.

2.) On whether Hon. Malde Jayendra was receiving a bribe on behalf of members of the Sectoral Committee on Justice and Legal Affairs, Mr. Njoga Erick stated;

He could not attest to that as he was not privy to such information.

4.) On whether there were other members in the Assembly van other than the Chairman, the Secretariat and members of Staff when they left Chandarana Supermarket, Mr. Njoga Erick stated;

There were other members. He confirmed that upon arrival at Concord Hotel the chairman and the members alighted from the van leaving the Secretariat and members of Staff in the van. He added that there were about 4 or 5 members in the van who included the Chairman- Hon. Malde Jayendra, the Vice-Chairman- Hon. Moses Ogeto, Hon. Julius Njoka and Hon. Francis Otieno.

5.) On what was the issue for investigation at Concord HotelMr. Njoga Erick stated;

As they approached and arrived at the scene, he was not aware. However, as they were leaving the premises he heard members talking about the issue and he was informed

that the gate at the Hotel had blocked a public access road for members of the Deep Sea Slum. He was informed as the Clerk to the Committee that the owner of the Hotel had infringed on the rights of the residents of the slum.

He added that it is at this point that the advised the members that he did not think that this was the mandate of the Sectoral Committee on Justice and Legal Affairs. According to him, he felt that much as the matter touched on issues of rights of the residents of Deep Sea Slum, he felt the matter was to be handled by a joint sitting of the Sectoral Committee on Planning, the Sectoral Committee on Transport and the Sectoral Committee on Justice and Legal Affairs.

6.) On whether he had documentation for the visit at Concord Hotel, Mr. Njoga Erick stated;

There was no Agenda to visit Concord Hotel but he had documentation for the visit to Chandarana Supermarket.

7.) On who gives direction to the Assembly driver when a committee leaves for a site visit, Mr. Njoga Erick stated;

The work ticket is a point of information for drivers on where the members are to go.

8.) On who proposed the Committee to go to Concord Hotel, Mr. Njoga Erick stated;

It was the proposal of the Chairman to the Committee.

9.) On the best way to deal with such matters, Mr. Njoga Erick stated;

The Assembly was doing the right thing by conducting investigations through the powers and privileges Committee. He concluded by stating that it is the mandate of the Select Committee on Powers and Privileges to come up with recommendations for punishment if any and the way forward.

MIN.0018/P&P/OCTOBER/2018 ADJOURNMENT

There being no other business, the Chairperson adjourned the meeting at 12:58 PM.

	SIGN	DATE
CHAIRPERSON	.....	..... 19/2/19 .....
SECRETARY	.....	..... 19/2/19 .....

MINUTES OF THE 15TH SITTING OF THE NAIROBI CITY COUNTY ASSEMBLY POWERS AND PRIVILEDGES COMMITTEE HELD ON 25TH OCTOBER, 2018 IN THE BOARDROOM AT 9:30 A.M

MEMBERS PRESENT

1. Hon. Naftali Mathenge, MCA- Vice Chairman
2. Hon. Wanjiru Kariuki, MCA
3. Hon. Margaret Mbote, MCA
4. Hon. Carolyne Mayunzu, MCA
5. Hon. Patrick Musili, MCA
6. Hon. Evans Otiso

MEMBERS ABSENT

1. Hon. Chege Mwaura, MCA- Ag. Speaker/ Chairman
2. Hon. Abdi I. Hassan, MCA- Leader of Majority
3. Hon. Sylvia Moseiya

SECRETARIAT

1. Monica Muthami- Principal Clerk Assistant (L&P)
2. Robert Otieno- Clerk Assistant
3. Munase Klinsman- Intern

MIN.0017/P&P/OCT/2018: PRELIMINARIES

The Vice-Chairperson called the meeting to order at 9:42PM. He welcomed Members present to the meeting. The agenda of the meeting was then adopted as proposed by Hon. Evans Otiso and seconded by Hon. Jacinta Wanjiru.

AGENDA

1. Preliminaries
2. Consideration and investigations of the allegation of bribery of members of the sectoral committee on justice and legal affairs.
3. A.O.B
4. Adjournment

MIN.0018/P&P/OCT/2018 APPEARANCE BEFORE THE COMMITTEE

A.) MR. RAHIM CHATUR- DIRECTOR CONCORD HOTEL

The Witness was summoned and appeared before the committee. The Chairperson issued a statement on establishment and the Mandate of the Powers and privileges

Committee. He specifically informed the Witness that the committee has the mandate to investigate conduct and breach of privileges of all members.

The witness, Mr. Rahim Chatur was sworn in as is required for all witnesses appearing before the committee.

The Witness was asked the following questions;

1.) On what he knows about the allegation of bribery of Hon. Jayendra Malde and Members of the Sectoral Committee on Justice and Legal Affairs, Mr. Rahim Chatur stated

That Hon. Malde Jayendra invited him to Hindu Council for a meeting with him. At the said meeting, Mr. Chatur Rahim presented to Hon. Malde all the legal documents of the gate that is said to have blocked the public access road. The documents included a court order and Nairobi County planning approvals. He stated that Hon. Malde Jayendra informed him that he did not care about court orders as he is a Member of the County Assembly.

He presented the said documents to the Select Committee on Powers and Privileges.

He stated that Hon. Malde asked for Kenya Shillings Five Million, seven hundred thousand (Kshs. 5,700,000). Mr Chatur added that Hon. Malde Jayendra told him that if he did not present the said amount he would demolish the erected gate.

2.) On whether he was aware that the Sectoral Committee on Justice and Legal Affairs was investigating an issue of a blocked access to a public road by the Concord Hotel, Mr. Rahim Chatur stated;

That he was not aware. He reiterated that Hon. Malde Jayendra only came to him stating that he had built an illegal gate and the gate should be removed.

3.) How much money was demanded and whether Hon. Malde received any amount of money from him, Mr. Rahim Chatur stated;

That Hon. Malde requested for Kshs. 5.7 Million but added that he did not issue the said money nor did Hon. Malde receive any amount from him. He further stated that upon request for the bribe, he (Mr. Chatur), reported the incident to Hon. Sumra Ishrad who took up the matter.

4.) On who Hon. Sumra Ishrad is to him and what their relationship is, Mr. Rahim Chatur stated;

That Hon. Sumra Ishrad is a legal adviser to the Concord group and would always advise them on such issues. He added that he requested Hon. Sumra Ishrad to help him as Hon. Malde was requesting for money from him and he, Hon. Sumra, advised him

that if he is requesting for money then Mr. Chatur should record him when asking/ soliciting for the money.

5.) On who reported the matter to the Ethics and Anti-Corruption Commission (EACC), Mr. Rahim Chatur stated;

That it was Hon. Sumra who reported the issue to the EACC and not him. He delegated it to Hon. Sumra and therefore at the EACC Hon. Sumra Ishrad is the complainant. He stated he was not aware how and where Hon. Malde Jayendra was arrested.

6.) On whether he was aware that when someone asks for a bribe it is a criminal offence; whether there is a police station within the locality of the Concord Hotel; and whether he reported to the police station, Mr. Rahim Chatur stated;

That he was aware that soliciting for a bribe is a criminal offence. Further, that indeed there is a police station within the locality of the Hotel. However, he did not report the matter but only informed Hon. Sumra who took over the issue.

7.) On whether he knew Miss Preeti, Mr. Rahim Chatur stated;

That he knew her as a tenant at Diamond Plaza. He said that Hon. Malde chose to use her to invite him for a meeting where he solicited for the money.

8.) On whether indeed the gate was erected on the road reserve, Mr. Rahim Chatur stated;

That it was not and in fact he had all the necessary approvals. He submitted copies to the Committee.

9.) if he had any case against Hon. Malde Jayendra, Mr. Rahim Chatur stated;

That he did not have any case against Hon. Malde in court but the EACC was investigating a case against Hon. Malde Jayendra. He stated that at EACC he was not the complainant but was part of the case as a witness.

10.) if he had received any notice to demolish the gate, Mr. Rahim Chatur stated

That he had received a notice to remove the gate in 2014. This prompted the group to go to court and the court issued an order restraining the County from demolishing the said gate. Further, the notice was quashed by the court on 27th June 2017.

10.) On who called the EACC to Hon. Malde Jayendra's house despite him, Mr. Chatur, not issuing money to Hon. Malde Jayendra, Mr. Rahim Chatur stated;

That he was not aware who had called them.

11.) On whose money it was that was shown on social media and to members of the Fourth Estate with the allegation that Hon. Malde had received a bribe, Mr. Rahim Chatur stated;

That he was not aware whose money it was but it was not from him. He also saw the money on Social Media. He added that he has never seen the money up to date and concluded that he was not part of issuing the money to Hon. Malde Jayendra.

He reiterated that he did not know Hon. Malde before this incident and that Hon. Malde had not never been to his residential house but only visited the hotel in his absence.

12.) On who had accompanied Hon. Malde Jayendra to the Concord Hotel, Mr. Rahim Chatur stated;

That he was not aware as he was not within the Hotel on the material day.

13.) On the whereabouts of Ms. Preeti, Mr. Rahim Chatur stated;

That he was not aware where Ms. Preeti was.

14.) if he had the original documents of the approvals and the court order, Mr. Rahim Chatur stated;

He will produce the certified copies by Thursday 15th November 2018 to the Committee.

15.) On the connection of the money on social media and Hon. Malde Jayendra during his arrest, Mr. Rahim Chatur stated;

That he was not aware as he had not issued any amount to or to be given to Hon. Malde.

B.) HON. ISHRAD SUMRA

The Witness was summoned and appeared before the committee. The Chairperson issued a statement on establishment and the Mandate of the Powers and privileges Committee. He specifically informed the Witness that the committee has the mandate to investigate conduct and breach of privileges of all members.

The witness, Hon. Ishrad Sumra was sworn in as is required for all witnesses appearing before the committee.

The Witness was asked the following questions;

1.) On whether he was aware of the arrest of Hon. Malde Jayendra, Hon. Ishrad Sumra stated;

That Hon. Jayendra Malde was arrested by the officers of EACC and was out on bond. He further stated that Hon. Malde was yet to be charged before a court of law. He added that Mr. Chatur Rahim was not responsible for the matter but he, Hon. Sumra Ishrad, was the one handling the matter. He corroborated the evidence of Mr. Chatur Rahim that he, Hon. Sumra Ishrad, is the complainant in the matter at EACC.

He reiterated that Hon. Malde Jayendra had been pestering Mr. Chatur to issue him with money despite having all the approvals from Nairobi City County government.

2,) the recordings in their custody, Hon. Ishrad Sumra stated;

That he was the one that planned all the recordings and he had them in his custody. He further stated that some were recorded by Mr. Rahim Chatur. He promised to forward all the recordings to the Chairman of the Committee on the same day, 7th November 2018.

He confirmed that he organized even the recording between the meeting of Hon. Malde Jayendra, Mr. Rahim Chatur and Ms. Preeti.

3.) the whereabouts of Ms. Preeti as she had been summoned but failed to show up for the meeting, Hon. Ishrad Sumra stated;

He reiterated that Ms. Preeti was a tenant at Diamond Plaza but had gone to attend 'Diwali' in India.

4.) if the recordings were procedural, Hon. Ishrad Sumra stated;

That the procedure was followed and the recordings were certified.

5.) On his relationship with Mr. Chatur Rahim, Hon. Ishrad Sumra stated;

That he was a friend to the father of Mr. Chatur Rahim. Mr Chatur was like a son to him. He stated in his position as a law maker, he was often consulted by the family for matters law. He stated in the present case he took over the matter as a friend to the family of Chatur.

MIN.0019/P&P/OCTOBER/2018 ADJOURNMENT

There being no other business, the Chairperson adjourned the meeting at 12:58 PM.

	SIGN	DATE
CHAIRPERSON	.....	19/2/19
SECRETARY	..... D/Clerk	15/2/19

MINUTES OF THE 2nd SITTING OF THE N+AIROBI CITY COUNTY ASSEMBLY POWERS AND PRIVILEDGES COMMITTEE HELD ON 19th FEBRUARY, 2019 AT THE OFFICE OF THE SPEAKER AT 9:30 A.M

MEMBERS PRESENT

1. Hon. Chege Mwaura, MCA- Ag. Speaker/ Chairman
2. Hon. Naftali Mathenge, MCA- Vice- Chairman
3. Hon. Wanjiru Kariuki, MCA
4. Hon. Margaret Mbote, MCA
5. Hon. Carolyne Mayunzu, MCA
6. Hon. Evans Otiso, MCA
7. Hon. Sylvia Moseiya, MCA
8. Hon. Geoffrey Majiwa, MCA

MEMBERS ABSENT

1. Hon. Abdi I. Hassan, MCA- Leader of Majority
2. Hon. Peter Wahinya, MCA
3. Hon. Patrick Musili, MCA

SECRETARIAT

1. Romeo Castro- Ag. Deputy Clerk
2. Judith Aron- Clerk Assistant
3. Munase Klinsman- Intern

MIN.001/P&P/FEB/2019: PRELIMINARIES

The Chairperson called the meeting to order at 11:40 AM. He welcomed Members present to the meeting and read the agenda of the meeting which was adopted for discussion as proposed by Hon. Margaret Mbote and seconded by Hon. Hon. Evans Otiso as follows;

AGENDA

1. Preliminaries (Prayers and Adoption of the Agenda)
2. Consideration and adoption of the draft report on unethical conduct of members and bribery allegation of Sectoral Committees
3. A.O.B
4. Adjournment

MIN.002/P&P/FEB/2019 ADOPTION OF THE COMMMITTEE REPORT

The Secretariat tabled the draft report on the unethical conduct of members and bribery allegations of members of the sectoral committee on Labour and Social welfare and the sectoral Committee on Justice and Legal Affairs. The Committee deliberated on the recommendations in the report and adopted it as proposed by Hon. Chege Mwaura and seconded by Hon. Naftaly Mathenge. The report was to be tabled in the Assembly 19/02/2019.

MIN.003/P&P/FEB/2019 ANY OTHER BUSINESS

There was no item under this minute.

MIN.004/P&P/FEB/2019 ADJOURNMENT

There being no other business, and the time being 12.25Pm the Chairperson adjourned the meeting.

CONFIRMED AS TRUE RECORD OF THE PROCEEDINGS

SIGNATURE .....
(Chairperson)

DATE..... 19/02/2019 .....

SIGNATURE .....
(Clerk Assistant) D/Clerk

DATE.....