



**COUNTY GOVERNMENT OF NAIROBI CITY**

**SECOND ASSEMBLY – FOURTH SESSION**

**NAIROBI CITY COUNTY ASSEMBLY**

**VOTES AND PROCEEDINGS**

**TUESDAY, OCTOBER 6, 2020, 9:30 AM**

1. The Assembly assembled at Thirty Minutes past Two O'clock.
2. The Proceedings were opened with Prayer.

**QUORUM OF THE COUNTY ASSEMBLY-**

The Hon. Speaker having confirmed that there was quorum, proceeded with the Business as it was in the order paper.

**3. COMMUNICATION FROM THE CHAIR**

The Speaker conveyed the following communication: -

**REINSTATEMENT OF HON. EVE MALENYA AS MEMBER OF COUNTY ASSEMBLY**

“Hon. Members, I have the following communication to convey:

“You will acknowledge that the matter of the assumption of office by way of swearing in one Perpetua Mponjiwa has over a time attracted myriad of legal and procedural questions from the Members, the public and other institutions and led to various interventions from my office, mostly guided by the outcomes of court processes.

For instance, Hon. Members, as an attempt to have the said Mponjiwa sworn in as a Member of the County Assembly, the Hon. Lady Justice Grace L. Nzioka in her ruling in the High Court Election Appeal No. 4 of 2018 delivered on 18th September 2020, directed that the Speaker of this County Assembly, referred to as the Fourth Respondent in the said ruling swears in one Perpetua Mponjiwa within 14 days. On October 1st 2020, which was an assembly sitting day, all was set to swear in the said Perpetua Mponjiwa. However, the sitting was not able to take place since there were no sufficient Members to constitute a quorum. Hon. Members, it is worth noting that my office will be in contempt if the said swearing-in would not have taken place after the lapse of the 14 days and that such an event would only be halted by a court injunction.

Accordingly, Hon. Members, may I now bring to your attention that my office is in receipt of a court order suspending the implementation of the Gazette Notice No.3123 Volume CXX1-39 published on 5<sup>th</sup> April, 2019.

Hon. Members, you will recall that the said Gazette Notice gave effect to the replacement of Eve Malenya with Perpetua Mponjiwa on the Orange Democratic Movement (ODM) gender top up list before the intermittent developments both in the judicial institutions and the assembly. This therefore, effectively reinstates Hon. Eve Malenya as the Member of this County Assembly. Hon. Members, in this turn of events, it is my determination that the assembly particularly in reference to this case, has been taken to the circumstances that led to a Gazette Notice above i.e. where Hon. Eve Malenya was a bonafide Member of the County Assembly of Nairobi and there is no doubt that indeed she is one of us courtesy of the said order. Consequently, I now direct the Office of the Clerk to reinstate Hon. Eve Malenya on all benefits, privileges and platforms enjoyed by Members of the County Assembly without arrears and the question as to whether the Member shall enjoy the benefits and privileges until the end of the term shall be determined by the outcome of the court and the conclusion of the case.

It is my hope that the court will expeditiously adjudicate on and put this matter to rest. Hon. Members, may I reiterate that my office is committed to observe and be guided by the rule of law which bides us all. We appreciate that such decisions can sometimes seem to encroach on the privileges of the assembly whose integrity I will always seek to protect, but often, constitutionalism must always be upheld in order to propagate a civilized society where discontents are addressed justly as per the law. Therefore, my office will always respect the decision reached by the judicial institutions only up to where the privileges of the assembly have been breached. Finally, Hon. Members, in light of the foregoing circumstances, I want to urge you to uphold and adhere to what is required of you on matters subjudice pursuant to Standing Orders as we conduct our business in the assembly.

I thank you Hon. Members, it is so directed. Thank you”

#### **4. NOTICE OF MOTION: - HON. JAYENDRA MALDE, MCA**

*Subject: Investigation into issuance of building plans and fraudulent acquisition of land in the County*

**THAT**, aware that the County has always been experiencing increased cases of land grabbing over the last years; noting the many allegations of officers at the Planning and Housing Department who work in cahoots with these people in order to acquire land fraudulently or get favoritism to blatantly contravene standards building plans and/or regulations; **cognizant** of the fact that the corruption continue to mar the transfer process of land and properties in the county without the

knowledge of the residents living on such lands; further noting that the relevant department of the County Government has continued to remain adamant or complacent to rectify the anomalies dating back to 2017, giving the example of High Ridge Clinic that is under construction by a private developer; North High Ridge School situated in 6th Parklands Avenue that is allegedly grabbed and Parkland/High Ridge Ward whose approval for a ten storey was extended to more than 12 storey building; deeply concerned that many residents of Nairobi have abruptly been displaced from their land and properties as a result of politicians and business elites allegedly giving bribes and engaging in corruption activities; **fully aware** of the laid down building guidelines and the implications of Chapter 6 of the Constitution of Kenya 2010 on Leadership and Integrity and the President's pronouncement in the fight against graft by public officers; this assembly urges the County Executive in liaison with Nairobi Metropolitan Services to urgently investigate the process followed in the issuance of building plans and the fraudulent acquisition of land in the county since 2017 that led to the many contraventions of the requisite building and land transfer regulations and issues on residents consultation before transfer of such land and property.

**5. STATEMENTS PURSUANT TO STANDING ORDER 45 (2) (C):-**

**Pursuant to Standing Order 45 (2) (c) the following Members requested for Statements: -**

- i) The Hon. Geoffrey Majiwa, MCA requested for a statement from the Chairperson of the Sectoral Committee on Labour and Social Welfare regarding the financial statements, disbursements and management of the pension fund by the County Pensions Fund (CPF) and LAPFUND for the County Executive employees. **(Response due in 2 weeks)**

**6. MOTION: - ENFORCEMENT OF REPAINTING OF BUILDINGS IN NAIROBI CITY**

Motion Made and Question Proposed: -

**That** aware that Part Two of the Fourth Schedule of the Constitution of Kenya 2010 the functions and powers of the County Government among others covers public health; **Further aware** that section 118(b) of Public Health Act Cap 242 identifies as nuisance, any dwelling or premises or part of a construction in such a state as dirty to be dangerous to health. Noting that the Nairobi City County is the entry point into the County by international guests; **Further noting that** the aesthetic characteristics of the city gives the first impressions of its general organization and national character. Cognizant that the County Government and the Nairobi Metropolitan Services have separately issued public notices to owners of buildings to repaint, in line with the Nairobi City County Beautification System Initiative; **Concerned that** to a large extent the property owners have ignored to comply with the said notices. Realizing that the County

has a responsibility to make laws and policies in people's interest which they hold in trust, this Assembly resolves that the County Executive and Nairobi Metropolitan Services moves with speed to enforce the aforementioned on repainting of buildings in the City County.

Debate ensued;

Mover replied;

Question put and ***Agreed to***

**7. ASSEMBLY ROSE** - Ten minutes past Twelve O'clock

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**MEMORANDUM**

The Speaker will take the Chair on  
Thursday, October 6<sup>th</sup>, 2020 at 2.30 p.m.

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