

**REPUBLIC OF KENYA**  
**MACHAKOS COUNTY ASSEMBLY**  
**OFFICIAL REPORT**

**Wednesday, 14<sup>th</sup> November, 2018**

The House met at 10.32 a.m.

*[The Speaker (Hon. (Mrs.) Mwangangi) in the Chair]*

**PRAYERS**

**Hon. Speaker:** I am just allowing time Hon Members for the Members who are on their feet to settle.

*(Applause)*

What is that for?

**Hon. Members:** Hon. Daniel Mbevi.

**Hon. Speaker:** What about Hon. Dan?

**Hon. Members:** He has been unwell.

**Hon. Speaker:** Oh1 he has been unwell? Okay, Hon. Jeremiah, Hon. Kiilu please settle down we want to start. Hon, Caleb, welcome and settle. Okay, Good morning members; we want to start the business for the day. Mr. Clerk, proceed.

**COMMUNICATION FROM THE CHAIR**  
**ASSEMBLY CORPORATE WEAR**

**Hon. Speaker:** Hon. Members under this order there is one communication from the Chair; it is about the corporate wear for the assembly, it has become our tradition of most cooperate bodies to have a corporate wear for identity on a day when members you will decide when you can be wearing to identify yourself with the Assembly and amongst yourselves.

So, the Assembly is in the process of arranging for provision to members for the corporate wear and this is going to include shirts for the Hon. Gentlemen Members and blouses or tops for the Hon. Lady Members and so Hon. Members you are requested to visit the procurement department

at your own time so that your measurements can be taken just to be sure that the wear that you are given fits you and you are requested to do it as from today 14th day of November, 2018 that is Wednesday.

Hon. Members it is important that you avail yourselves so that then the orders can be given together then you start identifying yourselves amongst yourselves; it is normally a good thing for people to wear uniformly and to think uniformly especially when they are serving one department.

*(Applause)*

### **MOTION**

#### **REPORT ON REMOVAL OF HON. ENG. FRANCIS MALITI FROM THE OFFICE OF THE MACHAKOS COUNTY EXECUTIVE COMMITTEE MEMBER FOR FINANCE AND ECONOMIC PLANNING**

**Hon. Speaker:** Hon. Members, under this Order, we have on business by the Hon. Mitaa. Hon. Moses Mitaa.

*(Applause)*

**Hon. Mitaa:** Thank you, Madam Speaker.

Madam Speaker, that aware that on 7<sup>th</sup> November, 2018, a motion on removal of Hon. Eng. Francis Maliti from Office of the County Executive Committee Member for Finance and Economic Planning was discussed and approved by the House pursuant to section 40 of the County Orders;  
Aware that an *ad hoc* Committee was constituted by the House on the same day to investigate whether the allegations leveled---

**Hon. Speaker:** Hon. Mitaa, you said section 40 of? Did I hear you say county orders or something?

**Hon. Mitaa:** Let me repeat, Madam Speaker.

Hon. Speaker, that aware that on 7<sup>th</sup> November, 2018, a motion on removal of Hon. Eng. Francis Maliti from Office of the County Executive Committee Member for Finance and Economic Planning was discussed and approved by the House pursuant to section 40 of the County Governments Act and Standing Order 62 of the Machakos County Assembly Standing Orders;  
Aware that an *ad hoc* Committee was constituted by the House on the same day to investigate whether the allegations leveled against the County Executive Committee Member were substantiated;  
Aware that the Committee was to report back to the House within 10 days;  
Noting that the Committee has conducted investigations concerning the matter including inviting Hon. Eng. Francis Maliti to appear or be represented during the investigations;  
Aware that the Committee completed its investigations and compiled a report;  
Hon Speaker, I beg to move the motion THAT pursuant to section 40(5) and Standing Order 62(11) this Hon. House discusses and approves the report of *ad hoc*

Committee investigating the motion on removal of Hon. Eng. Francis Maliti from Office of the County Executive Committee Member for Finance and Economic Planning.

Thank you, Madam Speaker and I call upon Hon Stephen Mwanthi to second my motion.

**Hon. Speaker:** Let the motion be completed on Hon. Kamitu.

**Hon Mwanthi:** Thank you, Madam Speaker. I stand to second the motion. Thank you.

*(Hon. Kamitu spoke off record)*

**Hon. Speaker:** Thank you, Hon. Stephen Mwanthi and Hon. Mitaa. What is the point of order? At this time when we are reading on the Order Paper? Have we reached a point for debate? He is presenting and there is a time when which will come for a debate, so you will raise the point of order at that point.

*(Applause)*

**Hon. Mitaa:** Thank you, Madam Speaker. I am here to give a report on *ad hoc* committee: report of *ad hoc* committee inquiring into the motion on removal of Hon. Eng. Francis Maliti from office of county executive committee member for finance and economic planning

**Hon. Ngunga:** Point of Order, Madam Speaker.

**Hon. Speaker:** Hon Members points of orders come after the Speaker proposes; please do not abuse your Standing Orders. Hon. Mitaa, proceed.

*(Loud consultations)*

**Hon. Mitaa:**

**Hon. Speaker,** on 7<sup>th</sup> November, 2018 Hon. Cosmus Masesi, Member of County Assembly for Matungulu East Ward moved a motion in this Honorable House urging the House to remove Hon. Eng. Francis Maliti from the Office of the County Executive Committee Member (CECM) for Finance and Economic Planning pursuant to Section 40 of the County Governments Act, 2012.

*(Loud consultations)*

**Hon. Speaker:** Hon. Minority Leader, please do not force me to have you removed from the House, do not force me to do that, do not force me. You are interrupting the business at hand.

*(Loud consultations)*

Serjeant at Arms, those who are interrupting the business of the House should be taken out of the House now. Those who are interrupting the business of the House should be taken out now.

**Hon. Mule:** Point of order, Madam Speaker.

**Hon. Mitaa:** .....under Standing Order 62 of the Machakos County Assembly Standing Orders as amended by the Assembly resolutions of 24th October, 2018..

**Hon. Mule:** Point of order, Madam Speaker.

*(Loud consultations)*

**Hon. Mitaa:** During the same sitting, the House appointed a five member Committee on the basis of relative majorities of seats held by each Assembly party to find out---

**Hon. Ngunga:** Madam Speaker, you need to hear us; we have a reason as to why you need to hear us.

*(Loud consultations)*

**Hon. Speaker:** Serjeant at arms can you do your work.

**Hon. Mitaa:** .....whether the allegations leveled against the CECM in the motion were substantiated and report to the House within 10 days as provided for in section 40 (3) of the same Act and Standing Order No. 62 (8) of the Machakos County Assembly Standing Orders as amended by the Assembly resolutions of 24<sup>th</sup> October, 2018.

### **Committee Terms of Reference**

Hon. Speaker, the terms of reference for the Committee are provided for under Section 40(3)(b) of the County Governments Act, 2012 and Standing Order 62(8)(b) of the Machakos County Assembly Standing Orders as amended by the Assembly resolutions of 24<sup>th</sup> October, 2018 which are:-

- (i) To inquire into the allegations contained in the motion to remove Hon. Eng. Francis Maliti from the Office of the County Executive Committee Member (CECM) for Finance and Economic Planning; and
- (ii) To recommend to the House whether the allegations are substantiated or not.

### **Committee Membership**

Hon. Speaker, the Committee as constituted by this Honorable House consists of the following members;

- |    |                      |                  |
|----|----------------------|------------------|
| 1. | Hon. Moses Mitaa     | - Chairperson    |
| 2. | Hon. Stephen Mwanthi | - V/ Chairperson |
| 3. | Hon. Cosmus Masesi   | - Member         |
| 4. | Hon. Pauline Munguti | “                |
| 5. | Hon. George King'ori | “                |

**Hon. Speaker:** I have indicated and I have ruled that the Hon Member will make presentations; when you want to contribute you raise your hands after he finishes. Please do not interrupt the process of the Assembly.

*(Loud consultations)*

**Hon. Mitaa:** .....motion on removal of Hon. Eng. Francis Maliti from Office of County Executive Committee Member for Finance and Economic Planning.  
Hon. Speaker, pursuant to section 40 of the County Governments Act, 2012 and Standing Order 62 of the Machakos County Assembly Standing Orders as amended by the Assembly resolutions of 24th October, 2018, Hon. Cosmus Masesi moved a motion in the House urging the House to resolve to remove Hon. Eng. Francis Maliti from the Office of the County Executive Committee Member (CECM) for Finance and Economic Planning. The grounds for his removal were:-

*(Loud consultations)*

**Hon. Speaker:** Serjeant at Arms..... Hon, Ikusya why are you preventing the Serjeant at Arms from doing her work? Hon Ikusya why are you defending a member who is breaching? Hon. Mutuku exit?

*(Hon. (Ms.) Mutuku withdrew from the House)*

*(Hon. Kamitu spoke off record)*

**Hon. Speaker:** Hon. Minority Leader, please do not force me to ask that you removed from this House; do not force me to do that, you will be the next one. We must have order in this House.

*(Applause)*

I am going to remain on my feet and I am watching whichever member is interrupting; Hon Ngunga you will also be removed. Serjeant at Arms, can you do your work; remove Hon Ngunga from the House.

*(Loud consultations)*

**Hon. Speaker:** Hon. Constance, sit down; Hon. Caleb sit down.

*(Loud consultations)*

Serjeant at Arms, remove Hon Caleb out of the House.

*(Loud consultations)*

Serjeant at Arms, remove Hon, Caleb out of the House. Hon Caleb you are going to be removed from the House.

*(Hon. Mule withdrew from the House)*

*(Applause)*

Proceed, Hon Mitaa.

**Hon. Mitaa:** Thank you, Madam Speaker.

*Motion on Removal of Hon. Eng. Francis Maliti from Office of County Executive Committee Member for Finance and Economic Planning*

Hon. Speaker, pursuant to section 40 of the County Governments Act, 2012 and Standing Order 62 of the Machakos County Assembly Standing Orders as amended by the Assembly resolutions of 24th October, 2018, Hon. Cosmus Masesi moved a motion in the House urging the House to resolve to remove Hon. Eng. Francis Maliti from the Office of the County Executive Committee Member (CECM) for Finance and Economic Planning. The grounds for his removal were:

**(A) Incompetence**

Hon. Speaker, Hon. Cosmus Masesi stated in his motion that Hon. Eng. Francis Maliti is incompetent and therefore unsuitable to serve as member of the Machakos County Executive Committee for Finance and Economic Planning as:

- (i) He does NOT hold at least a first degree from a recognized University in Kenya that is relevant to the portfolio of Finance and Economic Planning. This contravenes the relevant provisions of the Constitution of Kenya 2010, Section 35(3) (b) of the County Governments Act 2012, and Section 8(c) and the Second schedule of the Public Appointments (County Assemblies Approval) Act 2017.
- (ii) He does NOT have knowledge, experience, a distinguished career, abilities and qualities of not less than five years relevant to and that meet the needs of the portfolio of the County department of Finance and Economic Planning for which he is currently serving as member of the County Executive Committee. This is against the provisions of Section 35(3)(d) of the County Governments Act 2012 and Section 8(c) and the Second Schedule of the Public Appointments (County Assemblies Approval) Act 2017.

**(B) Gross Violation of the Constitution and Law**

Hon. Speaker, Hon. Cosmus Masesi further stated that Hon. Eng. Francis Maliti as the CECM - Finance has contravened the following Constitutional and Legal provisions:

- (i) Article 183(3) of the Constitution of Kenya, 2010 and Section 124 of the County Governments Act 2012 by refusing to submit documents lawfully requested for by the Assembly in the discharge of its oversight role over the Executive, namely, IFMIS account balances to the Budget and Appropriations Committee as requested for by the Committee to assist it in the preparation of the Supplementary Budget for FY 2017/18.
- (ii) As head of the County Treasury, repeatedly failing to discharge within time the responsibilities vested in him under Chapter 12 of the Constitution of Kenya 2010 and Part IV of the Public Finance Management Act 2012, with respect to the management and control of public finance in the County;
- (iii) Failing to comply with Section 104(1)(r) of the Public Finance Management Act, 2012 which provides for regular reporting to the Assembly on the implementation of the annual

County budget. Madam Speaker, this Assembly has never received any report from the County Treasury headed by Hon. Eng. Francis Maliti on the implementation of the County budget.

- (iv) Failing to implement the County Bursary Fund established under Section 116(1) of the Public Finance Management Act 2012 as provided in the Machakos County (Bursary Fund) Regulations, 2014. This contravenes the provisions of Article 183 (1) (a) of the Constitution of Kenya 2010 which requires the relevant County Executive Committee Member to implement County legislation.
- (v) Failing to implement the Machakos County Health Management Fund Regulations, 2015 whose main objective is to ensure that funds collected in health facilities are ploughed back. This violates the provisions of Article 183(1)(a) of the Constitution of Kenya 2010 which requires the relevant County Executive Committee Member to implement County Legislation.
- (vi) Failing to implement Assembly Resolutions by refusing to co-ordinate implementation of the Machakos County Supplementary Appropriation Act of 2018 which outlined various projects to be undertaken at Ward level. This is in total breach of Section 104(1)(c) of the Public Finance Management Act 2012 and Articles 176 (1) and 183 (3) of the Constitution of Kenya 2010 on the establishment of the Assembly and the Assembly's oversight role over the County Executive.
- (vii) Failing to develop and submit to the Assembly and implement within time the various financial and economic planning policies in the County as stipulated in Sections 104(1)(a), 117, 118, 125 and 126, among others, of the Public Finance Management Act 2012.

## **CHAPTER TWO**

### ***LEGAL PROVISIONS***

Hon. Speaker, the following legal provisions are relevant to the matter under inquiry by the Committee.

#### *Procedure for the removal of a County Executive Committee Member*

Hon. Speaker, Section 40 of the County Governments Act, 2012 and Standing Order 62 of the County Assembly of Machakos Standing Orders as amended by the Assembly resolutions of 24<sup>th</sup> October, 2018 provide for the procedure for the removal of a Member of the County Executive Committee.

Madam Speaker, Section 40 of the County Governments Act, 2012 provides as follows:

- (1) Subject to subsection (2), the Governor may remove a member of the County Executive Committee from office on any of the following grounds—
  - (a) Incompetence;
  - (b) Abuse of office;
  - (c) Gross misconduct;
  - (d) Failure, without reasonable excuse, or written authority of the Governor, to attend three consecutive meetings of the County Executive Committee;
  - (e) Physical or mental incapacity rendering the executive committee member incapable of performing the duties of that office; or
  - (f) Gross violation of the Constitution or any other law.

- (2) A member of the County Assembly, supported by at least one third of all the members of the county assembly, may propose a motion requiring the Governor to dismiss a County Executive Committee member on any of the grounds set out in subsection (1).
- (3) If a motion under subsection (2) is supported by at least one third of the members of the County Assembly—
  - (a) The County Assembly shall appoint a select committee comprising five of its members to investigate the matter; and
  - (b) The select committee shall report, within ten days, and I repeat within ten days to the County Assembly whether it finds the allegations against the County Executive Committee member to be substantiated.
- (4) The County Executive Committee member has the right to appear and be represented before the select committee during its investigations.
- (5) If the select committee reports that it finds the allegations—
  - (a) Unsubstantiated, no further proceedings shall be taken; or
  - (b) Substantiated, the County Assembly shall vote whether to approve the resolution requiring the County Executive Committee member to be dismissed.
- (6) If a resolution under subsection (5)(b) is supported by a majority of the members of the County Assembly—
  - (a) The Speaker of the County Assembly shall promptly deliver the resolution to the Governor; and
  - (b) The Governor shall dismiss the County Executive Committee member.  
I repeat; (b) the Governor shall, the key word here is shall; shall dismiss the County Executive Committee member.

Hon. Speaker, Standing Order 62 as amended by the Assembly resolutions of 24<sup>th</sup> October, 2018 provides as follows:

- (1) A Member may give Notice of Motion in writing to the Clerk under Section 40 of the County Governments Act, 2012, requiring the Governor to remove from office a member of County Executive Committee on any of the following grounds—
  - (a) Incompetence;
  - (b) Abuse of office;
  - (c) Gross misconduct;
  - (d) Failure, without reasonable excuse, or written authority of the governor, to attend three consecutive meetings of the County Executive Committee;
  - (e) Physical or mental incapacity rendering the executive committee member incapable of performing the duties of that office; or
  - (f) Gross violation of the Constitution or any other law.
- (2) The notice of Motion shall be signed by the Member and shall be accompanied by a statutory declaration by the member affirming that the particulars contained in the motion are true to his or her knowledge and the declaration shall contain full names, National Identification Number and Postal Address of the member.
- (3) The motion shall be supported by at least one third of all the members, who shall append their full names, National Identification numbers, signatures and date in support of the motion as endorsed on the motion.
- (4) The Clerk shall submit the proposed Motion to the Speaker for approval.



- (5) The Motion shall be tabled in the immediate next committee meeting of House Business committee for balloting.
- (6) The House Business committee, shall ballot Notice of the Motion which shall be given in the next sitting of the Assembly.
- (7) After the Notice of Motion is given, the Motion shall be placed in the Assembly Order Paper for the next Assembly sitting; provided that if the Assembly is not then sitting, the Speaker shall call a special sitting for the motion to be considered
- (8) If the motion is supported by at least one third of all the members, the Assembly shall in the same sitting;
  - (a) Appoint a Select committee comprising of five members appointed on the basis of relative majorities of the seats held by each of the Assembly parties, to investigate on the matter.
  - (b) The Select committee shall within 10 days report to the Assembly whether the allegations against the member of County Executive Committee are substantiated.

Madam Speaker, I beg to repeat that point again.

- (8) If the motion is supported by at least one third of all the members, the Assembly shall in the same sitting; Madam the key word here is ‘same sitting’ and that means the selection can be only done by Members present in that sitting that day.

*(Applause)*

I think it is clear.

- (a) Appoint a Select committee comprising of five members appointed on the basis of relative majorities of the seats held by each of the Assembly parties, to investigate on the matter.
  - (b) The Select committee shall within 10 days report to the Assembly whether the allegations against the member of County Executive Committee are substantiated.
- (9) The Clerk shall immediately in writing inform the affected member of County Executive Committee the resolutions of the Assembly.
  - (10) The County Executive Committee member has the right to appear and be represented before the select committee during its investigations.
  - (11) If the select committee reports that it finds the allegations—
    - (a) Unsubstantiated, no further proceedings shall be taken; or
    - (b) Substantiated, the County Assembly shall vote whether to approve the resolution requiring the County Executive Committee member to be dismissed.
  - (12) If a resolution under subsection (11)(b) is supported by a majority of the members of the county assembly—
    - (a) The speaker of the County Assembly shall promptly deliver the resolution to the Governor; and
    - (b) The Governor shall dismiss the County Executive Committee member.

I beg to repeat point number 12.

- (12) If a resolution under subsection (11) (b) is supported by a majority of the members of the county assembly—
- (a) The speaker of the County Assembly shall promptly deliver the resolution to the Governor; and
  - (b) The Governor shall and the key word is ‘shall’ dismiss the County Executive Committee member.

### **Requirements for Appointment of a County Executive Committee Member**

Hon. Speaker, Section 35(3) of the County Governments Act provides for requirements to be appointed as a County Executive Committee Member and states that:-

“A person may be appointed as a member of the County Executive Committee if that person-

- (a) Is a Kenyan citizen;
- (b) Is a holder of at least a first degree from a university recognized in Kenya;
- (c) Satisfies the requirements of chapter six of the Constitution of Kenya 2010; and
- (d) Has knowledge, experience and a distinguished career of not less than five years in the field relevant to the portfolio of the department to which the person is being appointed.”

I beg to repeat (d)

- (d) Has knowledge, experience and a distinguished career of not less than five years in the field relevant to the portfolio of the department to which the person is being appointed.”

Madam Speaker, Section 8(c) of the Public Appointments (County Assemblies Approval) Act 2017 provides that the relevant County Assembly should consider suitability of the nominee proposed for the appointment having regard to whether the nominee's credentials, abilities, experience and qualities meet the needs of the body to which the nomination is being made.

Let me repeat.

Madam Speaker, Section 8(c) of the Public Appointments (County Assemblies Approval) Act 2017 provides that the relevant County Assembly should consider suitability of the nominee proposed for the appointment having regard to whether the nominee's credentials, abilities, experience and qualities meet the needs of the body to which the nomination is being made.

### **Principles of Public Finance and Responsibilities of the County Treasury**

Hon. Speaker, Chapter 12 of the Constitution of Kenya, 2010 and part IV of the Public Finance Management Act, 2012 provide for principles of public Finance and responsibilities of the County Treasury.

Madam Speaker, Article 207(2) of the Constitution of Kenya 2010 provides that monies can only be withdrawn from the County Revenue Fund as a charge against the Revenue Fund that is provided for by an Act of Parliament or by legislation of the County ; or as authorized by an appropriation by legislation of the County. Further Article 207(3) of the Constitution of Kenya 2010 provides that no monies shall be withdrawn from the County Revenue Fund except with the Approval of the Controller of Budget.

If I repeat that sentence again; Further Article 207(3) of the Constitution of Kenya 2010 provides that no monies shall be withdrawn from the County Revenue Fund except with the Approval of the Controller of Budget.

*(Applause)*

Madam Speaker, Section 103(1),(2)(a),(b) and (c) of the Public Finance Management Act 2012 establishes the County Treasury which is comprised of the County Executive Committee Member for Finance who shall head it, Chief Officer for Financial Affairs and the department or departments of the County Treasury responsible for financial and fiscal matters.

Section 104(1)(a) and (r) of the Public Finance Management Act 2012 states that subject to the Constitution of Kenya 2010, a County Treasury shall monitor, evaluate and oversee the management of public finances and economic affairs of the County government including developing and implementing financial and economic policies in the county; and reporting regularly to the County Assembly on the implementation of the annual county budget.

Madam Speaker, further, Section 104(1)(c) of the Public Finance Management Act 2012 provides that subject to the Constitution of Kenya 2010, the County Treasury shall monitor, evaluate and oversee the management of public finances and economic affairs of the County Government including co-ordinating the implementation of the budget of the County Government.

Madam Speaker, Section 109(4) of the Public Finance Management Act 2012 provides that the County Treasury shall ensure that all money authorized to be paid by the County Government or any of its entities for a public purpose is paid from that account without undue delay.

I want to repeat this paragraph.

Madam Speaker, Section 109(4) of the Public Finance Management Act 2012 provides that the County Treasury shall ensure that all money authorized to be paid by the County Government or any of its entities for a public purpose is paid from that account without undue delay.

### **Functions of the County Executive Committees**

Madam Speaker, Article 183 (1) of the Constitution of Kenya, 2010 provides for the functions of County Executive Committees and they include to:

- (a) Implement County legislation;
- (b) Implement, within the County, National legislation to the extent that the legislation so requires;
- (c) Manage and coordinate the functions of the County administration and its departments; and
- (d) Perform any other functions conferred on it by this Constitution or National legislation.

Madam Speaker, further, Article 183(2) of the Constitution of Kenya 2010 states that the County Executive Committee may prepare proposed legislation for consideration by the Assembly. In addition, Article 183(3) requires the County Executive Committee to provide the County Assembly with full and regular reports on matters relating to the County.

## **CHAPTER THREE**

### ***COMMITTEE INQUIRY ON THE MOTION***

### *Notice of Resolution of the Assembly to Hon. Eng. Francis Maliti*

Hon. Speaker, pursuant to Standing Order 62(9) of the Machakos County Assembly Standing Orders as amended by the Assembly resolutions of 24<sup>th</sup> October, 2018, the Clerk of the County Assembly wrote to Hon. Eng. Francis Maliti notifying him of a motion to remove him from the Office of the CECM for Finance and Economic Planning as per Section 40 of the County Governments Act, 2012 and Standing Order 62 of the Machakos County Assembly Standing Orders as amended by the Assembly resolutions of 24<sup>th</sup> October, 2018 vide letter ref: MKSCA/IMP/CEC/VOL.1/1 dated 7<sup>th</sup> November, 2018.

In the letter, he was also informed of the formation of an *ad hoc* Committee to investigate and report back to the Assembly within 10 days on its findings.

The notice informed the CECM – Finance that he had a right to appear and be represented before the *ad hoc* Committee during its investigations as provided for in section 40 (4) of the County Governments Act, 2012. Further, the notice informed the CECM – Finance that he will be informed of the hearing date. The Motion was attached to the letter.

### **Invitation of Hon. Eng. Francis Maliti to Appear before the *ad hoc* Committee**

Hon. Speaker, the *ad hoc* Committee invited the CECM – Finance, Hon. Eng. Francis Maliti to appear in person before it or through a representative on Monday 12<sup>th</sup> November 2018 at the County Assembly Chambers at 10.00 a.m. pursuant to Section 40 of the County Governments Act, 2012 and Standing Order 62 of the Machakos County Assembly Standing Orders as amended by the Assembly resolutions of 24<sup>th</sup> October, 2018 vide letter ref: MKSCA/IMP/CEC/VOL.1/2 dated 8<sup>th</sup> November 2018.

The CECM – Finance was asked to present a written response on the allegations and attach evidence to support them. The Committee attached a list of grounds and particulars of the allegations in detail.

Madam Speaker, both letters, from the Clerk of the County Assembly of Machakos and that of *ad hoc* Committee were served by hand delivery to the office of Hon. Eng. Francis Maliti and by courier service. An affidavit of service has been sworn by Hilary Muthui, Director Legal, Library and Research at the Assembly in witness of this service.

### **Nomination of a Representative by Hon. Eng. Francis Maliti CECM - Finance and Economic Planning**

Hon. Speaker, the *ad hoc* Committee received a notification from Nyamu & Nyamu Co. Advocates vide letter ref: NN/1725/2018 dated 8<sup>th</sup> November, 2018 that they had been retained by Hon. Eng. Francis Maliti to represent him before the Committee as it investigates allegations leveled against him.

The representatives of CECM – Finance, Hon. Eng. Francis Maliti requested the Assembly to furnish them with the following documents:

- (i) Notice of Motion initiated for purposes of removal of the Deputy Governor as the County Executive Committee, Finance;
- (ii) List of members in support of the Notice of Motion;
- (iii) HANSARD report on proceedings of Wednesday, 7<sup>th</sup> November, 2018;
- (iv) Membership of the *ad hoc* Committee selected to investigate any allegations leveled against the Deputy Governor of Machakos County;
- (v) Letter from political party caucuses nominating Members of the County Assembly to the *ad hoc* Committee; and

(vi) Letter inviting the Deputy Governor before Ad – Hoc Committee.

### **Submission of Documents to the Representative of Hon. Eng. Francis Maliti CECM - Finance and Economic Planning**

Hon. Speaker, the Assembly submitted the following documents to Nyamu & Nyamu Co. Advocates on 9<sup>th</sup> November, 2018:

- (i) Notice of Motion initiated for purposes of removal of the Deputy Governor as the County Executive Committee, Finance;
- (ii) List of members in support of the Notice of Motion;
- (iii) HANSARD report on proceedings of Wednesday, 7<sup>th</sup> November, 2018;
- (iv) Membership of the *ad hoc* Committee selected to investigate any allegations leveled against the Deputy Governor of Machakos County; and
- (v) Letter inviting the Deputy Governor before *ad hoc* Committee.

Madam Speaker, as regards items (iv) and (v) in section 3.3, the representative was advised to refer to the HANSARD report on how political party caucuses nominated Members of the County Assembly to the *ad hoc* committee.

The letter submitting the above documents was delivered to Nyamu and Nyamu Advocates and they acknowledged receipt of the same by signing on a copy of the forwarding letter.

### **Hearing on Motion to remove Hon. Eng. Francis Maliti CECM – Finance and Economic Planning**

Hon. Speaker, the Committee held a meeting in the Assembly Chamber for the purpose of gathering facts on the motion on removal of Hon. Eng. Francis Maliti from the Office of the County Executive Committee Member (CECM) for Finance and Economic Planning. The meeting was open to the public pursuant to Article 196(1)(a) which provides that a County Assembly shall conduct its business in an open manner, and hold its sittings and those of its committees, in public.

The Committee, in its programme, had scheduled to receive statements from the Mover of the motion, Hon. Cosmus Masesi, MCA, Matungulu East Ward and the CECM – Finance and Economic Planning, Hon. Eng. Francis Maliti.

### **Statement of Hon. Cosmus Masesi, MCA Matungulu East, in support of his Motion on removal of Hon. Eng. Francis Maliti from the Office of the County Executive Committee Member (CECM) for Finance and Economic Planning.**

Madam Speaker, Hon. Cosmus Masesi speaking under oath stated the following in support of his motion: “Hon. Chairman, as you are aware, on 7<sup>th</sup> November, 2018, I moved a motion that the Honorable House do resolve that Hon. Eng. Francis Maliti be removed from the office of County Executive Committee Member for Finance and Economic Planning of Machakos County per Section 40 of the County Governments Act No. 17 of 2012.

Hon Chairman, I hereby proceed to substantiate the grounds as contained in the motion:

#### **(A) INCOMPETENCE**

##### **(i) Lack of a first degree relevant to the Department of Finance and Economic Planning:**

THAT Hon. Eng. Francis Maliti does not hold a first degree, and the key word is first degree, from a university recognized in Kenya that is relevant to the portfolio of Finance and Economic Planning. This contravenes the relevant provisions of the Constitution and Section

35(3)(b) of the County Governments Act and Section 8(c) and the second schedule of the Public Appointments (County Assemblies Approval) Act, 2017.

Mr. Chairman, the Assembly has not been informed of the academic qualifications of Hon. Eng. Francis Maliti. The official County Government website [www.machakosgovernment.com](http://www.machakosgovernment.com) does not list his academic qualifications but only refers to him as “ENG” denoting “Engineer”.

I am not aware of him having first degree related to Finance, Accounting or Economics which are the fields relevant to the portfolio of Department of Finance and Economic Planning. Section 35(3) of the County Governments Act states that:-

“A person may be appointed as a member of the County Executive Committee if that person-

- a) Is a Kenyan citizen;
- b) Is a holder of at least a first degree from a university recognized in Kenya;
- c) Satisfies the requirements of chapter six of the Constitution; and
- d) Has knowledge, experience and a distinguished career of not less than five years in the field relevant to the portfolio of the department to which the person is being appointed.”

Therefore, Mr. Chairman, it is my submission to this committee that Hon. Eng. Francis Maliti is incompetent to hold office as the County Executive Committee member for Finance and Economic Planning for the reason that he does not hold a first degree in the field relevant to that portfolio as required by the law.

I beg to repeat that closing remark; therefore Mr. Chairman, it is my submission to this committee that Hon. Eng. Francis Maliti is incompetent to hold office as the County Executive Committee member for Finance and Economic Planning for the reason that he does not hold a first degree in the field relevant to that portfolio as required by the law.

**(ii) Lack of experience in the field relevant to the Department of Finance and Economic Planning:**

That Hon. Eng. Francis Maliti does not have knowledge, experience a distinguished career of not less than five years in the field relevant to the portfolio of the County department of Finance and Economic Planning for which he is currently serving as Member of the County Executive Committee. This is against the provisions of Section 35(3)(d) of the County Governments Act, 2012 and Section 8(c) and the second schedule of the Public Appointments (County Assemblies Approval) Act, 2017.

Hon Chairman, having established that Hon. Eng. Francis Maliti doesn't have a first degree in matters relating to finance, accounting or economics, then it follows that he does not have experience in those fields. Hon. Eng. Francis Maliti is not a member of relevant professional bodies such as Institute of Certified Public Accountants of Kenya (ICPAK) and Economists Society of Kenya.

Mr. Chairman, one cannot be said to have knowledge experience and a distinguished career in a field where they are not qualified to practice. For instance, I cannot claim to have practiced medicine for ten years when I don't have a degree in medicine. Indeed Mr. Chairman if I was to do that, I would be a quack and I can be criminally liable for practicing in a profession without a

license. Further, Mr. Chairman, the law provides for academic qualifications but not a professional qualification as prerequisite for nomination as a County Executive Committee Member.

*(Applause)*

If I repeat, further, Mr. Chairman, the law provides for academic qualifications but not a professional qualification as prerequisite for nomination as a County Executive Committee Member.

*(Applause)*

Mr. Chairman, Hon. Eng. Francis Maliti does not have knowledge in matters to do with Finance, Accounting or Economics; Hon. Eng. Francis Maliti does not have experience in matters to do with Finance, Accounting or Economics; Hon. Eng. Francis Maliti does not have a distinguished career in matters to do with Finance, Accounting or Economics. Hon. Eng. Francis Maliti is a hazard I think the key word here is hazard to the Department of Finance and Economic Planning. He should not be allowed to continue occupying that office.

For this reason, Mr. Chairman, Hon. Eng. Francis Maliti should be removed from office of County Executive Committee Member – Finance and Economic Planning for being incompetent.

Hon. Chairman, the docket of the County Executive Committee Member for Finance and Economic Planning is not an ordinary docket. It requires the occupier of the office to exercise high levels of professional competence, acumen in making decisions in finance related matters, independence in instilling fiscal discipline in Government and high technical knowhow to develop Fiscal policies. Hon. Eng. Francis Maliti does not possess any these qualities due to lack of academic, professional qualification.

Mr. Chairman, Hon. Eng. Francis Maliti's incompetence is further demonstrated by the following irregularities which have been committed by the Department of Finance under his watch:

- (a) Hon. Eng. Francis Maliti has failed to control the high wage bill, the key word here is the high wage bill in the County. The annual report from Controller of Budget (CoB) 2017/18 states that personnel emoluments of the County accounted for 65.3 per cent of the total expenditure in the reporting period. This is way above the recommended 35 per cent. I think Madam Speaker there is a difference of 30 per cent above. This is supported as *(Annexed and marked "A" are excerpts from the Report of the Controller of Budget FY 2017/18 pg 151)*
- (b) Hon. Eng. Francis Maliti failed to ensure that the County's Development funds were fully absorbed in FY 2017/2018. Development expenditure recorded an absorption rate of 33.3 per cent in FY 2017/18 which was a decrease from 99 per cent attained in the FY 2016/2017.

*(see Annexure "A" at page 149)*

- (c) Hon. Eng. Francis Maliti has failed to put in place adequate budgetary control measures to ensure expenditure is within the approved budget. For instance, in the FY 2017/2018, the allocated recurrent budget for the Health and Emergency Services Department was Ksh. 3 Billion. During the same year, Exchequer issues amounted to Ksh. 2.955 Billion yet actual expenditure in that Department was Ksh. 276 million. Let me repeat that; For instance, in the FY 2017/2018, the allocated recurrent budget for the Health and Emergency Services Department was Ksh. 3 Billion. During the same year, Exchequer

issues amounted to Ksh. 2.955 Billion yet actual expenditure in that Department was Ksh. 276 million. The office of the Governor had an approved Development budget of Ksh. 22 million; there were no Exchequer issues yet the actual expenditure of 13.2 million. No wonder our health facilities lack drugs and other essential services.

*(see Annexure "A" at page 151)*

- (d) Hon. Eng. Francis Maliti has failed to develop and implement strategies to enhance local revenue collection leading to a drop in local revenue collection from Ksh. 1.259 Billion in FY 2016/2017 to Ksh. 1.063 Billion in FY 2017/2018 translating to a drop of 15.5 per cent hence negatively affecting implementation of Development projects.

*(see Annexure "A" at page 152)*

**(B) GROSS VIOLATION OF THE CONSTITUTION, COUNTY GOVERNMENTS ACT, PUBLIC FINANCE MANAGEMENT ACT 2012 AND OTHER LAWS.**

Madam Speaker,

**1. Failure to provide the Assembly with Documents as Requested**

That Hon. Eng. Francis Maliti has violated Article 183(3) of the Constitution of Kenya, 2010 and Section 124 of the Public Finance Management Act, 2012, by refusing to submit documents lawfully requested for by the Assembly in the discharge of its oversight role over the Executive, namely, IFMIS account balances to the Budget and Appropriations Committee as requested for by the Committee to assist it in the preparation of the Supplementary Budget 2017/18. *(Annexed and marked "C" is a bundle of documents concerning the matter herein)*

Hon. Speaker I believe every member has a file so they can refer to what I am referring here in my report.

**2. Gross Misconduct and Abuse of Office by Failure to Discharge Duties:**

Madam Speaker, as head of the County Treasury, Hon. Eng. Francis Maliti has repeatedly failed to discharge within time the responsibilities vested in him under Chapter 12 of the Constitution of Kenya 2010 and Part IV of the Public Finance Management Act, 2012, with respect to the management and control of public finance in the County.

- (a) Hon. Eng. Francis Maliti failed to meet statutory deadlines in submitting the following documents as set out sections 117(1), 118(1)(a) and (b), 123 (1), 126(1) and (3), 128(2) 132 and 133 of the PUBLIC FINANCE MANAGEMENT Act:-
- (b) Despite the Finance Bill 2017 (FY 2017/2018) being submitted three months late on 5<sup>th</sup> October, 2017, Hon. Eng. Francis Maliti, refused to sign the requisite Treasury documents for funds to be released to the Assembly to enable publication and public participation on the bill.

I beg to repeat this,

- (b) Despite the Finance Bill 2017 (FY 2017/2018) being submitted three months late on 5th October, 2017, Hon. Eng. Francis Maliti, refused to sign the requisite Treasury documents for funds to be released to the Assembly to enable publication and public participation on the bill.

This caused delay in the enactment of the Finance Bill which could only be done in April, 2018 just two months to closure of the Fiscal Year 2017/18 hence exposing the County to possible



litigation. The Assembly had to go to court to have funds released as demonstrated by court injunction in Machakos High Court Petition No. 17 of 2017.

*(Applause)*

*(Annexed and marked "D-1" is a the letter of submission of the document and a letter marked "D-2" addressed to the Governor and dated 16th November, 2017 concerning the matter herein and is a copy of the said injunction)*

- (i) Finance Bill for 2018 (FY 2017/2018) should have been submitted to the Assembly by 30<sup>th</sup> June 2018; I think, Madam Speaker, here the deadline was supposed to have been submitted to the Assembly by 30th June, 2018 but was only submitted to the Assembly on 3<sup>rd</sup> September, 2018 two months later than the deadline.

*(Annexed and marked "E" is a letter written by the Deputy Governor and CECM Finance and Economic Planning concerning the matter herein)*

- (ii) County Fiscal Strategy Paper for FY 2018/2019 should have been submitted by 28<sup>th</sup> February, 2018 but was submitted to the Assembly on 12<sup>th</sup> March, 2018. This was after the set deadline.

*(Annexed and marked "F" is a letter dated 7<sup>th</sup> March, 2018 written by The Deputy Governor and CECM Finance and Economic Planning concerning the matter herein)*

- (iii) County Budget and Review Outlook Paper (CBROP) for FY 2017/2018 should have been submitted by 30<sup>th</sup> September, 2017 but was submitted on 11<sup>th</sup> December, 2017 way past the statutory deadline.

- (iv) County Budget and Review Outlook Paper (CBROP) for FY 2018/2019 should have been submitted by 30<sup>th</sup> September, 2018 but was submitted on 19<sup>th</sup> October, 2018 which was after the statutory deadline.

*(Annexed and marked "G" is a letter dated 17<sup>th</sup> October, 2018 written by The Deputy Governor and CECM Finance and Economic Planning concerning the matter herein).*

Madam Speaker, I still insist that members need to refer as I read on the supporting documents.

**Hon. Speaker:** You request?

**Hon. Mitaa:** Yes, I request, Madam Speaker.

**Hon. Speaker:** Every member has a folder.

**Hon. Mitaa:** Yes; which was given in time.

**Hon. Speaker:** Just proceed.

**Hon. Mitaa:**

- (v) Debt Management Strategy Paper should have been submitted by 28<sup>th</sup> February, 2018 but was not submitted.
- (c) Hon. Eng. Francis Maliti has failed to ensure openness and accountability, including public participation in financial matters thus violating Article 201 of the Constitution. This is demonstrated by the judgment in Machakos High Court Petition No. 9 of 2018 where sections of the Machakos County Finance Act 2018 were declared unconstitutional because of the failure

by the County Executive Committee Member - Finance to undertake public participation on the same.

*(Annexed and marked "I" is a copy of the said judgment)*

(d) Hon. Eng. Francis Maliti as the County Executive Committee Member – Finance failed to collect revenue from bus parks between February and May, 2018 contrary to Article 210 of the Constitution and sections 159 and 196(5) of the Public Finance Management Act, 2012.

*(Annexed and marked "L" is a bundle of documents)*

(e) Hon. Eng. Francis Maliti failed to ensure that all money authorized to be paid by the county government or any of its entities for a public purpose is paid from that account without undue delay. This is evidenced by the fact that Hon. Eng. Francis Maliti failed to plough back funds collected as user fees in health facilities. This is contrary to sections 109 (4)(b) and 119(3) of the Public Finance Management Act 2012.

*(Annexed and marked "J" is a bundle of letters from the Assembly concerning the matter herein)*

(f) Hon. Eng. Francis Maliti has failed to disburse Ksh. 65,957,023 conditional grant meant for Technical and Vocational Training Institutes (TVET) meant for development of polytechnics. Correspondence by the Ministry of Education, State Department of Vocational and Youth Training on 11<sup>th</sup> June, 2018 confirmed that the money had been availed. This money should have been disbursed by 31<sup>st</sup> July, 2018. This is contrary to section 109(4)(b) of PUBLIC FINANCE MANAGEMENT Act.

*Annexed and marked "B" is a letter from the Principal Secretary State Department of Vocational and Technical Training and a letter dated 6<sup>th</sup> August, 2018 written by the Chief Officer, Department of Education, Skills Training and Social Welfare concerning the matter.*

(g) Hon. Eng. Francis Maliti as CECM – Finance has failed to establish an Internal Audit Committee contrary section 155 of the Public Finance Management Act, 2012.

*(see Annexure "A" at page 151)*

(h) Hon. Eng. Francis Maliti as the CECM – Finance unlawfully authorized actual expenditures of Ksh. 4.547 Billion in the Department of Public Service and ICT against an approved recurrent budget of Ksh. 468 Million and Exchequer releases of Ksh. 408 Million. This is contrary to section 196 of Public Finance Management Act, 2012.

*(see Annexure "A" at table 3.65)*

(i) Hon. Eng. Francis Maliti as the CECM – Finance has failed to put adequate budgetary controls leading to seven departments spending funds for which there were no Exchequer issues.

*(see Annexure "A" table 3.65)*

I repeat that Madam Speaker;

(i) Hon. Eng. Francis Maliti as the CECM – Finance has failed to put adequate budgetary controls leading to seven departments spending funds for which there were no Exchequer issues.

*(see Annexure "A" table 3.65)*

*(Applause)*

### **3. Failure to Provide Regular Reports to the Assembly**

That, Hon. Eng. Francis Maliti has failed to comply with Section 104(1)(r) of the Public Finance Management Act, 2012 which provides for regular reporting to the Assembly on the implementation of the annual County budget.

*(Applause)*

(i) Hon. Eng. Francis Maliti failed to provide a list of Development projects implemented by the County Government as approved by the Assembly in the Budget for FY 2017/2018 yet Exchequer issues amounted to Ksh. 1.5 Billion.

*(see Annexure "A" table 3.65)*

(ii) Hon. Eng. Francis Maliti failed to provide the Assembly with reports on implementation of County Budget and when summoned by Assembly to respond on the same failed to do so as evidenced by invitations by the House Business Committee.

*(Annexed and marked "P" is a bundle of letters from the Assembly concerning the matter herein)*

#### **4. Failure to Implement the County Bursary Fund**

Hon. Speaker, that Hon. Eng. Francis Maliti has failed to implement the County Bursary Fund established under Section 116(1) of the Public Finance Management Act 2012 as provided in the Machakos County (Bursary Fund) Regulations, 2014. This contravenes the provisions of Article 183(a) of the Constitution which requires the relevant County Executive Committee Member to implement County legislation.

(i) Hon. Eng. Francis Maliti failed to implement the County Bursary Fund by not; these were the reasons:

(a) Disbursing Kshs. 80 million approved by the County Assembly in the Machakos County Appropriation Act, 2017;

(b) Disbursing Ksh. 66 million approved by the County Assembly in the Machakos County Appropriation Supplementary Act, 2018;

(c) Disbursing Ksh. 120 million approved by the County Assembly in the Machakos County Appropriation Act, 2018 yet the 1<sup>st</sup> quarter has passed and funds have been released regularly;

*(Annexed and marked "K" is a bundle of documents)*

(ii) Hon. Eng. Francis Maliti failed to comply with section 168 of the Public Finance Management Act, 2012 by failing ensuring that fund administrators prepare and submit expenditure reports to the County Treasury and a copy to Controller of Budget.

*(see Annexure "A" at page 152)*

#### **5. Failure to Implement the Machakos County Health Management Fund**

That Hon. Eng. Francis Maliti has failed to implement the Machakos County Health Management Fund Regulations, 2015 whose main objective is to ensure that funds collected in health facilities are ploughed back to health facilities..... I think the statement is clear. This violates the provisions of Article 183(a) of the Constitution of Kenya, 2010 which requires the relevant County Executive Committee Member to implement County legislation.

- (i) Hon. Eng. Francis Maliti has failed to implement the Machakos County Health Management Fund Regulations, 2015 as reports of Health and Emergency Services Committee on various visits to health facilities show poor delivery of services as a result of lack of funds emanating from failure to implement the Regulations. The reports have evidence showing how much was collected as user fees and how much was ploughed back. The Hospital management confessed that the institutions would be better if the money collected was ploughed back. The reports include:
- (a) Report of Health and Emergency Services Committee on shortage of drugs and other non-pharmaceuticals in Machakos Level V Hospital by Hon. Cosmus Masesi, Chairperson tabled in the House on 7<sup>th</sup> November, 2018.
  - (b) Report of Health and Emergency Services Committee on Status of Kangundo Level IV Hospital.
  - (c) Report of Health and Emergency Services Committee on Status of Selected Health Facilities in Machakos County.
  - (d) HANSARD report of Committee on Implementation of 8<sup>th</sup> May, 2018 on matters of health facilities and the Health regulations fund in which the CECM – Finance acknowledged of being aware the regulations and promised to implement them as soon as possible.

*(Annexed and marked “N” is a bundle of documents)*

- (ii) Hon. Eng. Francis Maliti failed to comply with section 168 of the Public Finance Management Act, 2012 by failing ensuring that fund administrators prepare and submit expenditure reports to the County Treasury and a copy to Controller of Budget.

*(see Annexure “A” at page 152)*

## **6. Failure to Implement County Assembly Resolutions**

That, **HON. ENG. FRANCIS MALITI** has failed to implement the Assembly Resolutions by refusing to co-ordinate the implementation of the Machakos County Supplementary Appropriation Act of 2018 which outlined various projects to be undertaken at Ward level. This is in total breach of Section 104(1)(c) of the Public Finance Management Act and Articles 176 (1) and 183(3) of the Constitution on the establishment of the Assembly and the Assembly’s oversight role over the County Executive.

This is evidenced by the following;

- (i) Hon. Eng. Francis Maliti failed to coordinate the implementation of Development projects outlined in the Machakos County Supplementary Appropriation Act, 2018 resulting to absorption rate of 33 per cent.

*(see Annexure “A” at table 3.22.7)*

- (ii) Hon. Eng. Francis Maliti failed to coordinate the implementation of development projects outlined in the Machakos County Appropriation Act, 2018 and alleging that they are waiting for the Assembly to approve supplementary budget when they already have an approved budget in force.

*(Applause)*

*(Annexed and marked “M” is a letter by the CEC – Finance dated 6<sup>th</sup> November, 2018 ref: MCG/FIN/MCA/SUPP/3/2018)*

(iii) Hon. Eng. Francis Maliti failed coordinate the submission to Controller of Budget a list of Development projects implemented by the County Government as approved by the Assembly in the Budget for FY 2017/2018 yet Exchequer issues amounted to Ksh. 1.5 Billion.  
(see Annexure "A" at page 151 para 1)

**Hon. Museku:** Point of order, Madam Speaker.

**Hon. Speaker:** Point of Order, Hon. Museku. Hon. Mitaa, please rest briefly.

### **PROCEDURAL MOTION EXTENSION OF SITTING TIME**

**Hon. Museku:** Thank you, Madam Speaker, I stand under Standing Order 27, to request to move a Motion of extension of sitting time.

Madam Speaker, that aware that Standing Order 27(2), provides that the Speaker shall interrupt business at 12.30 p.m. for the morning sessions for Tuesdays and Wednesdays; Aware that Standing Order 27(3)(a), provides that the House may resolve to extend sitting time;

Aware that Standing Order 27(4), requires that a Motion to extend sitting time of the House shall be moved at least 30 minutes before the time appointed for adjournment;

Hon. Speaker, I wish to move the Motion that the House resolves to extend its sitting time until business under consideration is completed.

Thank you, Madam Speaker. I request Hon. P.J Mutiso to second my Motion.

**Hon. Speaker:** Hon. Mutiso.

**Hon. P.J Mutiso:** Thank you, Madam Speaker. I second the Motion.

**Hon. Speaker:** Thank you, Hon. Museku and Hon. Mutiso. The Speaker appreciates that there is business on the table that is not completed and we are just heading to 12 o'clock; so the Motion is procedural and it is may be calling for the views of a few of the Members before the Speaker gives the way forward and I remind you, this is not a Motion where you are going to vote on. Hon. Majority Leader Mark Muendo.

**Hon. Muendo:** Thank you, Madam Speaker. I support the Motion. The Motion in the House is very weighty and it needs a lot of concentration. So, I support to extend the sitting time. Thank you, Madam Speaker.

*(Applause)*

**Hon. Speaker:** Thank you, Hon. Mark Muendo. Hon. King'ori George.

**Hon. King'ori:** Thank you, Madam Speaker. I stand to support the Motion that we extend time because what is in front of us is the future of Machakos. Thank you, Madam Speaker.

*(Applause)*

**Hon. Speaker:** Thank you, Hon. King'ori. Hon. Kituku.

**Hon. Kituku:** Thank you, Madam Speaker. I am in support of extending the time since the business is very important and actually we are all concentrating. So, we want to connect all the issues together so that we can make a decision that is valuable. Thank you.

*(Applause)*

**Hon. Speaker:** Thank you, Hon. Kituku. Hon. Mueni.

**Hon. (Ms.) Mueni:** Thank you, Madam Speaker. I support the extension of the time because outside there people are waiting to hear what we are doing and the Members are doing there work. Today they are working. Thank you, Madam Speaker.

*(Applause)*

**Hon. Speaker:** Hon. Members, the views expressed by the Members who have expressed themselves points to desire to extend time and so the Chair directs that the sitting time is extended until the Motion on the table is finalized.

*(Applause)*

However, Hon. Members before Hon. Mitaa proceeds, allow me to let you know that you have guests amongst yourselves We have Hon. Members of the County Assembly of Kitui who are as follows;

- |                                     |                                    |
|-------------------------------------|------------------------------------|
| 1. Hon. Peter Kilonzo               | - Chairperson and Majority Leader. |
| 2. Hon. James Musyoka               | - Member, Committee on Selection.  |
| 3. Hon. Anna M. Mumo                | - Member, Committee on Selection.  |
| 4. Hon. Grace Mwikali Sammy         | - Member, Committee on Selection.  |
| 5. Hon. Stephen Musili              | - Member, Committee on Selection.  |
| 6. Hon. Regina Mueni Ishmael        | - Member, Committee on Selection.  |
| 7. Hon. Waziri Bakari               | - Member, Committee on Selection.  |
| 8. Hon. Florence M. Singi           | - Member, Committee on Selection.  |
| 9. Hon. John Mbaki Kisangau         | - Member, Committee on Selection.  |
| 10. Hon. Jacob Kavolonza Musyoka    | - Member, Committee on Selection.  |
| 11. Hon. Annastacia Mwanthi Mutunga | - Member, Committee on Selection.  |
| 12. Hon. Esther Ndile               | -Member, Committee on Selection.   |
| 13. Hon. Josphat Nzamba James       | - Member, Committee on Selection.  |

We have staff Members;

- |                |                   |
|----------------|-------------------|
| 1. David Manzi | -Committee clerk. |
|----------------|-------------------|

2. Mr. Kennedy Kiilu

- Driver.

You are welcome Hon. Members and staff from Kitui County Assembly. Today happens to be a very interesting day for us. We have a few of us who are misbehaving; it is not normally our nature but the Assembly must stand firm and do its work.

*(Applause)*

The only thing I would request is that next time make sure you come with a lady MCAs because apparently they are missing in action but you are very much welcome.

*(Applause)*

Hon. Mitaa, please proceed. Members you can take water; it is like there is some pepper spray that has been done in this House but that will not stop this House from doing its work.

*(Applause)*

I will ask Members just to continue and stay put. Let us proceed. You must do your oversight work because that is what you were sent by the members of the public to come here and do. Let us proceed.

**Hon. Mitaa:** Thank you, Madam Speaker. I am on item number 7.

**Hon. Speaker:** Just a moment Hon. Mitaa. Serjeant at Arms, can you assure that nobody is loitering around this Assembly premises. Anybody who is around 150m of this Assembly should be thrown out of the sitting of the Chambers.....should be removed and please move. If you need any reinforcement, let the Clerk know because you must do your work today. Mr. Kiptum, move! Let us proceed.

*(The House resumed debate the Motion in the Order Paper)*

**Hon. Mitaa:** Thank you, Madam Speaker. Item number 7

## **7. Failure to Develop and Submit Financial and Economic Policies**

That, Hon. Eng. Francis Maliti has failed to develop and submit to the Assembly and implement within time the various financial and economic planning policies in the County as stipulated in Sections 104(1)(a), 117, 118, 125 and 126, among others, of the Public Finance Management Act.

- (a) Hon. Eng. Francis Maliti has not developed and submitted to the County Assembly the County Debt Management Strategy Paper;
- (b) Hon. Eng. Francis Maliti did not adhere to sections 117(1), 118, 123(1), 126(1) and (3), 128(2), 132 and 133 of the Public Finance Management Act, 2012 by not conforming to the following documents in the manner explained here below:
  - (i) Debt Management Strategy Paper should have been submitted by 28<sup>th</sup> February, 2018 but has not been submitted to date, 14th November, 2018.

- (ii) The Annual Development Plan for 2019/2020 should have been submitted to the Assembly by 1<sup>st</sup> September, 2018 but is yet to be submitted. Again today is 14th November, 2018.
- (c) Hon. Eng. Francis Maliti has failed to develop and implement strategies to enhance own revenue collection leading to a drop in own revenue collected from Ksh. 1.25 Billion in FY 2016/2017 to Ksh. 1.06 Billion in FY 2017/2018 translating to a drop of 15.5 per cent hence negatively affecting implementation of Development projects  
(see Annexure "A" at page 152)
- (d) Hon. Eng. Francis Maliti prepared a budget and submitted it to the Assembly as per section 129(2)(b) of the Public Finance Management Act, 2012 on 30<sup>th</sup> April, 2018 but in June, 2018, he submitted a totally different budget which had not been subjected to public participation. Also, these budgets did not adhere to the ceilings set in the CFSP as is by law required.  
(see Annexure "M" on bundle of budgets)

Hon. Chairman, I would like to emphasize the fact that, when you look at the report of the Controller of Budget FY 2017/18, Machakos County, this is serious; Machakos County is one of two Counties that did not submit the list of development projects with the highest expenditure funded in that year.

*(Applause)*

Up to now, the CECM – Finance has not provided list of development projects. This means that no development projects were undertaken in FY 2017/18. This is very telling for a County that boasts of undertaking rapid development.

Hon. Chairman, in conclusion, I have demonstrated that Hon. Eng. Francis Maliti is incompetent to hold the position of County Executive Committee Member for Finance and Economic Planning. I have also demonstrated that he has been in gross violation of the Constitution of Kenya 2010, the County Governments Act, 2012 and the Public Finance Management Act, 2012 among other laws. I beg this committee to recommend to the Hon. House that he be removed from office as County Executive Committee Member for Finance and Economic Planning.

Hon. Chairman, it is to be noted that my recommendation is for the removal of Hon. Eng. Francis Maliti as County Executive Committee Member for Finance and Economic Planning and not as Deputy Governor.

*(Applause)*

I have also demonstrated that he has abused his office and is in gross violation of the Constitution, the County Governments Act, 2012 and the Public Finance Management Act, 2012 among other laws. From the facts that I have given had shown abuse of office and gross misconduct.

### **Statement by Hon. Eng. Francis Maliti CECM – Finance and Economic Planning**

Hon. Speaker, the Committee had invited Hon. Eng. Francis Maliti to appear before the Committee on 12<sup>th</sup> November, 2018 at 10.00 a.m. The Committee convened on 12<sup>th</sup> November, 2018 at 10.00 a.m. and waited for Hon. Eng. Francis Maliti, CECM - Finance for one hour up to



11.00 a.m. but he did not show up. The Committee resolved to continue with its investigations and conclude on the matter.

## **CHAPTER FOUR**

### **Committee Observations and Recommendations**

#### **Committee Observations**

Hon. Speaker, the Committee made the following observations as per the allegations on the Motion:

- (i) That Hon. Eng. Francis Maliti did not demonstrate whether he had first degree relevant to the Department of Finance and Economic Planning and experience in the field relevant to the Department of Finance and Economic Planning. He did not provide any documents to show that he is registered with a professional body in accounting or finance such as ICPAK. This was contrary to provisions of the Constitution and Section 35(3)(b) of the County Governments Act and Section 8(c) and the second schedule of the Public Appointments (County Assemblies Approval) Act, 2017.
- (ii) That Hon. Eng. Francis Maliti was found to be incompetent as CECM – Finance and Economic Planning as demonstrated by failure to:-
  - (a) Control the high wage bill in the County which accounted for 65.3 per cent of total expenditure in the FY 2017/2018 as reported in the annual report from the Controller of Budget for 2017/2018. This is way above 35 per cent as set in the PUBLIC FINANCE MANAGEMENT regulations.
  - (b) He failed to coordinate the County's Development Budget. The approved Budget for FY2017/18 had a Development Budget of Ksh. 3.07 Billion. Actual Expenditure was Ksh. 1.02 Billion recording an absorption rate of only 33.3 per cent in FY 2017/18 which was a decrease from 99 per cent attained in the FY 2016/2017.
  - (c) He failed to put in place adequate budgetary control measures to ensure expenditure was within the approved budget. For instance, in the FY 2017/2018, the allocated recurrent budget for the Health and Emergency Services Department was Ksh. 3 Billion. During the same year, Exchequer issues amounted to Ksh. 2.955 Billion yet actual expenditure in that Department was only Ksh. 276 million. The Office of the Governor had an approved Development budget of Ksh. 22 million; there were no Exchequer issues yet the actual expenditure of was Ks. 13.2 million.
  - (d) Develop and implement strategies to enhance local revenue collection leading to a drop in local revenue collection from Ksh. 1.259 Billion in FY 2016/2017 to Ksh. 1.063 Billion in FY 2017/2018 translating to a drop of 15.5 per cent hence negatively affecting implementation of Development projects.
- (iii) That Hon. Eng. Francis Maliti as the CECM Finance and Economic Planning was found to have grossly violated the Constitution, County Governments Act 2012 and Public Finance Management Act 2012 and other laws by failing to discharge his duties and refusing to submit documents lawfully requested for by the Assembly in the discharge of its oversight role. The CECM – Finance and Economic Planning failed to:-
  - (a) Provide IFMIS account balances to the Budget and Appropriations Committee as requested for by the Committee to assist it in the preparation of the Supplementary Budget 2017/18.

- (b) Failed to meet statutory deadlines in submitting statutory documents to the County Assembly and other bodies as set out in sections 117(1), 118(1)(a) and (b), 123(1), 126(1) and (3), 128(2), 132 and 133 of the Public Finance Management Act 2012. These documents include Finance Bills for 2017 and 2018, County Fiscal Strategy Paper (CFSP) 2018/2019, County Budget and Review Outlook Paper (CBROP) for FY 2017/2018 and FY 2018/2019 and Debt Management Strategy Paper.
- (c) He failed to conduct proper Public Participation on the Machakos County Finance Bill 2017 which led the High Court in Machakos to declare some sections of the Machakos County Finance Act 2018 to be unconstitutional (Petition No. 9 of 2018);
- (d) He failed to oversee Collection of revenue from bus parks between February and May, 2018 contrary to Article 210 of the Constitution and Sections 159 and 196(5) of the Public Finance Management Act, 2012.
- (e) He failed to ensure that all money authorized to be paid by the county government or any of its entities for a public purpose are paid from that account without undue delay. The CECM Finance and Economic Planning failed to disburse Ksh. 65,957,023 conditional grant meant for Technical and Vocational Training Institutes (TVET) meant for Development of polytechnics on time which is contrary to section 109(4)(b) of Public Finance Management Act, 2012.
- (f) He failed to establish an Internal Audit Committee contrary to Section 155 of the Public Finance Management Act, 2012.
- (g) He failed to put adequate budgetary controls leading to seven departments of the County Executive spending funds for which there were no Exchequer issues. The CECM Finance and Economic Planning unlawfully authorized actual expenditures of Ksh. 4.547 Billion in the Department of Public Service and ICT against an approved recurrent budget of Ksh. 468 Million and Exchequer releases of Ksh. 408 Million. This is contrary to section 196 of Public Finance Management Act, 2012.
- (h) He failed to comply with Section 104(1)(r) of the Public Finance Management Act, 2012 which provides for regular reporting to the Assembly on the implementation of the Annual County budget. The CECM – Finance failed to provide the Assembly with reports on implementation of County Budget and when summoned by the County Assembly to respond on the same, he failed to do so.
- (i) He failed to implement the County Bursary Fund established under Section 116 (1) of the Public Finance Management Act 2012 as provided in the Machakos County (Bursary Fund) Regulations, 2014 by not disbursing funds allocated in the Machakos County Appropriations Acts for 2017 and 2018. This contravenes the provisions of Article 183(1)(a) of the Constitution which requires the relevant County Executive Committee Member to implement County legislation.
- (j) He failed to implement the Machakos County Health Management Fund Regulations, 2015 as evidenced by reports of Committee on Health and Emergency Services which highlighted shortage of drugs and other non-pharmaceuticals in Machakos Level V Hospital and other health facilities within the County.
- (k) He failed to comply with section 168 of the Public Finance Management Act, 2012 by failing to ensure that fund administrators prepare and submit expenditure reports to the County Treasury and Controller of Budget.

- (l) He failed to implement the Assembly Resolutions by refusing to co-ordinate the implementation of the Machakos County Supplementary Appropriation Act of 2018 which outlined various projects to be undertaken at Ward level.
- (m) He failed to coordinate the implementation of Development projects outlined in the Machakos County Appropriation Act, 2018 and alleging that the County Treasury is awaiting for the County Assembly to approve Supplementary budget when there already is an approved Machakos County Appropriation Act 2018 in force.

*(Applause)*

- (n) He failed to develop and submit to the County Assembly and implement within time the various financial and economic planning policies in the County as stipulated in Sections 104(1)(a), 117, 118, 125 and 126, among others, of the Public Finance Management Act 2012 namely the County Debt Management Strategy paper, the County Annual Development Plan for FY 2019/2020 and strategies to increase revenue collection.

### **Committee Recommendations**

Hon. Speaker, the committee finds that the allegations contained in the Motion moved by Hon. Cosmus Masesi on the Removal from Office of Hon. Eng. Francis Maliti as CECM, Finance and Economic Planning are substantiated.

*(Applause)*

As per section 40(5)(b) of the County Governments Act No. 17 of 2012, the committee recommends that the House adopts this report and votes to resolve that Hon. Eng. Francis Maliti be dismissed as the County Executive Committee Member for Finance and Economic Planning.

Madam Speaker, the Committee recommends that Hon. Eng. Francis Maliti be investigated for possible commission of Economic Crimes for authorizing spending of funds beyond what was authorized in the Machakos County Appropriation Act 2017. As the CECM – Finance and Economic Planning, he unlawfully authorized actual recurrent expenditures of Ksh. 4.547 Billion in the Department of Public Service and ICT against an approved recurrent budget of Ksh. 468 Million and Exchequer releases of Ksh. 408 Million. This is contrary to section 196 of Public Finance Management Act, 2012.

Madam Speaker, the Committee further recommends that this report and the resolutions of the House be forwarded to relevant National Government agencies including the Salaries and Remuneration Commission (SRC), the Controller of Budget (CoB), the Cabinet Secretary, National Treasury and Planning, the Governor - Central Bank of Kenya (CBK), the Senate, Ethic and Anti-Corruption Commission (EACC), Director of Criminal Investigations (DCI) and the Director of Public Prosecutions (DPP) for investigations and prosecution for economic crimes.

*(Applause)*

## **CHAPTER FIVE**

### ***Conclusion***

Hon. Speaker, it is therefore my pleasant duty and privilege, on behalf of *ad hoc* Committee to table this Report of *ad hoc* Committee on Inquiry into the Motion moved by Hon. Cosmus Masesi on Removal of Hon. Eng. Francis Maliti from Office of County Executive Committee Member for Finance and Economic Planning in this Hon. House for consideration and approval. Thank you, Hon. Speaker.

*(Applause)*

The report is signed by myself, Hon. Moses Mitaa, MCA, Kangundo Central Ward, Chairperson, *ad hoc* Committee. The next page, Madam Speaker, is on approval of the report.

### **APPROVAL OF THE REPORT**

Hon. Speaker, the report was approved by the undersigned Members:-

1. Hon. Moses Mitaa (Chairperson)
2. Hon. Stephen Mwanthi
3. Hon. Cosmus Masesi
4. Hon. Pauline Munguti
5. Hon. George King'ori

Thank you, Madam Speaker.

*(Applause)*

**Hon. Speaker:** Thank you, Hon. Mitaa, thank you, Hon. Members for the patience that you have exhibited in one of the longest report being read in this House.

**Hon. Kamitu:** Point of order, Madam Speaker.

**Hon. Speaker:** I propose to propose the question first. Hon. Minority Leader.

*(Question proposed)*

Hon. Members, the report is ready for debate. Hon. Mueni.

**Hon. (Ms.) Mueni:** Thank you, Madam Speaker. I think the report is very clear with simple English and everybody was understanding everything. The person must be removed from the office together with the person who put him there and they must be in the police to be taken to the court because there is nothing for us to discuss. Machakos money has been misused by those two people. Thank you, Madam Speaker.

*(Applause)*

**Hon. Speaker:** Thank you, Hon. Mueni. Hon. Kisila.

**Hon. Kisila:** Thank you very much Madam Speaker for giving me this opportunity to contribute to this Motion. First of all, I would like to commend my *muthoniwa*, Hon. Mitaa---

**Hon. Speaker:** What is that supposed to mean?

**Hon. Kisila:** Okay. My in-law, Hon. Mitaa for a very lengthy report which he has done and I was just looking and laughing at some of his recommendations which I think God should not give some people some powers because if he had those powers he will kill all of us.

*(Applause)*

Some of these recommendations actually it is like, if Madam Speaker he was in your shoes in your previous life, he will hang all of us. Madam Speaker, I stand here to oppose the Motion on the following basis.

*(Applause)*

I do not need claps, please let me finish. I would like to oppose on several grounds. The first ground I have, Madam Speaker, is that I want to refer you to page 7 of Mheshimiwa Mitaa's lengthy one-sided report. I want to repeat because he has been repeating also.....one-sided report.

**Hon. Speaker:** Are you able to substantiate?

**Hon. Kisila:** Yes, it is one-sided because I will substantiate, Madam Speaker.

**Hon. Speaker:** Alright.

**Hon. Kisila:** It is one sided because we have a House here and this House is not represented by one side. We have got a Minority Party which is part and parcel of this---

**Hon. Muthoka:** Point of information!

*(Loud consultations)*

**Hon. Speaker:** I want order in the House from both sides of the House. Shouting will not make the Speaker ask you to speak. Instead it will make the Speaker send you out of this Chambers. So, please everybody behave. Hon. Kiilu, do you have a point of information?

**Hon. Kiilu:** Yes. Thank you, Madam Speaker. It is important that I remind the Member, the time when we were composing this *ad hoc* committee, we needed them and they boycotted the Assembly. Thank you, Madam Speaker.

*(Applause)*

**Hon. Speaker:** Point of information given. Hon. Kisila you wish to proceed?

**Hon. Kisila:** Thank you, Mheshimiwa Kiilu. I did not need that point of information. Madam Speaker, I want to refer you to the report---

**Hon. Speaker:** Hon. Kisila, it is good you mind the language you use in this Chambers. The Speaker allowed the Member to inform you. If you do not want to take it, it is from the floor of the House, proceed without making negative comments. Let us be positive in everything we do.

**Hon. Kisila:** Most obliged, Madam Speaker. In fact, I like your last point; let us be positive.

**Hon. Speaker:** Proceed.

**Hon. Kisila:** In fact, on that point which you have said, there is a lot of negativity in this Assembly and I want to borrow your words and say, let us be positive for the people who elected us.

**Hon. Speaker:** Proceed.

**Hon. Kisila:** Madam Speaker, I will proceed on page 7 of the report. I want to refer you to point number 4, on top there; the County Executive Committee Member has the right to appear and be represented before the Select Committee during its investigations. The Bill of rights Madam Speaker, all of us have a right to be heard. Madam Speaker, I want to refer you to a letter which has been written and I can give you a copy, Madam Speaker, if in case you do not have a copy.

A letter has been written by the lawyer who is representing Hon. Deputy Governor, His Excellency, Eng. Maliti dated 13th November, 2018---

**Hon. Speaker:** You are tabling it now.

**Hon. Kisila:** I am tabling it now, Madam Speaker.

**Hon. Speaker:** Go ahead.

**Hon. Kisila:** And I would like a copy to be provided to Madam Speaker as I read the letter. Invitation to appear at the County Assembly to respond to a Motion for your removal from office as CEC, Member, Finance written to Town Clerk (??) the Clerk of this Assembly. I want to read all of it and I request patience.

We refer to the above letter and ours dated 8th November, 2018 and delivered to your office on 9th November, 2018. On the 9th November, 2018, your Mr. Hilary Muthui called Mrs. Juliet Nyamu at 5.30 p.m. asking her to deploy someone to await documents from your office. Out of courtesy and as a fellow counsel, our Mrs. Juliet Nyamu called a Member of staff one Mr. Edison Munuve to meet up with him and collect. They met at the City Center at 7 p.m. whereupon an envelope containing documents requested in our letter together with your invitation to appear were handed over to Mr. Munuve.

**Hon. Speaker:** Hon. Kisila, in a moment. Point of order. Hon. Steve Mwanthi.

**Hon. Mwanthi:** Thank you, Madam Speaker. Madam Speaker, I think the Member could be reading a letter from anywhere that is not certified, so I was requesting if the letter that he is tabling

in the Assembly is a letter that has been received by the Assembly or he just collected the letter anywhere. Thank you, Madam Speaker.

**Hon. Speaker:** Hon. Steve Mwanthi, the Chair is very alert to matters of order. I wanted him to finish and the Chair will also have questions because I have seen the letter and I am looking for another letter also that was written by the same Advocate.

(Applause)

**Hon. Kisila:** *Mheshimiwa vumilia tafadhali.*

**Hon. Speaker:** Hon. Kisila, please do not be disorderly. You started by using English, proceed in English and do not address a Member of the Assembly address the Chair.

**Hon. Kisila:** Okay Madam Speaker. I continue. They met at City Center at 7 p.m.....I will continue on the fourth paragraph. Our Mr. Nyamu had a matter in Embu, Environment and Land Court on Monday 12th November....please note this is a lawyer who was supposed to represent Eng. Maliti, being a .....(inaudible) Constitutional Petition No.54 of 2011.

So, he did not report to the office in the morning on Monday 12th November, 2018. On return on 12th November, 2018, at 2.30 p.m, our Mr. Nyamu was surprised to find a letter of invitation addressed to Hon. Francis Maliti inviting him to appear before an *ad hoc* Committee slated on 12th November, at 10.00 a.m.

I continue Madam Speaker. With due respect to your office, this is the Clerk, we wish to point out that the service of notice on Friday at 7 p.m. is construed as service on Monday morning and therefore instructed that, notice was unreasonably and the word here is "unreasonably" inadequate for our client and was afforded adequate time to prepare and even present a written response and further the notice was affront to our client's rights under Articles 47 and 50 of the Constitution of Kenya 2010 hence illegal null and void.

We wish also to point out that, the proceedings to the removal of our client as a Member of the County Executive Committee was quite misconceived and misplaced for the following reasons;

1. Our client is a Deputy Governor, duly declared, elected under Article 180 of the Constitution of Kenya, 2010 and he is a Member of the County Executive Committee by virtue of his position under Article 179(2) (a) and he cannot be removed in the matter intended.
2. He holds the portfolio of County Executive Committee Member, Finance by virtue of appointment by the Governor as provided under Section 32(3) of the County Governments Act 2012. An assignment that was not subject to the approval of the County Assembly under Article 179(2)(b) of the Constitution of Kenya, 2010 and Section 35 of the County Governments Act of 2012.

In concluding, the lawyer says; we have perused through the list of Members of the *ad hoc* Committee and we have noted that it is constituted of Members who have expressed partially and biased in the sense that neither the mover of the Motion Hon. Cosmus Masesi nor Hon. Stephen Mwaniki, Hon. Mitaa, Hon. Pauline Mene, Hon. George King'ori who supported the Motion both in the House and in inception are qualified to sit at the *ad hoc* Committee to investigate the allegations as *ad hoc* Committee Members.

*(Applause)*

Appointed under Section 43(3) quasi-judicial and the principles of natural justice.

**Hon. Mwanthi:** Point of order, Madam Speaker.

**Hon. Speaker:** Hon. Steve Mwanthi, I ask you to.....(inaudible)

**Hon. Kisila:** Principles of natural justice under Article 47 and 50 of the Constitution Supreme of this Country which we love called Kenya, 2010 and Fair Administrative Action Act 2015, do apply. In concluding, in the circumstances we are instructed remand that as County Assembly, you reconsider the manner in which you have undertaken these proceedings and realize all of us are Members of this Assembly consider the concerns raised and unless the same are addressed, our client shall have no option but to challenge the process together with the outcome in a court of law. Thank you. Signed by Nyamu & Nyamu Advocates.

*(Applause)*

**Hon. Speaker:** On the bundle that the Chair is addressing, the issue of the letter, that is a copy of a letter that has been tabled on the Table of the House. A lengthy letter indeed, dated 13th of November, 2018 and indicated to be addressed to the Clerk of the County Assembly of Machakos.

Hon. Members, the Chair notes that, a letter by the same firm of Advocates that is Nyamu & Nyamu, was written to the same Clerk of Machakos County Assembly on the 8th November, 2018 and it was delivered in the office of the Clerk and received as per the clerk's date stamp on behalf of the Assembly on the 9th November, 2018 at 2.45 p.m.

Hon. Members, the letter that has just been tabled by way of a copy, an un-certified copy, by the Hon. Kisila does not have a date stamp of being received in the office of the Clerk.

*(Applause)*

For that purpose, this House is unable to have a deliberation on a letter that is clearly not received by the Assembly.

*(Applause)*

The letter is expunged from the record of the Assembly. Just return the letter to the owner.

*(Applause)*

Proceed, Mr. Kisila.

**Hon. Kisila:** Madam Speaker, I can receive the letter with a lot of respect; I was just highlighting the real issues we are going to face as an Assembly. Please let us realize one thing; we are not, we are taking a lot of powers upon ourselves and my reason for tabling this report is that, as Minority side, we can meet in court.



*(Applause)*

**Hon. Speaker:** Hon. Kisila, you are out of order; you cannot threaten the House on the floor of the House---

*(Applause)*

Hon. Kisila, I ask you to withdraw.

**Hon. Kisila:** I will not withdraw that one.

**Hon. Speaker:** You will not withdraw?

**Hon. Kisila:** I will not withdraw because this Assembly has become partisan and we cannot continue being like this.

**Hon. Speaker:** Serjeant at Arms, remove Hon. Kisila from the chamber and Hon. Kisila you are named from the rest of the sitting. Hon. Kisila, you continue to be disrespectful in this Assembly?

*(Hon. Kisila withdrew from the House)*

Thank you.

**Hon. Museku:** He is abusive.

**Hon. Speaker:** Yes, that is noted by the Chair. The necessary action will be taken. Not only against Hon. Kisila but any Member who decides to be disorderly in the Chamber. Hon. Kiilu.

**Hon. Kiilu:** Thank you, Madam Speaker. One thing Madam Speaker, allow me to recognize the presence of one of the Hon. Members, Daniel Mbevi from Mlolongo who has been ailing and actually fractured his leg while defending a goal that never was.

*(Laughter)*

So, you are most welcomed to this House. One thing Madam Speaker, I am happy because all these Hon. Members can read for themselves, understand, interpret and implement.

*(Applause)*

The other thing, you learnt right from the beginning that there was a move to disrupt this Assembly.

*(Applause)*

That was the first move. The other move is by the letter and I am happy that you have addressed those two things. One thing, Madam Speaker, let me confess that, we were taken through that lengthy document by Hon. Mitaa and one of the Hon. Members from this House as we were relieving ourselves told me that that is the true fact of what is happening.

*(Applause)*

Therefore, it is my humble request that as we engage, let us engage professionally because there is life after this, isn't it? Then number two, let us also engage with dignity; we are fathers, mothers, wives and husbands of people and there is also life after this Assembly. Madam Speaker, I want to say that and I want to repeat this one, while we wanted to engage the other party that is actually saying that they were not engaged, they were not there in the House and I remember very well the Clerk calling repeatedly for these Members to give us a candidate and they were not there.

*(Applause)*

So, Madam Speaker---

**Hon. Speaker:** Hon. Kiilu, point of order from Minority Leader, Hon. Kamitu.

**Hon. Kamitu:** Thank you, very much Madam Speaker. Madam Speaker, my point of order is that, being that we were called in this House does not qualify that the Minority Party ceased to be Members of this House and that should be taken very seriously.

*(Applause)*

Thank you, Madam Speaker.

**Hon. Speaker:** Hon. Members, Hon. Kamitu has said that Members of Minority ceased being Members of this House. Just repeat what you said clearly.

**Hon. Kamitu:** Madam Speaker, I am responding to a point of order that has made me to stand or to put a point of order towards my brother that is Hon. Kiilu in regard that in absence of the Minority on that particular day he is mentioning, does not qualify or does not say that the Minority Party in this Assembly ceases to be what they are. We are the Minority Party of this House. So, whether we were in or not, does not cease. So, we are supposed to be given time because there was time; 10 days. So, what was the hurry that---

**Hon. Masesi:** Point of information Madam Speaker.

**Hon. Speaker:** Hon. Members, please hold your horses and that is metaphorical. I know you are not holding any horses here but it is just to say hold on.

**Hon. Kamitu:** Madam Speaker, because I have a chance to contribute, I was only putting a point of order just to enlighten my dear brother, Hon. Kiilu that we did not cease to be Members of minority in this Assembly. Thank you, Madam Speaker.

*(Applause)*

**Hon. Speaker:** Hon. Members, I just want to remind the House and for record purposes, that a notice was given for the present Motion in the floor of the House on the 6th November, 2018.

*(Applause)*

The Motion was clear that it was to impeach Hon. Eng. Francis Maliti from being the CEC Member from the County in the docket for Finance and Economic Planning. The debate on that Motion was done on the 7th November, 2018 and it was passed and everything was being done under Section 40 of the County Governments Act and Standing Order 62 of this House and subsequent thereto, a Committee comprising of five Members of the House and please note, the law is clearly five Members of the House.

*(Applause)*

That Committee was formed in the same sitting as the law requires. Your Standing Orders require so and so if Hon. Members, if there is any Member of this Assembly who voluntarily kept themselves away from the business of the House on any of the sittings which touched on this Motion, they only have themselves to blame.

*(Applause)*

You cannot stop the business of the House by staying away from the Chamber and the Chamber will proceed. The only thing that the Chamber will consider is whether there is the necessary quorum that is required under the law and that remains the law and the practice not only here but world over.

*(Applause)*

Proceed, Hon. Kiilu.

**Hon. Kiilu:** Thank you, Madam Speaker. I am also surprised because it is known in the Standing Orders that---

**Hon. Speaker:** Proceed on a different point the Chair has ruled on that particular comment.

**Hon. Kiilu:** Advised, Madam Speaker. Finally, I want to say that because you have gone through the document, I wish to state that, Hon. Eng. Maliti should cease to be the CEC, Finance with immediate effect. Thank you, Madam Speaker.

*(Applause)*

**Hon. Speaker:** Thank you, Hon. Kiilu. Hon. Ikusya.

**Hon. Kaloki:** Thank you, Madam Speaker. I stand here to make a contribution to this report and also to oppose it in the best terms possible. Madam Speaker, I want to say that, yes the Notice of Motion was brought before this House, the Motion was debated, the *ad hoc* Committee was formed, they have come up with a report. But what I want to say is that, from my observations and from the look of things, it is like, this was already a pre-determined decision even before the *ad hoc* Committee had been formed.

If you look at some of the sentiments that have been put across by the Committee; for example I want to look at the issue of incompetence. I want to refer you to page 13; when you talk about lack of a first degree relevant.....the Engineer does not hold a first degree and there is nowhere in the website of Machakos County Government where his credentials have been highlighted. I think that is not true and this statement is quite misleading, fraudulent and meant to mislead the people of Machakos County.

**Hon. Speaker:** Point of information Hon. Ikusya from Hon. Matee.

**Hon. (Ms.) Ndeti:** Thank you, Madam Speaker. I would like to inform the Hon. Member that it is not our responsibility to go to the website and get somebody's credentials to be able to evaluate whether they are qualified for the position they hold. Engineer Francis Maliti's credentials should have been brought to this House for vetting before he became the CEC Finance.

**Hon. Speaker:** Hon. Ikusya, please proceed.

**Hon. Kaloki:** Thank you very much, Madam Speaker. It is important that people, some people are not keen when the report was being read to us; it is the report that stated clearly that---

**Hon. Speaker:** Hon. Members, we want to give the Hon. Member sufficient time to contribute but I would...just resume your seat briefly Hon. Ikusya. I would want to give Hon. Masesi because he is the mover of the statement that Hon. Ikusya is addressing.

**Hon. Masesi:** Thank you, Madam Speaker. I just want to inform my Hon. Brother Ikusya that page 24, kindly turn with me to page 24 Hon. Ikusya and Hon. Chairperson. Number one is very clear that Hon. Eng. Francis Maliti did not demonstrate whether he had a first degree relevant to the department of finance and economic planning and experience in the field relevant to the department of finance and economic planning.

Madam Speaker, the committee is very clear that Hon. Eng. Maliti did not come and present to the committee whether he has a relevant degree. Thank you, Madam Speaker.

**Hon. Speaker:** Thank you, Hon. Cosmus Masesi. Hon. Ikusya, please proceed.

**Hon. Kaloki:** Thank you, Madam Speaker. That is why I said earlier that this was already a pre-determined case. When they say and it is in the report where it is indicated that---

**Hon. Speaker:** Do you have basis to show that it was pre-determined? Hon. Ikusya, you need to substantiate otherwise I will ask you to withdraw.

**Hon. Kaloki:** Madam Speaker, when you say in a report that the CEC member does not have a first degree and you have not yet even investigated even as a committee on what qualification the CEC member holds or his personal professional background---

**Hon. Speaker:** Have you read the process---

**Hon. Kaloki:** Madam Speaker---

**Hon. Speaker:** Hon. Ikusya, allow me. Have you read the process of investigations and is the committee making a finding on the evidence before it?

**Hon. Kaloki:** Madam Speaker, this was one-sided evidence because the CEC member or his lawyer were never given an opportunity to appear before the committee but I want to say this, Madam Speaker.

**Hon. Speaker:** Hold on, Hon. Ikusya, please allow interjections and advise from the Chair and I would ask you to read the report if you have not had time to read it carefully; you could take time and read it and note what happened before the committee so that then you can contribute from an informed point of view because the committee the report was read to the House and you notice what they did, the procedures they did and the efforts they made. So it is only fair that you contribute on the face of the report and not also to bring your pre-determined thinking into the report.

**Hon. Kaloki:** Thank you, Madam Speaker. I hear you; I think I might take a different direction. If you look at the incompetence part, Madam Speaker---

**Hon. Speaker:** Page?

**Hon. Kaloki:** Page 13, when you talk of, when you say that...when the report says that the engineer does not hold a first degree from a university recognized in Kenya; according to me it means that he actually does not have a degree regardless of which field. Number two---

*(Loud consultations)*

**Hon. Kaloki:** Too many interruptions.

**Hon. Speaker:** Hon. Ikusya hold on; do you know you can actually be named for misleading the House; please sit down. If I am listening and actually I ought to listen so that I can guide the House appropriately. If you read you referred us to page 13 on incompetence and you are saying that it is indicated that he does not hold a first degree then you go on to say that he does not have a degree. If you read to the end it shows that it is a degree that is relevant to the portfolio. So, let us not mislead the House on the report.

**Hon. Kaloki:** Thank you, Madam Speaker. The report says that he does not hold a first degree from a recognized university that is relevant to the portfolio of finance and economic planning. The issue we need to address ourselves is; what are the qualifications of a minister

holding the portfolio of CEC finance. If you look at for example, I want to refer you to one of the Counties in this Republic of Kenya---

**Hon. Speaker:** Please refer to the law, Hon. Ikusya refer to the law.

**Hon. Kaloki:** I also want to give some reference, Madam Speaker; kindly allow me.

**Hon. Speaker:** You need, let me just guide you again. This is... please sit down. Every member here you will get everything right and every citizen of this republic will get everything right if they agree to be guided by the law; not by examples of what other people are doing. What they are doing anybody else maybe wrong but you need to look at what the law says and you follow the law and that will liberate you so the Chair is not going to allow you to refer to other counties just because they are doing it and they are not following the law. Please refer the House to the law.

**Hon. Kaloki:** Thank you, Madam Speaker. I am up to understand that the other counties which are not following the law because Kisii County has a CEC finance---

**Hon. Speaker:** Have I not told you Hon. Ikusya not to refer to other Counties?

**Hon. Kaloki:** Okay. I withdraw that; let me continue. The CEC member in question and it appears like there are a lot of interruptions today but I will still make our presentations heard---

**Hon. Speaker:** The Chair will protect you against any.

**Hon. Kaloki:** We will still make our presentations heard however difficult they want to make it on our side to be---

**Hon. Speaker:** Hon. Ikusya, I am telling and if you care to listen the Chair will protect you from ant unnecessary interruptions. Please proceed.

**Hon. Kaloki:** Thank you. I need your serious protection.

*(Laughter)*

**Hon. Speaker:** Are you implying that it is not serious? Hon. Ikusya, I am asking you a question; are you implying that the Chair is not giving you serious protection?

**Hon. Kaloki:** I appreciate your protection, Madam Speaker.

**Hon. Speaker:** Proceed.

**Hon. Kaloki:** I am still on the issue of qualifications; the CEC in question whom we are discussing today has a first degree and I said what the law says a first degree and also relevant. It is about asking ourselves what do we mean by relevance; what are the relevant qualifications for this kind of a position. He went ahead and pursued a Masters degree in business administration---

**Hon. Speaker:** Point of information from Hon. Mueni

**Hon. Kaloki:** I thought I was being protected.

**Hon. Speaker:** Yes you are being protected but you cannot refuse to be informed. Please take your seat briefly. Point of information, Hon. Mueni?

**Hon. (Ms.) Mueni:** Thank you, Madam Speaker. The Mheshimiwa is not understanding what is---

**Hon. Speaker:** And you need to stick to either English or Kiswahili.

**Hon. (Ms.) Mueni:** Madam Speaker, we want somebody who is having a degree in accounts but not a degree in engineering. We have so many people in our county who have accounts degree and they can work. The engineer is having two offices so can he give one office to somebody else who is not having work. Thank you, Madam Speaker.

*(Laughter)*

**Hon. Speaker:** Hon. Ikusya, please proceed.

**Hon. Kaloki:** Madam Speaker, it is very unfortunate. When you talk about accounts, I really do not understand. If you do a bachelor's degree in business administration, you look at the transcripts you never miss an accounting unit. If you look at a degree in business management, you never miss a unit in accounting. So what I want to say is this---

**Hon. Speaker:** Point of order.

**Hon. Kaloki:** I thought you opted to protect me.

**Hon. Speaker:** I am protecting you.

*(Laughter)*

Hon. Ikusya, Hon. Majority.

**Hon. Muendo:** Thank you, Madam Speaker. It seems the Hon. Member is carrying the CV of Eng. Maliti. We need those documents he is talking about business administration to be tabled in this House if we are serious. Let me tell you, we have visited the website of Machakos County and he is not even an engineer; the guy is a plumber. Thank you, Madam Speaker

*(Laughter)*

**Hon. Speaker:** The Chair will also inform Hon. Majority Leader that there is what you call civil engineering and it is about mechanical works which include plumbing. So, we proceed, Hon. Ikusya.

**Hon. Kaloki:** Thank you, Madam Speaker. If this is the why we are going to interrogate academic qualifications then we are in trouble. I just gave an example, Madam Speaker, and I am sure you can support me, if one had a degree for example, I did not say Hon. Maliti has degree in business management; I just gave an example. If you look at a transcript of someone who has pursued a first degree in business management you never miss a unit---

**Hon. Speaker:** Do you have a transcript we can---

**Hon. Kaloki:** Sorry?

**Hon. Speaker:** The transcript; can you table one before the House because again under the Standing Orders it is good that if you make a claim, I do not want to call it an allegation you must be able to substantiate and that is the document that you can table before the House so that then the House is well informed. Are we together?

**Hon. Kaloki:** I can produce that, Madam Speaker, if given time I can produce I can get a certified transcript from any recognized University a curriculum to show what kind of units....different academic courses but I want to bring myself back to this point.

**Hon. Speaker:** Hon. Ikusya, you will just rely on the point of that business degree because.....and the many trainings you have gone you have been trained that if you want to rely on any document, it must be at that moment and not to bring it later. So you proceed on a different point.

*(Loud consultations)*

**Hon. Speaker:** No point of information now Hon. Steve; we are proceeding Hon. Members. Hold your horses; proceed Hon. Ikusya and conclude.

**Hon. Kaloki:** Okay, let me proceed, Madam Speaker. Well I just want to say that for the Hon. CEC member, I do not have his CV with me but from what we understand is that the committee should have also.....from the investigations presented his qualifications before this House and in the absence of that, I will not dwell so much on that. I want to move to another point Madam Speaker, where it has been stated that Hon. CEC member has failed to implement the Machakos County Health Management Fund and also to provide details of how much has been ploughed back into the County Government.

As a member of the health committee, we have been supplied with this information so many times from the health department from the health committee. We have been given evidence on how much has been ploughed back, how much has been spent, how much has been collected so to me I find this a little bit misleading and fraudulent meant to paint a bad picture or to mislead the people of Machakos County Government.

**Hon. Museku:** Point of information

**Hon. Kaloki:** Another issue that was raised is the issue of---



**Hon. Speaker:** Hon. Ikusya, point of information; you see when you mention matters..... Hon. Museku, sit down. When you mention matters that can be substantiated by tabling of a report like you talked about the health committee report, you have not brought it before here that is why you are attracting a lot of points of information and order to yourself.

So, to be on the safe side, if you want to refer to a document on a matter of this nature, please have the document table it and then the house will look at it and then we will proceed. On that basis on Hon. Museku, you still have a point of information?

**Hon. Museku:** Yes, please Madam.

**Hon. Speaker:** Proceed

**Hon. Museku:** Madam Speaker, I am a member of that health committee and I will just like to inform the Hon. Member that we rely on facts and we do not rely on hearsay. We have a report from the office of the Controller of Budget; Annual County Governments Budget Implementation Review Report for the Fiscal Year 2017/2018 page 152---

**Hon. Speaker:** Can you table that report on the table of the House before you---

**Hon. Museku:** Madam Speaker, it is in the files.

**Hon. Speaker:** It is on the files; can you refer to what annexure it is? It is on which file? It is an annexure to the report?

**Hon. Museku:** Annexure A Madam Speaker.

**Hon. Speaker:** Annexure A

**Hon. Kaloki:** Point of order, Madam Speaker.

**Hon. Speaker:** Information.

**Hon. Kaloki:** Information.

**Hon. Speaker:** There is a point of information going on; Hon. Ikusya hold on a bit and Hon. Museku you do not take long on a point of information. Can you complete?

**Hon. Museku:** Madam Speaker, it is on the first, Schedule A on page 152 on your files; if you could open it members please.

**Hon. Speaker:** I do not see a Schedule myself.

**Hon. Museku:** On the first one this one, Madam Speaker.

**Hon. Speaker:** It is not called a schedule is it a schedule or an annexure.

**Hon. Museku:** Okay, annexure A which is attached here and if you look at page 152 I will read from it on that annexure and it says; the County should implement the following this is a recommendation which was done by the Controller of Budget in a report. The County should implement the following recommendations in order to improve budget execution. If you look at number three of that 'the County Executive committee member for finance should ensure that fund administrators, underline the word 'fund;' fund administrators prepare and submit expenditure reports in line with section 168 of the Public Finance Management Act 2012.

The Machakos Health Management Fund it is a fund which has been established, the bursary fund has also a fund which has been established so the Controller of Budget is saying that they are not.....our CEC finance is not preparing and submitting expenditure reports. Madam Speaker, where he is saying the reports are coming from and which are not going to the Controller of I Budget, do not know. Thank you, Madam Speaker.

**Hon. Speaker:** Hon. Ikusya, please proceed.

**Hon. Kaloki:** Madam Speaker, I want to conclude by saying this; I just find this debate quite unfairly conducted because it seems like---

**Hon. Speaker:** Hon. Ikusya.

**Hon. Kaloki:** It is too much leading the members from the other side; I am unable to make my contribution.

**Hon. Speaker:** Serjeant-at-Arms, please remove Hon. Ikusya from the House.

*(Applause)*

Hon. Ikusya please, leave the chamber; the House will proceed after Hon. Ikusya leaves the chamber. Please leave the chamber.

*(Hon. Kaloki withdrew from the House)*

*(Applause)*

Hon. Kamitu.

**Hon. Kamitu:** Thank you very much, Madam Speaker. Madam Speaker, I stand to say that I am not supporting this report and that it is on the strength that Madam Speaker, I will request people to open page 6. Page 6 on the last sentence it is clearly stating that the County Assembly shall appoint a select committee comprising five of its members to investigate the matter and if you go ahead into page eight Madam Speaker, it is relating on the same thing; number 8 paragraph (a); that appoint a select committee comprising of five members appointed on the basis of relative majorities.

Relative majorities of the seats held by each of the Assembly parties to investigate on this matter. Madam Speaker, my case in question is in regard to the *ad hoc* committee. Madam Speaker,

you have stated very clearly that we should quote the law and this is exactly what is happening so are we contradicting ourselves?

**Hon. Ndambuki:** Point of information.

**Hon. Speaker:** Hon. Minority Leader, please take a point of information from Hon. Dominic. Hon. Mueni sit down please.

**Hon. Ndambuki:** Thank you, Madam Speaker. I wish to inform the Hon. Member that he has read part of that sentence. 8 starts to read; if the motion is supported by at least one third of all members, the Assembly shall in the same sitting and this is drawn from the amended Assembly Standing Orders that were amended on 24th October, 2018. Standing Order 62. Thank you

**Hon. Speaker:** Hon. Kamitu, the point of information has been given to you please proceed.

**Hon. Kamitu:** Madam Speaker, I am not even contradicting the one-third but it is also clear that even with that one-third if the committee was supported by one-third it is clearly stated in 8(a) that the committee the *ad hoc* committee shall comprise of five members appointed on the basis of relative majorities---

*(Loud consultations)*

**Hon. Speaker:** Hon. Minority Leader, please---

**Hon. Mitaa:** Point of information, Madam Speaker.

**Hon. Speaker:** Hon. Minority Leader; Hon. Mitaa wishes to inform you. Proceed Hon. Mitaa

**Hon. Mitaa:** Thank you, Madam Speaker. I think I wish to inform my senior member that in fact---

**Hon. Speaker:** Now the seniority is in age or is it in.

**Hon. Mitaa:** Hon. Kamitu...

**Hon. Speaker:** It is okay; the Chair will appreciate seniority on age.

**Hon. Mitaa:** Age.

**Hon. Speaker:** But on membership, all of you are equal.

**Hon. Mitaa:** I meant age.

**Hon. Speaker:** It is good to respect age.

**Hon. Mitaa:** Madam Speaker, all due process was followed as per the Standing Order 62 as you have indicated and I have a..... if we can go to page 36 of the current Standing Orders. Standing Order 62(8); if the motion is supported by at least by one third of all the members, the Assembly shall in the same sitting a, appoint a select committee comprising of five members appointed on basis of relative majorities if the seat held by each of the Assembly parties.

Madam Speaker, what was followed here was actually the issue of Assembly parties. Wiper had two positions, Madam Speaker, and it was very clear three positions...

**Hon. Speaker:** Hon. Mitaa you need to refer to refer to your HANSARD on that day appropriately. The chair has a very good memory and does not remember any name Wiper appearing anywhere.

**Hon. Mitaa:** NASA affiliation had three positions and mark you, we were following on the members present on that sitting. I want it to be very clear, members present. The next Assembly Member was Maendeleo Chap Chap which had one position. Madam Speaker, records are very clear. The HANSARD is very clear that the Clerk called thrice for a member present from that party to raise his or her hand and that never happened.

Madam Speaker, it was very clear the next move was to go to Jubilee party. It happened that Hon. King'ori was present in the Assembly that time. He was selected and the law was followed the other party as per the combination of this Assembly was NARC party and Hon. Pauline was present; so Madam Speaker, all due process was followed to select this committee. Thank you, Madam Speaker.

*(Applause)*

**Hon. Speaker:** The information has been delivered although long.

**Hon. Kamitu:** Madam Speaker, going on the same information---

**Hon. Speaker:** Hon. Minority Leader, you are serving in your second term and the Standing Orders are so clear; you do not start to talk when the Chair is talking and I am just indicating that the information has delivered to you, it is long but it is hoped that at least it has gotten your attention and so you proceed.

**Hon. Kamitu:** Madam Speaker, I will continue by saying the information that i have gotten from Hon. Moses is not a practice that is being practiced in the Commonwealth, in Kenya because the parliamentary practice is that the party issues, the party majority, the minorities are supposed to be considered and in any case I am very much aware that the amendment of this Machakos Standing Orders were just amended while the Minority Leader, I Alex Kamitu was not consulted. So, as much as I would like to say...it is relevant to say what is happening in this House---

*(Loud consultations)*

**Hon. Speaker:** Hon. Kamitu, let me just guide you; it is good you know information is power. Hon. Mueni, put down your hand please. Hon. Minority Leader, the process of amending Standing Orders is guided by the same Standing Orders and is usually by the Procedure and House

Rules Committee. The Procedure and House Rules Committee sat down deliberated and brought a report to this House and that report was debated by the House and passed.

So, please do not go there as a matter of fact the Standing Orders are already printed...please have a sit Hon. Minority Leader. The Standing Orders are already printed and they are available to any Member who wants to look at them so please submit on what is on the Standing Orders otherwise then you will be named for misleading the House. Proceed.

**Hon. Kamitu:** Madam Speaker---

**Hon. Mulatya:** Point of information, Madam Speaker, to the Hon. Member.

**Hon. Speaker:** The Hon. Minority has been informed by the Chair Hon. Mulatya.

**Hon. Mulatya:** Just one more.

**Hon. Speaker:** Hon. Mulatya, hold your patience.

**Hon. Kamitu:** Thank you, Madam Speaker. Madam Speaker, I do not want to continue and contradict myself but it is very clear that Eng. Maliti has a Masters, I do not want to be told to substantiate he could not be employed in the County Government as an executive member as a Deputy Governor because those are the requirements before even you are qualified to be a CEC, he was already he took his oath as a Deputy Governor so the indication that our Deputy Governor is incompetent---

**Hon. Mulatya:** Point of order, Madam Speaker.

**Hon. Speaker:** Point of order from Hon. Mulatya. Point of order Hon. Minority.

**Hon. Mulatya:** Thank you, Madam Speaker. I would like to correct the Hon. Member that this is not IEBC; this is a House of procedure if the member has a Masters you must table it in the House. This is not IEBC.

**Hon. Speaker:** Hon. Mulatya, IEBC is also a house of order so do not disparage any other institution in the name of contributing.

**Hon. Mulatya:** Madam Speaker, I understand but we have order in this House; he is supposed to prove in this House and table here in the House not telling us what happened behind the curtains. We know them.

**Hon. Speaker:** Hon. Minority Leader.

**Hon. Kamitu:** I continue, Madam Speaker....

**Hon. Speaker:** Hon. Minority Leader, the difficult you find yourself in is because when you say an Hon. Member of the County Government has 1-2-3; for example, Hon. Kamitu has served formerly in the police service, the best one would do to prove is to bring your documents to the

House. So if you do not have the documents to show.....when you are talking of academic qualifications, be it degree, certificates and if you do not have them and table them here, then you do not go there because that is the rule of the game. Proceed please.

**Hon. Kamitu:** Madam Speaker, I do not want to dwell as if we are putting up some arguments here but the truth remains that on a very serious note because also in this report we are talking about incompetence; if the Governor, if the Deputy Governor was incompetent, I am very sure he could not have even been qualified as Mulatya..... let me inform Hon. Mulatya that when he is talking about IEBC, it is also a house of procedure because he could not have been given the chance of being or he could not have been qualified to hold.....  
So, Madam Speaker, as I continue---

**Hon. Speaker:** Point of information from Hon. Mulatya

**Hon. Mulatya:** I want also to repeat again to the Hon. Member that this is a House of procedure; let him not bring rumors here. We are not IEBC officials. This is a House of procedure tell us what you can table in the House. Period. Thank you.

**Hon. Speaker:** Hon. Kamitu, please proceed.

**Hon. Kamitu:** Madam Speaker, I do not want to stand as a biased Hon. Member but the indications are very clear that in this House that the way we are moving, the leadership and whatever we may call it, we define it; this is not a report that could have been fairly brought to this House when the minority side were not represented. I rest my case. Thank you, Madam Speaker.

**Hon. Speaker:** Thank you, Hon. Minority Leader. Hon. Members, the Chair will keep on guiding you and reminding you and it is human to forget. If you do not appear in the Assembly, if you sit away from sittings of the Assembly, decisions will be made and then they will pain you because you did not appear to take up a position.

*(Applause)*

You will not blame any member who attended and took up a position; that is the practice. So do not blame any of the members or any of the House leadership if you keep away yourself from the business of the House there is no way that you can be brought in and remember the voting in this House is never by proxy; you must be present to vote. So, let us proceed Hon. Members. Hon. Katumo.

**Hon. Katumo:** Thank you, Madam Speaker and the House at large. I want first to congratulate this *ad hoc* committee for working very hard given the short notice. Secondly, I want also to thank the mover of the motion the chair Hon. Mitaa for the passion that he had especially in moving this very important motion. Thirdly, Madam Speaker, you will allow me to pass some Calvary greetings to my member of County Assembly from Mlolongo/Syokimau who happened.....

**Hon. Speaker:** Hon. Ndawa you want to inform---

**Hon. Speaker:** Hon. Katumo, please sit down. The Standing Orders that you passed says that when the Chair is speaking what do you do? You hold on so please you hold on. Hon. Ndawa has a point of information, I do not know whether it is about the greetings from Calvary but let us hear what Hon. Ndawa has to inform you. Hon. Ndawa

**Hon. Ndawa:** Thank you, Madam Speaker. I just want to inform the Chair that I am not safe when I am seated here because the Hon. Member who is seated next to me is pinching me all the time.

*(Laughter)*

So, I kindly request for protection maybe if possible she can be relocated to another seat. Thank you.

**Hon. Speaker:** Hon. Members, Hon. Ndawa, who is pinching who?

*(Laughter)*

Hon. Members, let us have order and let no member disrupt any other member in the proceedings that we are doing be it by spoken words or even by gestures. Hon. Katumo, please proceed.

**Hon. Katumo:** Thank you, Madam Speaker. Of course, I obliged to what you say but I was just passing my warm Calvary greetings and welcome to my member of County Assembly from where I come from Mlolongo/Syokimau Hon. Dan for finding time to come to this House to support us in this very important.... Of course, I recognize he is walking on crutches like me he feels, he should feel how I feel and I am calling him the Smaller Voice.

I want to say, you know last week we did a very important thing that we had a motion on the removal of the CECM for finance Eng. Maliti and going through what the *ad hoc* committee has done that of course we sat in this House I think they have done a good job; actually, this is one of the best reports I have seen. A report full of pieces of law from the constitution itself to our Standing Orders and to the PFM Act 2012, Madam Speaker. This is the direction we want to take.

We are the House that of course is charged of making laws; one of our mandate as Hon. Members is to make legislation. Now if members abstain from their work, then you should release them to go and do executive work to go do implementation and let us make laws the laws we are quoting here. Let me say Madam Speaker, Hon. Members I really love, I like of course to talk the truth you know of course they are saying, you know I have heard members Madam Speaker, saying the member we are talking about here has a degree, has masters; you do not just say that.

Programs of study in academics are very serious because there is something called specialization; there are programs, Madam Speaker, and we do not just say that we hold this or that. Myself as I stand here I hold five masters but I have to prove them here; I am a lecturer at Daystar University, Nairobi University sometimes and of course I began with Kenyatta University teaching; I teach normally philosophy and political science.

*(Applause)*

Now tell me, can engineer teach political science?

**Hon. Speaker:** Hon. Katumo, you are being notified of being out of order by the Hon. Minority Leader. Hon. Minority Leader, please proceed.

**Hon. Kamitu:** Thank you, Madam Speaker. Through your guidance, Madam Speaker, my point of order is that you have guided us that if you want to speak and you want to prove anything so also Hon. Katumo should also produce; he is talking about his masters and he should also produce to substantiate---

**Hon. Speaker:** Hon. Minority Leader, thank you and I hear you. Hon. Katumo, you are not under discussion here so do not refer to yourself and if you want us to know that you teach philosophy and something else, then produce the documents. So, proceed on a different point.

**Hon. Katumo:** Yes, Madam Speaker, why I was quoting myself as context here is because I submitted my CV it is a property of this House.

**Hon. Speaker:** But it is not on the Table of the House.

**Hon. Katumo:** It can be referred to.

**Hon. Speaker:** Please proceed on another point.

**Hon. Katumo:** Yes, thank you, Madam Speaker. I proceed with your guidance; I will not dwell there thank you, well-guided. Madam Speaker, I want to begin by quoting one philosopher we have a philosopher known as Descartes and he said something very important. He said we as human beings do sin or make mistakes because we lack knowledge. We make mistakes or sin because we lack knowledge.

Madam Speaker, when you look at this gross misconduct that we are finding from this Hon. member under discussion, I now understand Madam Speaker, you will agree with me you will understand; last week we had reports from the committee of health and there is a particular recommendation we heard that when they went to the Level V hospital and tried to check on the medicine what was bought, they found more cartons of condoms instead of buying drugs.

*(Applause)*

Madam Speaker, and the other week we saw on the newspapers on the media that the same Eng. Maliti was launching those medicines saying that they have been bought. That is why I am saying we make mistakes because of lack of knowledge. Now when you buy condoms for the patients what are you really insinuating?

*(Laughter)*



Madam Speaker, it is very funny. Very funny instead of buying medicine when people are hurting, when people are sick then you buy these things for them to use Madam Speaker, I think....now I understand I do understand why of course Machakos County has not moved an inch; there is nothing much we can say we have done because of this said member here. He has least of knowledge on how to use funds to do implementation.

**Hon. Speaker:** Hon. Constance, you have your hand up what is it?

**Hon. (Ms.) C. Nzioki:** .....(inaudible)

**Hon. Speaker:** You need to speak on the microphone. Your point is of order or information?

**Hon. (Ms.) C. Nzioki:** Order on what the Hon. Member is saying. I want to inform the Hon. Member that even condoms are medicine; they are used to protect that disease called HIV?Aids so they are also medicine.

*(Laughter)*

**Hon. Speaker:** Hon. Constance has...Hon. Members, Order! Hon. Constance Mbula has given her point of information. Please proceed, Hon. Katumo.

**Hon. Katumo:** Madam Speaker, thank you. I proceed and still insist to say Machakos is very funny if of course what we call medicine...I never knew before but well-informed thank you. I want to proceed Madam Speaker, and say that of course when we have a CEC in office who does not acquainted to producing results, I mean re[ports on what they are doing then he tells us truly they are not qualified to be in that office, Madam Speaker.

We have seen our people are suffering so much in Machakos County and I was asking myself and praying to God; for how long but I never knew the problem is in the CEC finance, Madam Speaker. As I stand here I stand wholesomely in support of this motion, Madam Speaker, Hon. Members Hon. Eng. Maliti for whatever he has done as a degree he must go home. We do not want to know because he has failed us.

Actually, from the recommendation that we have here, I want to support this great recommendation which says of course these bodies should be called immediately so that they can investigate that office and that member. The way I am seeing things, Madam Speaker and Hon. Members, this guy, this Hon. Eng. Maliti should be sent away to prison because all these bodies on you, Madam Speaker, you cannot survive.

It means the allegations we are talking about here they are very true and because as Machakos County from what we have seen from the audit report where of course you would of course when we allocate Ksh. 486 million for a particular department then yourself as the CEC finance you allocate Ksh. 4 billion and you say now I think Ksh, 4 billion and I say that I am feeling good today you can take Ksh. 4 billion and use it the way you want.

I think we have a problem and may God help us. I am in total support that Eng. Maliti should go home today and not tomorrow. Thank you, Madam Speaker.

**Hon. Speaker:** Thank you, Hon. Katumo. Hon. Kalumu.

**Hon. Kalumu:** Thank you, Madam Speaker. Madam Speaker, I am in total support of the report which is sending the Hon. Member Eng. Francis Maliti home for gross misconduct and violation of the constitution. Madam Speaker, mistakes are committed because of insufficient knowledge which is shown vividly in the report which has been read by Hon. Mitaa. The report speaks by itself and does not need any further clarification because the words are very clear and the English is very simple for anyone to understand.

He has failed on several occasions Madam Speaker, which has led this County to lack development yet the County is receiving its allocation from the Exchequer. He is purportedly being heard saying that the budget we passed which was itemized nothing like that which goes on that the itemized budget is for the Assembly and the executive will do as it thinks because the itemized budget does not work.

Madam Speaker, having said that demonstrates lack of knowledge, experience and also lack of demonstration of empathy to the people of Machakos. The people of Machakos are much dependent on the CEC finance because he is the one to manage the County coffers. If we continue with such a Hon. Executive Committee Member, we will continue experiencing a mess in the subsequent and next years to come until 2022 when, if allowed to stay, you will get out of this seat.

Madam Speaker, bursary funds and the monies allocated by this Assembly is not by any chance something that should be requested. It is the right of the people of Machakos to be given bursary. It is the right of the people of Machakos to get better roads but how will they receive better roads, better living standards when we have such kind of an executive member in the docket of finance whereby he cannot even notice that the docket of labor and ICT has used more than the money which was allocated for up to Ksh. 4.5 billion.

That is something which amazes me and how he managed even to withdraw that money from the CoB and how even the CoB managed to approve that money. That shows clearly the incompetence that is the CECM, one Hon. Eng. Maliti has because he could have defended such misuse of funds of Machakos County.

The question is; if those people who are against this report do not want this member to go home, what benefit will the people of Machakos benefit from because now we have seen clearly clear misuse, misappropriation and imprudent use of Machakos funds. As a county, and if we do not practice what the mandate we have been given by our people who send us here what work are we doing If we are not sending...this is a signal to those other CEC members that if they do not give services to the Machakos people, that is the route we will go.

Madam Speaker, we have been waiting for Jesus for so long and we will not do the same to the development of Machakos people; we are stamping our authority today as an Assembly by telling him pack and leave this docket.

*(Applause)*

Because he has demonstrated violation of the law, incompetence and many bad practices and putting the docket into politics; that docket needs people who are sober in terms of finance. I want to support somebody, a member who said that he is a civil engineer who mixes with plumbing and pipes; how on earth can you mix yourself with money when you are doing work with pipes?

Madam Speaker, if we do not demonstrate the route to be followed by the executive as the oversight team as an Assembly, then all the blame will be on us because that authority of oversight is vested on the Assembly which I am a member and you too are members including the Speaker.

So we are not doing anything wrong by saying our brother Hon. Francis Maliti is not qualified to handle that docket of finance.

By any chance, he cannot be given any other CEC docket but not finance where he qualifies because he has a right to be one if he is given by the Governor. But we have given him the benefit of doubt but look at the mess in this paper he has done to the people of Machakos.

*(Applause)*

Look at the mess Madam Speaker, members. The mess will haunt us because it is now one year and some months since we were elected and nothing can be accounted for. You have heard what is medicine in Machakos County; you have heard for yourself. You pass through the roads in our county but if we have such a kind of CEC finance when will we get saved from such bad roads. Madam Speaker, I want to say this as I conclude there are some thoughts which were given by Mahatma Gandhi; sometimes people do politics forgetting that it is through them that success can be found.

It is through the success of this Assembly that those people across will work better and produce report. Appraisal reports are done after one year for government people or for government workers. We have done a very good appraisal for one Eng. Maliti; he has done nothing, he has achieved nothing after a one year period. Are we going to continue with the same member holding such a special and important docket which is the center nerve of everything which happens in this Machakos County, Madam Speaker?

Here it is very clear stipulation that one Eng. Maliti has stipulated knowledge without character because he was given a docket (??) Some members here are purporting that he has some masters in this which is not substantiated yet having been given that time, nothing at all people of Machakos can say he achieved this. The only thing he achieved is going round and saying we will do this and people have been waiting for the longest period since he entered this docket.

Madam Speaker, there is politics without principle that is being conducted and being shown and demonstrated by one Eng. Maliti. I support in total and in totality the sending home of one Eng. Maliti. Thank you, Madam Speaker.

**Hon. Speaker:** Hon. Mulatya.

**Hon. Mulatya:** Thank you, Madam Speaker. I am Hon. Tariq Mulatya Muema, MCA Masinga Central and also the Whip of this Hon. House. What are you informing? Madam Speaker--

**Hon. Speaker:** The member has just started contributing are you informing him on his names? You are informing him on his name? He is not Hon. Member.

**Hon. Mulatya:** Let him inform me.

**Hon. Speaker:** Alright, Hon. Ndawa.

**Hon. Ndawa:** Yes, thank you, Madam Speaker. I want to inform the Hon. Member that he is only whip for the Majority Party and not everybody and that one should be taken seriously.

**Hon. Speaker:** That is noted, Hon. Ndawa.

**Hon. Mulatya:** Well-noted although can't make any decision of this House. Madam Speaker, I will start from page 10; you will find out that the Hon. Member in question is playing pure politics with his office and the evidence is on page 10. Where it says that section 109(4) I will read just the last two lines. Treasury shall ensure that all money authorized to be paid by County Government or any of its entities for a public purpose is paid from that account without undue delay. This Hon. Member is frustrating members of County Assembly so that they can sing their tune of which we are not going to do.

*(Applause)*

Madam Speaker, when we go to page 12, you will find a certain law firm in 3.3 from Nyamu & Nyamu advocate. Madam Speaker, from the reports we got the audit reports which came for 2016/2017 this law firm has been extorting money out of very useless petitions suing this Hon. Assembly so that they can eat public money and they continue doing this and we firmly condemn this and we say they should not even represent County Government of Machakos and they are in the same conjunction with the same lawyer with our former Majority Leader; we have seen the way they are misusing County funds Madam Speaker.

We go to page 15; Madam Speaker, you will find the Hon. Member in question is corrupt and the evidence is on page 15. Whereby he found Machakos with a problem of high wage bill and he has created more problems to this one. That means he has come with his own ghost workers and he has really damaged our wage bill.

Madam Speaker, I go to page 16 whereby Madam Speaker, I do not want to read this page I want to read (c) and (d); I do not want to go into details and this is where you find that this Hon. Member is totally incompetent in that office. This Hon. Member cannot articulate anything when it comes to figures, Madam Speaker, he cannot articulate anything and the evidence is there the committee has done its good work.

We go again to page 17 where there is also very good evidence of politics. The Assembly had to go to court to have funds released as demonstrated by court injunction in Machakos High Court petition this and this....it is given there in 2017. So we have to kneel down to this member and tell him we are *chap chap* members so that he can sign our monies. It is not going to happen; he is going home.

*(Applause)*

Madam Speaker, I go to page 21; this Hon. Member one Eng. Maliti, on page 13 down, way down, failed to coordinate the implementation of development project outlined in Machakos Appropriation Act 2018 and alleging that that delays, it is very interesting, are waiting for the Assembly to approve supplementary budget when they already have an approved budget in force. Conman! He is trying to con this House so that they can sign them monies of which we are not going to do, Madam Speaker. We go to page 22, I want to go quickly because of time Madam Speaker.

Page 22, way down 7, failure to develop okay..... you can see whereby the Debt Management Strategy Paper should have been submitted by 28th February, 2018 almost a year down the line; he is still hiding the mis-leadings and all conmen of this administration of one Alfred

Mutua he is hiding them. He does not want them to be known, we are going to expose them, Madam Speaker.

As I almost conclude, Madam Speaker, I wish to take the House to page 27 on Committee recommendations. I am fully supporting this motion but my committee members have missed one point I want to add on the last paragraph. I do not want to read it; after writing they said they are going to write to SRC, Controller of Budget but they failed also to say that we should also write to all churches; this member should never come near church development monies.

*(Laughter)*

**Hon. Speaker:** Freedom of worship is constitutional. It is a constitutional right freedom of worship.

**Hon. Mulatya:** Yes, this man should not come near any money even for church, Madam Speaker. Lastly, I want to come to page seven also to put a point of which they have not analyzed very well. This is my last contribution; I want to come to the last one where they are giving the incompetence, I want to go to 1e way down. The reasons why a member should be removed I want to come to (e) where they say physical or mental incapability rendering the executive committee member incapable of performing the duties of that office. I think this one should be investigated to the member in question (??). Thank you.

**Hon. Speaker:** Hon. Ndawa.

**Hon. Ndawa:** Thank you, Madam Speaker. I want to also air my views on this report which has been brought to this Hon. House. Madam Speaker, this is the only report which has been compiled within the shortest time possible. That one suggests---

**Hon. Speaker:** Hon. Ndawa, there is a guideline; note read the law properly. The committee has a timeline to report to the House which is statutory and you also note the sittings of the House and even the possibility of having to gazette a special sitting. The last day was Saturday you have that in your mind? The last day would have been Saturday and there is no way you can gazette a special sitting unless it is a Friday so if the Assembly was to gazette a special sitting which is Friday, then it would have exceeded the days it is supposed to report and today is the last sitting for this week.

**Hon. Ndawa:** Well-informed, Madam Speaker. I would also wish to say that the Standing Orders which we are depending on, the amended ones, are a subject in the court.

**Hon. Speaker:** Do you have any order stopping the application of those Standing Orders with you?

**Hon. Ndawa:** Madam Speaker, I do not have.

**Hon. Speaker:** Then proceed on another point and leave that particular point.

**Hon. Ndawa:** Yes, Madam Speaker. The other thing that I would like to say is that there is a saying which says whoever has his or hers do not hear others. I know this is something which has been worked on by some groups and because we are seated in Assembly to argue on this matter, Madam Speaker, we are not going to fail to do our duty.

What I want to say is this Madam Speaker; according to the belief of this Hon. House, the person in question is the only CEC who is vetted because according to the belief of this House, all the other CECs are not vetted. So, it means if we do away with this CEC who is vetted, who was vetted by *mwananchi* it means that we have none....

**Hon. Speaker:** Hon. Ndawa, please address yourself to the report on the Table, I do not see any issue of being vetted or not being vetted on the report so that you are not irrelevant.

**Hon. Ndawa:** Thank you, Madam Speaker. The other issue that I would like to say is about the composition of the *ad hoc* committee. Madam Speaker, the Members who spoke before me have tried to bring this issue and I also wish to put my input.

**Hon. Speaker:** Hon. Ndawa, that matter, sit down please. The matter was addressed and the Speaker, gave guidance and referred to the law and the Standing Orders so do not go to that matter; it is closed.

**Hon. Ndawa:** Thank you, Madam Speaker. The only issue I had is one the mover of the motion. Madam Speaker, it is normal practice of parliamentary that the mover of the motion or the report. The mover of the motion should not be a member of that committee; in fact, he should be invited like the person in question so that was a mistake. Hon. Cosmus ought not to be a member of this committee because he has interests---

**Hon. Speaker:** Hon. Museku, point of information.

**Hon. Museku:** I would like Madam Speaker the Hon. Member to quote the law which says that the Hon. Member as a member of this Assembly is excluded from any committees which have been formed in the Assembly; quote the law please.

**Hon. Speaker:** Proceed, Hon. Ndawa

**Hon. Ndawa:** Thank you, Madam Speaker. I may not quote the law but it is a normal practice of the parliamentary; it is a normal practice let it be taken that way. Point number two, Madam Speaker, the issue of relevance is the one we are basing. The Hon. Member who brought this motion to the House is the chairperson to the committee of health and emergency services and he does not hold a degree in medicine. If one has to have a degree in---

**Hon. Speaker:** Hon. Ndawa, you will just be informed by the Chair. Hon. Members, I do not see any law that says or Standing Order for a member to be in a committee they must have a degree in that committee. Do we have such a law? Please do not talk of matters which you cannot prove; we said we will be liberated by being guided by the Standing Orders and by the law because we are members here who sit in the roads and public works and they are not engineers because the Standing Orders allow that. So, please proceed on another angle and relevant to the motion.

**Hon. Ndawa:** Thank you, Madam Speaker. The other issue that I would like to raise is that this committee or this House is usurping the mandate of three roles which are supposed to be done by another department. Number one; Hon. Cosmus Masesi was the complainant at the same time he has been placed in that committee to investigate and today he is seated here to give judgment; is that in order, Madam Speaker?

**Hon. Speaker:** Point of information Hon. Ndawa. Point of information from Hon. King'ori.

**Hon. King'ori:** I would like Hon. Ndawa to substantiate his words because Hon. Masesi was not complaining; he brought the motion in this House which is legal and supported by the law on Article 185 of the Kenya constitution which says the legislative authority of a county is vested in and exercised by the County Assembly which of course Hon. Masesi is a member of this County Assembly of Machakos.

*(Applause)*

**Hon. Speaker:** Thank you, Hon. King'ori Order, Hon. Members. Hon. Ndawa, please proceed.

**Hon. Ndawa:** Hon. Speaker, I think this is a healthy debate because everybody has right to air his views and that is what we call democracy.

**Hon. Speaker:** Hon. Ndawa, I am happy that you confirmed that this is a healthy debate; every member has an opportunity to contribute and that is how it always is so please proceed.

**Hon. Ndawa:** Thank you, Madam Speaker. The other question that I would like to get clarification on is when was this member served to come and give his testimony before the committee?

**Hon. Speaker:** Look at the report, Hon. Ndawa. The point of information is just to refer the member to the report. Please look at the report because it will tell you. You can take us to a particular page and then tell us in your view and you are entitled to your view this is what it is.

**Hon. Ndawa:** The reason why I am asking this is because what the report is telling us is not exactly what the member is saying. He is saying he was served on Saturday at 7.30 pm. It is not in the report and that is what I am saying.

**Hon. Speaker:** Point of information from Hon. Winifred.

**Hon. (Ms.) Mutua:** I wonder why Hon. Ndawa is defending the CEC. In fact, anytime the CEC is being called on the radio stations, he is always there. They do not give a notice he is just told come tomorrow to this radio station. He has being campaigning seriously you mean he cannot get time to come and meet the Assembly. Quite unfortunate, quite disgusting.

*(Applause)*

**Hon. Speaker:** Hon. Ndawa, please proceed and conclude.

**Hon. Ndawa:** Thank you, Madam Speaker. I must have what we call innate ability; that is one of the qualities of a leader.

**Hon. Kituku:** Madam Speaker, important information from Hon. Kituku.

**Hon. Speaker:** Important information from Hon. Kituku

**Hon. Kituku:** Hon. Ndawa had just referred to a letter that was withdrawn from the Assembly simply because it was not received in this Assembly. That is he was referring to the CEC being called at 7 p.m.

**Hon. Speaker:** The issue is that Hon. Kituku, the Chair made a ruling on that letter and the Hon. Ndawa has not tabled it again here. So, let him proceed and conclude Hon. Ndawa please.

**Hon. Ndawa:** Thank you, Madam Speaker. I can see the mood of the House, Madam Speaker. When I was a scout, law No. 4 used to say that the scout is cheerful and courageous in all difficulties so no matter how things are we must---

*(Laughter)*

**Hon. Speaker:** Please refer to the... let us stick to the report. I think members have been here for a long time they want to conclude on this matter. So let us stick to the motion.

**Hon. Ndawa:** So, Madam Speaker, what I would wish to say is this we are all here because of Machakos residents and we should be able to work for the betterment of people of Machakos. Madam Speaker, the wisemen said when you are solving one problem, you are likely to cause another one. As you know, Madam Speaker, there is a stalemate in Machakos as we talk you know these Hon. Members have not been paid. As you are aware, Madam Speaker we have staff who are working in this---

**Hon. Speaker:** Point of information from, Hon. King'ori.

**Hon. King'ori:** I do not think the Hon. Member is right saying there is a stalemate when he knows very well that Eng. Maliti has not signed for the money to be released. It is nobody else who was before this House who could sign for the money.

*(Applause)*

**Hon. Speaker:** Hon. Members, I want to ask you to stick to the grounds in the motion and let us proceed. Hon. Ndawa, conclude there are grounds in the motion.



**Hon. Ndawa:** Yes, finally Madam, to conclude because I do not want to take much of time, I want to say that the members in the committee are self-imposters. They impost themselves in that committee because we---

**Hon. Speaker:** Hon. Ndawa, I want to refer you to the HANSARD of the proceedings of this Assembly and that was on the proceedings of 7th of November, 2018. And do not call members imposters to the committee; they were selected by the Assembly as per the law and as per the Standing Orders of this House so I ask you to withdraw that particular comment.

**Hon. Ndawa:** It is already withdrawn, Madam Speaker. I have already withdrawn.

**Hon. Speaker:** Conclude then.

**Hon. Ndawa:** So, Madam Speaker, I would kindly request this Hon. House; let us sober up, let us swallow our pride. Let the other side also swallow its pride and we come and reason together and see the way we can take Machakos to the next level. Thank you, Madam Speaker.

**Hon. Speaker:** Thank you Hon. Ndawa. Hon. Museku.

**Hon. Museku:** Thank you Madam Speaker for giving me this opportunity to contribute to this motion. I would like to thank the *ad hoc* committee which seems to have worked diligently and must have burned some midnight oil in ensuring they bring this report before the House. I would like to comment on a few things; Madam Speaker, i want to concentrate more on the committee observations and recommendations.

The first one is that the law requires anybody holding the portfolio of the CEC finance should have at least a first degree. What this means is that the people who were making the Constitution did not say the person should have a transcript from the university showing he did a unit or two in finance; the law was very clear that person should have at least a first degree in the portfolio they are serving, not a transcript.

The law also gave academic qualifications and did not give any professional qualification. The law would have said the holder should be a CPA-K finalist or a CPA-K Kenya registered as a professional but the law is the law and it says at least a first degree. So, Madam Speaker, obviously Hon. Eng. Francis Maliti does not hold a first degree in finance and accounting and therefore does not qualify.

If you look at past ministers who have held that docket in this country; late Prof George Saitoti, professor of topology, Mwai Kibaki, Economist qualification from Makerere University; distinguished people who have had distinguished careers in accounting and economics have held those positions.

How do we go ahead and start stooping too low to give somebody who is merely an engineer such an important docket. We should not do that.

To demonstrate further, this Hon. Member was requested by the Budget and Appropriations Committee to provide them with a printout from the system; a document showing actual expenditures called the IFMIS balances and he could not be able to provide something as simple as that because i don't know whether they know that in the IFMIS system there is a menu where they can be able to print.

You know if you don't have knowledge in IFMIS and financial matters you may not know that you can be able to print. So, as a result of that, this CEC Member did not provide us with such a simple document. How was the Budget committee supposed to make its deliberations on a supplementary budget without knowing how much has been spent to date and compare that with what you are requesting for so that they can say where they can be able to give more funds or not?

Madam Speaker, the incompetence and lack of experience is further demonstrated in page 25, item (c); this member failed to conduct proper public participation of Machakos Finance Bill 2017. Remember this is a minister for finance who does not conduct proper public participation for a Finance Bill; the Bill which is supposed to be giving him money to run the county resulting the High Court in Machakos declaring some sections of the Machakos County Finance Act 2018 to be unconstitutional.

Sincerely speaking, if you are sitting in the docket of finance and you cannot be able to conduct a public participation in the right way to get funds; isn't that the highest degree of demonstration of incompetence.

Madam Speaker, if you look at (f), this CEC finance has been in this docket for more than a year and he has not established an internal audit committee. My background is finance; if an institution does not have an internal audit committee, who is supposed to advise him or the executive of any breaches in the internal controls being done. That is a very serious issue. Internal audit includes up to and including people who do information system audit, which is a very important docket in that; they do audit all the systems being utilized by the finance docket to collect revenue and ensure that they are foolproof.

We do not have an internal audit committee and somebody has been sitting in that docket as the CEC finance for a year, depending on hearsay. Are we saying that the CEC finance depends on hearsay on how internal controls are being adhered to because he doesn't have an internal audit committee. That is a very serious issue, Madam Speaker.

I would like to pin point item (g); he has failed to put adequate budgetary controls leading to seven departments of the Executive spending funds for which there were no exchequer issues. I do know Members whether you understand what that means; it means that a specific department spent money which they did not request for, the exchequer did not issue funds for a specific amount to be spent yet it has been spent; that is an economic crime.

*(Applause)*

Expenditure should only be done based on what has been entirely approved and issued by the exchequer.

Madam Speaker, in the same note, we see that the exchequer in the department of Public Service and ICT, which had an approved budget of Ksh. 468 million, exchequer only authorized and released Ksh. 408 million out of the Ksh. 468. Eng. Maliti as the CEC member finance and his team, how did they then spend in that caption Ksh. 4.5 Billion. That tells you that person is completely clueless in matters finance.

You cannot spend over Ksh. 4 billion which are not in the budget and have not been released by the exchequer. You go the ministry of health and find it had an approved budget of Ksh. 3 billion, the exchequer issued Ksh. 2.9 billion to be utilized in that department but if you look at the report from Controller of Budget, only Ksh. 276 Million were utilised. You have been given Ksh. 2.9 billion by the ex-checker to use in the department of health; you don't use it there and spend only Ksh. 276 million. Where are you taking that money?

The gravity of these issues needs to be grasped properly so that Members can be able to appreciate what the committee is concluding.

In one of the reports we saw that he failed to approve funds for this Assembly to conduct public participation for the Finance Bill 2017 which led to that Bill being enacted in 2018. You need a Finance Bill to be able to collect funds from the people; you do the public participation, you give the docket to the Assembly then you refuse to give it money to go and do public participation. How are you supposed to collect money if you don't have a Finance Bill approved by the Assembly yet you refused?

It tells you Members that this Member is clueless in as far as matters finance. He does not know where to begin and where to end and it is high time i urge this Hon. House to adopt this report and ensure Hon. Eng Maliti is removed from the docket of being the CEC finance and economic planning.

He should not be allowed to undertake the responsibilities vested upon the CEC financ, he should not be allowed to sign one more signature in the docket of finance and economic planning because as you can see, he signs for the money under one department and spends it in a different department that is siphoning public funds and it is tantamount to economic crimes and i fully agree with this report and request Hon. Members to make sure that we send this gentleman away from that docket.

Nobody is disputing that as a Deputy Governor he is a member of the CEC, but the law says, if you are to hold a portfolio in the docket of finance, then you must have a first degree in finance and therefore we request him and the Governor if he has ears to hear, that Eng. Francis Maliti needs to be removed from that docket and given a portfolio which is in line with what he went to school to study. Thank you Madam Speaker.

**Hon. Speaker:** Thank you, Hon. Museku.

**Hon. Kiteng'u:** Thank you, Hon. Speaker. I wish to support the report by the *ad hoc* committee of the removal of Eng. Maliti as the CEC Member finance. Trying to note that in our health facilities we are lacking medicine because of this CEC finance. Quoting the report we received the other day from Level V hospital were we have the FIF collection and i would wish to read to this Hon. House. The report, 7th November, 2018---

**Hon. Speaker:** Is the report an annexure; what is it marked?

**Hon. Kiteng'u:** Its marked N(1).

**Hon. Speaker:** Alright proceed.

**Hon. Kiteng'u:** The table i am reading is page 7 of 14 where we have the above document of hospital collection versus plough back attached in appendix two.

January FIF collection was Ksh. 8,787,801 and money ploughed back is only Ksh. 5 million so we have a shortage of Ksh. 3.7 million;  
February FIF collection is Ksh. 9,086,445 plough back is Ksh. 1 million;  
March FIF collection Ksh. 8 million and money ploughed back was zero;  
April FIF collection Ksh. 7 million and money ploughed back was Ksh. 5 million  
May and June zero money was ploughed back

Looking at this table and other criteria in other departments, i must state that we have the wrong person as CEC finance.

Also when it comes to bursaries, we have no issued secondary schools bursaries because of the CEC finance. Our roads in the wards are impassable because of the CEC finance. We have poor management in revenue collection because of the CEC finance. So as i finalize, Madam Speaker, i 100 per cent support that this report should be passed like yesterday and have one Hon. Maliti removed as CEC finance from that docket.

**Hon. Speaker:** Hon. Steve Mwanthi

**Hon. Mwanthi:** Thank you, Madam Speaker. As a member if the *ad hoc* committee that prepared this report i support the report in totality, citing some facts because it is a wonder that somebody has been pushed and even failed to resign as a CEC finance because the Assembly has still left a position for him as Deputy Governor where he will be manning the CEC finance and other dockets.

It is funny somebody is bitter when we say we are removing the CEC finance who has performed very poorly ; you can confirm the same on page 148(a)1, where you will find a chart that is showing how he has failed in revenue collection of the county. In his tenure, is where you will find that our revenue collection dropped from Ksh.1.259 billion to one billion under his watch. It is the year the county government collected the least since devolution just because he is too busy possibly doing other things or incompetence.

On the same page, there is another chart of our conditional grants where number seven on the chart there is development of youth polytechnics money. You will notice the same person managed to sign for that money so Ksh. 65,957,023 was spent by the time the Controller of Budget was writing this report. Unfortunately, that money did not reach in our institutions Madam Speaker. You realize on that one, we spend 100 per cent and the same person is saying that we are against him as the Assembly or with this report and he still pushing to be the CEC finance.

On 9th November, 2018, in our Daily Nation we got a report from the Auditor General where the same person managed to sign Ksh. 91,000,200 to pay for law firms and Ksh. 32.2 million he paid to a law firm owned by one of the state officers working for this county government. It is illegal and bad, if somebody will pay such amounts of money to law firms yet our parents are waiting only for little money for bursaries to our students.

*(Applause)*

Madam Speaker, we still have the same person in the Standard newspaper of the same day where he couldn't account for Ksh. 468 million meant for the department of agriculture. He couldn't show where that money went. So, i am worried why we should retain such a person who did not manage to give information pertaining the docket he is holding. So, as i support the motion Madam Speaker, i still request the Hon. Members in this House to pass this report and remove the CEC finance from that docket. Thank you, Madam Speaker.

**Hon. Speaker:** Thank you, Hon. Steve Mwanthi. Hon. Johana.

**Hon. Munyao:** Thank you, Madam Speaker. I stand to oppose the motion. I would like to start by saying; it has been a very painful moment sitting for those many hours when we started the

sitting and that affected the first Members. I received some communication this morning that i was supposed to collect this report from my pigeonhole and together with the report, i saw other Members with files; i knew we were supposed to have a lot of information for the sake of debate especially for this particular motion.

I went round and i was told the files were still being prepared; when we raised our hands here on a point of order, we were imagining how painful it would be for us to sit here with all the annexures and we are unable to refer to any of them.

**Hon. Speaker:** Hon. Johana, i am informed that all the Members got all the folders in their dockets. Please proceed on another point.

**Hon. Munyao:** Madam Speaker, i cannot stand to lie. I am talking the truth and nothing but the truth. But i will proceed.

**Hon. Speaker:** I have looked round and i am seeing Members with folders on the matter that is on the table. Please proceed.

**Hon. Munyao:** Madam Speaker, i cannot stand to lie. i am talking the truth and nothing but the truth. But i will proceed. When you refer to page 9; Section 35 of the County Governments Act and the requirements for a member to be appointed as a CEC Member is that one should be a holder of at least a first degree from a recognized university in Kenya. When you go to page 13---

**Hon. Speaker:** Before you go to page 13 Hon. Johana because we agreed we will not mislead the House; not on the law which is as clear as daylight. You have referred to section 35(3) on page 9; do you also want to refer to Section 8 of the Public Appointments (County Assemblies Approval) Act which is in the next paragraph so that you don't address the House selectively, which then you will be accused of misleading the House.

**Hon. Munyao:** No, as long as I am not going out of the report I thought I was just reading which was in the report.

**Hon. Speaker:** Yes, but you have referred to Section 35(3)---

**Hon. Munyao:** Yes, I was only comparing a section, that bit with the other similar equivalent of that bit which has also been quoted elsewhere.

**Hon. Speaker:** Proceed.

**Hon. Munyao:** It is saying one should be a holder of at least a first degree from a university recognized in Kenya and when I go to page 13 on incompetence; it states that lack of a first degree relevant to the department of finance and economic planning. I wonder now which one is more superior to the other.

**Hon. Speaker:** That is why I was referring you because we have a report and we have the law; just to refer to Section 35(3) and then Section 8(3)(c) because you can't ignore; you can't refer the law section of it and then leave the rest. That way you will be misleading the House.

**Hon. Munyao:** In the process of considering the suitability of a nominee as given in section 8(c) I thought---

**Hon. Speaker:** Point of information Hon. Johana from Hon. Mueni.

**Hon. (Ms.) Mueni:** Thank you, Madam Speaker. The Mheshimiwa who is on the floor---

**Hon. Speaker:** The Hon. Member...because you don't mix English and Kiswahili.

**Hon. (Ms.) Mueni:** The Hon. Member who is on the floor does not come to the Assembly that is why he is wondering and it is painful to him listening to the report. So, that is not attending to his duties and he is very young---

**Hon. Speaker:** Hon. Mueni, now.....I think you are standing on a pedestal and go the Hon. Members' age and so on; just make the information point and let the Hon. Member proceed.

**Hon. (Ms.) Mueni:** So, I think the Hon. Member is wasting our time and we are very tired so.

**Hon. Speaker:** Hon. Mueni, know Member wastes time, they speak.

**Hon. (Ms.) Mueni:** Yes, Madam Speaker but sometimes---

**Hon. Speaker:** Hon. Mueni you don't say 'but'; when the Chair gives you information you don't say but. We need to agree on some of these ways of doing---

**Hon. (Ms.) Mueni:** I withdraw.

**Hon. Speaker:** Are you finished on the information?

**Hon. (Ms.) Mueni:** The information is, he must be coming to the Assembly.

**Hon. Speaker:** Thank you. Hon. Johana, please proceed.

**Hon. Munyao:** Thank you, Madam Speaker. I was on the point of, in the course of considering the suitability we are also supposed to be guided by the law which is quoted up there so to me, that bit, is a contradiction. There is page 15 which also talks about---

**Hon. Speaker:** Point of information from Hon. Steve Mwanthi.

**Hon. Mwanthi:** Thank you, Madam Speaker. I would like to request the Member still on section 35(3) he has read (b) alone, let him also read (d) of the same section where it states that; the Member should have knowledge, experience and a distinguished career of not less than five years in the field relevant to in the portfolio of the department.

**Hon. Speaker:** Point of information delivered. Proceed.

**Hon. Munyao:** I thought that Hon. Member had his time and could read where he feel like reading.

**Hon. Speaker:** He is just informing you on what is in the report.

**Hon. Munyao:** I was on page 15 where we have cited the issue of wage bill. I want to believe that the current CEC finance came in to office in the course of that financial year and it is during the same period that we have seen efforts of employing internally to control the wage bill. It is also during his time that we have witnessed contracts whose service was not thought to be very critical being terminated although at some point the Assembly we attempted to protect such moves.

**Hon. Speaker:** Are you able to substantiate, Hon. Johana. Please remember you are also a Member of the Assembly. Do you have a report on protecting some questionable contracts by the Assembly?

**Hon. Munyao:** We have discussed so many such issues in this Assembly. I agree I am part of the Assembly and we have, if given time, maybe I can also present. So, to end my contribution---

**Hon. Speaker:** Point of information from Hon. Museku.

**Hon. Museku:** I would like to inform the Member two things; one it is also under the docket of the same person you are saying he has done internal employment to control the wage bill,. It is also under his watch that internal advertisement moved people who were cleaners and earning Ksh. 10,000 to become village administrators who will be earning Ksh. 20,000. How is that supposed to control a wage bill when you advertise internally and you increase the salary of the people you have employed. Is that controlling the wage bill or is it increasing the wage bill.

**Hon. Munyao:** That control is because..... those could have been two people earning different salaries and we are only saying a slight review of ones salary, so to me that is control.

**Hon. Speaker:** Point of information from, Hon Angela.

**Hon. (Ms.) Munyasya:** Thank you, Madam Speaker. My point is to inform the Member about the debate he said we discussed in this House about contractors. When a Member of this Assembly airs personal views, he cannot peg those personal views on the entire House.

**Hon. Speaker:** Thank you Hon. Angela.

**Hon. Munyao:** Thank you, Madam Speaker. I never mentioned contractors anywhere.

**Hon. Speaker:** Order, Hon. Members.

**Hon. Munyao:** So to end my contribution; the structure of the department is that there are accounting officers who are the Chief Officers who are also supposed to advice the people at the

policy level and we have seen so many offices occupied and I want to take a case when at the national level, government when a minister---

**Hon. Speaker:** Hon. Johana, do we have a law that guides public service in county governments.

**Hon. Munyao:** Yes we do,

**Hon. Speaker:** Refer to the law; it is safer that way.

**Hon. Muendo:** Madam Speaker, let me inform the Member the law.

**Hon. Speaker:** Hon. Majority Leader, please, just rest. Hon. Johana, I guided you and I have guided before that you will be much safer if you are guided by the law every time and it is a culture we have to embrace as a nation. The importance of obeying the law; you cannot make laws as an Assembly or National Assembly and then you go against the laws.

**Hon. Munyao:** Madam Speaker, that comes back to my first point that we needed to have the information and this is a very lengthy report which we also required enough time if we were to engage---

**Hon. Speaker:** That is a point the Chair addressed. The information I indicated, before we started the sitting, the dockets of each Member had folders which are on the table. So you have concluded your contribution? Please say your last bit and conclude.

**Hon. Munyao:** Section 32 of the County Governments Act gives the Governor the powers to appoint members of the CEC to any position found to be suitable and---

**Hon. Muendo:** Point of information to the Member.

**Hon. Speaker:** Let the Member conclude.

**Hon. Munyao:** Based on such, the same member who also doubles as the Deputy Governor was appointed the CEC and not subjected to approval so I stand guided if still somebody who never went through approval can also go through the same law which governs the removal of a CEC but I want to still insist it is important we have all the information in time for quality debates Thank you, Madam Speaker.

**Hon. Speaker:** Hon. Johana, thank you.

**Hon. (Ms.) Mene:** Thank you, Madam Speaker. I want to speak as a woman in this county because women in this county have suffered. No bursaries, no sufficient water, no seedlings, few passable roads, poor delivery of health services due to lack of stocks in the hospital and this is evident. If you look at table 365 in the report of the Controller of Budget annexed in page 19, the table is very clear on the department of health. The funds allocated are Ksh. 3 billion yet only Ksh.



276 million was spend in the docket of health. No wonder there is no medicine and its only condoms which are given free of charge.

Madam Speaker, according to me, proper budget implementation is equal to development, is equals to successful devolution. Madam Speaker, if you look at the same table on budget allocation of 2017/2018, the recurrent is Ksh, 7 billion and development is Ksh. 3 billion. On expenditure the county spent Ksh. 6.3 billion and on development Ksh. 1 billion only meaning this county is not serious on development matters and on matters devolution.

Madam Speaker, on the wage bill; it has increased by 16.9 per cent in the financial year 2017/2018 from Ksh. 4.13 billion to Ksh. 4.83 billion; what else do you want to hear? Hon. Eng. Francis Maliti has failed.

On the same note of wage bill, the other day we were brought 27 Chief Officers to vet in this Assembly; honestly increasing the wage bill again? Eng. Francis Maliti has failed.

Madam Speaker, on the personal emoluments which have increased by 16.9 per cent in 2017/2018 from Ksh. 4.13 billion to Ksh. 4.83 billion. The CEC Eng. Francis Maliti did not request for any money for development in the following departments; Office of the Governor, Public Service Labour and ICT, Department of trade, Department of finance, Decentralised unit, Department of Agriculture, Lands, Energy, urban development and Tourism. Therefore, my conclusion is that this government has got no interest in development, it is not serious and does not respect devolution.

I want to conclude by saying, as a woman and as a prophetic intercessor in this nation and as an Hon. Member in this House I want to say today that Eng. Francis Maliti is incompetent, has abused the office of the CEC finance and Economic Planning, has greatly violated the constitution and the law and therefore I support his removal from the office of the CEC finance and planning. Thank you, Madam Speaker.

*(Applause)*

**Hon. Speaker:** I call upon the mover of the motion to reply.

**Hon. Mitaa:** Thank you, Madam Speaker. I take this opportunity to thank the Hon. Members for taking their time and going through the report. I have a few recommendations to make as I make my conclusion; that Madam Speaker one year is enough to proof your competence. I think the CEC Member finance Hon. Eng. Maliti has had time to proof his competence through actions to this Hon. House.

On the same note, I would request since now we are going to the next stage of approving Chief Officers and some of them have been in office for the last one year, I would request this Hon. House to consider the issue of periodical reports. If a Chief Officer has not been bringing quarterly reports to this Hon. House, to consider him or her as incompetent.

On item two, Machakos County has 40 wards and we are missing equity. The CEC member finance has been favoring some wards and this is not good for any leader who is occupying an office. He or she is supposed to be non-partisan.

Three, I wish to stress this; there is no vendetta towards Hon. Eng. Francis Maliti since he is a resident of Machakos county and we need him to develop our county at a different position where he has potential.

Four, I don't Madam Speaker if you will allow me to refer to the Bible because I like basing my arguments first on the Bible. I have a Bible and I thought it would be good if you allow me to read a verse.

**Hon. Speaker:** Are you turning into a preacher?

**Hon. Mitaa:** It is part of my work, Madam Speaker.

**Hon. Speaker:** You did not put it in the report but nobody can stop the word of God from being said at any one moment. The Assembly starts with a word of prayer that is in acknowledgement.

**Hon. Mitaa:** This is our weapon, Madam Speaker. I would wish to refer to Ezekiel 33: 1-6; it is on renewal of Ezekiel's call as a watchman, Madam Speaker. This County Assembly, Biblically is a watchman to the people of Machakos. The word of the Lord came to me, Son of man speak to your people and say to them, when I bring the sword against a land and the people of the land chooses one of their men and make him their watchman which is this County Assembly, and he sees the sword coming against the land and blows the trumpet to warn the people, then if anyone hears the trumpet but does not heed the warning and the sword comes and takes their lives, their blood will be on their own head.

Verse 5; Since they heard the sound of the trumpet but did not heed the warnings there blood will be on their own head. If they had heeded the warning they would have saved themselves. But if the watchman, this county Assembly, sees the sword coming, which we can see and does not blow the trumpet; if we keep quiet Madam Speaker, to warn the people and the sword comes and takes someone's life, that person's life will be taken because of their sin. But I will hold the watchman accountable for their blood.

*(Applause)*

It is very clear; Biblically, we are the watchmen and we must take things seriously because when our people are suffering, Madam Speaker, the liability is on us. Thank you, Madam Speaker.

**Hon. Speaker:** Thank you, Hon. Mitaa. Hon. Members as we move to the next part of this motion, which would be for the chair to put the question, I want to draw your attention to provisions of Section 40(6) of the County Governments Act and Standing Order 62(11) and (12) of the Assembly that requires the motion n table for it to pass must get the support of the majority of the Members.

I will further want Member to note, when it comes to voting Standing Order 65(1) of this House requires that it will be the Members present and voting.

Hon. Members, because of the threshold of Section 40(6) of the County Governments Act and Standing Order 62(11) and (12) of the Assembly of the number that is required, the Speaker is not going to seek voting by acclamation but it is going to be by a roll call because it has to indicate that the vote is by the majority of the Members, present and voting.

On that basis, I will direct Serjeant at Arms to ring the division bell. Note Members, no division has been called but remember we need a threshold that is ascertainable in law under Standing Order 1, the Speaker is guided accordingly to call for a roll call. Serjeant at Arms, ring the bell for ten minutes.

*(Quorum Bell rung)*

**Hon. Speaker:** Serjeant at Arms, 10 minutes have elapsed. Hon. Members, I want to put the question for purposes of the voting.

### DIVISION

*(Question put and the House divided)*

**Hon. Speaker:** Hon. Members, those who are of that opinion, will say "yes" when your name is called out on the roll call. Those who are of that opinion will answer YES' when your name is called out on the roll call. Those who are of the contrary opinion will say NO'. Mr. Clerk, proceed.

**AYES:** Hon. Agatha Mutindi Mutunga, Hon. Angela Munyasya, Hon. Benedette Mueni Musyoka, Hon. Betty Nzisa Nzioki, Hon. Christine Koki, Hon. Cosmas Kieti Muia, Hon. Cosmus Ngula Masesi, Hon. Daniel Maingi Kiilu, Hon. Daniel Mutuku Mbevi, Hon. Dominic Mulwa Ndambuki, Hon. Francis Kioko Kalumu Kitheka, Hon. Fredrick Mbuva Muthoka, Hon. Geoffrey Mutuku Kamulu, Hon. George Kariuki King'ori, Hon. Grace Munini Mutwiwa, Hon. Hellen Ndeti, Hon. Jacinta Nthambi Luka, Hon. Jane Wangai Nyawira, Hon. Joseph Wambua Musau, Hon. Josphat Mwanzia Kasyoka, Hon. Justus Muasya Kiteng'u, Hon. Justus Katumo Mutweia, Hon. Margaret Mwikali Mbithi, Hon. Mark Kimanthi Muendo, Hon. Moses Mitaa Musyoka, Hon. Patrick Muindi Kituku, Hon. Paul Nzau Museku, Pauline Mene Munguti, Hon. Peter Joseph Mutiso, Hon. Robert Muoki Kisini, Hon. Rozina Kanini Wambua, Hon. Stephen Nzue Mwanthi, Hon. Tariq Mulatya Muema, Hon. Thomas Musyoka Mutinda, Hon. Winfred Mutua.

**NOES:** None.

**ABSTENTION:** None.

*(Question carried by 35 votes to 0)*

*(Applause)*

Order! Hon. Members. Hon. Members, the Chair notes that you have been sitting since morning, the business of the House is still not completed but it is human to have a short break. We still have other important business to transact on behalf of the people who have put you in this House.

So, the Chair is giving Hon. Members 30 minutes break and from the wall clock, it is just about 3.30 p.m. Hon. Members please return to the House at 4.00 p.m. so that you can conduct the next important business.

### ADJOURNMENT

**Hon. Speaker:** At this point, the sitting of the House stands adjourned to resume on the 14th day of November 2018 at 4.00 p.m.

House rose at 3.30 p.m.