

**MACHAKOS COUNTY ASSEMBLY****OFFICIAL REPORT****Wednesday, 23<sup>rd</sup> July, 2014**

The House met at 10.15 a.m.

*[The Speaker (Mr. Mung'ata) in the Chair]***PRAYERS****NOTICE OF MOTION****Hon. Speaker:** Hon. Festus Ndeto, there is a notice of motion.**Hon. Ndeto:** Hon. Speaker and the House at large, I do beg to defer the notices of motion, both of them.**Hon. Speaker:** Granted. Proceed.**MOTIONS****IMPEACHMENT OF DEPUTY GOVERNOR, MACHAKOS COUNTY****Hon. Kalunde:** Mr. Speaker, I am Joseph Kalunde representing Mutituni/ Ngelani ward. Mr. Speaker Sir, I beg to move motion in accordance to standing order number 61 and 60.

Mr. Speaker Sir, that aware that on various dates between 5<sup>th</sup> March, 2013 and 7<sup>th</sup> July, 2014 the Deputy Governor committed a number of acts that amount to gross violation of the Constitution of Kenya, the County Government Act, Public Officers Ethics Act, National Cohesion and Integration Act and the Leadership and Integrity Act which is against the oath of office that he took when he assumed the office of Deputy Governor.

**GROSS VIOLATION OF THE PROVISIONS OF THE CONSTITUTION**

Mr. Speaker, Sir, the Deputy Governor violated article 179(4), (5) & (6) in particular; he conducted himself in a manner that undermines his position as a member of the Machakos County Executive by variously antagonizing His Excellency the Governor, other CEC members

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and other members of the County Government, thereby undermining collective responsibility for the County Executive.

Mr. Speaker, he further violated chapter 6 article 10 by failing to disclose that he had a criminal case against himself in a court of law. Further Mr. Speaker, the Deputy Governor contravened article 73(2)(b) and Article 73 by committing acts that exhibited bias in the appointment of officers within his docket and attempted to influence appointments to members of his extended family and soliciting for money from the public to award contracts and jobs in the County Governments respectively. Lastly, Mr. Speaker on the issue of the Constitution, the Deputy Governor failed to adhere to values and principles of public service which is contrary to article 232.

### **COUNTY GOVERNMENT ACT NO 17 OF 2012**

Mr. Speaker, Sir, that aware that County Government Act is a crucial document that aids in operations of the County Governments, the Deputy Governor violated sections 30 and 32 by failing to supervise county projects.

### **PUBLIC OFFICERS ETHICS ACT NO 4 OF 2013**

Mr. Speaker, Sir, that aware that all public officers should meet the requirements of this Act, the Deputy Governor is known to have violated various sections of the act. In particular, Mr Speaker, he influenced or attempted to influence employment of relatives in his docket and other county institutions contrary to section 17. Again Mr. Speaker, Sir, on 7<sup>th</sup> July, 2014, the Deputy Governor intentionally and willfully misled members of the public that his official car had been withdrawn which is contrary to section 19.

Mr. Speaker, Sir, on various instances the Deputy Governor conducted himself in a manner that does not maintain public confidence in the integrity of his office contrary to section 9.

### **NATIONAL COHESION AND INTEGRATION ACT NO 12 OF 2008**

Mr. Speaker, Sir, that aware that this is another important tool that guides public officers, the Deputy Governor committed a number of offences that are in gross violation of the specified provisions of the above mentioned Act. Mr. Speaker, Sir, the Deputy Governor is known to have used derogatory language against people from outside Machakos County. Mr. Speaker, he further caused to be printed inflammatory leaflets, made inflammatory remarks on social media and uttered ethnically and regionally divisive and defamatory words during public rallies.

### **LEADERSHIPS AND INTEGRITY ACT NO. 19 OF 2012**

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Mr. Speaker, Sir, further aware that the integrity of public leaders is guided by this Act, the Deputy Governor, used his office to push for Government Contracts in various County Departments including Trade, Health and Agriculture to relatives and friends contrary to section 10.

Mr. Speaker, Sir, the Deputy Governor breached section 34 and 12 by intimidating his colleagues through SMS and phone calls to seek various favors and soliciting for money from members of public in return for favors.

### **GROSS MISCONDUCT**

Mr. Speaker, Sir, the Deputy Governor on various dates failed to attend County Executive Committee meetings without a good cause. Further on 7<sup>th</sup> July, 2014, he conducted himself in a manner unbecoming of a public officer by misleading the public that he had been ordered out of a County Executive Committee meeting. Mr. Speaker, Sir, on various dates, he misled members of the public that security at his rural home had been withdrawn, information that he knew was false. He also neglected duties delegated to him by His Excellency the Governor, criticized Government decisions that he is party to and made utterances in public disclosing information that is confidential to the County Executive Committee.

### **ABUSE OF OFFICE**

Mr. Speaker, Sir, that aware that KEMSA is the authorized supplier of government drugs, the Deputy Governor on various dates attempted to use his office to influence the award of tender to supply drugs from a different source by incessantly making telephone calls to CEC member in charge of Health and Emergency Services.

Mr. Speaker, Sir further the Deputy Governor is known to have threatened CEC members to be loyal to him purporting that he would protect them once the Governor is impeached. Lastly, Mr. Speaker, the Deputy Governor used his office to cause anxiety and tension to investors, private sector professionals and members of the public who are non-Kambas and non Machakos Kambas.

In this regard, Mr. Speaker, Sir, I wish to move motion that this honorable House discusses the impeachment of the Deputy Governor on the strength of the above grounds.

Thank you, Mr. Speaker. I call upon Hon. Veronica to second the motion.

**Hon. (Ms.) V. Mbithe:** thank you Mr. Speaker and the House at large. I stand here to second the motion on the impeachment of the Deputy Governor. I therefore plead that the House discusses the conduct of the Deputy Governor and approves the impeachment of the same. Thank you, Mr. Speaker.

**Hon. Speaker:** Let us proceed and hear the report of the ad-hoc committee chairman.

**Hon. Kasimu:** Thank you Mr. Speaker. Mr. Speaker, Sir---

**Hon. Speaker:** Hon. Members, do you have copies of the report? Then we can have a quick adjournment so that the report can be circulated and members can be given time to go through it. But just introduce the report. What kind of a report? Have you finished the report? The members? Introduce the report.

**Hon. Kasimu:** Mr. Speaker Sir, aware that this honorable house received a notice of motion which was given on Wednesday the 10<sup>th</sup> July 2014, on the impeachment of the Deputy Governor by Hon. Joseph Kalunde MCA for Mutituni Ward, pursuant to Section 33 (4)(5)(6) of the County Governments Act. This honorable House constituted an *Ad-hoc* Committee consisting of 11 members and four members of staff, whose names appear below to investigate the same:

1. Hon. Wilson Kasimu -Chairman
2. Hon. Oliver Nzeki -Vice Chairman
3. Hon. Gedion Kavuu -Member
4. Hon. Leonard Katela “
5. Hon. Alphonse Wambua “
6. Hon. Joseph Muli “
7. Hon. Raphael Mutuku “
8. Hon. Joseph Kalunde “
9. Hon. Cecilia Sereka “
10. Hon. Veronica Mbithe “
11. Hon. Michael Mutua “

### **IN ATTENDANCE**

1. Ms. Evelyn Kimote -Snr. Clerk Assistant

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2. Mr. Hilary Muthui -Principal Legal Counsel
3. Mr. Dalmas Masila -Snr. Research Officer
4. Ms. Cynthia Watuka -Public Communication Officer

Mr. Speaker Sir, the mandate of the committee was to inquire into the matter and report its findings and recommendations to this house within seven days. The Committee, through the Clerk accorded the Deputy Governor an opportunity to appear before it and respond to the allegations on 14<sup>th</sup> July 2014. Attached and marked “**Exhibit No. 1**” is the said letter.

In order to execute its mandate herein the Committee held several meetings and retreats. With the support of the secretariat staff the Committee also conducted research on the matter at hand. Further Mr. Speaker, the committee received affidavits from 10 County Executive Committee members and 3 Chief Officers the committee also received from the mover of the motion a list of grounds for the removal from office of Bernard Kiala, Deputy Governor, Machakos County which are as follows.

### **ADJOURNMENT**

**Hon. Speaker:** That is all. That is the preamble. We can now have the report circulated. Members make sure we go through the report then we shall proceed with the matter. What is the time now? We will resume at 2.30 p.m. once we go through the report. It will be circulated. Thank you. Until we see the report.

The House rose at 10.34 a.m.