



COUNTY GOVERNMENT OF KITUI
THE COUNTY ASSEMBLY
SECOND ASSEMBLY – (THIRD SESSION)
ORDERS OF THE DAY

TUESDAY 29TH OCTOBER, 2019 AT 2:30 P.M.

PRAYERS

1. Administration of Oath;
2. Communication from the Chair;
3. Messages;
4. Petitions;
5. Papers;
6. Notices of Motions;
7. Statements;

COMMENCEMENT OF BUSINESS

8.*. MOTION ON THE REMOVAL FROM OFFICE OF COUNTY EXECUTIVE COMMITTEE MEMBER (CECM) FOR HEALTH AND SANITATION - M/S ROSAITA MBUKUA NGINA

(Leader of the Majority Party)

Aware that, Article 179 (1) establishes the office of the County Executive Committee which consists of the County Governor and members appointed by the County Governor with the approval of the Assembly;

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Further aware that, Section 35 (3) of the County Governments Act provides the qualifications for a person to be appointed as a member of the County Executive Committee, key among them being that one should be a holder of at least a first degree from a university recognized in Kenya;

Cognizant that, the County Assembly's Committee on Appointments is mandated under Standing Order 184 to consider for approval by the County Assembly, appointments under Article 179(2) of the Constitution this being the members of the County Executive Committee (CECM). This approval is also required as a mandatory step under the Public Appointments (County Assemblies Approval) Act No 5 of 2017;

Further Cognizant that, sometime this year, the County Assembly approved Hon. James Munuve's motion to inquire into the authenticity of academic certificates of all the CECMs. Upon investigation, the Committee on Appointments discovered that the County Executive Committee Member (CECM) for Health and Sanitation, Ms Rosaita Mbukua Ngina had indeed submitted a forged degree certificate during the vetting exercise;

Alarmed that, based on the findings above, the Assembly resolved that H.E the Governor should dismiss the CECM from office on account of being unqualified. However, despite the resolution passed, the said officer is still in office to date in total disregard of the Assembly's resolution.

Therefore, pursuant to the provisions of section 40 of the County Governments Act, No 17 of 2012 and the Kitui County Assembly Standing Order No. 62 this Assembly hereby seeks to remove from office, the County Executive Committee Member (CECM) for Health and Sanitation, Ms Rosaita Mbukua Ngina, on the following grounds:-

- i. **Gross violation of the Constitution and any other relevant laws;**
 - (a) By grossly violating section 35(3)(b) of the County Governments Act, 2012, which provides that for a person to

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be qualified to hold the office of the County Executive Committee Member, she must amongst other things be a holder of at least a first degree from a university recognised in Kenya.

The County Executive Committee Member (CECM) for Health and Sanitation, Ms Rosaita Mbukua Ngina was appointed to the office on reliance of the fact that she is a holder of a degree from Egerton University. The degree certificate was later on confirmed to be forged, not authentic and did not emanate from the institution which purported to have issued it.

- (b) By knowingly violating the provisions of note (d) of the First Schedule of the Public Appointments (County Assemblies Approval) Act No 5 of 2017 which expressly prohibits any nominee from tendering false information during vetting as doing so leads to an automatic disqualification of the candidate.
- (c) By grossly contravening Chapter Six of the Constitution on Leadership and Integrity by misleading the County Assembly's Committee on Appointments during the vetting process by providing a forged degree certificate purported to have been conferred upon her by Egerton University. This act contravenes the principles of leadership and integrity as outlined under Article 73 (2) (a) which is selection on the basis of personal integrity, competence and suitability,
- (d) By refusing to vacate from office even after a resolution was passed by the Assembly requiring her dismissal. This contravenes the spirit of article 73 (1) (a) (iv) which requires a state officer to act in a manner that promotes public confidence in the integrity of the office she holds. Further, the blatant refusal to vacate office amounts to a violation of Article 73 (2)(d) which provides that one of the principles of

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Leadership and integrity is accountability to the public for decisions and actions,

ii. **Incompetence**

Section 35 (3)(b) of the County Governments Act No 17 of 2012 expressly outlines the minimum education qualification that one must meet to be appointed as a member of the County Executive Committee which is to be a holder of **at least** a first degree from a university recognized in Kenya.

By virtue of the fact that the County Executive Committee Member (CECM) for Health and Sanitation, Ms. Rosaita Mbukua Ngina does not possess this minimum qualification automatically renders her incompetent and unqualified to continue holding office.

(Hon. Peter M. Kilonzo – **MCA**)

9.*. **MOTION ON THE REMOVAL FROM OFFICE OF THE COUNTY EXECUTIVE COMMITTEE MEMBER (CECM) FOR TRADE, CO-OPERATIVES AND INVESTMENTS – MR. PHILIP MUTINDA MUMO**

(Leader of the Majority Party)

Aware that, Article 179 (1) establishes the office of the County Executive Committee which consists of the County Governor and members appointed by the County Governor with the approval of the Assembly;

Further aware that, Section 35 (3) of the County Governments Act provides the qualifications for a person to be appointed as a member of the County Executive Committee, key among them being that one should be a holder of at least a first degree from a university recognized in Kenya;

Cognizant that, the County Assembly's Committee on Appointments is mandated under Standing Order 184 to consider for approval by the County Assembly, appointments under Article 179(2) of the Constitution this being the members of the County Executive Committee (CECM). This

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approval is also required as a mandatory step under the Public Appointments (County Assemblies Approval) Act No 5 of 2017;

Further Cognizant that, sometime this year, the County Assembly approved Hon. James Munuve's motion to inquire into the authenticity of academic certificates of all the CECMs. Upon investigation, the Committee on Appointments discovered that the County Executive Committee Member (CECM) for Trade, Co-operatives and Investments, Mr. Phillip Mutinda Mumo had indeed submitted forged degree certificates during the vetting exercise;

Alarmed that, based on the findings above, the Assembly resolved that H.E the Governor should dismiss the CECM from office on account of being unqualified. However, despite the resolution passed, the said officer is still in office to date in total disregard of the Assembly's resolution.

Therefore, pursuant to the provisions of section 40 of the County Governments Act, No 17 of 2012 and the Kitui County Assembly Standing Order No. 62 this Assembly hereby seeks to remove from office, the County Executive Committee Member (CECM) for Trade, Co-operatives and Investments, Mr. Phillip M. Mumo, on the following grounds:-

i. **Gross violation of the Constitution and any other relevant laws;**

- (a) By grossly violating section 35(3)(b) of the County Governments Act, 2012, which provides that for a person to be qualified to hold the office of the County Executive Committee Member, he must amongst other things be a holder of at least a first degree from a university recognised in Kenya.

The County Executive Committee Member (CECM) for Trade, Co-operatives and Investments, Mr. Phillip M. Mumo was appointed to the office on reliance of the fact that he is a

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holder of a degree from Mount Kenya University. The degree certificate was later on confirmed to be forged, not authentic and did not emanate from the institution which purported to have issued it.

(b) By knowingly violating the provisions of note (d) of the First Schedule of the Public Appointments (County Assemblies Approval) Act No 5 of 2017 which expressly prohibits any nominee from tendering false information during vetting as doing so leads to an automatic disqualification of the candidate.

(c) By grossly contravening Chapter Six of the Constitution on Leadership and Integrity by misleading the County Assembly's Committee on Appointments during the vetting process by providing a forged degree certificate purported to have been conferred upon him by Mount Kenya University. This act contravenes the principles of leadership and integrity as outlined under Article 73 (2) (a) which is selection on the basis of personal integrity, competence and suitability,

(d) By refusing to vacate from office even after a resolution was passed by the Assembly requiring his dismissal. This contravenes the spirit of article 73 (1) (a) (iv) which requires a state officer to act in a manner that promotes public confidence in the integrity of the office he holds. Further, the blatant refusal to vacate office amounts to a violation of Article 73 (2)(d) which provides that one of the principles of leadership and integrity is accountability to the public for decisions and actions,

ii. **Incompetence**

Section 35 (3)(b) of the County Governments Act No 17 of 2012 expressly outlines the minimum education qualification that one must meet to be appointed as a member of the County Executive Committee which is to be a holder of **at least** a first degree from a university recognized in Kenya.

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By virtue of the fact that the County Executive Committee Member (CECM) for Trade, Co-operatives and Investments, Mr. Phillip. M. Mumo does not possess this minimum qualification automatically renders him incompetent and unqualified to continue holding office.

(Hon. Peter M. Kilonzo – **MCA**)

10.*. MOTION ON APPROVAL OF MEMBERSHIP TO VARIOUS COUNTY ASSEMBLY COMMITTEES

(Chairperson - Committee on Selection)

THAT, Pursuant to the provisions of Standing Order No. 155, this Assembly hereby approves further nomination of Membership to various County Assembly Committees as follows;

Committee on Finance

- 1) Hon. Sylvester Kitheka Munyalo

Committee on Lands, Infrastructure and Urban Development

- 1) Hon. James Mbuvi Wangunze Kula

Committee on Basic Education, Training and Skills Development

- 1) Hon. Annastacia Mwathi Mutunga

- 2) Hon. John Mutuku Mbaki Kisangau

Committee on Trade, ICT and Cooperatives

- 1) Hon. Boniface Kilungya Katumo

- 2) Hon. Ruth Kyene

Committee on Agriculture, Water and Irrigation

- 1) Hon. Annastacia Mwathi Mutunga

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Committee on Environment, Energy and Mineral Investments

- 1) Hon. Annastacia Mwathi Mutunga
- 2) Hon. John Mutuku Mbaki Kisangau

Committee on Tourism, Sports and Culture

- 1) Hon. John Mutuku Mbaki Kisangau

Committee on Justice and Legal Affairs

- 1) Hon. Ruth Kyene

Committee on Public Service and Administration

- 1) Hon. John Mutuku Mbaki Kisangau

Committee on Budget and Appropriations

- 1) Hon. Sylvester Kitheka Munyalo
- 2) Hon. Regina Ishmael.

Committee on Selection

- 1) Hon. Alex Mutambu Nganga
- 2) Hon. Boniface Kilungya Katumo

County Assembly Business Committee

- 1) Hon. Alex Mutambu Nganga
- 2) Hon. James Mbuvi Wangunze Kula
- 3) Hon. Boniface Kilungya Katumo

Committee on Appointment

- 1) Hon. Boniface Kilungya Katumo
- 2) Hon. Alex Mutambu Nganga

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Committee on Implementation

- 1) Hon. Munira Mohamed
- 2) Hon. Boniface Kilungya Katumo
- 3) Hon. Josephine Kavivi Mutie.

(Hon. Peter M Kilonzo – MCA)

****Denotes order of the day****
