



## NAIROBI CITY COUNTY ASSEMBLY

### OFFICIAL REPORT

#### First County Assembly – Fourth Session

Tuesday 27<sup>th</sup> September, 2016

The House met at 2.30 p.m.

*(Hon. Speaker (Mr. Alex Ole Magelo) in the Chair)*

### PRAYERS

**Hon. Speaker:** Order Hon. Members! Hon. Karemi!

### COMMUNICATION FROM THE CHAIR

**Hon. Speaker:** Hon. Kotieno! Chairman delegated. Order Hon. Members! Hon. Snaitch please. I will sit down to allow the Members to come in please.

Order Hon. Kambi! Good afternoon Hon. Members. I have the following communication to make. Hon. Members welcome back from the recess. It is my sincere hope that you had a wonderful and fruitful break. Hon. Members as we commence the Third part of the Fourth Session, I wish to remind you of the business before us. We will be considering pending businesses from the First and Second part of the Fourth Session. This includes Motions, Statements, Bills and Petitions. Committees with pending reports are advised to expedite conclusion of the same.

Hon. Members you are therefore encouraged to continue working with diligence you have exhibited in executing your mandate for the benefit of the Nairobi residents. Once again I warmly welcome you from the recess as we commence the Second part of the Fourth Session. Thank you.

## PETITIONS

**Hon. Speaker:** Hon. Members I would like to present a Petition from the Mau Mau Veteran Welfare Association. The Petition has attached a list of signature of association members requesting my office to have it tabled before the Assembly and necessary action to be taken. I therefore would like to have this before the Committee of Culture and Social Services. Thank you.

## PAPERS

**Hon. Speaker:** Hon. Members, anyone whose phone is ringing I will have them out of the Assembly. Hon. Kambi you are ordered to leave the Assembly immediately for the rest of the day.

*(Hon. Kambi escorted out of the Assembly)*

## REGULATIONS FOR THE NAIROBI CITY COUNTY EMERGENCY FUND

**Hon. Majority Leader:** I think it was being sabotaged by a group from Jubilee. Thank you Members, pursuant to section 110 of the Public Finance Management Act 2012 I beg to lay the following paper on the table of the Assembly today Tuesday 27<sup>th</sup> September. Regulations for the Nairobi City County Emergency Fund.

Pursuant to section 126 (3) of the Public Finance management Act 2012, I beg to lay the following paper on the table of the Assembly today Tuesday 27<sup>th</sup> September 2016. The Nairobi City County Annual Development Plan for the financial year 2016/2017. You know that if it is 2017 then it means that you people are outgoing and so enjoy the privileges of this House only for this year. Thank you.

*(Applause)*

**Hon. Speaker:** Hon. Chairperson Legal and Justice?

**Hon. Member for Parklands Ward (Mr. Jaffer Kassam):** Thank you Mr. Speaker sir. Pursuant to Standing Order 180 (6), I wish to lay the following paper on the table of the Assembly today 27<sup>th</sup>

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September, 2016. A report of the Sectoral Committee on Justice and Legal Affairs on the vetting of the nominees of the County Policing Authority.

**Hon. Speaker:** Hon. Members, the papers laid by the Leader of Majority; the Nairobi City County Annual Development Plan for the financial year 2016/2017 goes to the Budget and Appropriations Committee while the Regulations for Nairobi City County Emergency Fund goes to Delegated Legislation. Hon. Chairperson for Legal, this goes to the House Business Committee. Continue!

## NOTICES OF MOTION

### VETTING OF THE NOMINEES FOR THE COUNTY POLICING AUTHORITY

**Hon. Jaffer Kassam:** Mr. Speaker sir, I beg to give Notice of the following Motion; that this Assembly approves the report of the Sectoral Committee on Justice and Legal Affairs on the vetting of the nominees for the County Policing Authority laid on the table of the Assembly today 27<sup>th</sup> September, 2016. Thank you Mr. Speaker.

## STATEMENTS

**Hon. Speaker:** Hon. Members as you look at your Order Paper today, you will see the various statements that are due for response today 27<sup>th</sup> September, 2016. Before we went for recess, we agreed that all these statements were to be brought in today and any Chairman who had a problem with having his statement ready for the Members was to tell us the reasons as to why they do not have it. There are very many statements that are due for response and I do not know how we are going to continue receiving other statements while those that are going to about three, four, five, six months have not been answered. Hon. Chairpersons you can see what is there and so you can tell us why you do not have the responses and why.

**Hon. Member for Parklands/Highridge Ward** (Mr. Jaffer Kassam). Mr. Speaker, I have two Statements to respond to. We are ready; we finished them just before we went for recess. They have not been brought to me for response here, one for Hon. Mike Obonyo on the Nairobi City County Logo, and the other for Hon. Osman Adow regarding the impounding of motorbikes. Mr. Speaker, they are ready, we have

gone through it. There was one which was incomplete but these two are ready. So, we request if we can be allowed to table tomorrow.

**Hon. Speaker:** Take note of what we are supposed to receive tomorrow. Thank you, Hon. Chairperson. Where are the rest of the Chairpersons? When a Member is on, stop pressing it, please.

**Hon. Majority Leader:** As I said, Mr. Speaker, Members from other side that are interrupting the machines. I know the reason why. Mr. Speaker, I have a response for Hon. Zulfa but give us two weeks to compile our report because we have just come from the Committee workshop in Mombasa.

**Hon. Speaker:** Order, Hon. Member! I tend to agree with the Hon. Leader of Majority and I am sure most of you agree because we have called out Chairpersons but they are not standing up. That means they don't have the answers which is extremely sad. Today is 27<sup>th</sup>; two weeks from today will be when? Clerk, can you check the dates.

Hon. Members, especially the Chairpersons, if you don't have your answers on 11<sup>th</sup> then we know we must have a problem which we must solve. I want to ask the Chairperson of Liaison Committee, who is also the Deputy Speaker, liaise with the Chairmen and find the problems they are having because when we come back on 11<sup>th</sup>, that it is either the Chairmen who have failed or the Executive. Whoever would have failed, then we will know who to chase. Thank you Hon. Members.

## COMMITTEE OF THE WHOLE ASSEMBLY

*(Mr. Speaker left the Chair)*

### IN THE COMMITTEE

*(Mr. Chairman took the Chair)*

## NAIROBI CITY COUNTY PLASTIC CONTROL BILL 2016

### CLAUSE 3

*(Question that Clause 3 be amended as proposed)*

**Mr. Chairman:** Any debate on this?

*(Question of the amendment put and agreed to)*

### Clause 4

*(Question proposed)*

*(Question put and agreed to)*

**Clause 5**

*(Question proposed)*

**Hon. Benson Amutavi:** I beg that Clause 5 of the Bill be amended as it appears on the Order Paper.

*(Question of the amendment put and agreed to)*

**Clause 6**

*(Question proposed)*

*(Question put and agreed to)*

**Clause 7, 8, 9, 10**

*(Question proposed)*

*(Question put and agreed to)*

**Clause 11**

*(Question proposed)*

*(Inaudible)*

**Hon. Chairman:** Thank you Hon. Chairman.

*(Question of the amendment proposed)*

**Hon. Karen Wanjiku:** .....*(inaudible)* ... Mr. Speaker sir because we want to expand the scope of the Bill and to protect environmental pollution by any kind of plastics. Not just polythene bags but every kind of plastics. I support.

**Hon. Chairman:** Thank you.

*(Question of the amendment put and agreed to)*

**Clause 12, 13, 14**

*(Question proposed)*

*(Question put and agreed to)*

**Clause 15**



*(Question proposed)*

**Hon. Benson Amutavi:** Mr. Speaker sir, I beg that Clause 15 of the Bill be amended as it appears on the Order Paper.

*(Question of the amendment proposed)*

**Hon. Member for Eastleigh North Ward** (Mr. Osman Adow): When it says “conjunction with the National and ---

**Hon. Chairman:** Order! You can't talk while you are seated.

**Hon. Osman Adow:** Can't talk while I am seated? Then, okay. Mr. Chairman, when it says “in conjunction with the National Government and other State Agencies”, does it mean that the County Government will not do any work on this or investigate without having to necessarily do it in conjunction with, does it mean that the Agency that will be there will be basically doing nothing? Can they please explain further?

**Hon. Chairman:** Hon. Warutere?

**Hon. Member for Roysambu Ward** (Mr. Peter Warutere): Thank you Mr. Speaker. From where I sit, this basically means that the County Government has to work hand in hand with the National Government for effective control of the structures on the said Bill. So, what they wanted is to ensure that since the plastic bags is something that is beyond the County, it will need the effort of both the County Government and the National Government to do the regulation. That, essentially, is what is captured in this Bill.

**Hon. Chairman:** Hon. Peter Wahinya Kimuhu.

**Hon. Member for Ngando Ward** (Peter Wahinya): Thank you very much Mr. Chairman. I would like to join my colleague in stating that this statement is a bit ambiguous in that when we talk about in collaboration with the National Government and other agencies, in my opinion, I think we should be more specific than it is because collaboration makes it widely open. And collaboration sometimes could easily be construed to mean that decisions cannot be made by the public analyst appointed under section 16 (1) unless they are in full agreement with the National Government and state agencies. This to me might result in the National Government holding us at ransom in matters to do with this Bill. So, no clarification Mr. Chairman. Introduction of specific statement was warranted.

**Hon. Chairman:** Hon. Pius K'Otieno.

**Hon. Member for Sarang'ombe Ward** (Mr. Pius Otieno): .....*(inaudible)*... in a legal balance, I would propose that if you would rather put this section pending, because we cannot restrict that they must work in conjunction with the National Government. I would rather propose that the relevant department may, if it is a must that we work in collaboration with the National Government, then we say “may” because

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in future, you never know probably the relevant office might want to investigate issues in plastic bags and the Government officers might again tie us down that we don't have officers to deploy or that the Government Laboratory is full. Where do we run to and there is an emergency case? That is why I would propose to the Chairman of this Committee to reconsider this amendment that we should not leave it as "shall". We rather put it as "may" because we never know what the future will inform.

**Hon. Chairman:** Hon. George Maina Njoroge!

**Hon. Member for Umoja 1 Ward** (Mr. George Maina) : Thank you Mr. Speaker, I want also to agree with my colleagues, however when we talk about standards, the County Government does not standardize because it is KEBS and since KEBS is a National Government that is why this clause..... as much as I want to agree with what Otieno is saying, instead of putting "shall" we can say "may" but the reason why we are bringing in National Government Agencies, it is because some of these roles are not in the County Government for example KEBS.

When we talk about standards it is solely, the responsibility of KEBS and so we cannot as County Government standardize, that is why we are bringing Agencies of the National Government and we need to agree on that. Thank you, Mr. Speaker.

**Hon. Chairman:** Thank you Hon. Karen Wanjiku!

**Hon. Karen Wanjiku** (Nominated Member): Thank you, I want to support the amendments because as the Hon. Member the owner of the Bill as said, we have to look at the mandate. Schedule 4 of the Constitution is very clear part one and part two, the mandate of the National Government and the mandate of the County Government.

We cannot do the standardization that is why we need tools to incorporate in conjunction with the National Government and other States Agencies to investigate the Standard of plastic bags and plastic products, we cannot run away from that because that is the law and the law cannot be broken thank you.

**Hon. Chairman:** Hon. Antony Kirangu Karanja!

**Hon. Member for Waithaka Ward** (Mr. Antony Karanja): I think for the Members (*inaudible*) this may expose us to litigation, we need to limit Agencies that should be considered in looking at this Bill for example, when we say State Agencies we may even have to include Veterinary Agencies or Children Agencies, we therefore need to define them so I also urge the Chairman of this Committee to consider that part of that amendment. Thank you.

**Hon. Chairman:** Hon. Elizabeth Akinyi! As the last Member!

**Hon. Member for Kayole South** (Ms. Elizabeth Manyala): Mr. Speaker, I support the amendment because the rationale of this Bill was as a result of what we had seen happening in Rwanda and that is why, when I was coming up with it under the spirit of devolution which is the statutory transfer of powers

from National Government to the Sub-Counties, we know that the principle of devolution entails the three principles and one of them is public participation and you cannot do it in isolation.

That is why building synergy with State Agencies was envisaged during the time this Bill was being drafted and so, any time we are drafting Bills we have to call stakeholders. Who are the stakeholders? They are the policy makers, policy implementers and other States Agencies. So it is in order to amend it because when the law has been enacted at the County level the supreme one which is at the National Government supersedes the County one. Thank you, Mr. Speaker.

**Hon. Chairman:** Thank you Chairman and can you respond a bit.

**Hon. Member for Upper Savannah Ward (Mr. Benson Amutavi):** We leave the amendment to be as it is and we move on to the next amendment. Thank you, Mr. Speaker.

**Hon. Chairman:** Order Chairman, you are not clear please, this is a House of rules and procedures you need to convince the Members on the concerns that they have raised, and you don't just rubbish the Members like that.

**Hon. Benson Amutavi:** Mr. Speaker sir, it depends on how you know to tune! *(Loud Laughter)* There is no Member who has complained after I asked them to pass the amendment as it is. Thank you, Mr. Speaker.

*(Loud Consultation)*

*(Question of the amendment proposed)*

**Hon. Benson Amutavi:** Mr. Speaker sir, I beg that Clause 16 of the Bill be amended as it appears on the Order Paper.

**Hon. Chairman:** Chairman you remember the comments you were debating on were on clause 16. Can you confirm with your records and with Otieno. Its 15 Okay! Thank you.

### **Clause 16**

*(Question proposed)*

**Hon. Benson Amutavi:** Clause 16 be amended as it appears on the Order Paper

*(Question of the amendment proposed)*

*(Clause 16 as amended agreed to)*

### **Clause 17, 18, 19, 20 to 29**

*(Question proposed)*



*(Question put and agreed to)*

**Clause 30**

*(Question proposed)*

**Hon. Benson Amutavi:** Mr. Speaker sir, I beg that Clause 30 of the Bill be amended as it appears on the Order Paper.

*(Question of the amendment proposed)*

*(Clause 30 as amended agreed to)*

*(Question put and agreed to)*

**Clause 31**

*(Question proposed)*

*(Question put and agreed to)*

**Clause 32**

*(Question proposed)*

*(Question put and agreed to)*

**Schedule**

*(Question that Schedule be part of the Bill is proposed)*

*(Question that Schedule be part of the Bill is put and agreed to)*

**Clause 2**

*(Question that Clause 2 be part of the Bill is proposed)*

**Hon. Benson Amutavi:** Mr. Speaker sir I beg that Clause 2 of the Bill be amended as it appears on the Order Paper.

*(Question that Clause 2 be amended as proposed)*

*(Question that Clause 2 be amended as proposed is put and agreed to)*

*(Question that Clause 2 as amended be part of the Bill is put and agreed to)*

**Title**



*(Question that Title be part of the Bill is proposed)*

**Hon. Chairman:** Any debate on the title?

**Hon. Chairman:** Order! Hon. Karen is on her feet. Permission granted.

**Hon. Karen Wanjiku:** Thank you. The title is okay Mr. Speaker sir because we are dealing with all the plastics and all the plastic bags. So the section is in order. I support the title.

**Hon. Chairman:** Thank you.

*(Question that Title be part of the Bill is put and agreed to)*

### Clause 1

*(Question that Clause 1 be part of the Bill is proposed)*

**Hon. Chairman:** Hon. Amutavi

**Hon. Member for Upper Savannah Ward** (Mr. Benson Amutavi): *(Inaudible)* I beg to move that the Committee do report to the Assembly its considerations of the Nairobi City County Plastic Control Bill---

**Hon. Chairman:** Order! Member---

**Hon. Benson Amutavi:** It's Clause 1

**Hon. Chairman:** Can you sit down?

**Hon. Benson Amutavi:** Sorry Mr. Speaker.

*(Question that Clause 1 be part of the Bill is proposed)*

*(Question that Clause 1 be part of the Bill is put and agreed to)*

**Hon. Chairman:** Hon. Chairman now sit.

**Hon. Benson Amutavi:** *(Inaudible)*. I beg to move that the Committee do report to the Assembly its considerations of the Nairobi City County Plastic Control Bill 2016, Assembly Bill No. 1 of 2016 and its approval thereof with amendments.

**Hon. Chairman:** Thank you, Hon. Chairman it is in order. Hon. Members we come to the close of the Committee of the Whole Assembly as we report to the Plenary. Thank you.

**Hon. Chairman:** Hon. Members I repeat the question; which is that the Committee do report to the Assembly its considerations of the Nairobi City County Plastic Control Bill 2016, Assembly Bill No. 1 of 2016 and its approval thereof with amendments. Order!

*(Loud consultations)*

*(Question that the Committee do report to the Assembly its considerations of the Nairobi City County Plastic Control Bill 2016, Assembly Bill No. 1 of 2016 and its approval thereof with amendments is put and agreed to)*

Thank you.

*(The House resumes)*

*(Mr. Speaker in the Chair)*

**Hon. Deputy Speaker:** Hon. Speaker I beg to report that the Committee of the Whole House has considered the Nairobi City County Plastic Control Bill 2016, Assembly Bill No. 1 of 2016 and approved the same with amendments. Thank you, Mr. Speaker. Hon. Kitavi.

**Hon. Benson Amutavi:** Thank you for the baptism name. The Nairobi City County Plastic Control Bill 2016, Assembly Bill No. 1 of 2016, be now read a third time.

*(Question that the Assembly do agree with the Committee on the said is proposed)*

*(Question that the Assembly do agree with the Committee on the said is put and agreed to)*

**Hon. Speaker:** The mover to reply. Hon. Amutavi. Hon. G. Maina?

**Hon. Member for Umoja I Ward (Mr. G. Maina):** Thank you very much Mr. Speaker. First of all actually I am very grateful that---

**Hon. Speaker:** Hon. G. Maina you are supposed to move the Third Reading please.

**Hon. G. Maina:** Am I on? Thank you. Hon. Speaker, I beg to move that Nairobi City County Plastic Control Bill 2016, Assembly Bill No. 1 of 2016, be now read a third time.

*(Question that the Nairobi City County Plastic Control Bill 2016, Assembly Bill No. 1 of 2016, be now read a third time is proposed)*

*(Question that the Nairobi City County Plastic Control Bill 2016, Assembly Bill No. 1 of 2016, be now read a third time is put and agreed to)*

**AN ACT OF THE COUNTY ASSEMBLY, THE NAIROBI CITY COUNTY PLASTIC CONTROL BILL 2016, A BILL FOR THE COUNTY ASSEMBLY OF NAIROBI CITY TO PROVIDE FOR THE CONTROL ON MANUFACTURE, USAGE AND DISPOSAL OF PLASTIC AND OTHER PLASTIC PRODUCTS SO AS TO RESTORE AND MAINTAIN A CLEAN ENVIRONMENT OF NAIROBI CITY COUNTY AND FOR CONNECTED PURPOSES, THIRD READING.**

**Hon. Speaker:** Hon. Members good afternoon once again. After the rise of the Assembly, the House Business Committee to meet at the foyer and the Hon. Members representing the 85 Wards to be left behind for a few minutes so that Hon. Chairperson for Water and Sanitation gives some directions. The House is adjourned until tomorrow the 28<sup>th</sup> of September 2.30 p.m. Thank you.

*(The House rose at 3:45 p.m.)*