



REPUBLIC OF KENYA

NAIROBI CITY COUNTY ASSEMBLY

FIRST ASSEMBLY – (FOURTH SESSION)

ORDERS OF THE DAY

TUESDAY, NOVEMBER 29, 2016 AT 2.30 P.M.

ORDER OF BUSINESS

PRAYERS

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

8. * **COMMITTEE OF THE WHOLE ASSEMBLY**

A) The Nairobi City County Animal Control and Abattoirs Management Bill, 2016 (Assembly Bill No. 3 of 2016)

(Resumption of debate interrupted on Thursday 24th November, 2016 at 2.30 p.m.)

9. * **MOTION** – (Hon. Samwel Nyangwara, MCA)

AWARE, that *Article 73(2) (d) and (e)* of the Constitution of Kenya provides for accountability of a state officer to the Public, for decisions and actions as a key guiding principle of leadership and integrity, further aware that Section 30(2) of the County Government Act, 2012 provides for the functions and responsibilities of a County Governor, noting that *Section 30(3)* provides for ways in which the Governor's functions ought to be performed, this Assembly **RESOLVES** to remove the Hon. (Dr.) Evans Kidero from office of the County Governor of Nairobi City, pursuant to *Article 181(1)(a), (b), (c)* of the Constitution, Section 33 of the County Governments Act, 2012, and Standing Order 60 of the Nairobi City County Assembly Standing Orders, on the following grounds;

1. Gross violation of the Constitution, 2010; The County Government Act, 2012; The Public Procurement and Disposal Act, 2015; and the Public Finance Management Act, 2012.

- a) Inability to control and manage County debt, leading to the unmitigated accrual of debt, which has ballooned the County's overall debt to unmanageable levels, rising from Kshs 12 billion when he took office in 2013 to the current Kshs42 billion, within three years, thus creating paralysis in funding for projects and programs; debts which were not disclosed in the Debt Management Paper, 2015 and 2016 and the County Fiscal Strategy Paper, 2015 and 2016, violating Articles 201(e), of the Constitution, Section 123 and 207(2)(e) of the Public Finance Management Act, 2012.
- b) Violation of the *Articles 201 (a), (d), (e)* of the Constitution of Kenya on principles of Public Finance and *Article 226(5)* on the audit of Public entities, as well as *Article 227(1)* on procurement of goods and services, and the Public Procurement and Disposal Act, 2015 by flouting the principles of public finance management in as far as public procurement of goods and services is concerned, where the Auditor-General faulted the procurement process. The system was set up by a private company whose selection criterion was made under suspicious and illegal circumstances. Citing numerous missteps in the procurement process, Auditor-General, Mr. Edward Ouko, concluded that the 4.5 per cent of all transactions retained by JamboPay are too high compared to what the Kenya Revenue Authority charges. The auditor found that two other bidders, Virtual Mobile and Craftsilcon, had bid to charge 2.5 per cent of the transaction costs, but were not considered. A review of the cost-impact using the actual revenues for the 2012/2013 financial year established that the county government will spend an enormous Sh767.4 million in the five years the contract is supposed to run.
- c) Violation of the *Articles 201 (a), (d), (e)* of the Constitution of Kenya on principles of Public Finance and *Article 226(5)* on the audit of Public entities, as well as *Article 227(1)* on procurement of goods and services, and the Public Procurement and Disposal Act, 2015 by flouting the principles of public finance management in the unilateral signing of an agreement with Foton for the supply of buses, a matter which the EACC is investigating.
- d) Violation of the *Articles 201 (a), (d), (e)* of the Constitution of Kenya on principles of Public Finance management, the Public Finance Management Act, 2012 and the County Allocation of Revenue Act, 2015 on the use of

- conditional grants from the National Government, where the Governor in the 2014/15 and 2015/16 Financial Years diverted or negligently caused to be diverted Conditional Funds meant for the free Maternity program and user fees foregone to other unrelated programs, to the great detriment of City residents struggling to access better healthcare, contrary to the regulations that govern the use of conditional grants from the National government;
- e) Violation of the *Articles 201 (a), (d), (e)* of the Constitution of Kenya on principles of Public Finance management, the Public Finance Management Act, 2012 on the authorization of expenditure of revenue collections at source across the City, leading to heavy revenue leaks and missed targets, which has greatly affected the implementation of County programs aimed at uplifting the lives of residents, leading to stalled projects and unpaid contractors contrary to Statute and Constitutional provisions of the procedure for collection, withdrawal and usage of public funds.
 - f) Violation of *Article 176(1)* and *185* on the creation and authority of County Assembly as an arm of County Government by undermining the Assembly's legitimate authority to make laws, through willful refusal to implement resolutions of the County Assembly, such as a freeze on employment, which the Governor has ignored and undertaken advertisements for employment twice, ignoring implementation of the Nairobi City County Wards Development Fund Act, 2014, even after assenting to the Bill, and in the absence of any directions on the illegality of the Act, any of its provisions or otherwise from the High Court under *Article 165 (3)(d)(i)* and *(iv)* of the Constitution.
 - g) Violation of *Section 4* of the County Governments Act, 2012 and *Section 3* of the Nairobi City County Flags and Other Symbols Act, 2013, by refusing to implement the approved symbols as provided for in the Act.

2. Crimes under National Law

- a) Violation of *Articles 201(d)* of the Constitution on principles that guide all aspects of public finance in the Republic, and *227(1)* on Procurement of public goods and services, and the provisions of the Public Procurement and Disposal Act, 2015 by awarding the revenue collection tender controversially to JamboPay, with a costly charge of 4.5 per cent of all transactions retained by JamboPay, which the Auditor noted as too high compared to what the Kenya Revenue Authority charges and what other bidders have proposed in the tender document;

- b) Violation of *Articles 201* of the Constitution and the Public Finance Management Act, 2012 on principles that guide all aspects of public finance in the Republic where the Governor either intentionally or negligently has presided over massive loss and theft of County public funds in the four years he has been office, as evidenced by the Auditor General's Report of 2013/2014, where the auditor raised the red flag over failure by the Nairobi county government to bank some Shs252 million, which is part of Shs5.5 billion collected as revenue by the county. Records made available for audit revealed that during the period 1st January, 2013 and 30th June, 2013, a total of Sh 5,511,732,231.00 was collected from the various sources of revenue but only Sh5,258,849,088.00 was banked resulting to under banking of Sh252,883,143.00, partly leading the arrest and prosecution of Senior Officers in the Finance Department who report directly to him, as well as the theft of public resources through wasteful procurement and payment for non-existent services, for instance exaggerated legal fee notes to certain lawyers and law firms, with legal debts standing Shs5 billion.

3. Abuse of Office/Gross misconduct

The County Governor of the Nairobi City exhibited gross misconduct/abuse of office as follows: -

- i. Violation of *Article 75(1)(c)* of the Constitution on conduct of State Officers that is demeaning to the offices they hold and Section 11 of the Leadership and Integrity Act, 2012 first by assaulting a Member of Parliament, an elected leader from Nairobi City County, a matter which legal redress was sought, forcing the Governor to settle out of Court, and that recently he again allegedly assaulted another Member of Parliament, to the dismay of the Public when he was invited by the Senate of Kenya to answer audit queries relating to expenditures by the Nairobi City County Executive.
- ii. Creation of the Office of the County Attorney contrary to *Section 62(2)* of the County Governments Act, 2012.

10. *. MOTION – (Chairperson, Sectoral Committee on Health Services)

THAT, this Assembly adopts **THE REPORT OF THE SECTORAL COMMITTEE ON HEALTH SERVICES ON SITE INSPECTION VISIT TO EASTLEIGH HEALTH CENTRE**, laid on the Table of the Assembly on Tuesday, 25th October, 2016.

NOTICES**I. THE NAIROBI CITY COUNTY ANIMAL CONTROL AND ABATTOIRS MANAGEMENT BILL, 2016 (ASSEMBLY BILL NO. 3 OF 2016)**

NOTICE is given that the Chairperson of the Sectoral Committee on Agriculture, Environment and Natural Resources intends to move the following amendments to the Nairobi City County Animal Control and Abattoirs Management Bill, 2016, at the Committee Stage-

LONG TITLE

THAT, the Long Title be amended by deleting the words “Nairobi City County Animal Control and Abattoirs Management Bill, 2016” and substituting therefor the following new words- “The Nairobi City County Abattoirs Bill, 2016”.

CLAUSE 1

THAT, Clause 1 be amended by deleting the words “Animal Control and Abattoirs Management” appearing immediately after the word “the” and substituting therefor the word “Abattoirs”

CLAUSE 2

THAT, Clause 2 be amended:

- (i) in the definition of “Abattoirs” by inserting the words “purpose of the” before the word “slaughter” and the words “and includes a slaughterhouse approved under section 2 of the Meat Control Act Chapter 356 Laws of Kenya” after the word “consumption”.
- (ii) in the definition of “Approved abattoirs” by deleting the words “director of agriculture” and replacing therefor the words “Nairobi City County director of veterinary services”.
- (iii) in the definition of “County executive”
 - a) by inserting the words “Nairobi City” after the words “means the”.
 - b) by deleting the word “agriculture” and substituting therefor the words “veterinary services”.
- (iv) in the definition of “Department”
 - a) by inserting the words “the Nairobi City” after the word “means”.
 - b) by deleting the words “health and” appearing before the word “services”.

- (v) in the definition of “Director”
 - a) by inserting the words “the Nairobi City” after the word “means”.
 - b) by deleting the word “health” appearing before the word “veterinary” and replacing therefor the word “services”.
- (vi) in the definition of “meat” by inserting the words “and includes poultry” after the word “species”.
- (vii) in the definition of “meat inspector”
 - a) by inserting the words “qualified to inspect meat under the Meat Control Act Chapter 356 Laws of Kenya and” after the word “person”.
 - b) by inserting the definite article "the" “before the word “provision”.
 - c) by deleting the words “or products of animal origin by the county executive member” appearing after the word “meat”.
- (viii) in the definition of “executive member” by deleting the words “agriculture, fisheries and livestock” and replacing therefor the words “veterinary services”.
- (ix) in the definition of “officer” by deleting the words “county officer” and replacing therefor the words “officer and meat inspector”.
- (x) by inserting the following new definitions in their proper alphabetical sequence-
 - a) ‘certification’ means inspection, auditing of quality assurance systems and examination of finished products.
 - b) ‘export certification’ means certification of meat and meat products by the National Government”.
 - c) local certification’ means certification of meat and meat products by the Nairobi City County Government”.
 - d) ‘viscera container’ means a container to put all internal organs from an animal’s abdominal cavity.”
 - e) ‘veterinarian’ means a meat inspector or a veterinary officer.

NEW CLAUSE

THAT, the following New Clause be inserted immediately after clause 2

—

Object and Purpose. **2A.** “This Act is additional to and does not derogate from the provisions of the Meat Control Act, the Public Health Act, the Food, Drugs and Chemical Substances Act and the Veterinary Surgeons and Veterinary Paraprofessionals Act, and any other written law on meat hygiene”.

CLAUSE 3

THAT, Clause 3 be amended-

- (i) in sub-clause (1) by inserting the words “Nairobi City” before the words “County Public Service Board”.
- (ii) by **deleting** sub-clause (2) in its entirety.

NEW CLAUSE

THAT, the following New Clause be inserted immediately after clause 3

—

County Director of Veterinary Services	3A 1) There shall be appointed a Director in charge of veterinary services who shall be the head of the department in charge of veterinary services in the County. 2) The Director shall be a veterinarian. 3) The Director shall be responsible for the control and inspection of slaughter and processing of livestock ensuring that any person operating an abattoir observes the appropriate hygienic requirements in the abattoir. 4) The Director may in writing designate official veterinarians, meat inspectors and other officers to carry out any function under this Act. 5) The Director shall specify the health standard requirement for all persons working in an abattoir including the requirement for routine medical examination for all persons working in an abattoir.”
---	--

CLAUSE 4

THAT Clause 4 be amended-

- (i) by introducing a new title before clause 4 as follows: -
“PART III – REGISTRATION OF AN ABATTOIR”
- (ii) by deleting the words “requirements as spelt out in the first schedule” appearing after the words “complies with the” and substituting therefor the words “prescribed form”.

CLAUSE 6

THAT, Clause 6 be amended by **deleting** the clause in its entirety.

CLAUSE 7

THAT, Clause 7 be amended by **deleting** the clause in its entirety.

CLAUSE 8

THAT, Clause 8 be amended in sub clause (2) by deleting the word “department” appearing at the end thereof and substituting therefor the words “County director”.

CLAUSE 9

THAT, Clause 9 be amended in sub clause (2) by inserting the word “County” immediately before the word “director”

CLAUSE 10

THAT, Clause 10 be amended by deleting the clause in its entirety.

CLAUSE 11

THAT, Clause 11 be amended by deleting the clause in its entirety.

CLAUSE 12

THAT, Clause 12 be amended by deleting the title appearing before clause 12 as

“PART III- REGISTRATION AND LICENSING OF MEAT PROCESSING ESTABLISHMENTS” and replacing therefor the title “PART IV: LICENSING OF ABATTOIR ESTABLISHMENTS”.

CLAUSE 13

THAT, Clause 13 be amended in sub clause (2) (a) by deleting the words “a processing” appearing before the word “issue” and substituting therefor the words “an abattoir”.

CLAUSE 21

THAT, Clause 21 be amended-

- (i) In sub-clause (1) (b) by deleting the words “at the point of slaughter” appearing at the end thereof and substituting therefor the words “in an approved abattoir”.
- (ii) In sub-clause 3 by deleting the sub-clause in its entirety.
- (iii) In sub-clause 5 by deleting the words “and is removed from the premises of the abattoir and treated” appearing after the words “contagious diseases” and substituting therefor the words “shall be condemned and destroyed in accordance with the prescribed procedure” and further by deleting the words “such animal may be allowed in the abattoir upon satisfaction by the veterinary officer that the animal is healthy” appearing at the end thereof.

CLAUSE 22

THAT, Clause 22 be amended by deleting the clause in its entirety and substituting therefor the following new clause: -

“Equipment and utensils used for preparing, processing or otherwise handling carcasses and meat shall be of such material as will make them easily cleaned, and disinfected and shall, except for chopping blocks and handles of utensils made of metal or other durable material as prescribed by a veterinary officer.”

CLAUSE 23

THAT, Clause 23 be amended in sub clause (2) by deleting the words “any abnormal cutting or” appearing after the words “in the event of”

NEW CLAUSE

THAT, the following New Clause be inserted immediately after clause 23-

Duties of 23A (1) The meat inspector shall: -

- a meat inspector** (a) brand or stamp with the official stamp mark of the department in such places and in such ways as they deem advisable or necessary all carcasses and meat submitted for examination and passed as healthy and fit for human consumption.
- (b) at the time of inspection, issue an inspection certificate which shall be displayed at the Butchery sale point.
- (c) apply and enforce the provisions of the code of hygienic practice for meat that is set out under the Public Health Act and Meat Control Act.
- (2) A person shall not, other than an authorized officer, stamp, brand or mark or attach to or impress on any meat or offal with any official stamp or mark or similar marking.
- (3) A person shall not attach to or impress on any meat or offal any forged stamp or mark or any stamp or mark intended or liable to deceive the public or induce the belief that such meat or offal has been inspected and approved by regulations or slaughtered at the abattoir.
- (4) All carcasses declared fit for human consumption shall be tagged and stamped by a meat inspector or veterinary officer, according to the standard prescribed by the department.

CLAUSE 24

THAT, Clause 24 be amended by deleting the clause in its entirety and substituting therefor the following clause-

“A meat inspector shall, upon declaration of meat to be unfit for human consumption, order that such meat be destroyed by burning or such other means of disposal as soon as possible. A written notice and reasons for so doing shall be issued to the owner of the animal and the abattoir or his agent.”

CLAUSE 25

THAT, Clause 25 be amended: -

- (i) by introducing new paragraphs in the existent list as follows: -
 - a) the identity number of the animal or the number of the lot,
 - b) the movement permit number ,
 - c) the name of animal owner or supplier
 - d) the identity of the vessel that delivered the animals.
- (ii) by deleting paragraph of the existent list.

CLAUSE 26

THAT, Clause 26 be amended-

- (i) in sub-clause (3) by deleting the words “the county executive may apply to the Court for an order” appearing after the word “exceed” and substituting therefor the words “the Director of Veterinary Services shall order”.
- (ii) in sub-clause (4) by deleting the words “of section 35” appearing after the words “under the provisions of”

CLAUSE 29

THAT, Clause 29 be amended-

- (i) in sub-clause (1) by deleting the words “and shall in the case of any slaughter dispose of the carcass on behalf of the department” appearing in the end thereof and substituting therefor the words “the carcass thereof shall be disposed by way of sale by the owner or the person in charge of the abattoir”.
- (ii) In sub-clause (2) by deleting the word “department” appearing before the words “shall pay” and substituting therefor the words “owner of the abattoir”.

CLAUSE 30

THAT, Clause 30 be amended by inserting the word “rodent” after the word “bird”.

CLAUSE 31

THAT, Clause 31 be amended by deleting the words “A person under the age of 16 years shall not” and substituting thereof the words “No person shall”.

CLAUSE 35

THAT, Clause 35 be amended by inserting the following new sub-clause-

35(2) (a) A County officer is personally liable for any loss sustained by the county government that is attributable to the fraudulent or corrupt conduct, of the officer.

(b) The County Treasury may, by civil proceedings brought in a court of competent jurisdiction, recover damages from a County officer for any loss for which the officer is liable under subsection (1).

CLAUSE 36

THAT, Clause 36 be amended by inserting the following new sub-clause -

36(2) A person who wilfully disobeys or obstructs or hinders or knowingly makes any false or misleading statements either orally or in writing to an officer engaged in carrying out his duties or functions under this Act or regulations commits an offence and shall be liable on conviction, to a fine not exceeding five hundred thousand shillings or to imprisonment for two years or to both.”

CLAUSE 37

THAT, Clause 37 of the Bill be amended-

- (i) By deleting the word “may” appearing before the words “make regulations” and substituting therefor the word “shall”.
- (ii) By inserting the following new paragraph after the words “provisions of this Act”:-
Such regulations may include:
(1) Categories of abattoirs;

II. Assembly resolved on Wednesday, February 10, 2016 as follows:-

THAT, notwithstanding the provisions of Standing Order 94(4), this Assembly orders that, each speech in a debate on any **Motion**, including a Special motion be limited in the following manner:- A maximum of three hours with not more than twenty (20) minutes for the Mover and ten (10) minutes for each other Member speaking, except the Leader of the Majority Party and the Leader of the Minority Party, who shall be limited to a maximum of fifteen (15) minutes each, and that ten (10) minutes before the expiry of the time, the Mover shall be called upon to reply; and that priority in speaking be accorded to the Leader of the Majority Party, the Leader of the Minority Party and the Chairperson of the relevant Sectoral Committee, in that Order.

III. Assembly resolved on Wednesday, February 10, 2016 as follows:-

THAT, notwithstanding the provisions of Standing Order 94(4), this Assembly orders that, each speech in a debate on a **Report of a Committee**, a Sessional Paper or any other Report submitted to the Assembly, be limited as follows: - A maximum of sixty (60) minutes for the Mover in moving and thirty (30) minutes in replying, and a maximum of ten (10) minutes for any other Member speaking, except the Leader of the Majority Party and the Leader of the Minority Party, who shall be limited to a maximum of fifteen (15) minutes each; and that priority be accorded to the Leader of the Majority Party and the Leader of the Minority Party, in that Order.

*** Denotes Orders of the Day**
