



**COUNTY GOVERNMENT OF NAIROBI CITY**

**FIRST ASSEMBLY – FIFTH SESSION**

**NAIROBI CITY COUNTY ASSEMBLY**

**VOTES AND PROCEEDINGS**

**TUESDAY, MAY 16, 2017**

1. The Assembly assembled at sixteen minutes to three O'clock.
2. The Proceedings were opened with Prayer

**3. COMMUNICATION FROM THE CHAIR**

The Speaker conveyed the following Communication:-

**- Direction on The Nairobi City County Appropriation Bill, 2017**

**“Honorable Members**, you will recall that the County Assembly passed The Nairobi City County Appropriation Bill, 2017 (Assembly Bill No. 7 of 2017) on **April 6<sup>th</sup> 2017** in line with the revised Budget Calendar.

**Honorable Members**, while preparing the vellum for the said Bill for the Governor’s Assent, the Clerk’s attention was drawn to some material defects with respect to Section 129(7) of the Public Finance Management Act, 2012 (PFM), which defects the Clerk reported to the Speaker for further direction before the Bill is forwarded for Assent under Section 24 of the County Governments Act, 2012.

**Honorable Members**, the said defects in the consideration and passage of the Nairobi City County Appropriation Bill, 2017 arose out of missteps by the County Finance and Economic Planning Department with regards to Section 129 of the Public Finance Management Act, 2012, which requires the *County Executive Committee member to submit budget estimates and other documents*

*to County Executive Committee for approval before publishing an Appropriation Bill.*

*Specifically, **Honorable Members**, Section 129(7) provides thus, upon approval of the budget estimates by the county assembly, the County Executive Committee member for finance shall prepare and submit a County Appropriation Bill to the county assembly of the approved estimates.*

Accordingly, **Honorable Members**, the County Assembly considered and passed the Report of the Select Committee on Finance, Budget and Appropriations on the submitted Budget Estimates for the Financial Year 2017/2018 on the **5<sup>th</sup> of April, 2017**.

**Honorable Members**, authority to publish an appropriation Bill in line with Section 129(7) of PFM Act, 2012 was subsequently issued the same day vide a letter dated **5<sup>th</sup> April, 2017, Ref. NCCA/T&J/CORR/2017/(16)**.

However, **Honorable Members**, contrary to Section 129(7) of the PFM, Act, 2012, as highlighted above, the County Finance and Economic Planning Department had already published The Nairobi City County Appropriation Bill, 2017 (Assembly Bill No. 7 of 2017) on the **4<sup>th</sup> of April, 2017**.

**Honorable Members**, it is important to point out that on the said date, **4<sup>th</sup> April, 2017**, there was no authority from the County Assembly for the decision to publish the Appropriation Bill, which as shown earlier should only be entertained once estimates have been passed and the relevant County Economic and Finance Department given the green light to proceed with Publication of an appropriation Bill. The Budget Estimates had not been passed as of the purported date of publication of an appropriations bill.

Inadvertently, **Honorable Members**, in the urgency to pass the Bill as forwarded by the County Executive Finance and Economic Planning Department, which forwarding was further accompanied by no official

letter on the record, the Assembly entertained a defective Bill which I now realize can arise serious litigation as to render the passed law invalid if the identified critical material defects are not cured at once.

Accordingly therefore, **Honorable Members**, I directed the Clerk to halt preparations for the Vellum of The Nairobi City County Appropriation Bill, 2017 (Assembly Bill No. 7 of 2017) and now instruct the Assembly to write immediately to the County Executive Committee Member for Finance and Economic Planning to forward a properly Published Appropriation Bill in accordance with Section 129(7) of the PFM, Act, 2012 for the Assembly's prompt consideration.

It is so directed.

I thank you."

#### **4. MESSAGES FROM THE GOVERNOR**

The Speaker conveyed the following Message from the Governor:-

**"Hon. Members,**

Standing Order 39(1) relating **to Messages from the Governor provides** that "***the Speaker shall read to the County Assembly any message from the Governor or the Senator of the County delivered to the Speaker for communication to the County Assembly.***" In this regard Hon. Members I wish to report that I received a Message on 6<sup>th</sup> December, 2016, from the Governor vide a letter dated 5<sup>th</sup> December, 2016.

**Hon. Members,**

The Message regards the **refusal to assent the Nairobi City County Office of the County Attorney Bill, 2016.**

Hon. Member, I now wish to convey the following Message:-

**REFUSAL TO ASSENT THE NAIROBI CITY COUNTY OFFICE OF THE COUNTY ATTORNEY BILL, 2016 PURSUANT TO SECTION 24(2) (b) OF THE COUNTY GOVERNMENTS ACT, 2012 AND STANDING ORDER NO. 135(2)(b)**

**Hon. Members**, you may recall that on 24<sup>th</sup> November, 2016 during the last part of the Fourth Session, the County Assembly passed the Nairobi City County Office of the County Attorney Bill, 2016. Thereafter, I presented the

Bill for assent to His Excellency the Governor on 30<sup>th</sup> November, 2016 in accordance with the provisions of Section 24 of the County Governments Act, 2012 and Standing Order 135. However, on 6<sup>th</sup> December, 2016, His Excellency the Governor, by way of a memorandum, referred the Bill back to the County Assembly for reconsideration pursuant to the provisions of Section

24(2) (b) of the County Governments Act, 2012 and standing order no. 135(2) (b). It is worth noting that the Memorandum was received while the Assembly had adjourned for recess.

**Hon. Members**, while refusing to assent to the Bill, His Excellency the Governor has expressed reservations on the provisions of Clauses 4, 19, and 34 of the Bill. The Governor avers that Clause 4(3) which provides that the County Attorney shall be appointed by the Governor and with approval of the Assembly fails to provide for competition and merit in the appointment process. Further, the Governor argues that Clause 19 creates the position of the County Solicitor which in his opinion such position should be established by the County Public Service Board.

On the same, His Excellency the Governor argues that by designating the County Solicitor as the Accounting Officer of the Office of the County Attorney is against the provisions of Section 148 of the Public Finance Management Act, 2012 which bestows the powers of designating Accounting Officers to the County Executive Committee Member for Finance. Lastly, His Excellency the Governor opines that Clause 34 unfairly intends to remove the person currently holding the position of the County Attorney and therefore it's inconsistent with the provisions of Article 236 of the Constitution of Kenya.

**Hon. Members**, Standing Order 135(3) is explicit on procedure for consideration of governor's memorandum. The chair has perused the memorandum and wishes to observe that there are procedural and policy issues which can be addressed via amendments, and substantive constitutional issues which required the Chair's informed consideration and direction.

**Hon. Members,** accordingly, the Chair will issue a Communication tomorrow 17<sup>th</sup> May, 2017 on the consideration of the Governor's Memorandum on the **Nairobi City County Office of the County Attorney Bill, 2016.**

I thank you.”

**5. NAIROBI CITY COUNTY CHILD CARE FACILITIES BILL, 2017(ASSEMBLY BILL NO. 6 OF 2017)**

Order for First Reading read;

Bill read a First Time and committed to the Sectoral Committee on Children, Early Childhood Education and Vocational Training;

**6. THE NAIROBI CITY COUNTY EVICTIONS, RESETTLEMENT AND DEMOLITIONS BILL, 2017(ASSEMBLY BILL NO. 10 OF 2017)**

Order for First Reading read;

Bill read a First Time and committed to the Sectoral Committee on Planning & Housing;

**7. THE NAIROBI CITY COUNTY SPORTS MANAGEMENT BILL, 2017(ASSEMBLY BILL NO. 9 OF 2017)**

Order for First Reading read;

Bill read a First Time;

**8. NAIROBI CITY COUNTY OPEN SPACES USE AND MAINTENANCE BILL, 2017(ASSEMBLY BILL NO. 12 OF 2017)**

Order for First Reading read;

Bill read a First Time;

**9. NAIROBI CITY COUNTY EARLY CHILDHOOD EDUCATION BILL, 2017 (ASSEMBLY NO. 4 OF 2017)**

Order for Second Reading read;

Motion made and Question proposed –

**THAT,** the Nairobi City County Early Childhood Education Bill, 2017(Assembly Bill No. of 2017) be now read a Second Time.

*(Hon. Patrick Ngaruiya Chege, MCA)*

Debate arising;

Mover replied;

Question put and agreed to.

**10. MOTION- TO ADOPT THE REPORT OF THE SECTORAL COMMITTEE ON TRANSPORT, ROADS AND PUBLIC WORKS**

Motion made and Question proposed –

**THAT**, this Assembly adopts THE REPORT OF THE SECTORAL COMMITTEE ON TRANSPORT, ROADS AND PUBLIC WORKS ON THE INSPECTION VISIT TO KIMONDO ROAD, KWARE WARD, laid on the Table of the Assembly on Thursday, 16th March, 2017.

*(Chairperson, Transport, Roads and Public Works Committee)*

Debate Arising;

Mover replied;

Question put and agreed to

And the time being fourteen minutes past Three O'clock, the Speaker adjourned the House without Question put pursuant to the Standing Orders.

**7. ASSEMBLY ROSE** – At fourteen minutes past Three O'clock.

**MEMORANDUM**

The Speaker will take the Chair on  
Wednesday, May 17, 2017 at 2.30p.m

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