



COUNTY GOVERNMENT OF NAIROBI CITY

SECOND ASSEMBLY – (SECOND SESSION)

NAIROBI CITY COUNTY ASSEMBLY

VOTES AND PROCEEDINGS

TUESDAY, JUNE 12, 2018 AT 2.30 PM

1. The Assembly assembled at Thirty minutes past Two O'clock.
2. The Proceedings were opened with Prayer.

QUORUM OF THE ASSEMBLY

The presiding Speaker having confirmed that there was no Quorum caused the Bell to be rung for ten minutes.

There being no quorum at the expiry of ten minutes, the Speaker caused the Bell to be rung for a further five minutes.

There being a Quorum at the expiry of the five minutes, the presiding Speaker called the Assembly to order.

3. COMMUNICATION FROM THE CHAIR:-

The Speaker conveyed the following communication;

Hon. Members, I have the following communication to make.

– CONSIDERATION OF NOMINEE FOR DEPUTY GOVERNOR

Hon. Members, rising on a Point of Order under Standing Order 43 on Thursday 7th June, 2018, the Hon. Peter Imwatok, MCA sought the chair's directions on the status of the nomination of Mr. Miguna Miguna for consideration as the Deputy Governor, Nairobi City County. I now wish to guide as follows.

Hon. Members, as you are aware, on 11th January, 2018 the Deputy Governor of the Nairobi City County, the Hon. Polycarp Igathe, announced that he would resign from his seat effective Wednesday 31st January 2018.

Hon. Members, Section 33 (10) of the County Governments Act, 2012 provides that a *vacancy in the office of the governor or deputy governor arising under this*

section shall be filled in the manner provided for by Article 182 of the Constitution. Unfortunately, Article 182 of the Constitution provides no specifics for the immediate circumstance of the resignation of the Deputy Governor. For that purpose, **Hon. Members**, two voters sought an advisory opinion from the Supreme Court on the matter, which Advisory opinion was issued on Friday March 9th, 2018, to the effect that the Deputy Governor's position cannot be vacant until new term. Accordingly, and amongst other things, the Supreme Court gave Governors affected by a vacancy in the office of their Deputies 14 days within which to nominate Deputy Governors and subsequently forward the said nominees to the County Assembly for approval.

On the other hand, **Hon. Members**, the Supreme Court gave County Assemblies whose County's were affected by the Advisory Opinion in the circumstances 60 days within which to consider the nominee so nominated and forwarded by the Governor. **Hon. Members**, the Governor of the Nairobi City County vide a letter dated 16th May, 2018 relayed a Message to the Assembly regarding his nomination of Mr. Miguna Miguna as his Deputy. Indeed the letter was received by the Office of the Speaker on 17th May, 2018. Unfortunately, the Assembly had then adjourned for recess.

Hon. Members, Standing Order 43(2), in realizing the provisions of Section 7(1) of the Public Appointments (County Assemblies Approval) Act, 2017, provides that *if a message is received from the Governor or the Senator of the County, at a time when the County Assembly is not in session, the Speaker shall forthwith cause the message to be transmitted to every Member and shall report the message to the County Assembly on the day the County Assembly next sits.*

Hon. Members, proceeding from the foregoing, a question was asked when this matter was raised last week Thursday 7th June, 2018 for directions as to what when the Assembly "next sits" means in the context of Standing Order 44(2). That question is as open to interpretation as it is straightforward. In my mind, when the Assembly "next sits" does not necessarily mean on the first day when the Assembly resumes from recess or break. You will recall the Assembly resumed its sittings on Tuesday 5th June, 2018. In the circumstances, **Hon. Members**, the Chair is indeed within the thresholds provided by the Standing Orders under Standing Order 44(2).

Hon. Members, Standing Order 43(3) provides that *when a message from the Governor or the Senator of the County is read, the message shall be deemed to have been laid before the County Assembly and the Speaker may either -*

- a) direct that the message be dealt with forthwith, or*
- b) appoint a day for the consideration of the message; or*
- c) refer the message to the relevant Committee of the County Assembly for consideration.*

Hon. Members, it follows that if the Chair were to direct that the Message be dealt with under Standing 43(3)(c), the provisions of Standing Order 46 on *Committal to committees*, which the House wondered last week why the Chair had not done, would kick in automatically. Now **Hon. Members**, the Chair appreciates that this matter has raised considerable controversy not just within these precincts, but beyond the realms of our hallowed precincts. It is a matter of public notoriety that the nominee in question is still in Court seeking to enforce his right to Kenyan Citizenship, having been allegedly found to be in Kenya illegally and accordingly removed as would any other illegal aliens.

Hon. Members, Article 78 of the Constitution provides that a person is not eligible for election or appointment to a State office unless the person is a citizen of Kenya. Further, the said Article provides that a State officer or a member of the defence forces shall not hold dual citizenship.

Further, **Hon. Members**, Section 8 (b) of the Public Appointments (County Assemblies Approval) Act, 2015 provides for issues to be considered by the relevant County Assembly in relation to any nomination, which include but not limited to any constitutional or statutory requirements relating to the office in question.

In the above regard **Hon. Members**, the County Assembly of Nairobi is not in a position to vet the nominee as under listed statutory required documents were not provided.

- i. Clearance such as Good conduct certificate from the Criminal Investigation Department(CID);
- ii. Clearance Certificate from the Higher Education Loans Board;
- iii. Compliance certificate from the Kenya Revenue Authority; and,
- iv. Clearance from the Ethics and Anti-Corruption Commission.

Honorable Members, flowing from the foregoing, I therefore wish to direct as follows; that pursuant to provisions of Standing no. 1, the name of the nominee for the position of the Deputy Governor for Nairobi City County be referred back to the appointing authority for further validation.

It is so therefore directed.

4. PAPERS LAID

The following paper was laid on the Table of the Assembly;

- i. The Nairobi City County Supplementary Budget Estimates for the Financial year 2017/2018

(Chairperson, Select Committee on Finance, Budget and Appropriations)

4. MOTION – HON. JAYENDRA MALDE, MCA

Motion made and Question proposed;

TASKFORCE ON REFORMS OF THE CITY INSPECTORATE

Madam Speaker, I beg to give Notice of the following Motion –

THAT AWARE; that Article 176(2) of the Constitution provides that the county government shall decentralize its functions and provision of its services to the extent that it is efficient and practicable to do so;

FURTHER AWARE; that Article 175(b) of the Constitution on the principles of devolved government provides that county governments shall have reliable sources of revenue to enable them govern and deliver services effectively;

NOTING THAT; that for a long period of time the management of the city inspectorate has been marred with a number of challenges with regards to institutional and structural arrangements such as understaffing, poor quality of service, inadequate service facilities, insecurity, health and safety of personnel;

APPRECIATING THAT; the new County administration has shown a willingness to reform the Inspectorate Department as enumerated by the Governor on various occasions and through budgetary provisions for retraining and recruitment of competent personnel;

REGRETING THAT; that despite the foregoing efforts and other interventions, including the consideration and passage of the Nairobi City County Inspectorate Services Act, 2017, not much has changed in the way of anticipated change for lack of implementation of proposals for reform;

RECOGNIZING THAT; as a result of such systemic and institutional challenges the city inspectorate staff establishment has developed a poor attitude towards their work, characterized by frequent violent confrontations between City Askaris and the Nairobi business community more so the hawkers and harassment of the general citizenry, resulting in a general lack of public trust with the department;

CONCERNED THAT; despite the violent confrontations with the public and the loss of life on both ends, conflicts persist and no tangible solutions have emanated from the Department on how it plans to fix its image and the challenges it faces, necessitating a rethinking of enforcement strategies;

OBSERVING THAT; one of the major revenue streams for the Nairobi County Government is through the business establishments in the City with a potential to contribute immensely to the City's kitty through levies and daily taxes as well as

create job opportunities if the Inspectorate Department can be reengineered to return public trust and ensure seamless working;

KEEPING IN MIND; that Nairobi is the Capital City of Kenya and gateway for both domestic and foreign direct investment, conferences and the seat of the National Government as well as a Diplomatic city, whose image often time has suffered battering arising out of the actions of “*council askaris*” or commonly known as “*kanjo*”;

NOW THEREFORE, this Assembly **RESOLVES** that the County Executive establish a multi-agency Task Force consisting of the following Members:

- i. County Secretary as Chairperson;*
- ii. Chairperson, County Public Service Board;*
- iii. Two (2) nominees from County Public Service Management Department;*
- iv. One (1) nominee from the Office of the Inspector General of Police;*
- v. Two (2) nominees from the Office Of The County Attorney;*
- vi. One nominee (1) from the Department Of Finance and Economic Planning;*
- vii. One (1) nominee, qualified as a Security Consultant, to be sourced by the County Secretary from amongst qualified persons; and*
- viii. Two (2) nominees from Two (2) registered Business Associations in Nairobi City County.*

With the following Terms of Reference, namely to: -

1. Review existing policies and institutional structures of the Inspectorate Department, and to recommend comprehensive reforms that would enhance effectiveness, professionalism and accountability in the inspectorate services department and propose changes where necessary;
2. Review the Terms of Service of the City Inspectorate staff establishment and propose measures to improve service delivery and the image of the Department;
3. Review the Policy and Legal framework establishing the Inspectorate Services Department, including the framework proposed under the recently enacted Nairobi City County Inspectorate Services Act, 2017, and propose changes where necessary; and
4. Report to the County Assembly with a Comprehensive Report within three (3) months from the date of establishment of the Task Force.

*Debate arising;
Mover Replied;
Question put and Agreed to.*

5. ASSEMBLY ROSE - at fifteen minutes to Four O'clock.

M E M O R A N D U M

The Speaker will take the Chair on
Wednesday, June 13th, 2018 at 2.30p.m

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