



COUNTY GOVERNMENT OF NAIROBI CITY

SECOND ASSEMBLY – THIRD SESSION

NAIROBI CITY COUNTY ASSEMBLY

VOTES AND PROCEEDINGS

WEDNESDAY, JULY 31, 2019 AT 2.30P.M

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

QUORUM OF THE ASSEMBLY

There being no quorum at the commencement of the sitting the Deputy Speaker ordered the bell be rung for ten minutes.

There being the no quorum at the expiry of the ten minutes, the Speaker ordered the bell be rung for a further five minutes.

And There being quorum at the expiry of the extra five minutes, the Speaker called the Assembly to order.

3. MESSAGE FROM THE GOVERNOR

Hon. Members

Standing Order 43 (1) 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 the Office of the Speaker is in receipt of a Message from H.E the Governor of the Nairobi City County.

Hon. Members,

The message regards the memorandum of the Nairobi City County Tobacco Control Bill, 2019.

Hon. Members, Standing Order 146 (1) provides that *“Whenever the Governor refers a Bill back to the County Assembly under Section 24(3) of the County Governments Act, 2012 and Standing Order 145(3), the Speaker shall convey to the Assembly a Message on the Memorandum pursuant to*

Standing Order 43 on Messages from the Governor' and where applicable, give any special guidelines."

I now wish to convey the following message: -

THE NAIROBI CITY COUNTY TOBACCO CONTROL BILL, 2019

"The Governor of Nairobi City County in accordance to Section 24 of the County Governments Act, 2012 do hereby return the Nairobi City County Tobacco Control Bill, 2019 with a memorandum outlining reasons for referral.

Hon. Members, Standing Order 146 highlights the procedures in consideration of Governor's memorandum. I therefore commit the memorandum to the Sectoral Committee on Health Services for consideration and report to the Assembly within twenty-one (21) days"

Thank you.

4. PAPERS LAID

The following papers were laid on the Table of the Assembly: -

- i) County Government Budget Implementation Review Report for the first Nine Months of FY 2018/2019.

(Leader of the Majority Party)

- ii) Legal notice No. 3: The provisional collection of taxes, fees, charges, levies and penalties order 2019.

(Leader of the Majority Party)

5. NOTICE OF MOTION - (LEADER OF THE MAJORITY PARTY)

The Punguza Mizigo (Constitutional Amendment) Bill, 2019.

Mr. Speaker Sir, I beg to give Notice of the following Motion –

THAT AWARE, that *Article 257* of the Constitution of Kenya, 2010, (hereinafter "*the Constitution*") on *Amendment to the Constitution by popular initiative*, provides for the process by which the Constitution may be amended by Popular Initiative;

WHEREAS *Article 257 (5)* of the Constitution provides that if the *Independent Electoral and Boundaries Commission* is satisfied that an initiative meets the requirements of this Article, the Commission shall submit

the draft Bill to each county assembly for consideration within three months after the date it was submitted by the Commission;

WHEREAS, the Independent Electoral and Boundaries Commission (IEBC), in keeping with the provisions of Article 257 (5) of the Constitution transmitted to the Speaker of the County Assembly a draft bill to amend the Constitution by Popular Initiative dubbed *Punguza Mizigo Initiative*, whose full title is *The Punguza Mizigo (Constitutional Amendment) Bill, 2019* vide a letter dated 18th July, 2019 from the Chairperson of the Commission;

WHEREAS the Hon. Speaker vide a Communication from the Chair dated Tuesday 30th July, 2019 relayed to the Assembly his receipt of *The Punguza Mizigo (Constitutional Amendment) Bill, 2019*, and the admittance of the Bill before the House thereof;

WHEREAS the procedural exposition requisite for the consideration process when the Bill is transmitted to the County Assembly is not laid out in the Constitution nor indeed in the Assembly Standing Orders, which directions regarding consideration of the said Bill in keeping with the provisions of Article 257 (6) the Speaker made in his Communication earlier referenced;

AND WHEREAS, the said Article 257(6) *provides that if a county assembly approves the draft Bill within three months after the date it was submitted by the Commission, the speaker of the county assembly shall deliver a copy of the draft Bill jointly to the Speakers of the two Houses of Parliament, with a certificate that the county assembly has approved it.*

NOW THEREFORE, pursuant to the provision of Article 257(6) of the Constitution of Kenya, 2010, this Assembly **RESOLVES** to **APPROVE** *The Punguza Mizigo (Constitutional Amendment) Bill, 2019.*

6. NOTICES OF MOTION – (LEADER OF THE MAJORITY PARTY)

THAT, aware that devolved Governments are a key component of governance in the Republic of Kenya established under Article 11 of the Constitution 2010; **further aware** that the office of Member of the County Assembly has been strongly anchored as a fundamental component in the County Administrative System; **cognizant** of the remunerative needs of each public and State officer to ensure adequate facilitation for successful

execution of their duties and mandates; **further cognizant** of the existence of disparities within the State offices within the Republic on remuneration of the office holders, particularly the payment of house allowances to which the Member of the County Assembly have to their detriment been deprived of; **noting** that the High Court in the Republic has in Constitutional Petition No. 328 of 2016; Council of Governors versus Salaries and Remuneration Commission pronounced that denying some state officers similar benefits enjoyed by other State officers is discriminatory, unjustifiably selective and contrary to Article 27 of the Constitution, 2010; **acquiescing** that such conduct is a violation of the fundamental rights of the state officers which such conduct is desirous of denunciation by the Members of the County Assemblies *ab initio*; **whereas** the Governing Council of the County assemblies Forum has resolved that the non-payment of housing allowance for the Members of the County Assembly is a fundamental breach of the rights of the Members; **whereas** the Governing Council has further resolved and directed that there be effected payment of Housing allowance for Members of the County Assemblies in tandem with the High Court finding; **and whereas** the resolution of the Governing Council finds precedence and relative applicability from Parliament of Kenya's payment of housing allowance to its Members despite lack of the Salaries and Remuneration Commission directive in affirmative of the same; this assembly resolves to approve and adopt the resolution of the County Assemblies Forum Governing Council that:-

- a) the Salaries and Remuneration Commission (S.R.C) do set housing allowance for Members of the County Assembly in tandem with the ideal and adequate endowment;
- b) the set house allowance be effected and implemented as of the date of issue of the ruling of the High Court in Constitutional Petition No. 328 of 2016 being the 5th day of October, 2018; and
- c) The implementation of the payment of the house allowance to the Members of the County Assembly be commenced with immediate effect upon action by S.R.C.

7. NOTICES OF MOTION – (HON. MARGARET MBOTE, MCA)

THAT, aware that the problem of street children/families is not limited only to the Third World where there are hundreds of thousands of children running away from home and living on the streets across the world, which has become a pandemic problem for many governments in the World; **further aware** that of recent years the problem of street children/families in the Nairobi City has increased thereby affecting business in the city Centre; noting that this problem had turned into a social nightmare with more street children/families invading major streets within the Central

Business District (CBD); **concerned** that these street children/families are now extorting money from innocent pedestrians and motorists through intimidation and threats of use of human waste, some of them come up with all sorts of tricks, ranging from having sick children or people suffering from a terrible disease accompany them; **further concerned** that below the veneer of a dirty street person is a well calculated and thriving drug and alcohol business where the street people are used as mules to transport drugs and alcohol from one point to another, worse are the peddlers who sell drugs to the street people on credit to permanently keep them hooked and in debt, leading to a vicious cycle of petty thieving to sustain the habit; **acknowledging** the effort by the County government to bring sanity in the Central Business District by launching an operation to flush out street families from the C.B.D, this Assembly urges the County Executive to:-

- i. develop a comprehensive policy with programmes for the rehabilitation of street children/families, to regulate homes catering for street families with institutional system that identifies, assesses and classifies street families and to solve the issue of homeless people in County;
- ii. complete the construction of the Ruai Rehabilitation centre for rehabilitation of street families/children; and
- iii. integrate street children in existing children's homes

8. NOTICES OF MOTION – (HON. MARGARET MBOTE, MCA)

THAT, aware that Article 186 (1) of the Constitution of Kenya 2010, and paragraph 5 of the Fourth Schedule to the Constitution provide for the functions and powers of County Government on County transport including regulation of county roads, street lighting, public road transport traffic and parking; **further aware** that the Nairobi City County has designated preferential parking zones and bus termini throughout the City with parking restrictions for each zone; noting that recent years have witnessed a marked increase in the use of motorbikes and bicycles in the County; **concerned** that the Nairobi City County Government has no designated and cleared marked parking slots for motorbikes and bicycles in the County and especially in the Central Business District (C.B.D); **noting** that the available parkings are meant for vehicles only yet the County Government collect revenue from motorbikes in the C.B.D, this Assembly urges the County Executive to establish well-marked parking areas for motorbikes and bicycles in the Central Business District to ease the pressure on the available spaces, provide efficient parking services to motorists and boost revenue collection for the County.

9. STATEMENTS PURSUANT TO STANDING ORDER 45(2)(c)

Pursuant to Standing Order 45 (2) (c) the following statement was requested: -

- a) Hon. Fredrick Omondi, MCA from the Chairperson of the Sectoral Committee on Transport and Public Works regarding deplorable state of roads in the County specifically in Lucky Summer Ward.

RESPONSE TO STATEMENTS PURSUANT TO STANDING ORDER 45(2)(f)

Pursuant to Standing Order 45 (2) (f) the following response to statement was given: -

- a) Response to statement requested by Hon. Jeremiah Themendu, MCA from the Chairperson, Sectoral Committee on Water and Sanitation regarding water rationing in the County was given by the Chairperson, Hon. Paul Kados

10. MOTION - ADOPTION OF SECTORAL COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES REPORT ON THE INQUIRY INTO THE DISCHARGE OF INDUSTRIAL EFFLUENT GAS IN NAIROBI CITY COUNTY

Motion made and question proposed: -

THAT, This Assembly adopts **THE REPORT OF THE SECTORAL COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES ON THE INQUIRY INTO THE DISCHARGE OF INDUSTRIAL EFFLUENT GAS IN NAIROBI CITY COUNTY.**

(Hon. John Kamau, MCA)

Debate ensued;

Mover Replied;

Question put and *agreed to.*

11. MOTION - ESTABLISHMENT OF YOUTH, WOMEN AND PEOPLE WITH DISABILITY FUND.

Motion made and question proposed: -

THAT, aware that Article 21 (3) of the Constitution 2010 provides for all State Organs and public officers to address the needs of vulnerable groups within the society, including women, persons with disabilities, youth among others; **further** aware that Part II of the Fourth Schedule to the Constitution provides for the functions of the County Government which is

to support enterprises for women and youth in the County by establishing and providing for the administration of youth and women empowerment fund, ensuring and coordinating the participation of communities and locations in governance at the local level and assisting communities and locations to develop the administrative capacity for the effective exercise of the functions and powers and participation in governance at the local level; **acknowledging** that there has been a high number of youths and women who contribute greatly to the development of Nairobi City County through small and medium scale enterprises; **disturbed** that most youths and women in the County cannot easily access credit facilities from financial institutions due to stringent procedures in accessing such facilities and lack of securities and guarantors, this Assembly urges the County Executive to develop a policy to establish the County Youth, Women and Persons with Disability Empowerment Fund and set out provision relating to the procedures for application of loans and conditions for grant of loan to youth and women in the County.

(Hon. Doris Kanario, MCA)

Debate ensued;
Mover Replied;
Question put and agreed to.

And the time being Twelve minutes to Four O'clock the acting Speaker adjourned the Assembly without Question put pursuant to the Standing Orders.

12. ASSEMBLY ROSE - at Twelve Minutes to Four O'clock.

MEMORANDUM

The Speaker will take the Chair on
Thursday, August 1st, 2019 at 2.30 p.m

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