



COUNTY GOVERNMENT OF NAIROBI CITY

SECOND ASSEMBLY – (FIFTH SESSION)

NAIROBI CITY COUNTY ASSEMBLY

VOTES AND PROCEEDINGS

TUESDAY, JULY 27, 2021 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

There Speaker having confirmed that there was quorum at the commencement of the Assembly called the Assembly to order.

3. COMMUNICATION FROM THE CHAIR:-

The Speaker conveyed the following communication;

**THE IMPORT AND CONSIDERATION OF THE PETITION BY THE
SECTORAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS**

“Hon. Members, as you are aware, during the morning sitting, the Chairman of the Justice and Legal Affairs Committee tabled in the Assembly a report of the Committee on the consideration of a Petition by Mr. John Mark'Ojiambo on the removal from office of Ms. Lydia Kwamboka as County Attorney. The said Chairperson then proceeded to give a Notice of Motion on the report for consideration of approval by this Assembly.

Hon. Members, as you are aware before any Motion is tabled or Notice of the same given on the floor of the Assembly, the Office of the Clerk and the Office of the Speaker review the same to ensure compliance with the law and adherence with the procedures in our Standing Orders and thereafter the Speaker approves the same for tabling. In this particular matter, while considering the Notice of Motion, a novel situation presented itself having not been considered by this Assembly before in its consideration of Petitions, namely, a Petition for Removal of Office of a County Public Officer.

A question then arose, how then is such a Petition processed? Hon. Members, a Petition is defined by the Petition to County Assemblies (Procedure) Act, 2020 as a written prayer to a county assembly under section 15 of the County Governments Act (No. 17 of 2012). Similarly, our Standing Orders define a Petition as a written prayer to the County Assembly by a member of the public requesting the County Assembly to consider any matter

within its authority, including enacting, amending or repealing any legislation.

Hon. Members the net effect of these definitions is that a Petition is a tool open to members of the public to move or request the Assembly to undertake a particular thing within the mandate of the Assembly. Hon. Members, I am compelled to make the distinction between a Statement, a Motion and a Petition. A statement is a tool open and available only to a Member whereby they can request for particular information relating to the County. A Motion is similarly a tool open to Members or a Committee of the Assembly where they can bring a subject matter for resolution by the Assembly.

A Member cannot bring a Petition to the Assembly except as provided for under Standing Order 205 where they do so on behalf of a member of the Public. Hon. Members what then happens, when a member of the public Petitions the Assembly to take a particular action as provided by special provisions for example as in the instant matter removal from office of a public officer. Section 56 of the County Governments Act 2012 provides that the removal of a Member of the County Public Service Board is initiated by the presentation of a Petition on the grounds provided for under the Act. Section 10(2) of the County Assembly Service Act on the removal of a public member from the County Assembly Service Board provides as much as well. The question then arises as to the procedure to be followed, in consideration of the Petition given the procedure provided in Standing Order 205.

I wish to guide therefore that given the above scenarios it follows, that there are two types or categories of Petitions;

- i. General Petitions envisaged under Standing Order 205
- ii. Special Petitions envisaged under provisions of CGA 2012 and CASA 2017 on the removal of persons from public office namely Members of County Public Service Board and public Members of County Assembly Service Board or any other person whose removal requires approval of the County Assembly other than those officeholders whose procedure for removal is expressly prescribed.

Hon. Members, our Standing Orders are thus not exhaustive in the procedure to be followed other than providing for due process when considering such matters. As such whenever a Petition for removal from office is tabled it must be accompanied by a Notice Motion and will not be considered pursuant to Standing Order 205 but will instead be considered as any other Motion that requires Members to vote.

This guidance is given pursuant to Standing Order No.1 where matters not provided for in the Standing Orders the Speaker will give direction. I will also be calling upon the Procedure and Rules Committee that as they embark on the comprehensive review of the Standing Orders in the next Session, that

they bring clarity on this matter. In the meantime, the procedure to be followed is as has been guided by the Chair.

Hon. Members, it is so directed.

Thank you.”

4. STATEMENTS PURSUANT TO STANDING ORDER 45 (2) (C):-

Pursuant to Standing Order 45 (2) (c) the following Members requested for Statements:

- i) The Hon. Daniel Ngengi, MCA requested for a statement from the Chairperson of the Sectoral Committees on Transport and Public Works and Justice and Legal Affairs regarding the increasing deaths of Commuters in the Central Business District that are caused by Matatus. **(Response due in three weeks)**

5. MOTION - ADOPTION OF REPORT ON THE PETITION FOR REMOVAL FROM OFFICE OF MS. LYDIA KWAMBOKA AS COUNTY ATTORNEY

Motion Made and Question proposed

THAT, this Assembly adopts the **REPORT OF THE SECTORAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS ON THE PETITION FROM MR. JOHN MAKOJIAMBO ON BEHALF OF THE KENYAN CITIZENS, NAIROBI RESIDENTS AND NAIROBI COUNTY TAX PAYERS ON THE REQUEST OF REMOVAL FROM OFFICE OF MS. LYDIA KWAMBOKA, THE NAIROBI CITY COUNTY ATTORNEY** laid on the table of the assembly on Tuesday 27th July 2021

(Chairperson, Sectoral Committee on Justice & Legal Affairs)

Debate ensued;

Mover Replied;

Question put and Agreed to;

6. MOTION - ESTABLISHMENT OF COOLING PLANTS FOR PROMOTION OF AQUACULTURE

Motion Made and Question proposed

THAT, aware that Part 2 of the Fourth Schedule of the Constitution of Kenya provides for the functions of for the County Government, as the case with Paragraph 1 (e) which dictates Agriculture, including but not limited to fisheries as one of the County Functions; **cognizant that** the National Government’s Big 4 Agenda seeks to foster economic development and provide a solution to the various socioeconomic challenges through

the following four economic pillars;- Food Security and Nutrition, Affordable Universal Health Care, Affordable Housing and Enhancing Manufacturing; noting that the United Nations General Assembly declared 2022 the International Year of Artisanal Fisheries and Aquaculture, with Food and Agriculture Organization of the United Nations (FAO -UN) as the lead agency for celebrating the year in collaboration with other relevant organizations and bodies of the United Nations system by recognition of the millions of small-scale fishers, fish farmers and fish workers who provide healthy and nutritious food to billions of people and contribute to achieving zero hunger; further noting that in Kenya, the Ministry of Agriculture, Livestock and Fisheries 2015 Status Report on fisheries observed that fisheries development in the Country was slow due to a number of obstacles, being but not limited to lack of proper information on aquaculture development, cultural variations that do not support fish farming, uncertainties on returns on investment, lack of political good will, low investment by Kenyans in the sector, high running cost and lack of access to high quality fingerlings; **acknowledging that** Kenya has a high potential for fish farming as it can offer prospects for sustainable food security and income for communities hence creation of employment; this Assembly resolves that the Nairobi Metropolitan Services (NMS) in conjunction with County Executive;-

- i) Installs four (4) industrial ice plant for fish preservation in the 4 main parts of the County and such plans be considered in the Budget for financial year 2021/2022 that would promote aquaculture in the County; and
- ii) Develop a program for promotion of fish farming among the youth through provision of FREE fingerlings be considered in the financial year 2021/2022 budget.

(Hon. James Kiriba, MCA)

Debate ensued;

Mover Replied;

Question put and Agreed to;

7. ASSEMBLY ROSE - at Fifteen minutes past Four O'clock

M E M O R A N D U M

The Speaker will take the Chair on
Thursday, July 29th, 2021, at 2.30p.m

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