REPUBLIC OF KENYA

COUNTY ASSEMBLY OF KIAMBU

THE HANSARD

Tuesday, 25th September, 2018

The County Assembly met at the Assembly Chamber at 2.30P.M

(The Assembly Speaker (Hon. Stephen Ndicho) in the Chair)

PRAYER

COMUNICATION FROM THE CHAIR

PLANNED SIGNING OF THE MOU BETWEEN COUNTY ASSEMBLY AND EASTERN AND SOUTHERN AFRICAN MANAGEMENT INSTITUTE (ESAMI)

The Speaker, (Hon. Ndicho): Hon. Members, one of the primary responsibilities of the County Assembly Service Board as specified under Section 12(7) (e) of the County Governments Act is performing functions necessary for the well-being of the Members and staff of the County Assembly.

In fulfillment of the above function, the County Assembly wrote to the Eastern and Southern African Management Institute (ESAMI) requesting to sign a Memorandum of Understanding (MOU) geared towards offering training programmes for Members and staff of this Assembly. I can happily report that the response was positive with the first formal meeting between the ESAMI representatives and the Assembly having taken place yesterday Monday, September 24, 2018 in the County Assembly Offices.

Honorable Members, the focus of the meeting was to establish a working relationship and modalities of actualizing the signing of the MOU which will see Members and staff being trained both inside and outside of the Assembly at subsidized fees. The signing of the MOU is expected to take place in Arusha, Tanzania preferably coming week.

Honorable Members, in view of the new developments, it is proposed that a delegation of four (4) Members of the County Assembly be constituted to represent the Assembly in Arusha during the signing of the MOU. The delegation may include:

- (i) 1 representative of the County Assembly Leadership;
- (ii) 1 representative appointed from among Specially Elected Members; and
- (iii) 2 representatives nominated in a consultative process by the sixty elected Members of the County Assembly and to be communicated by the Member's Services, Facilities and Welfare Committee.

Honorable Members, the purpose of this Communication is therefore to notify you of the above development and request the relevant Members to expedite the nomination of their respective representative(s); and further request that the names of the successful nominees be forwarded to my Office by close of business Thursday, September 28, 2018.

ESAMI, Hon. Members is a Government Institution that helps to identify and to train Members of County Assemblies and even the National Assembly on various programmes and needs that arise. This Institute is an inter-government as I have said and because Government of Kenya pays fees to it and therefore, it is an Institution that is formidable, competent, acceptable and recognized by the Government.

This will be a sure way of ensuring that Members go for the foreign trip to their destinations. Actually, they do not determine the destination where the Members want to go for those trainings. It is the Members themselves of the Institutions to be trained that determine the destinations of the trainings and after the training is done the Members are issued with certificates.

It is also a sure way of making sure that the processes and hardships that were there before are kind of eliminated. So that our Members will not be missing formidable training and therefore questions that were raised from the Devolution Ministry and such other areas will be eliminated.

So, we hope in the new financial year we are going to be better that it was last year by engaging these institutions which is an Inter-governmental institution and it is also funded by the same Government and therefore it stands the test of time.

Hon. Members, it is important to bring to your attention that we decided to look for this kind of an institution to help us to train you better and take you to places where there will be value for money both for yourselves and the Government.

Thank you very much next order!

STATEMENTS

ASSEMBLY WEEKLY BUSINESS

The Speaker, (Hon. Ndicho): Leader of Majority!

Leader of Majority, (Hon. Ikonya): Thank you Hon. Speaker, pursuant to Standing Order 62 on behalf of the Assembly Business Committee, I rise to give the following Statement, regarding the Business appearing before the Assembly, the week beginning Tuesday, 25th September, 2018.

Hon. Speaker, the Assembly Business Committee met on Monday, yesterday, 24th September, 2018 in the morning to prioritize the Business of the Assembly. Hon. Speaker, the following business for the week was approved to be before this House the whole of this week:

- 1) **Tuesday**, 25th September, 2018, the Assembly will consider the Kiambu County Enforcement Bill, 2018 in the Committee of the Whole Assembly.
- 2) **Wednesday,** 26th September, 2018 in the morning session, the Assembly will transact business as follows;
 - **a).** debate the Motion for the approval of the nominee for the Appointment as a County Executive Committee member for Health;
 - **b).** debate the Motion for the approval of the nominee for the Appointment as a County Executive Committee member for Trade, Tourism, Enterprise Development.
- 3) **Wednesday,** 26th September, 2018, in the afternoon session, the Assembly will debate on Kiambu Skilled labour Data Base Bill, 2018 read a second time.
- 4) **Thursday**, 27th September, 2018, the Assembly will transact preliminary business and the following Tuesday next week at 2.30 P.M the Assembly will have the Kiambu County Cooperative Societies Bill 2018 read a second time.

Hon. Speaker I wish to lay the following Statement before the Assembly, thank you.

(Statement Laid)

COMMITTEE OF THE WHOLE ASSEMBLY

KIAMBU COUNTY ENFORCEMENT BILL, (ASSEMBLY BILL NO.10) OF 2018

(In The Committee)

(The Speaker left The Chair)

(Chairperson, Committee of The Whole House, Hon. Kimani Took the Chair)

Chairperson, Committee of the Whole House, (Hon. Kimani): Hon. Members, you may have your seats. Hon. Members, I urge you to remain seated because the Bill we are about to deliberate on is very important and we need your quorum.

So, kindly, we are going to be very fast, we are not going to keep you. So, kindly be with us and endure till the end of the process, thank you.

(Consultations)

In the Order Paper that you have, you can move to the second page and from there you will be able to see all the proposed amendments. As we go through, you can go along with us so that you understand the process.

CLAUSE THREE (3)

Chairperson, Committee of the Whole House, (Hon. Kimani): I propose the question that Clause Three be part of the Bill.

(Question Put And Agreed To)

CLAUSE FOUR (4)

Chairperson, Committee of the Whole House, (Hon. Kimani): I propose the question that Clause Four be part of the Bill.

Mover! The Chairperson of this Committee?

(Chairperson Absent)

Vice Chairperson?

(Vice Chairperson Absent)

I can see Hon. Thithia is not in the House! Any Member of this Committee? Leader of Majority? You are a Member of all these Committees! But this is very serious because the Chairperson is not in, the Vice Chairperson and Members, no one is taking the responsibility! And you know that this is very important!

So, Leader of Majority!

Member, Public Service and Administration Committee, (Hon. Ikonya): Mr. Chairperson, I will act on behalf of the Chairperson of this Committee despite the fact that he had not designated me to act on his behalf despite the fact that he was very much aware of the fact that this very Bill is a private member's Bill.

It is my Bill and fortunately I belong to the Committee on Public Service and so I am stepping in on the basis of that alone but it is quite unfortunate that the Chairperson and the Vice Chairperson would deliberately miss such an interesting Sitting where the actual drafting of Law is done but I will stand in for them.

The proposal was on Clause number?

Chairperson, Committee of the Whole House, (Hon. Kimani): Clause No. 4.

Member, Public Service and Administration Committee, (Hon. Ikonya): Mr. Chairperson, I propose that Clause Four be amended by deleting the word "stadium" appearing immediately after the word "park" and replacing it therefor with the word "stadia".

(Question Proposed As Amended)

(Question Put as Amended And Agreed To)

(Question Put And

Agreed To)

CLAUSE FIVE (5)

Chairperson, Committee of the Whole House, (Hon. Kimani): I propose the question that Clause Five be part of the Bill.

Mover!

Member, Public Service and Administration Committee, (Hon. Ikonya): Mr. Chairperson, I propose that Clause Five be amended in the following manner –

- a) By inserting the following new sub-clause (2) and renumbering accordingly; "The Director shall be responsible to the Chief Officer."
- b) In Sub-clause (3) by inserting the following new paragraph (h) "supervise and evaluate the performance of the staff under the Directorate."
- c) By deleting sub-clause (4) and replacing it therefor with the following; "Notwithstanding the provisions of sub section (1) the County Public Service Board may remove a Director-"

(Question Proposed As Amended)

(Question Put as Amended And Agreed To)

> (Question Put And Agreed To) CLAUSE SIX (6)

Chairperson, Committee of the Whole House, (Hon. Kimani): I propose the question that Clause Six be part of the Bill.

Mover!

Member, Public Service and Administration Committee, (Hon. Ikonya): Mr. Chairperson, I propose that Clause Six be amended in the following manner –

- a) In sub clause (2) (c) by deleting the word "Chief Officer" and replacing it therefor with the word "Director".
- b) By deleting sub-clause (3) and replacing it therefor with the following; "Notwithstanding the provisions of sub-section (1) the County Public Service Board may remove a Deputy Director."

(Question Proposed As Amended)

(Question Put as Amended And Agreed To)

> (Question Put And Agreed To)

CLAUSE SEVEN (7)

Chairperson, Committee of the Whole House, (Hon. Kimani): I propose the question that Clause Seven be part of the Bill.

Member, Public Service and Administration Committee, (Hon. Ikonya): Mr. Chairperson, I propose that Clause Seven be amended by deleting the word "Chief Officer" and replacing it therefor with the word "Director"

(Question Proposed As Amended)

(Question Put as Amended And Agreed To)

(Question Put And Agreed To)

CLAUSE EIGHT (8)

Chairperson, Committee of the Whole House, (Hon. Kimani): I propose the question that Clause Eight be part of the Bill.

Mover!

Member, Public Service and Administration Committee, (Hon. Ikonya): Mr. Chairperson, I propose that Clause Eight be amended in the following manner –

- a) By deleting the paragraph in sub-clause (3)"The County Public Service Board may, on the recommendation of the Chief Officer, confirm a person who has successfully completed the mandatory training as an enforcement officer within any of the following ranks" and replacing it therefor with the following- "A person appointed under this section may be appointed under any of the following ranks in accordance with the relevant scheme of service-"
- b) By deleting sub-clause (4) and replacing it therefor with the following; "In addition to the provisions of sub-section (3), the County Public Service Board may, on the recommendation of the Chief Officer, promote an officer to a higher rank in accordance with the provisions of the relevant scheme of service."

(Question Proposed As Amended)

(Question Put as Amended And Agreed To)

> (Question Put And Agreed To)

CLAUSE NINE (9)

Chairperson, Committee of the Whole House, (Hon. Kimani): I propose the question that Clause 9 be part of the Bill.

(Question Put and Agreed to)

CLAUSE TEN (10)

Chairperson, Committee of the Whole House, (Hon. Kimani): I propose the question that Clause 10 be part of the Bill.

Mover!

Member, Public Service and Administration Committee, (Hon. Ikonya): I propose that Clause 10 be amended in the following manner;

- a) By deleting the word "as" appearing immediately after the word "so."
- b) By inserting the word "as "immediately after the word "far."

(Question Proposed As Amended)

(Question Put as Amended And Agreed to)

> (Question Put and Agreed to)

CLAUSE 11, 12 AND 13

Chairperson, Committee of the Whole House, (Hon. Kimani): I propose the question that Clause 11, 12 and 13 be part of the Bill.

(Question Put and

Agreed to)

CLAUSE 14

Chairperson, Committee of the Whole House, (Hon. Kimani): I propose the question that Clause 14 be part of the Bill.

Mover!

Member, Public Service and Administration Committee, (Hon. Ikonya): I propose that Clause 14 (1) be amended by inserting the word "be" between the words "to" and "worn."

(Question Proposed As Amended)

(Question Put as Amended And Agreed to)

> (Question Put and Agreed to)

CLAUSE 15

Chairperson, Committee of the Whole House, (Hon. Kimani): I propose the question that Clause 15 be part of the Bill.

Mover!

Member, Public Service and Administration Committee, (Hon. Ikonya): I propose that Clause 15 (3) be amended by inserting the words "the provisions" before the words "of this section."

Chairperson Committee of the Whole House, (Hon. Kimani): We are realizing that you also need somebody to second you.

Member, Public Service and Administration Committee, (Hon. Ikonya): Yes that is a requirement. It is only that I thought we were in concurrence, so, I will ask Hon. Njoki to second.

Specially Elected MCA, (Hon. (Ms.) Njoki): I second!

(Question Proposed
As Amended)
(Question Put as Amended
And Agreed to)

(Question Put and Agreed to)

CLAUSE 16, 17 AND 18,

Chairperson Committee of the Whole House, (Kimani): I propose the question that Clause 16, 17 and 18 be part of the Bill.

(Question Put and Agreed to)

CLAUSE 19 AND 20

Chairperson Committee of the Whole House, (Kimani): I propose the question that Clause 9 and 20 be part of the Bill.

(Question Put and Agreed to)

CLAUSE 21

Chairperson, Committee of the Whole House, (Hon. Kimani): I propose the question that Clause 21 be part of the Bill.

Mover!

Member, Public Service and Administration Committee, (Hon. Ikonya): I propose that Clause 21 be amended by inserting the following new sub-clause (2) and renumbering accordingly; "Notwithstanding the provisions of sub-section (1) an enforcement officer may use reasonable force for the purposes of fulfilling the objectives of this Act."

I wish to call upon Hon. Muthondu to second!

Kihara MCA, (Hon. Muthondu): I second!

(Question Proposed As Amended)

(Question Put as Amended And Agreed to)

> (Question Put and Agreed to)

CLAUSE 22

Chairperson, Committee of the Whole House, (Hon. Kimani): I propose the question that Clause 22 be part of the Bill.

Mover!

Member, Public Service and Administration Committee, (Hon. Ikonya): I propose that Clause 22 be amended by inserting the following new sub-clause (4); "Notwithstanding the provisions of subsection (2) an enforcement officer may enter a dwelling place at any time provided that such enforcement officer has obtained the relevant warrant."

I now wish to call upon the Hon. Member for Muchatha to second!

Muchatha MCA, (Hon. Ngichu): I second!

(Question Proposed
As Amended)
(Question Put as Amended
And Agreed to)

(Question Put and Agreed to)

CLAUSE 23

Chairperson, Committee of the Whole House, (Hon. Kimani): I propose the question that Clause 23 be part of the Bill.

(Question Put and Agreed to)

CLAUSE 24

Chairperson, Committee of the Whole House, (Hon. Kimani): I propose the question that Clause 24 be part of the Bill.

Mover!

Member, Public Service and Administration Committee, (Hon. Ikonya): I propose that Clause 24 be amended by inserting the following new sub clause (7); "Prior to disposal of any goods under subsection (6), a public notice of at least thirty days shall be issued of the intended disposal of goods and published in the approved County Government communication channels."

I wish to inform the Honorable House that the justification for the amendments that we are doing appear in the Committee's report that was given to you and another copy has just been given to all of us.

You may get the justification for those amendments as considered by the Committee. I wish to call upon the Hon. Member for Riabai to second.

Riabai MCA, (Hon. Hezron): I second.

Chairperson, Committee of the Whole House, (Hon. Kimani): Thank you,

(Question Proposed As Amended)

(Question Put as Amended And Agreed To)

(Question Put

And Agreed To)

CLAUSE 25, 26,27,28,29

Chairperson, Committee of the Whole House, (Hon. Kimani): I propose the question that Clause 25, 26, 27, 28, 29 be part of the Bill.

(Question Put

And Agreed To)

CLAUSE 30

Chairperson, Committee of the Whole House, (Hon. Kimani): I propose the question that Clause 30 be part of the Bill.

Mover!

Member, Public Service and Administration Committee, (Hon. Ikonya): I propose that Clause 30 be amended in the following manner-

- a) In sub clause 3(a) by deleting the words "Inspector General "and replacing it therefor with the words-"Executive Committee Member."
- b) In sub clause 3(b) by deleting the words "Inspector General "and replacing it therefor with the words "Executive Committee Member."

I call upon Hon. King'ara to second.

Mwihoko MCA, (Hon. King'ara): I second.

Chairperson, Committee of the Whole House, (Hon. Kimani): Thank you.

(Question Proposed As Amended)

(Question Put as Amended And Agreed To)

(Question Put And Agreed To)

FIRST SCHEDULE

Chairperson, Committee of the Whole House, (Hon. Kimani): I propose the question that First Schedule be part of the Bill.

(Question Put And Agreed To)

SECOND SCHEDULE

Chairperson, Committee of the Whole House, (Hon. Kimani): I propose the question that Second Schedule be part of the Bill.

Member, Public Service and Administration Committee, (Hon. Ikonya): I propose that the Second Schedule be **THAT,** the Standing Orders be amended by renumbering of the Orders.

Order 2

THAT, Order 2 be amended by deleting the word "Directorate" and replacing it therefore with the words "enforcement officers"

Order 12

THAT, Order 12 be amended by deleting the section and replacing it with the following –

Training and Parades

(1) The training of enforcement officers is a continuous process and will not be considered to have been completed at the end of an officer's initial training course.

- (2) It is the policy of the Directorate that an enforcement officer shall undertake regular training from time to time and in particular
 - a) an enforcement officer shall undertake an initial training course as prescribed in the relevant scheme of service.
 - In addition to any other training, an enforcement officer may from time to time undertake a refresher course as may be recommended by the Executive Member; and
 - c) an enforcement officer may be required to undertake other courses on court procedure, criminal procedure, criminal investigations, public relations, communications, conflict management and dispute resolution mechanism and other relevant course as may from time to time be recommended.
- (3) Frequent lectures and tuitions shall be offered to all members of the Directorate on all aspects of their duties and in particular-
 - (a) drills and salutes;
 - (b) County Government and National legislations;
 - (c) powers of search or methods of search;
 - (d) care and treatment of persons in their custody;
 - (e) escort of persons held in their custody;
 - (f) cooperation with other enforcement agents; and
 - (g) First Aid.
- 4. All enforcement officers shall be carefully inspected as to the cleanliness of their uniforms and equipment. Parades will be exercised in foot drill.

Order 13

THAT, Order 13 be amended by deleting it.

Order 14

THAT, Order 14 be amended in the following manner-

a) By deleting the word "chief superintendent" appearing before the word "every" and replacing it therefor with the word "officer in charge"

Order 17

THAT, Order 17 be amended by deleting the section and replace it with the following paragraph; "the County Government disciplinary procedure shall apply in addressing the indiscipline of an enforcement officer"

Order 18

THAT, Order 18 be amended by deleting it.

Order 19

THAT, Order 19 be amended by deleting it.

Formats

THAT, the Format be amended by deleting Form E-1 Notification for Disciplinary Inquiry Enforcement Section.

I call upon Hon. Caroline Wangati to second.

Specially Elected MCA, (Hon. (M/s) Wangati): I second.

(Question Proposed As Amended)

(Question Put as Amended And Agreed To)

> (Question Put And Agreed To)

THIRD SCHEDULE

Chairperson, Committee of the Whole House, (Hon. Kimani): I propose the question that the Third Schedule be part of the Bill.

(Question Put And Agreed To)

CLAUSE 2

Chairperson, Committee of the Whole House, (Hon. Kimani): I propose the question that the Clause Two be part of the Bill.

(Question Put

And Agreed To)

THE LONG TITLE

Chairperson, Committee of the Whole House, (Hon. Kimani): I propose the question that the Long Title be part of the Bill.

Mover!

Member, Public Service and Administration Committee, (Hon. Ikonya): I propose that the long title be amended by deleting the words

"the Kiambu County Directorate of Enforcement and provide for its organization, functions and powers" appearing immediately after the word "establish" and replacing it therefor with the words "a legal framework for enforcement of County and other relevant Legislation."

I call upon Hon. Mwago to second.

Specially Elected MCA, (Hon. (M/s) Mwago): I second.

Chairperson, Committee of the Whole House, (Hon. Kimani): Thank you.

(Question Proposed As Amended)

(Question Put as Amended And Agreed To)

> (Question Put And Agreed To)

CLAUSE 1

Chairperson, Committee of the Whole House, (Hon. Kimani): I propose the question that Clause One be part of the Bill.

(Question Put And Agreed To)

We are through, I know so many people normally float when it comes to the Committee of the Whole House but it should be one of the most interesting sessions in formulation of the Laws and Bills that we make in this House, may be moving forward, you can try to acquaint yourself with what normally happens and when we are given these Bills, we should go through them, look at the amendments proposed and if you realize that you have an issue with that, this is the place you can air out your views.

Moving forward, we can be participating more actively in this Committee of the whole House. I now call upon the mover to report progress.

Member, Public Service and Administration Committee, (Hon. Ikonya): Thank you Chairman, I beg to move that the Committee do report to the Assembly its considerations on the Kiambu County Enforcement Bill, Bill No. 10 of 2018 and it approves thereof with amendments.

(Question Put And Agreed To)

Chairperson, Committee of the Whole House, (Hon. Kimani): I thank you Hon. Members for your participation and your patience and I now urge you to rise up as we now usher in the Speaker.

COMMITTEE OF THE WHOLE HOUSE DISSOLVED

(Chairperson Committee of Whole House Left the Chair)

(In The House)

(The Speaker in the Chair)

The Speaker, (Hon. Ndicho): Very well, let us proceed. I have the pleasure to invite the Chairman to report to the House of the progress of the Committee of the Whole House.

Chairperson, Committee of Whole, (Hon. Kimani): Thank you Mr. Speaker, I beg to report that the Committee of the Whole House has considered the Kiambu County Enforcement bill, (Assembly Bill No. 10) of 2018 and approved the same with amendments.

The Speaker, (Hon. Ndicho): the mover, Hon. Ngige.

Member, Public Service and Administration Committee, (Hon. Ikonya): Hon. Speaker, I am standing in for him, I beg to move that the Assembly do agree with the Committee in the said report.

(Question Proposed)

(Question Put And Agreed To)

The Speaker, (Hon. Ndicho): Hon. Ngige.

Member, Public Service and Administration Committee, (Hon. Ikonya): Hon. Speaker, once again, I am standing in for him I beg to move that the Kiambu County Enforcement Bill (Assembly Bill No. 10) of 2018 be now read a third time.

(Question Proposed)

(Question Put And Agreed To)

THIRD READING

THE KIAMBU COUNTY ENFORCEMENT BILL, 2018

A Bill for

An Act of the County Assembly of Kiambu to establish a legal framework for enforcement of the County and other relevant Legislations and for connected purposes.

The Speaker, (Hon. Ndicho): Yes Leader of Majority

Member, Public Service and Administration Committee, (Hon. Ikonya): Thank you Hon. Speaker, I wish to beg the Chair with the discretion that you have in the Standing Orders to just allow me to commend the House for the great work that it has done and probably give a brief preview from where we have come from with this Bill, if you do allow.

The Speaker, (Hon. Ndicho): very well, all that ought to have been said during the Second Reading of the Bill...

(Consultations)

Very well, I have consulted widely and it is my pleasure and discretion actually to allow the Leader of Majority to make his remarks concerning the passage of the Bill.

Member, Public Service and Administration Committee, (Hon. Ikonya): Thank you Mr. Speaker and of course I shall not delve into the Bill as was deliberated upon during the Second Reading where we ought to have discussed the Bill as it was then.

But Mr. Speaker, I must say that we have come from far as a County. Looking back at those days, when the County would do things without any legal standing or form of legislation to support its actions.

Mr. Speaker, we have lived in days when enforcement officers could just get into a premise and confiscate things without any basis in Law and they would even beat people. So, it is very bad and it has been a burden to me towards ensuring that we have a legal standing that defines what the rights of the traders within the County are and what are the rights of the enforcement officers?

This piece of Legislation will now define which role all of us should play. And again, we need to have education background that conforms to the work that is defined in this Bill. I am sure and I hope that the Governor will assent to it so that it becomes an Act.

Mr. Speaker, from now going forward, we need to now have a legal standing and some form of Legislation upon which we will now enforce. And I think it should now be clear to everybody within the County that you will not be caught when we move into your premises when the enforcement officers want to ensure that payments are made with regard to all the prerequisite documents that should be paid for.

So, I want to commend the Members of this House and state that it has been a long journey and say that it has taken me a lot of time in trying to draft this Bill. I want to thank our very able secretariat, I want to thank M/s Lillian in particular and everyone that came on board. There are so many times that I consulted with Members of this House, including the Speaker, the Governor and everybody to just put this piece of Legislation upon which this County can build a legal framework that can enforce on various issues that affect the County.

So, I want to most sincerely thank every person in this House for giving a nod to this Bill just to ensure that we have dispensed with it as an Assembly. I will now leave to the Governor to assent to it so that it becomes Law and we start using it.

I think it is time we brought some order and sanity within our enforcement units and this Bill will go a long way towards defining the same.

Once again Hon. Members, I think you very much and may the good Lord almighty bless you. Thank you. Mr. Speaker.

The Speaker, (Hon. Ndicho): very well, next Order!

ADJOURNMENT

The Speaker, (Hon. Ndicho): Hon. Members, there being no other Business, this House stands adjourned until Wednesday September 26, 2018 at 10.00 A.M

CAK/122/09/2018(1)COUNTY ASSEMBLY OF KIAMBU DEBATES 2 The House rose at 3.15 P.M