

COUNTY ASSEMBLY OF SAMBURU



THE HANSARD

Wednesday, 19th April, 2023

The Assembly met at the County Assembly chambers at 9:30 a.m.

Temporary Speaker, (Hon. Stacy Nareyo), in the Chair

PRAYER

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MOTION

MCA Waso Ward, (Hon. Lemantaan Kelvin): Madam Speaker I beg to move the following Motion:

AWARE that borrowing by the County Governments is provided for under Article 212 of the Constitution, which provides inter alia that; a County Government may borrow only –

- a) If the National Government guarantees the loan; and-
- b) With the approval of the County Government's Assembly

FURTHER AWARE that Section 58, 140 and 142 of the Public Finance Management Act, 2012 amongst other things outline conditions on the authority for borrowing by the County Government;

NOTING that specifically under section 140 of the PFM Act, 2012 such request can only be allowed if the loan and the terms and conditions for the loan are set out in writing and are in accordance with-

1. Article 212 of the Constitution
2. Section 58 and 142 of the PFM Act
3. The fiscal responsibility principles and financial objectives of the County Government set out in its most recent County Fiscal Strategy paper; and
4. The debt management strategy of the County Government over the medium term

HAVING RECEIVED a request for borrowing from the County Assembly Service Board vide a resolution of the Board dated 14th April, 2023 forwarded to the Assembly to request for authority to engage other lenders on the refinancing of the County Assembly's Kenya Shillings sixty million loan (60, 000,000)

Observing that members of the County Assembly never received Mortgage and Car Loan Fund Account;

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DEEPLY CONCERNED that failure by the County Assembly to advance mortgage and car loan scheme to Members of the third Assembly will greatly impact delivery service negatively in the County and especially the key role of oversight. This issue needs to be addressed urgently and without further delay.

SATISFIED that the current request by the County Assembly Service Board through the County Assembly has demonstrated a renewed commitment to finding ways to finance Members' mortgage and car loan scheme through private lending since the current procedure completely failed.

FURTHER AWARE that the County Assembly Service Board is a body corporate pursuant to provisions of section 12 (2) of the County Government Act as read together with section 12 (d) of the County Assembly Service Act number 24 of 20017 thus has all the rights and powers of the body corporate.

This **ASSEMBLY RESOLVES** Pursuant to provisions of Article 212 (b) of the Constitution, Section 142 of the Public Finance Management Act,20012 to **AUTHORIZE** the County Assembly Service Board to engage other lenders including the National Government, other County Government agencies and private financial lenders as required by law, as well as other suitable lenders with favourable terms with a view to finance the Members of the County Assembly mortgage and car loan facility to a tune not exceeding Kenya Shillings Sixty Million (60,000,000).

Thank you Madam Speaker I call upon Hon. Leitoro to second the Motion

MCA Elbarata Ward, (Hon. Jeremiah Leitoro): Thank you Madam Speaker. I second the Motion, thank you.

Temporary Speaker, (Hon. Stacy Nareiyo): Thank you. I now propose the question that, aware that borrowing by the County Governments is provided for under Article 212 of the Constitution which provides inter alia the County Government may borrow only if;

- a) If the National Government guarantees the loan.
- b) With the approval of the County Government's Assembly.

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Further aware that Section 58/140/141 and 142 of the Public Finance Management Act (PFM 2012) amongst other things outline conditions of the authority for borrowing by County Governments. Noting that specifically under Section 140 of the PFM Act 2012, such requests for borrowing can only be allowed if the loans and the terms and conditions for the loan are set out in writing and are in accordance with;

- 1) Article 212 of the Constitution.
- 2) Section 58 and 142 of the PFM Act.
- 3) The fiscal responsibility principles and the financial objectives of the County Governments set out in its most recent County Fiscal Strategy Paper.
- 4) The debt management strategy of the County Government over the medium term.

Having received a request for borrowing from the County Assembly Service Board via a resolution by the Board dated 14th April 2023 forwarded to the Assembly to request for authority to engage other lenders on the refinancing of the County Assembly's 60 million shillings loan. Observing that the Members of the County Assembly never received mortgage and car loans since inauguration of the third House occasioned by inadequate funds in mortgage and car loan fund account.

Deeply concerned that failure by the County Assembly to advance mortgage and car loan scheme to Members of the third Assembly will greatly impact delivery of service negatively in the County and especially the key role of oversight. This issue needs to be addressed urgently and without further delay. Satisfied that with the current request by the County Assembly Service Board through the County Assembly has demonstrated a renewed commitment to finding ways to finance Members mortgage and car loans scheme through private lending since the current procedure completely failed.

Further aware that the County Assembly Service Board is a body corporate Pursuant to Provisions of Section 12 /2 of the County Government Act as read together with Section 12/d of the County Assembly Service Act number 24 of 2017 thus has all the powers and rights of the body corporate. This Assembly resolves Pursuant to the Provisions of Article 212/b of the Constitution Section 142 of the Public Finance Management Act 2012, Section 8/1/d of the County Government Act 2012 to authorize the County Assembly Service Board to engage other

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lenders including the National Government, other County Governments agencies and private financial lenders as required by law as well as other suitable lenders with favorable terms with a view of financing the Members of the County Assembly Mortgage and car loan facility to a tune not exceeding 60 million shillings. I now open the floor for debate and any inputs from the Hon. Members.

MCA Angata Nanyekie Ward, (Hon. Paul Leshimpiro): Thank you Madam Speaker. I just want to make some contributions to this. I am happy that the last time I contributed to this House the Speaker told me that I did not see you and he did not hear me, have you seen me or heard me?

Temporary Speaker, (Hon. Stacy Nareiyo): I have seen you Honorable Member, go on.

MCA Angata Nanyekie Ward, (Hon. Paul Leshimpiro): Thank you Madam Speaker. I had the privilege to sit in the second Assembly and heard about the first Assembly, for the first time I see the County Assembly borrowing money from the County Government and getting money for mortgage and car loan to Members outside the County Government kitty. I would not want to say it is through bad management by the current Government administration, it is just that it is going into history that we are borrowing as a County and as an Assembly. It is very new.

I do not know if we are in order or we may later be found outside the law, but as shown here we have been given a number of quotations from the Constitution, the PFM Act, probably the Standing Orders although I do not know if some are still valid or not; these quotations from these Articles that give the Assembly the authority to borrow. It says that the County Government may borrow only if;

- a. If the National Government guarantees the loan.
- b. With the approval of the County Government's Assembly who are now us.

Supposedly the Samburu County Assembly and the Samburu County Government defaults in payments of the above loan and the National Government were not involved in the approval, what will happen? I said that I support the Motion but again I have reservations, if then there is no problem with the National Government since I do not know the criteria which the National Government can affirm that they will guarantee the loan; I do not know whether they have a

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letter from the National Government that allowed us to borrow or we got a call from a person representing the National Government I do not know, certainly I am not aware of the procedure that suggest that the National Government have guaranteed. If that is the case because I think the bank itself has the right to agree or not agree if they find that the Appropriate documents are not availed. If everything is in order, then it is the right thing to do because it is now the seventh month since our swearing-in yet members have not received their mortgages and car loans. At the same time deductions were commenced. So you do not have the salary as it is being deducted yet you have not been given the loan.

This third assembly the MCA has been reduced to almost nothing, a very small person. A person who does not need any consideration, does not receive any kind of respect. They do not get their rightful shares and dues on time. It is just the way we present ourselves to the executive and the administration of the County Assembly and that is how they are taking us. If this is how we present ourselves, we shouldn't blame the executive and the county assembly administration on how they are handling us. It is how we present ourselves that they will reciprocate.

Members of the County Assembly are called honorable. The name is earned; you are not just given like any other. As much as we are called honorable, you need to earn it. You need to present yourself as honorable so that you can be considered as honorable. If you do not present yourself honorably then it is not their fault if they take you as a street beggar, an attention seeker or anything. If this is the only way honorable members will get the mortgage and the car loan, then I support the motion.

Temporary Speaker, (Hon. Nareyo Stacey): Hon. Lemantaan do you have a say on that?

MCA Waso Ward, (Hon. Lemantaan Kelvin): Thank you, Madam Speaker. Thank you Hon. Leshimpiro. I also read about the borrowing of the Kshs.60Million for the car loan. I understand that we are twenty-five honorable members. I was just asking myself if the 60million shillings is a car loan repayment which we received recently? If we are talking about the mortgage here, it is about 75 million shillings without the car reimbursement. It is not very clear whether we are borrowing money to repay the car loan we recently took or what it is for. I think this needs to be clarified so that we do not jump into things and end up not moving in the right direction. Thank you.

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Temporary Speaker, (Hon. Nareyo Stacey): Reading from the mood of the house and there being no other input or consideration I now put the question that, aware that borrowing by County Governments is provided under Article 212 of the Constitution of Kenya which provides *inter alia* that a county government may borrow only

1. If the National Government guarantees the loan and
2. With the approval of the County Government's Assembly.

Further aware that Section 58, 140, 141 and 142 of the PFM Act amongst other things outlines conditions on the authority for borrowing by County Governments, noting that specifically under section 140 of the PFM Act 2012, such requests for borrowing can only be allowed if the loan and the terms and conditions for the loan are set out in writing and are in accordance with

1. Article 212 of the Constitution of Kenya
2. Section 58 and 142 of the PFM Act
3. The fiscal responsibility principles and the financial objectives of the County Government are set out in its most recent County Fiscal Strategy Paper
4. The debt management strategy of County Government over the medium term

Having request for borrowing from the County Assembly Service board vide a resolution of the board dated 14th April 2023 forwarded to the assembly to request for authority to engage other lenders on the refinancing of the County Assembly's Kshs.60Million loan,

Observing that members of the county assembly never received mortgages and car loans since inauguration of the third house occasioned by inadequate funds in mortgage and car loan fund account, deeply concerned that failure by the county assembly to advance mortgage and car loans scheme to members of the third assembly will greatly impact service delivery negatively in the county especially in the key role of oversight. This issue needs to be addressed urgently and without further delay.

Satisfied with the current request by the County Assembly Service Board by the County Assembly has demonstrated a renewed commitment to finding ways to finance members mortgage and car loan scheme though private lending since the current procedure has completely failed.

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Further aware that the County Assembly Service Board is a body corporate pursuant to section 12,2 of the County Governments Act as read together with Section 12, D of the County Assembly Services Act number 24 of 2017, thus has all the rights and powers of body corporate. This assembly resolves pursuant to the provisions of Article 212D of the Constitution, Section 142 of the PFM Act 2012, Section 8,1, D of the County Government Act 2012 to authorize the County Assembly Service Board to engage other lenders including the national government and other county suitable lenders with favorable terms with a view to finance the MCAs mortgage and car loan facility to a tune not exceeding Kshs.60million.

The question was put and the motion passed.

Temporary Speaker, (Hon. Nareyo Stacey): Honorable members the time being 10:25am and there being no other business this assembly now adjourns until Wednesday 19th April 2023 at 2:30pm. Thank you.