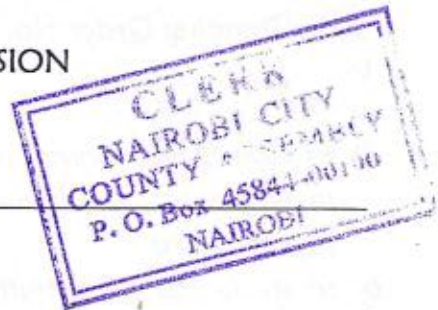




NAIROBI CITY COUNTY ASSEMBLY

FIRST ASSEMBLY - THIRD SESSION



**REPORT OF THE
COMMITTEE ON TRADE, TOURISM AND COOPERATIVES
ON
TRAINING WORKSHOP HELD AT FLAMINGO BEACH RESORT & SPA, MOMBASA
(25TH -29TH JUNE, 2015)**

**THE DEPARTMENT OF TRADE, INDUSTRIALIZATION,
CO-OPERATIVE DEVELOPMENT AND TOURISM, NAIROBI CITY COUNTY**

JULY, 2015

1.0 PREFACE

Mr. Speaker, Sir,

1.1.1 The Sectoral Committee on Trade, Tourism and Cooperatives is established under Standing Order No. 191. Its mandate pursuant to Standing Order 191(5) (a) is:-

- a) *to investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned departments;*
- b) *to study the programme and policy objectives of the departments and the effectiveness of the implementation;*
- c) *to study and review all legislation referred to it;*
- d) *to study, assess and analyse the relative success of the departments as measured by the results obtained as compared with its stated objectives;*
- e) *to investigate and inquire into all matters relating to the assigned Departments as they may deem necessary, and as may be referred to them by the County Assembly;*
- f) *to make reports and recommendations to the County Assembly as often as possible, including recommendation of proposed legislation.*

The Committee comprises the following Members:-

1. Hon. Wilfred Odalo, MCA – Chairperson
2. Hon. Kennedy Ng'ondi, MCA
3. Hon. David Mberia, MCA
4. Hon. Hashim Kamau, MCA
5. Hon. Daniel Oria, MCA
6. Hon. Kenneth Irungu Mwangi, MCA
7. Hon. William Abuka, MCA
8. Hon. Peter M Warutere, MCA
9. Hon. Pius M Mbono, MCA
10. Hon. Jacqueline Nyangala, MCA
11. Hon. Emmaculate Musya, MCA
12. Hon. Wilson Ochola, MCA
13. Hon. Zulfa Hakim MCA
14. Hon. Rachel Kamweru, MCA
15. Hon. Millicent, M Mugadi MCA

16. Hon. Amina Mohammed, MCA
Mr. Speaker, Sir,

1.1.2 The Committee exercises its oversight role on the operations of the Department of Trade, Industrialization, Co-operative Development and Tourism. Further, in accordance with the Second Schedule of the Standing Orders, the Committee is mandated to cover subject areas relating to:-

- (i) Trade development and regulation including markets
- (ii) Trade licenses(excluding regulation of professions)
- (iii) Fair trading practices
- (iv) Local tourism
- (v) Cooperative societies

The training workshop was informed by the need for the Committee to understand amongst other things; the role of County Members in law making.

On behalf of the Committee, I have the honour and pleasure to present the Report on the Committee's retreat held on 25th -29th June, 2015 at Flamingo Beach Resort & Spa, Mombasa.

May I take this opportunity to thank all Members of the Committee for their active participation, input and valuable contributions during the training. I wish to also thank the Committee's facilitator, Mr. Sudi Wandabusi for insightful lessons and well-articulated presentation.

Thank You.

SIGNED

HON. WILFRED O. ODALO, MCA
(CHAIRPERSON)

DATE.....26/01/16.....

1.0 INTRODUCTION

The training for the Sectoral Committee on Trade, Tourism and Cooperatives took place at the Flamingo Beach Resort and Spa in Mombasa from 25th to 29th June, 2015. The main purpose of the training was to help Members increase their understanding on policy and legislative making process. The workshop was facilitated by Mr. Sudi Wandabusi from the Development Frontiers.

Specifically, the training sought to:

- a) Introduce Members to the policy making process;
- b) Take Members through the process of Bill origination, that includes an overview, law making process, role of the Committees in the legislative process and Private Members' Bills
- c) Discuss with Members the legislative process in a County Assembly set-up.
- d) Review the mandate of the Committee on Trade, Tourism and Cooperatives

Discussions during the workshop elicited important issues as follows;

- i. That it was important to match resources with the policy statements in the budget making process;
- ii. That the views of the public are sometimes not always considered when drafting Bills.
- iii. That the Executive sometimes fails to submit requested reports and this has hindered effectively execution of Committee's mandate.

Going forward, it was agreed that there is need to have a common workshop involving both the Committee and Members of the relevant County Department.

1.1 Expectations

The Members, at the commencement of the workshop were invited to share their expectations which are stated as follows;

- a) To understand the role of the Members of the County Assembly and the Committee in policy making;
- b) To understand the policy making guidelines;

- c) To understand reasons for incorporating stakeholders in policy making;
- d) To understand the difference between a policy, Bill and Act.
- e) To be able to identify the possible legislations that can be formulated by the Committee.

1.2 Course Content

The facilitator led the participants in a discussion of the meaning of public policy, the policy making environment, the steps that a policy goes through right from inception to the implementation stage and the different players in the policy making process.

The following issues were addressed;

1.3 Definition of Policy

This was defined as the basic decisions or actions by those who hold or affect government positions of authority. Public policy depicts ways through which people chosen to govern manage the public good within the boundaries of their authority. It is the public policy that connects people with programs and services whereas Governments serve as the conduit or agent for those activities.

1.3.1 Policies are clear, simple statements of how an organization intends to conduct its services, actions or business. They provide a set of guiding principles to help with decision making.

1.3.2 Policies do not need to be long or complicated – a couple of sentences may be all you need for each policy area.

1.4 Policy Making Environment

The consultant explained the Policy environment in which policies are made as follows:

- i. Policy making in Government is done by the Executive;
- ii. The line Sector formulates the policy on a given area; and,
- iii. The policy making environment entails all the key stakeholders in a given area

Key stakeholders include:

- i. Executive who comprise of the governor, County Executive Committee Member and the County staff
- ii. Legislature; County assembly, through Sectoral Committees
- iii. Affected interest groups – lobby groups in a given area of interest
- iv. The Public – Who are the ultimate beneficiaries/victims of a given policy. They also hold ultimate sovereign power
- v. Bureaucrats who are usually given power by others
- vi. Courts which determining any disputes

The most successful public policy is one that has been crafted by one or most of these players

1.4.1 Challenges to the Policy Making Process

The following challenges were noted:

- a) Political party interests – when overdone, they impede the successful formulation and implementation of policy.
- b) Competing interests among different players – different groups or individuals having their own selfish interests may seek to influence policy to go in different opposing directions. Such groups may include:
 1. Elected leaders – as they seek to fulfill campaign promises, meet people expectations and demands
 2. Interest groups – For instance, the Civil society pushing interests that may not necessarily be in line with those of the Executive.
 3. Citizens with demands based on their specific local needs

1.5 Players in Policy Making

The consultant identified the following institutions as playing a key role in the policy making process;

- Legislature - County Assemblies
- Executive
- Public

- Judiciary
- Media

1.6 Role of the Assembly in Policy Making

Legislature has three key roles:

- a. Representation
- b. Oversight
- c. Legislation

- All these three roles demand that legislators play a role in the policy making process

1.7 Plenary Discussions

The session was followed by a plenary discussion where the Members actively asked questions, made contributions and engaged in a discussion of the different issues touching on policy formulation.

1.8 Legislation Origination and Development

The facilitator made a presentation on the definition of a Bill and the stages a Bill goes through before becoming a law. The presentation also included the role that the Committee plays in the legislative process. He ended the presentation with Private Member Bills, how to draft them and present them to the Assembly. The following issues were addressed.

1.8.1 Legislation of county laws is one of the key functions solely vested in the County Assembly and the Sectoral committees are key players in the law making process.

The law making process in the assembly is the same for both public and private member bills.

Members were informed that most Bills are drawn up by County government Sectors under the direction of the relevant County Executive Committee Member. A bill introduced by a member of the Executive must be approved by the County Cabinet before being submitted to the Assembly for processing.

1.9 Stages in the making of a Law

A bill (draft law) is introduced in the Assembly by a County Executive Committee Member, an assembly Committee or an individual Member of the County Assembly (MCA).

Not more than one stage of a Bill may be taken at the same sitting without the leave of the House.

A Bill passes through six stages. These are:

1. **Drafting, Printing and Circulation** - A time limit is set, prior to the next stage, to enable the public read and study it and prepare to participate.
2. **First Reading** - to draw the attention of the Members and the public to the Bill. At this stage, the Bill may be referred to the relevant Sectoral Committee.
3. **Second Reading** - the Mover introduces, outlines its aims and objectives and all details.

Members discuss the Bill and the views of the Mover together with the report of the Sectoral Committee. At the end of the Second Reading, the only amendment that could be made, is to defer its Second Reading for six months literary, *"killing the bill"*

4. **Committee of the Whole County Assembly as a Stage** - the Bill is considered clause by clause. Here, Members may propose amendments.
5. **Report Stage**- the Committee informs the County Assembly sitting in Plenary of their consideration of the Bill.
6. **Third Reading**- Members may again debate the principles of what is already in the Bill but further amendments should not be proposed, except to defer its Third Reading for six months, literary- *"killing the Bill"*

2.0 Role of Committees in Law Making

The facilitator informed Members that Sectoral Committees had to be at the forefront to;

- i. Initiate legislative proposals;
- ii. Scrutinize the bills proposed by the Executive and Members;

- iii. Study and review all county legislation referred to it;
- iv. Provide opportunities for public input into the legislative processes; and,
- v. Process the Bills (at 1st, 2nd Reading and Committee of the whole House)

2.1 Drafting a Private Members Bill

The facilitator further informed Members that Bills introduced by individual Members of the County Assembly (MCAs) are referred to as Private Members' Bills which mostly touch on particular public interests.

The said interests are normally issues that may not be top on the priority list of the Executive, yet they are of great importance to the public.

3.1 Developing a Bill

This involves:

- i. Considering whether the proposed Bill is necessary bearing in mind that the purpose of any legislation is to:
 - a. Regulate the affairs, rights and liabilities of people;
 - b. Impose duties on people;
 - c. Give people powers they do not already have;
- ii. Researching the legislation of other places;
- iii. Seeking legal advice where appropriate;
- iv. Consulting with interested people or bodies;
- v. Considering the financial and resource implications;
- vi. Considering whether the bill is within the *Constitutional requirements*.

The Committee was also informed that legislation need not include unnecessary provisions. Specifically, a proposed legislation should not:

- a. Provide for a matter if the matter can be done administratively;
- b. Provide for a matter if the matter can be done under an Executive (or prerogative)

Should the MCA need the County Legislative drafting office to draft a proposed Bill, then the drafting instructions should address the following:

- i. Must be in writing;

- ii. Must necessitate the MCA being totally conversant with the legislative proposal and its background
- iii. Must explain in specific terms and in detail the matters to be dealt with by the proposed Bill.

3.2 Introducing the Bill to the Assembly

Once the bill has been drafted to the satisfaction of the MCA, the MCA is responsible for:

- a) Preparing the memorandum of objects explaining the background to and the reasons for each clause of the Bill and, if necessary, the relationship of a clause to other clauses in the Bill;
- b) Preparing notice of motion for introduction of the Bill to the Assembly; and,
- c) Presenting the bill to the assembly

3.3 Plenary Discussions

The presentation was followed by an engaging plenary discussion where the following key issues arose:

- a) The legislative process as practiced in the assembly does not enable members to effectively give their input in the Bills, and,
- b) The challenge of inputs from the Committees and the public are not being considered in developing any Bills.
- c) The challenge of bills being brought to the attention of the Committee at the last minute and limited time scrutinizing the bills before presenting them to the Assembly.

3.4 Mandate of the Committee on Trade Tourism and Cooperatives

In the last session of the workshop, the facilitator led the participants in unpacking the mandate of the Committee. The presentation involved a detailed discussion of the importance and roles of County Assembly Committees.

3.5 Conclusion

It was agreed that a common workshop for both the Committee and officers of the Sector of Trade, Industrialization, Cooperative Development and Tourism be organized in future to jointly address of salient issues impeding performance of the Sector.



CLERK
NAIROBI CITY
COUNTY ASSEMBLY
P. O. Box 45844-00100
NAIROBI