

GOVERNMENT OF NAIROBI CITY COUNTY



THE NAIROBI CITY COUNTY ASSEMBLY

OFFICE OF THE CLERK

SECOND ASSEMBLY-FOURTH SESSION

NBI CA. PLC. 2020 / (009)

4th March, 2020

PAPER LAID

Pursuant to Standing Order 191 (6) I beg to lay the following Paper on the Table of the Assembly, today Wednesday 4th March, 2020.

THE REPORT OF THE SECTORAL COMMITTEE ON LANDS, PLANNING AND HOUSING ON THE WORKSHOP HELD AT TRAVELLERS HOTEL, MOMBASSA FROM 28TH NOVEMBER TO 1ST DECEMBER 2019

(Chairperson, Sectoral Committee on Lands, Planning and Housing)

Copies to:
The Speaker
The Clerk
Hansard Editor
Hansard Reporters
The Press

Paper Laid
4th March, 2020

M. O. P.
C.A.

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THE COUNTY GOVERNMENT OF NAIROBI CITY



NAIROBI CITY COUNTY ASSEMBLY

SECOND ASSEMBLY

(FOURTH SESSION)

THE REPORT OF THE SECTORAL COMMITTEE ON LANDS, PLANNING AND

HOUSING

ON

WORKSHOP HELD AT TRAVELLERS HOTEL, MOMBASA

FROM 28TH NOVEMBER TO 1ST DECEMBER 2019

CLERK'S CHAMBERS,
CITY HALL,
NAIROBI.

NOVEMBER, 2019

*Paper Laid
2nd March 2020
M.S.P.
C.A.*

BACKGROUND

The Sectoral Committee on Lands, Planning and Housing is one of the Sectoral Committees established under Standing Order 203. The Committee is mandated under the 3rd Schedule of the Standing Orders to investigate, inquire into and report on all matters related to County planning and development, including: statistics, land survey and mapping, boundaries and fencing, housing and outdoor advertisement

The County Assembly Select Committee on Liaison sat and resolved, through a schedule that the Sectoral Committee on Lands, Planning and Housing undertakes its second quarter retreat from 28th November to 1st December 2019 to induct new Members of the Committee following reconstitution of Committees and to review the budget process .

MEMBERSHIP OF COMMITTEE

The Committee on Lands, Planning and Housing comprises the following members:

1. The Hon. Anthony Karanja, MCA
2. The Hon. Geoffrey Nganga, MCA
3. The Hon. Daniel Ngengi, MCA
4. The Hon. June Ndegwa, MCA
5. The Hon. Charles Thuo, MCA
6. The Hon. Anita Thumbi, MCA
7. The Hon. Patricia Musyimi, MCA
8. The Hon. Joseph Wambugu, MCA
9. The Hon. Paul Ndungu, MCA
10. The Hon. Nancy Muthami, MCA
11. The Hon. Mark Ndungu, MCA
12. The Hon. Alvin Palapala, MCA
13. The Hon. Elias Okumu, MCA
14. The Hon. David Mberia, MCA
15. The Hon. Osman Khalif, MCA
16. The Hon. Carolyn Mayunzu, MCA
17. The Hon. Jared Okode, MCA
18. The Hon. Maurice Gare, MCA
19. The Hon. Naftaly Ogola, MCA
20. The Hon. Geoffrey Majiwa, MCA

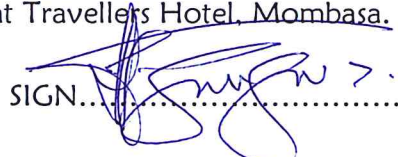
Hon. Members,

On behalf of the Members of Sectoral committee on Planning and Housing, it is my pleasant duty and privilege, to present the Committee's Report on work shop that was held from 28th November to 1st December 2019 at Traveler's Hotel, Mombasa.

DATE.....

HON. JOSEPH WAMBUGU, CHAIRMAN

SIGN.....



ACKNOWLEDGEMENTS

The Sectoral Committee on Lands, Planning and Housing wishes to thank the offices of the Speaker and the Clerk of the Nairobi City County Assembly for the support extended to it in the conduct of the retreat that culminated into this report.

Further, the Committee is thankful to the Secretariat for their contributions during and after the visit and compilation of this report.

Finally, many thanks to the Members of the Sectoral Committee. Your commitment during the workshop contributed immensely to the compilation of this report.

REMARKS BY THE CHAIRMAN

The Chairman thanked the Members for turning up at the retreat in order to execute a training workshop. He highlighted that the retreat programme was to cover a form of induction of the Members to the Committee's mandate given that the Committee Membership had been reconstituted and enable Members refresh on the issues surround the budget process given that the budget cycle had commenced with the Tabling of the Nairobi City County Annual Development Plan FY 2020/2021. He wished the Members fruitful deliberations during the retreats and hoped that the outcome in form of way forward will form the road map for the Committee to effectively execute its mandate.

1.1 : PRELIMINARY INFORMATION

1.2 Introduction

The Committee was informed that the County Assemblies are a creation of Article 177 of the Constitution as an organ of the County Government in whom the legislative authority is vested at the County level.

The County Assemblies are mandated to perform the following principal roles:

- Representation;
- Legislation;
- Oversight;
- Approval of expenditure and revenue raising measures;
- Approval of appointments and removal thereof; and
- Deliberation & resolution of issues of concern to residents.

The presenter informed the Members that County Assemblies discharge the above roles in two ways: plenary or Committees of the Assembly.

He defined Committees of the Assembly as smaller units or groups of Members of the County Assembly that allow the Assembly to perform multiple functions simultaneously.

The Members were learnt that the power of the Assembly to form Committees is manifest in the functions given under Articles 176 and 185 of the Constitution and that the authority to establish Committees of the Assembly is granted in Section 14 (1) (b) of the County Governments Act.

The Powers and privileges Committee and the Committee on Delegated Legislation are statutory Committees established by the County Assemblies (Powers and Privileges) Act and Statutory instruments Act respectively.

Other Committees are an establishment of the County Assembly Standing Orders. However, a Committee may be formed on a resolution of the Assembly.

1.3 Rationale for Committees

The Committee was informed that the role of the County Assemblies under Article 185 and Part 2 of the Fourth Schedule of the Constitution is broad and one that cannot be effectively discharged in the plenary.

Further, Committees are critical in enhancing the efficiency of the Assemblies in the following manner:

- Allows multiplicity in performance of functions;
- 'take Assembly to the people' and allow direct contact between members of the public in pursuit of Article 196 on public participation;
- Allows expert input and stakeholder engagement in legislative processes;
- tapping from the expertise of Members based on their academic and professional backgrounds;
- offers in-depth, specialized and detailed consideration of matters under consideration by the Assembly;
- finding out the facts of a case/matter before the Assembly;
- offers forums for examining witnesses;
- Conduct enquiries and gather evidence from expert or individuals;
- sifting evidence, and drawing up reasoned conclusions;
- Promotes public debate on a subject issue; and
- Advising the Assembly on a position on matters requiring a resolution through Committee Reports.

1.4 Powers of Assembly Committees

Members were informed that for effective discharge of mandate, Committees are guaranteed powers and immunities that are conferred collectively and individually to Committee Members.

These powers and immunities are derived from the following documents:

- The Constitution (Art. 196 of the Constitution);
- County Governments Act (s. 17);
- County Assemblies Powers and Privileges Act, 2017; and
- Standing Order 183.

It is however important to note that immunities are limited to the extent of the nexus with parliamentary work and precincts of the Assembly.

Powers of the Committees

The Committees have the following powers

- Power to Summon witnesses to appear;
- Power to enforce attendance of witnesses;
- Power to examine witnesses on oath/affirmation;
- Power to compel production of documents;
- Power to compel answering of questions;
- Power to examine to issue commission or request to examine witnesses abroad;
- Freedom of debate and speech; and
- Protection from civil or criminal proceedings for Legislative work (committee, reports).

2.1 MANDATE OF THE SECTORAL COMMITTEE ON LANDS, PLANNING AND HOUSING

2.2 Introduction

The Sectoral Committee on Lands, Planning & Housing is established under Standing Order 203, and is mandated, among others, “*to investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned departments*”.

The Committee is further mandated to deal with all matters related to county planning & development, including statistics, land survey, mapping, boundaries & fencing, Housing & outdoor advertising.

The Committee was informed that in discharging its mandate, the Committee is confined to its mandate as per the Standing Orders, extension as may be directed by the Assembly, Bill committed unto it or mandate of the Counties in Part 2 of Fourth Schedule of the Constitution.

Means of discharging mandate

The Committee learnt that there are various avenues through which it can discharge its mandate as follows:

1. Committee meetings/Sub-Committee meetings;
2. Request for memoranda;
3. Site visits;
4. Public hearings;
5. Committee Inquiries;
6. Fact finding visits;
7. Benchmarking visits;
8. Review of Legacy reports by previous Committees;
9. Review of public audit Reports by Independent Offices & Commissions; and
10. Questioning witnesses for oral evidence.

3.1 MANAGEMENT OF COMMITTEES

The Committee was facilitated by the Clerk of the Committee and the Committee was informed that the Assembly Committees work under the direction of the Speaker, the Assembly Business Committee and under the supervision of the Liaison Committee.

The Committees are supported administratively by the Clerk through the department of Committees and Clerk Assistants. They are facilitated by the County Assembly Service Board through provision of staff, meeting rooms and financial resources.

It was critical to note that the Committees are managed by the Chairperson with the assistance of the Vice- Chairperson.

EFFECTIVE COMMITTEES

4.1 Determinants of an effective Committee

The Committee was informed that the effectiveness of a Committee can be measured based on the following factors:

- The skills of the chairperson in managing activities and meetings of the committee;
- The quality of support staff and resources available;

- Consensus building - bipartisanship;
- Level of commitment and involvement of Members in Committee matters;
- Public & stakeholder involvement and participation;
- Adequate preparation of the Committee Chair and Members;
- Integrity of Committee membership – declaration of interest;;
- Production of timely and qualitative committee reports;
- Ability to evaluate or assess its own performance;
- Quality of staffing is essential for effective functioning;
- Consensus building – the multiparty nature of legislatures often translates into multiparty committees that call for effective consensus building for committee effectiveness;
- Adequate resources and facilities to carry out assigned mandates;
- Manageable size of the committee – if a committee is too large or too small it renders it ineffective; large committees become unwieldy and small numbers limit the quality of ideas needed for effective work; and
- Commitment of Members to committee business.

4.2 Qualities of a good Chairperson

The Committee was informed that the qualities and skills of the Committee Chairperson will influence the works and output of the Committee.

The presenter highlighted the following qualities of the Chairperson that he said are requisite for effective management of the Committee:

- The Chairperson should competently demonstrate understanding of parliamentary process. He/she should have a working relationship with members and key staff and know the content of key matters assigned to the committee;
- The Chairperson must be flexible and adaptable to new conditions when circumstances change in the course of Committee work;
- He/she should demonstrate firmness and decisiveness when decision are to be made;
- He/she should demonstrate honesty and dependability with committee members, staff and media in order to earn respect;
- The Chairperson needs to be open and build strong open communication links for trust among the Committee Members;
- He/she must exercise fairness in dealing with Committee Members;
- He/she needs to be tolerant with an understand and accept that members will not support committee leadership all the time;
- The Chairperson should embrace humility and accept responsibility for mistakes;
- He/she should be able to build consensus and demonstrate high sensitivity to diverse opinions in view of building synergy in the Committee; and
- He/she is expected to be impartial and treat all members and attendees with equity irrespective of party background or position.

4.3 Roles of the Committee Chairperson

The Committee was informed that the Chairperson plays a key role in the effectiveness of the Committee. He/she is the most important personality and is responsible for convening and managing the committee.

The Chairperson plays the following roles in Committee management:

- The Chairperson is the spokesperson of the Committee and in this regard he/she presents position of the Committee and talks on behalf of the Committee;
- He/she presides over committee meetings;
- Performs the functions and exercises the powers assigned to office of the Chairperson by the committee, resolutions of the Assembly or legislation;
- Deals with disorder among members or by the public where the latter are admitted to hearings;
- Answers oral questions and responds to Statements in the Assembly on behalf of the committee;
- Signs committee reports after consideration of a matter;
- Requests the appearance of witnesses or the production of papers on behalf of the committee;
- Controls the hearing of evidence and directs the proceedings;
- Liaises with the government and other members of the committee on the progress of important legislation;
- Maintains open communication channels with all committee members for effective functioning of Committees; and
- Determining questions of privilege.

4.4 Role and attributes of effective Committee Member

The Committee was informed that, second to the Committee leadership, the effectiveness of the Committee also depends on certain attributes of the Members.

In this regard, the facilitator stated that an effective Committee Member should be able to demonstrate the following attributes;

1. Regular attendance of committee meetings;
2. Be prepared to take a lead occasionally on particular items of agenda;
3. Should be active and interested participants in the committee proceedings;
4. Be assertive without being aggressive, in essence, be prepared to give an opinion/ start a point without being domineering;
5. Be conscious of the goals and mandate of the committee;
6. Should maintain confidentiality on Committee matters;
7. Be supportive of other members of the committee;
8. Be well prepared and contributes to discussion in a relevant and constructive way
9. Be proactive, well briefed and informed about the various items on the agenda to be discussed;
10. Should be attentive listener who respects the views of the other;
11. Be respectful of opposing and divergent views and opinions of other Members;
12. Observe punctuality in attending Committee meetings and activities; and

13. Be collaborative and objective without being influenced by party ideology or personal differences.

4.5 Role of the Secretariat in the effectiveness of a Committee

The trainer informed the meeting that the secretariat plays a key role in the effective running of a Committee in the following respects:

- Procedural and technical advice;
- Administrative arrangements for meetings, public hearings, and visits;
- Notice preparation and programme of meetings;
- Preparation of briefing materials for the committee;
- Recording Committee proceedings and preparation of minutes of meetings and draft reports;
- Linkage between committee and stakeholders;
- Administration of oath to witnesses;
- Ensuring execution of committee resolutions; and
- Preparation of documents for debate and/or adoption in the House.

MANAGEMENT OF COMMITTEE MEETINGS

5.1 Introduction

The meeting was informed that Committee meetings are meant to boost the productivity and effectiveness of the Assembly through information sharing and decision-making.

It was mentioned that for conduct of proper, productive and decisive meetings, there ought to be adequate prior planning and that before convening a meeting, it needs to be clear if the meeting is necessary, who should attend and the items to be deliberated upon.

At the preparation stage, all the participants ought to be furnished with the agenda, time and venue.

The Committee was informed that every meeting needs to be clear on the purpose and objectives it is expected to achieve within span of time agreed upon.

Further, the facilitator emphasized that since meetings are forums that are expected to generate specific outcomes, punctuality to the meeting is critical in granting sufficient time to cover all the agenda items to avoid recapping on already covered topics and allow the participants time to attend to other commitments.

It was further mentioned that proceedings of a meeting are important for reference, tracking of action points and follow up purposes. In this regard, it is important that the proceedings go down into record in whatever form, in essence, minutes, reports e.t.c.. These records need to be available to the participants of the meeting for verification of information and endorsement.

It was also noted that a sound meeting characterized by participants who are creative, focused on tackling the agenda item, properly directed, one that follows laid down rules and procedure and one that is short and concise.

5.3 Etiquette of Members during meetings

The presenter stated that an Assembly meeting is a formal gathering and therefore should be guided by certain set guidelines (both written and unwritten) which participants ought to abide by. Such guidelines include:

- Respect for the authority of the Chairperson;
- Observation of rules of procedure and maintenance order;
- Respect for witnesses;
- Professionalism in conduct of meetings;
- Keeping arms-length operations with witnesses;
- Avoiding disclosure of content of ongoing investigations;
- Committed presence in the meetings throughout and avoid technical appearances;
- Declaration of conflict of interest;
- Keeping arms length Relations between staff & Members; and
- Respect for divergent opinions.

CONDUCT OF SITE INSPECTION VISIT AND FOREIGN STUDY VISIT

6.1 Conducting sit inspection visit

The meeting was informed that site inspection visit is a form of inquiry/fact finding through which Members gather information regarding a matter under consideration.

Before embarking to such a mission, the Committee is expected to undertake the following:

- Make a resolution of the intent to conduct a site inspection visit;
- Agree on the dates and time of the visit;
- Agree on the purpose/objective of the visit;
- Agree on the target groups to be met during the visit;
- Make a decision the delegation to undertake the visit;and
- Record the resolution documented in the minutes of the sitting at which the decision to undertake the visit was discussed and resolved.

In undertaking such a visit, the Committee is guided by the provisions of Standing Order 174 that relates to sitting outside the precincts of the Assembly.

The meeting was informed that in conduct of site inspection visit, the Clerk, in consultation with the Chairperson, is responsible for handling the logistical arrangements of the visit.

During the visit, the Members are expected to attend all the sessions, be focused the subject of the visit, manage politics properly and avoid cases of conflicts of interest.

Upon conclusion and return from the Clerk is expected to draft a report documenting the findings and recommendations of the visit which is expected to be discussed and adopted by the Committee.

6.2 Conducting a foreign study visit

The meeting was informed that the decision to conduct a foreign study visit is made by the Committee based on the objective, work plan and resources available.

She emphasized that such a visit must be in conformity to the Standing Orders, any other laws and sanctioned by the Speaker.

In this, the Clerk of the Committee facilitates the Members in terms of travel logistical arrangements and reporting.

PROCEDURE AND PRACTICE IN COMMITTEES

7.1 Frequency of meetings

The meeting was informed that pursuant to Standing Order 178 where a Committee is expected to meet at least once in two months while taking into account the callings set by the Salaries and Remunerations Commission.

It was noted that Committees may not sit when the Assembly is sitting lest the sitting becomes void.

7.2 Chairing of meetings

The meeting was informed that Standing Order 172 stipulates that the Chairperson shall preside over meetings of a Committee, in absence of whom the Vice-Chair presides.

However, in the absence of both the Chairperson and the Vice-Chairperson, a Member designated by the Chairperson presides and absence of whom the Committee elects another Member to preside over that meeting.

7.3 Joint sittings

The meeting was informed that two Committees may conduct a sitting to deliberate on a matter that is crosscutting and chaired by the Chair with the longest cumulative period and the quorum shall be the number obtained by adding the quorum of the respective Committees pursuant to Standing Order 194

A report of such a sitting shall be supported and adopted by a majority of the total membership of the Committees.

7.4 Attendance by non-Members.

The meeting was informed that Standing Order 187 allows non-Members to attend a meeting of a Committee but they cannot vote on matters under consideration.

7.5 Failure to attend meeting/temporary absence

The meeting was informed that pursuant to Standing Order 179, a Member who fails to attend four (4) consecutive Committee meeting, without written permission from

the Chairperson of Committee or Speaker, in the case of Chairperson, the Chairperson shall notify the Committee and the provisions under Standing Order 179 (2) ,(3)and (4) shall apply.

Further, pursuant to Standing Oder 184, if a Member is absent or unable to attend a sitting of the Committee, the party whip may, with permission of the Speaker, appoint another Member to act in the Member's place for a period of which such a Member will be absent.

In this case, a Member shall be considered absent when outside the country on official duty or indisposed.

7.6 Public Access to meetings

The meeting was informed that meeting should be open to the Members of the Public pursuant to Standing Order 190 and in the spirit of the Constitution unless justifiably excluded with the Speaker's permission.

7.7 Reports of Committee

The meeting was informed that pursuant to Standing Order 191 the report of a select committee shall be prepared and kept in the same form as the Votes and Proceedings of a Committee of the whole County Assembly and in such other form as may be prescribed in the Committee Manual.

Further, the report of the committee, having been adopted by a majority of the members has to be signed by the chairperson on behalf of the Committee.

A report having been adopted by a majority of members, a minority or dissenting report may be appended to the report by any member(s) of the Committee

A report of a select committee including any minority report, together with the minutes of the proceedings of the committee, and with such note or record of any evidence by the committee as the committee may deem fit to be laid on the Table of the County Assembly by the chairperson or the vice chairperson or by a member authorized by the committee on its behalf within fourteen days of the conclusion of its proceedings.

7.8 Committee progress reports and engagement of experts

The Committee learnt that Standing Order 192 requires Committees to prepare and submit half yearly progress reports to the Liaison Committee which will cumulatively be submitted to the Assembly.

In its conduct of business, a Committee may need the services of experts in a particular filed to bring insight into deliberations of a particular subject. In this regard, the meeting was informed that a Committee may, pursuant to the Standing Orders, engage such an expert for a comprehensive and meaningful consideration of a matter.

CONSIDERATION OF STATATEMENT AND PUBLIC PETITION

8.1 Consideration of statement

The meeting was informed that whenever a statement is requested on the floor of the Assembly and the matter falls within the mandate of the Committee, the Chairperson notes and makes an undertaking as regards the timeline for reporting.

The presenter cautioned that the timeline should be adequate to allow for engagement of the County Executive Committee Member, site visit (if any) and urgency of the concerns raised by the Member.

In this case of a Statement, the Committee analyzes the request to identify issues of concern, areas of possible supplementary questions, agrees on the date to expect response and meeting with CECM and dispatches correspondence to the line department.

The Committee is expected to have a background briefing on the matters before meeting the CECM, invite the Member who requested the Statement to a meeting with the CECM, have the response circulated to Members before the meeting.

After the meeting, the Committee is expected to compile a response for reporting to the Assembly within the time undertaken.

The Committee is expected to follow up on the long term and short term interventions on various concerns raised by the Committee and the member requesting the Statement by the CECM.

8.2 Consideration of Petition

The meeting was informed that a Petition is a written prayer to the Assembly through a Member by the Members of the Public requesting for the Assembly's intervention on a matter of concern.

When a Petition is committed to the Committee, the Committee is expected to come up with a schedule for its consideration bearing in mind that is a time bound business under Standing Order 207

The Committee then analyzes the prayers in order to identify the relevant departments to respond to the various issues and the best approaches to addressing the issues.

Further, the Committee needs to have a background research about the issues raised then invite and invite the Petitioners to shed more light on the concerns raised in their Petition.

The Committee is also expected to invite the CECM from the concerned departments to submit their perspectives as regards the prayers in the Petition and if need be, conduct fact finding missions.

At this point, the Committee compiles a report with replies to specific prayers which will be Tabled in the Assembly and after which a reply is communicated to the Petitioners and shared with the Executive. The Committee is expected to follow up on the recommendations to ensure their implementation.

LAW MAKING PROCESS IN THE COMMITTEE AND INQUIRIES

9.1 Committee and law making

9.1.1 Pre-Publication scrutiny

The Committee was informed that legislation is one of the principal roles of the Assembly and it does so through Committees. The meeting was also meant to understand that they can be the originators of Bills by presenting legislative proposals to the Speaker on a matter that falls within the purview of the Committee's mandate.

The meeting was further informed that when a Bill is committed to the Committee for pre-publication scrutiny, the Committee is expected to ensure that the Bill is in conformity with the Constitution and other legislations, its pronouncements on rights and freedoms and that it falls within the mandate of the County Governments.

The Committee is also expected to assess the overall policy implications of the Bill and whether necessary structures are set out for its implantation and propose points to enrich it.

At this point, the Committee is also expected to receive views of the public and stakeholders and endorse for publication or propose otherwise through a report.

9.1.2 Committal after First Reading

The meeting was informed that this is a time-bound stage under Standing Orders and that the Committee is needed to come up with a schedule for processing the various elements of the Bill.

At this stage, the Committee is expected to:

- Plan for the Bill processing;
- Identify relevant stakeholders;
- Facilitate expert input;
- Facilitate Public hearings, public participation;
- Undertake Clause-by-clause consideration;
- Propose appropriate amendments ;
- Prepare a Report (including proposed amendments); and
- Table the Report (within 20days).

9.1.3 Second Reading and Committee of the whole

The Committee was informed that in case of a Bill sponsored by the Committee, the Committee plays a key role in moving and seconding, lead debate on the principles of the Bill, make indications for amendments and support the Bill when the question is put in the Assembly.

The Committee is also expected to sponsor amendments to the Bill, lead Clause- by-Clause amendments during the Committee of the Whole Assembly, informing the Assembly on amendments sponsored by Committee and lobby for vote.

During the post enactment, the Committee is expected to oversight its implementation, initiate support its implementation where necessary and review the operationalization of the Act with a view of identifying gaps that may be addressed through amendments.

9.2 PUBLIC INQUIRIES

9.2.1 Conduct of Public inquiries

The meeting was informed that this is one of the tools at the disposal of the Committee to do comprehensive fact finding on a topic that falls within the scope of the mandate of the Committee. Such topics may be out of the Committee's initiative or on referral by the Assembly for consideration.

In this regard, the Committee chooses a topic and draws a plan for conducting the various activities and events. Such a plan should be flexible enough to allow for address urgent response to changing circumstances. The Committee should also spell out the range of events and witnesses, duration of hearings and number of sittings.

It was recommended that an ideal inquiry should not span more than one month and the following step by step events was emphasizes.

- Receipt of terms of reference;
- Collecting of evidence;
- Processing of submissions/evidence;
- Conducting of hearings;
- Preparation of a draft report and adoption;
- Tabling Report in the Assembly;
- Consideration by the Assembly; and
- Implementation of recommendations.

9.2.2 Committee's power in relation to evidence collection

In this regard, the meeting was informed that the Committee has the power to require people to appear before it, give evidence and submit documents.

The Committee may choose witnesses for written and/or oral submissions.

The presenter stated that the secretariat prepares background briefing papers for each oral evidence session, including a number of suggested questions and proposed questioning structure for the session.

9.2.3 Questioning of witnesses

During the questioning, the Committee is expected to adhere to the following guideline:

- Questions should be asked with intent to draw evidence from the witness;
- Members not to respond to questions on behalf of the witness;
- Committee members not to make statements or outline their own views during oral sessions;
- Members' views and statements to be reflected during report writing;
- Witnesses to be treated with respect and courtesy.

9.2.4 Rights of witnesses

The Committee was informed that the Committee is expected to understand that witnesses are entitled to the following:

- Reasonable notice of the meeting;
- Statement of the matters expected to be;
- Invitation to appear and summoned only where a committee makes a deliberate decision to issue a summons;
- Permission to submit a written submission prior to appearing to give oral evidence;
- Allowed to answer only those questions that are relevant to the committee's inquiry;
- Counsel and to consult counsel for advice;
- Permission to object to answering any questions on any ground of self-incrimination, or invasion of privacy. (*Committee may however insist on an answer*);
- Free of interference or improper influence (intimidation, or promise of inducement) in respect of evidence that may be given before a committee; and
- Give evidence in private session or make a confidential written submission, subject to the agreement of the committee.

CONSIDERATION OF COMMITTEE REPORTS

10.1 Consideration of report

The meeting was informed that a report is a presentation of facts and findings, as a basis for recommendations; written for a specific readership, and intended to be kept as a record. It was noted that reports are the only way through which committees document and communicate their activities officially to the House.

The facilitator informed the meeting that most of the activities conducted by the Committees result in a report whose confidentiality is paramount until it is Tabled in the Assembly.

The Chairperson is responsible for presenting reports to the Committee and leads the discussions on the same. Suitable amendments to the report are noted and taken into account before it is adopted and Tabled in the Assembly. The Members opposed to sections of the report their dissenting views via a dissenting report attached to the main report pursuant to Standing Orders.

Members are expected to append their signatures to demonstrate their approval of the report and signed by the Chairperson who Tables it in the Assembly through a motion.

10.2 Qualities of a good report

The Committee was informed that a good Committee report should bear the following qualities to ease of understanding and official consumption:

- Be factual i.e it should be based on facts, verified information and valid proofs;
- Be clear and easily understandable;
- Be free from errors and duplication;
- Facilitates right decision making;
- Result focused and result oriented;
- Should be well organized and structured;

- Should be ethical in style; and
- Be prepared on time and tabled in the Assembly.

In processing the report, the Committee Members are expected to support the Chairperson or Vice-Chairperson in Seconding of the Motion, contribute to the debate and support and lobby other Members to support the report in the assembly.

OVERVIEW OF THE BUDGET PROCESS AND BUDGET DOCUMENTS

11.1 Introduction

On 30th November 2019, the discussions were facilitated by the Clerk of the Committee who to the Members through an overview of the budget process, scrutiny of key documents, revenue raising measures and M&E.

The Committee was informed that Chapter Twelve of the Constitution speaks broadly on the aspect of public finance and of interest was the principles of public finance whose intent was to instill values regarding management and administration public finances. The principles include:

- Openness and accountability;
- Promotion of equitable society;
- The burdens and benefits of the use of resources and public borrowing to be shared equitably between present and future generations;
- Public money to be used in a prudent and responsible way; and
- Financial management to be responsible and fiscal reporting to be clear.

Further, subsidiary legislations, for instance, the PFM Act and the County Government Act provides for the procedure on how the County Governments can raise revenue and incur expenditures.

The role of the County Assembly in the budget process was not to be overemphasis because it is legally underpinned. The Assembly plays a critical role during the planning, approval, implementation and reporting stages of the process. At the centre of this, are the Members of the County Assembly who are constitutionally mandated to oversight the use of public resources at the County level.

11.2 The budget statutes and their place in budgeting

It was reiterated that the budgeting process is anchored in the Constitution and the appropriation of public funds for the County commences with the passage of the annual Division of Revenue Act by Parliament which allocates funds to both levels of governments.

Subsequently and pursuant to Article 208, Senate is required to pass the annual County Allocation of Revenue Act that allocates funds to the various Counties by a formula.

The PFM Act and the regulations, at this point spells out the responsibilities of institutions and elaborates the procedures. Subsequently, the Controller of Budget Act spells out the responsibilities of the Controller of Budget regarding the office's role on expenditure control both at the National and the County levels.

Further, the Public Procurement and Disposal Act comes in at this point to guide institutions on aspects of acquisition and disposal of assets and utilities.

Finally, the Public Audit Act sets out the role of the Office of the Auditor General to assess and recommend on whether procedures were/are followed and institutions are accountable for appropriation of public money.

11.3 The budget cycle/Medium Term Expenditure Frameworks (MTEF) Process

The Committee was informed that the MTEF is annual, rolling three year-expenditure planning. It sets out the medium-term expenditure priorities and hard budget constraints against which sector plans can be developed and refined. It also contains outcome aspect for the purpose of performance monitoring.

The process begins by the formulation of policies and plans (CDIP, ADP and CFSP), a process that is driven by the County executive Committee Member and the County Treasury with the approval of the County Assembly. Subsequently, the CEC prepares the budget estimates for approval by the Assembly too. By adhering to the approved revenue raising strategies, the County collects revenues and the same apportioned to spending units. Finally, the County Assembly and the Office of the Auditor General ensures that the actual expenditure is as per the approved budget through their respective mandates.

11.4 CIDP and ADP

It was important to note that the County Integrated Development Plan (CIDP) is the five year plan that informs the annual planning document, the County Annual Development Plan (ADP) which must both get Assembly's approval. The ADP outlines the County's sectoral strategic priorities in order to inform the CFSP and County Budget Estimates. They are both to be submitted not later than 1st September.

The ADP contains the following information:

- Strategic priorities for the medium term that reflect the county government's priorities and plans;
- Description of how the county government is responding to changes in the financial and economic environment;
- Programmes to be delivered with details for each programmes;
- Payments to be made on behalf of the county government, including details of any grants, benefits and subsidies that are to be paid;
- Description of significant capital developments; and
- such other matters as may be required by the CoK, 2010.

The CFSP on the other hand, is submitted not later than 28th February and sets out the broad strategic priorities and policy goals that will guide the County Governments in preparing their budgets both for the following financial year and over the medium term. It also proposes the expenditure limits for county executive and county assembly.

The paper is committed to the FBAC and all Sectoral Committees for scrutiny and the final report Tabled in the House and if approved, it informs the basis of the budget estimates.

11.5 Budget Estimates

The Counties are required to prepare the estimates in a programme-based format and submitted to the County assembly for scrutiny and approval by 30th April. The estimates are committed to FBAC and all Sectoral Committees for scrutiny and reporting to the House. The report forms the basis of the Appropriations Bill.

11.6 Key concepts in programme-based budgeting

- Impacts refers to the long-term effects of government interventions, what is expected to change;
- Outcomes represents changes to target communities or citizens occasioned by government interventions or the effectiveness of the interventions;
- Outputs are the public goods and services produced or delivered;
- Activities refer to a set of processes used to produce goods and services;
- Inputs refer what is used to produce the goods and services. They are the items of expenditure, e.g. finance, human labour, equipment;
- Budget Ceiling refers to the total expenditure limit set for a budget sector based on total available resources or the resource envelope;
- County Revenue Fund is a combination of accounts into which all County public funds are paid and retained until the county assembly decides on their application. It is established under Article 207.

11.7 The role of Committees budget estimates

The Committee was informed that Assembly Committees are at the centre of the process during the scrutiny, reporting and approval. The role of Committees include:

- Analyze overall budget expenditure in line with effect on the overall economy and Build up to achievement of the vision 2030 objectives and the millennium development goals;
- Scrutinize program key outputs, performance indicators and targets in line with PBB criteria;
- Analyze and approve the allocation per vote, Administrative department and County department in line with the overall budget allocation;
- Determine the deviation of overall ceilings and vote ceilings as set under the approved CFSP;
- Analyze sectoral performance of the previous budget per sector and department i.e. this involves determining the absorptions rate of resources and capacity to spend allocated funds, adherence to fiscal rules in the estimates; and
- Recurrent and development allocations for the county department and overall budget.

REVENUE RAISING MEASURES

The Committee was informed that the Constitution sets out the sources of revenue for the County Government as outlined below:

- Equitable Share from the National Government which should be at least 15% of the most recently audited revenue raised nationally (Article 202(1) 203(2));
- Conditional and unconditional grants from the National Government share of revenue (Article 202(2));
- Equalization fund based on half of 1% of revenue raised nationally(Article 204) ;
- Local revenues in form of fees, charges, taxes e.t.c.; and
- Loans and grants.

12.1 The Equitable Share

This revenue is raised nationally and shared between the two levels of Government through the annual Division of Revenue legislation and the Annual County Allocation of Revenue law.

The Committee noted that the sharing of the revenue amongst the 47 Counties is done using a formula that takes into account a number of parameters including population, equitable share, poverty index, land size, fiscal effort and the development factor.

12.2 Equalization Fund

The Committee noted that the Fund is an establishment of Article 204 of the Constitution whose purpose is to provide basic services including water, roads, health facilities and electricity to marginalized areas.

The Constitution mandates the Commission on revenue allocation to determine, review and publish policy on marginalized areas. For instance, in 2014, the CRA identified Turkana, Marsabit, Samburu, Wajir, Narok, Kwale, Garissa, Kllifi, Taita Taveta, Isiolo and Lamu as the marginalized Counties to benefit from the Fund for the first three years.

12.3 Conditional grants

The Committee was informed that these are funds used to implement County related funds on agreement with the County Governments bearing in mind that some of the County functions are augmented by the National Government.

This funds are shared among Counties and are determined by some factors but are not uniformly distributed. Some of the grants include:

- Level 5 Hospitals;
- Free Maternal Health Care;
- Leasing of Medical Equipment;
- Emergency Medical Care;
- Forgone User Fees;
- Road Maintenance Levy;
- Loans and Grants;
- Construction of County Headquarters;and
- Rehabilitation of Youth Polytechnics.

It was noted that Nairobi County benefits from the fund as grant to level 5 hospitals, development of village polytechnics, compensation of user foregone, leasing of medical equipment and road maintenance fuel levy.

12.4 Local revenue

The Committee was informed that the Constitution permits Counties to impose the following:

- Property rates;
- Entertainment taxes;
- Charges for services they provide; and,
- Any other tax or licensing fee authorized by an Act of Parliament.

For Nairobi County, the following are the revenue streams that contribute to Own Source of Revenue (OSR):

- Property-related revenue;
- Administrative fees & charges;
- Business permits;
- Vehicle parking fees;
- Natural resources, exploitation;
- Conservancy;
- Public health services;
- Markets, trade services & slaughter;
- Houses;
- Public health & sanitation services;
- Cess; and
- Water and Sewerage Services.

PRESENTATION 13: BUDGET MONITORING AND OVERSIGHT

13.1 Introduction

On 17th November 2018, the work shop was facilitated by Mr. Joash Kosiba from the Parliamentary Budget Officer. The Committee was taken through the County Assembly's role of monitoring and oversight of appropriation of County funds.

The Part 2 of Chapter Eleven of the Constitution establishes the County Assemblies as the guardians of public finances at the County level. It provides the checks and balances on the Executive Arm of the County Government.

13.2 Oversight

The Committee was informed that oversight is a concept and a tool that enables the Assembly to hold the government accountable over the use of public resources; protect rights and liberties of citizens; promote transparency, rule of law and good governance; improve efficiency and effectiveness in the use of public resources; and monitor milestones.

13.3 Office of the Auditor General

The Committee noted that Article 229 (4) of the Constitution give powers to the Auditor General to audit the County Government (County Executive and County Assembly) and its entities.

- The Auditor-General may audit and report on the accounts of any County entity that is funded from public funds;
- An audit report confirm whether or not public money has been applied lawfully and in an effective way;
- Audit reports are submitted to the relevant county assembly for scrutiny and reporting for action;
- Within three months after receiving an audit report, the county assembly shall debate and consider the report and take appropriate action.

13.4 Tools of oversight

The Committee was informed that in the exercise of its oversight mandate, the County assembly has varied tools including:

- Inquiries and hearings;
- Inspection visits;
- Statements;
- Quarterly reports; and
- Auditor-General ordinary and special reports.

13.5 Monitoring and evaluation

The Committee was informed that whereas monitoring is a continuous function that uses the systematic collection of data on specified indicators to provide management and the main stakeholders of an ongoing development intervention with indications of the extent of progress and achievement of objectives and progress in the use of allocated funds, evaluation is the systematic and objective assessment of an ongoing or completed project, program, or policy, including its design, implementation, and results.

The aim of monitoring and evaluation is to determine the relevance and fulfillment of objectives, development efficiency, effectiveness, impact and sustainability.

The process of monitoring and evaluation should provide information that is credible and useful, enabling the incorporation of lessons learned into the decision-making process

13.6 Types of M&E indicators

The Committee noted that indicators are measurable variables of an aspect that are used to determine change in it over time through observation or measurement. In doing monitoring and evaluation, indicators are needed to observe whether the intended purpose or objective was achieved and by how much has it not met the objectives in order to inform remedial measures.

13.7 Role of the County Assembly in monitoring and evaluation of County budget

Although the County Assembly may not have the professional capacity to conduct M&E, but it is their responsibility to perform the following in its oversight role to

ensure plans, policies and budgets are implemented as approved for the benefit of citizens:

- Monitor all county government policies and programmes to ensure efficient use of county resources;
- Improve the efficiency, economy, and effectiveness of county government's operations;
- Evaluate programs and performance of various County Departments to inform budget making;
- Detect and prevent poor administration, waste, abuse, arbitrary and capricious behavior, or illegal and unconstitutional conduct;
- Protect civil liberties and constitutional rights;
- Inform the general public and ensure that executive policies reflect public interest;
- Gather information to develop new legislative proposals or amend existing county laws; and
- Ensure administrative compliance with legislative intent.

13.8 Monitoring tools for County Assembly

The Committee was informed that the County Assembly and its Committees may exercise monitoring by applying the following tools at their disposal:

- Reports of the Auditor General;
- Committee reports on Statements, hearings, inquiries, inspection visits, meetings with the Sector;
- Reports from the County Sectors;
- Reports from the Office of the Controller of Budget; and
- Reports from the County Treasury.

WAY FORWARD

Following the deliberations held during the Committee induction workshop, the following was agreed upon as the way forward:

1. The Committee to adopt sound and relevant periodic work plans on issues that fall within the scope of its mandate;
2. The Chairperson of the Committee to take charge of the affairs of the Committee and ensure that Members work together and with decorum while conducting the business of the Committee;
3. The Members to work in unison, observe the rules of engagement and uphold the dignity of both the Committee and the Assembly;
4. The Committee to ensure that adequate mapping of the stakeholders who will come in handy during deliberations on key issues in the Committee;
5. Members of delegations visiting foreign countries to observe protocol and to have proper briefing at the pre-travel for productive engagement; and
6. Members to take leading role in coming up with legislations on various aspects of the mandate of the Committee;

7. Members to make effective use of the tools available in the Standing Orders, i.e. Statements, Motions, Petitions, Bills, inquiries, stakeholder meetings e.t.c in addressing the various issues of concern to the County; and
8. The secretariats to work professionally with Members in assisting them to discharge their mandate as far as the Committee is concerned.

