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COUNTY ASSEMBLY  
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NAIROBI



*Paper laid on  
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Assembly by Hon.  
J. Kimani on  
Tue 1/12/2015*

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1/12/15*

NAIROBI CITY COUNTY ASSEMBLY  
FIRST ASSEMBLY - THIRD SESSION

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REPORT OF THE SECTORAL  
COMMITTEE ON CULTURE AND COMMUNITY SERVICES ON THE  
CONSIDERATION OF  
THE NAIROBI CITY COUNTY PUBLIC PARTICIPATION BILL, 2015

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Clerk's Chambers,  
Nairobi City County Assembly  
City Hall Buildings  
Nairobi

NOVEMBER, 2015

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## Introduction

**Mr Speaker, Sir,**

The Sectoral Committee on Culture and Community Services is established pursuant to the provisions of Standing Order 191 of the Nairobi City County Assembly. The mandate and functions of the Committee is to:

- i. all matters related to Cultural activities, public entertainment and public amenities, including betting, casinos and other forms of gambling, racing, liquor licensing, cinemas, video shows and hiring, libraries, museums and cultural activities and facilities and county parks, beaches and recreation facilities;
- ii. fire- fighting services and disaster management,
- iii. control of drugs and pornography;
- iv. ensuring and coordinating the participation of communities and locations in governance at the local level and assisting communities and locations to develop the administrative capacity for the effective exercise of the functions and powers and participation in governance at the local level.

The Committee Membership comprises:

1. Hon Ronald Milare, MCA - Chairman
2. Hon Oscar Lore, MCA – Vice-Chairman
3. Hon Tabitha Ndingirigi, MCA
4. Hon Asha Abdi Sosso, MCA
5. Hon Nancy Mwaura, MCA
6. Hon Andrew Macharia, MCA
7. Hon Benadette W Ng'ang'a, MCA
8. Hon Janet Wala, MCA
9. Hon David Mberia, MCA
10. Hon Rose Nancy Luchiri, MCA
11. Hon Janet Kimondo, MCA
12. Hon Paul Kiguathi Kados, MCA
13. Hon Joash Omwenga, MCA

14. Hon Kennedy Ng'ondi, MCA
15. Hon Jackson Kiama, MCA
16. Hon Elizabeth Sang, MCA
17. Hon Martin Kinyanjui, MCA

**Mr Speaker, Sir,**

The Public Participation Bill, 2015 sponsored by Hon. Rachel Kamweru, MCA was published on 18<sup>th</sup> of August, 2015 and subsequently tabled in the County Assembly for First Reading on 6<sup>th</sup> October, 2015 and thus referred to the Sectoral Committee on Culture and Community Services for consideration pursuant to Standing Order No 121 and Article 185(2) of the Constitution.

**Mr Speaker, Sir,**

The principle objects of the Bill is to give effect to the paragraph 14 of the Fourth Schedule of the Constitution in as far as providing for Public Participation of the people in governance which is about ensuring and coordinating the participation of communities and locations in governance at the local level and assisting communities and locations to develop the administrative capacity for the effective exercise of the functions and powers and participation in governance at the local level.

**Mr Speaker, Sir,**

In processing the Bill, the Committee, through an advertisement appearing in the local dailies on 9<sup>th</sup> October, 2015, called for memoranda from stakeholders pursuant to Article 196(1) (b) of the Constitution and Standing Order 121(3).

The Committee would like to report it received submissions from Six stakeholders namely, National Gender and Equality Commission, The Institute for Social Accountability, Oxfam GB, Economic and Social Rights Centre, Transparency International – Kenya Chapter and Consumer Federation of Kenya, whose views were taken into account in this report.

In principle, the Committee was in agreement with the contents of the Bill. However, the Committee has proposed amendments to some sections as contained in the "Amendments" section of the report.

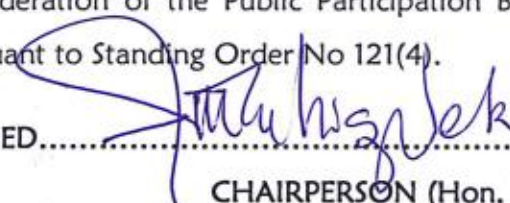
Mr Speaker, Sir,

The Committee is thankful to the Offices of the Speaker and the Clerk of the Assembly for the logistical and technical support accorded to it during its sittings. I also wish to express my appreciation to the Members of the Committee who sacrificed their time in the activities of the Committee and preparation of this report. Finally, I wish to express my appreciation for SUNY-Kenya through their AHADI Program for the logistical and technical support they offered this Committee during its deliberations and OXFAM for facilitating a meeting with Members of Nairobi City County Assembly to take them through the Bill.

Mr Speaker, Sir,

It is therefore my pleasant duty and privilege, on behalf of the Sectoral Committee on Culture and Community Services, to table its report in the Assembly on the consideration of the Public Participation Bill, 2015 for consideration and adoption pursuant to Standing Order No 121(4).

SIGNED.....

  
CHAIRPERSON (Hon. Ronald Milare) MCA

DATE.....

1<sup>st</sup> DECEMBER 2015

## COMMITTEE AMENDMENTS

Mr Speaker, Sir,

The Committee proposed the following amendments.

### PART I: PRELIMINARY

**Clause 1:** Add the word "City" between the words 'Nairobi' and 'County'

**Clause 2:** THAT Clause 2 be amended by –

- i. Inserting the words 'pursuant to Sections 98, 99, 100 and 101 of the County Governments Act of 2012' after the word 'processes' appearing at the end of the proposed definition of the phrase 'civic education'
- ii. deleting the word 'resident' appearing in paragraph (c) under the proposed definition of the phrase 'the public'
- iii. inserting the following new reference '(d)' just before the clause beginning with 'non-resident persons...' under the proposed definition of the phrase 'the public'
- iv. inserting the words "in an open, accountable and inclusive process through which individual citizens, community and interest groups, and other stakeholders can exchange views and make or influence the decisions that affect their lives" after the words "decision-making process"  
'*Public participation* means the involvement of individuals and groups that are positively or negatively affected by, or that are interested in, a proposed project, program, plan, legislation or policy that is subject to a decision-making process in an open, accountable and inclusive process through which individual citizens, community and interest groups, and other stakeholders can exchange views and make or influence the decisions that affect their lives.'

**Clause 3:** THAT Clause 3 be amended by –

- i. deleting the word ‘and’ appearing between the words ‘formulation of policy’ and ‘development plans’ and substituting therefor with the words ‘budgeting and implementation of the development plans’ in sub-clause (c)
- ii. inserting a new sub-clause immediately after sub-clause (g) –

‘(ga) Public participation forums shall enable citizens to hold the County Government accountable and to demand for feedback on progress of service delivery and contribute in decision making processes that include planning for service provision, budgeting, implementation and policy-making’

**Clause 4:** THAT Clause 4 be amended by:

- i. deleting the words ‘facilitation of’ appearing at the beginning of sub-clause (d) with the words ‘mobilize and facilitate effective’
- ii. deleting sub-clause (e)
- iii. inserting the words “timely access to appropriate information” between the words “shall have’ and “access to” and the words “which shall be publicised or provide by the county” between the words “information” and “to” appearing in sub-clause 4(f)
- iv. re-numbering the clauses to reflect the amendments.

**PART II – ROLES AND RESPONSIBILITIES**

**Clause 5:** THAT Clause 5 be amended by:

- i. inserting a new sub-clause immediately after sub-clause (1) –  
‘(1A) The ultimate responsibility for public participation in the County Executive and County Assembly shall be on the Governor and Speaker of the County Assembly respectively.’
- ii. deleting the words appearing in sub-clause (2) and substituting therefor with the following words ‘The County Executive Committee Member responsible for matters of Public Service in the County shall be in charge of public participation in the County Executive’

- iii. deleting the words 'The member of the County Executive Committee designated to be in charge of public participation pursuant to sub-section (2)' appearing at the beginning of sub-clause (3) and substituting therefor with the following words 'The County Executive Committee Member responsible for matters of Public Service in the County'
- iv. inserting a new paragraph under sub-clause (4) immediately after paragraph (g) –  
'(ga) Develop a registry of all civic community based organizations in the County'
- v. re-numbering sub-clause (7) as '7(a) and inserting a new paragraph –  
'7(b) in fulfilling the responsibilities under section 7(a) above, the Clerk of the Assembly shall, when needed, be supported by the offices of Sub-County, Ward and Village Administrators established under sections 50, 51 and 52 of the County Governments Act, 2012.'

### PART III – COMMUNITY PARTICIPATION AND INVOLVEMENT

#### Clause 6: THAT Clause 6 be amended by –

- i. deleting the word 'budget' appearing in paragraph (iv) of sub-clause (a) and substituting therefor with the following words 'annual development plans, budgets and their implementation and monitoring thereof'
- ii. deleting the words 'ward representatives and staff' appearing at the beginning of paragraph (ii) in sub-clause (b) and substituting therefor with the following words 'staff and administrators of decentralised units'
- iii. deleting sub-clause (2)

#### Clause 7: THAT Clause 7 be amended by:

- i. inserting the words 'in a timely manner' after the word 'community' appearing at the end of paragraph (e) in sub-clause (2)
- ii. deleting the word 'people' appearing at the beginning of paragraph (a) in sub-clause (3) and replacing with the word 'persons'
- iii. deleting the word 'people' appearing at the beginning of paragraph (b) in sub-clause (3) and replace with the word 'persons'
- iv. inserting the words 'and youth' between the words 'women' and 'and' in paragraph (c) under sub-clause (3)



- v. deleting the word 'disadvantaged' appearing between the words 'other' and 'groups' appearing in paragraph (d) under sub-clause (3) and replacing with the word 'marginalized'

**Clause 8:** THAT Clause 8 be amended by:

- i. deleting the word 'encouraged' appearing at the end of paragraph (b) under sub-clause (1) and substituting therefor with the word 'required'
- ii. (deleting the words appearing in paragraph (b) under sub-clause (2) and substituting therefor with the following new words 'persons with special needs; and'
- iii. inserting a new paragraph immediately after paragraph (b) under sub-clause (2) –  
'(ba) preference to the different mediums of communication'

**Clause 9:** THAT Clause 9 be amended by –

- i. inserting the word 'daily' between the words 'at least two' and 'newspapers with' and inserting the words 'where appropriate' after the word 'circulation' in paragraph (a) of sub-clause (1)
- ii. deleting the word 'or' appearing at the end of paragraph (b) in sub-clause (1)
- iii. inserting a new paragraph immediately after paragraph (c) in sub-clause (1) –  
'(ca) published in any other media with wide reach to interested persons, including but not limited to social media platforms'
- iv. deleting the word 'or' appearing between the words 'English' and 'Kiswahili' and substituting therefor with the word 'and'
- v. deleting sub-clause (3) and substituting therefor with the following new sub-clause –  
'(3) A copy of every notice issued by the County Government under this Act or any other legislation shall be published in the County Gazette and placed in notice boards in all offices of the county and any other places where the public is known to converge, including but not limited to Churches, Mosques, Temples, public barazas and Community Social Halls.'

- vi. Inserting the following words 'with special needs including those' between the words 'given to persons' and 'who cannot read' appearing in sub-clause (5)
- vii. Deleting sub-clause (6)

**Clause 10:** Clause 10 is amended by –

- i. inserting the following words 'within thirty days of the forum' at the end of paragraph (b) in sub-clause (3)
- ii. deleting the words 'election of any person as a member of that County Assembly or as a Member of Parliament' appearing after the words 'or discussing' and substituting therefor with the words 'any elected leader'

**Clause 11:** Agreed to.

**Clause 12:** Clause 12 is amended by –

- i. deleting sub-clause (2) and substituting therefor with the following new sub-clause –

'(2) the forum may only be convened in consultation with the member of the County Assembly and shall be open to all interested parties.'

- ii. Inserting two new sub-clauses immediately after sub-clause (2) –  
'(2a) members of a citizen forum in a Ward or Village may petition the Ward or Village Administrator for a forum to discuss any of the issues in sub-section 11(1) and if supported by at least 100 persons, the Ward or Village Administrator shall convene a citizens forum'  
'(2b) the citizens in the citizens forum shall appoint their own secretary'

**Clause 13:** Clause 13 be amended by –

- i. Renumbering clause (13) as '13(1) and re-drafting the sub-clause as follows –  
'The County Government shall convene and facilitate the citizens forum requested under sub-section (2a)
- ii. Inserting the following words 'within seven days' immediately after the words 'for such decline' in sub-clause 13(2)

- iii. Inserting the following words 'in writing and a response given to the petitioners within seven days' immediately after the words 'of that decision' in sub-clause 13(3)

#### PART IV - PETITIONS

**Clause 14:** Agreed to.

**Clause 15:** Agreed to.

**Clause 16:** Agreed to.

**Clause 17:** Clause 17 is amended by –

- i. deleting the number '28' appearing between the words 'section' and 'shall' and substituting therefor with the word '16(2)' in sub-clause (8)
- ii. inserting the words in any case not later than thirty days after finalization of the hearing' immediately after the words 'on the petition' in sub-clause (8)

**Clause 18:** THAT Clause 18 be amended by inserting the following words 'and by sending to churches, mosques, temples, public barazas and social halls with a request to announce the same'

**Clause 19:** Agreed to.

**Clause 20:** Agreed to.

**Clause 21:** Agreed to.

#### PART V – MISCELLANEOUS PROVISIONS

**Clause 22:** Agreed to.

**Clause 23:** Agreed to.

**Clause 24:** THAT Clause 24 be amended by inserting the following words 'in April of every year' between the words 'annual forums' and 'at the ward' appearing in sub-clause (1)

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**Clause 25:** THAT Clause 25 be amended by –

- i. inserting the following words 'the member(s) of the County Assembly and' between the words 'in consultation with' and 'the county executive committee' appearing in sub-clause (1) THAT sub-clause (1) be further amended by inserting the following words 'and receive feedback from' between the words 'to inform' and 'county residents'.
- ii. Deleting the word 'quarterly' appearing between 'shall publish a' and 'report on' and substituting therefor with the word 'bi-annual' in sub-clause (4)s

SCHEDULE – FORM OF A PUBLIC PETITION

**Schedule:** Agreed to.

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