

THE GOVERNMENT OF NAIROBI CITY COUNTY



NAIROBI CITY COUNTY ASSEMBLY
(THIRD ASSEMBLY – SECOND SESSION)

REPORT OF THE SECTORAL COMMITTEE ON TRANSPORT AND PUBLIC WORKS ON
WORKSHOP HELD ON 28TH TO 30TH MARCH 2023

AT FLAMINGO HOTEL, MOMBASA

CLERK'S CHAMBERS,
NAIROBI CITY COUNTY ASSEMBLY
CITY HALL,
NAIROBI

MAY, 2023

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1. PREFACE

1.1. Establishment and Mandate

Hon. Speaker,

The Nairobi City County Assembly, Third Assembly Sectoral Committee on Transport and Public Works was established pursuant to the Standing Order 209. The Committee's mandate amongst others, as outlined under Standing Orders 209 (6) is to:

- a. investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned departments;
- b. study the programme and policy objectives of departments and the effectiveness of the implementation;
- c. study and review all county legislation referred to it;
- d. study, assess and analyze the relative success of the departments as measured by the results obtained as compared with their stated objectives;
- e. 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 vet and report on all appointments where the Constitution or any law requires the County Assembly to approve, except those under Standing Order 196 (Committee on Appointments); and
- g. make reports and recommendations to the County Assembly as often as possible, including recommendation of proposed legislation.

1.2. COMMITTEE MEMBERSHIP

The Committee Membership comprises of:

1. Hon. Musango Maithya, MCA - Chairperson
2. Hon. Lawrence Otieno Odhiambo, MCA - Vice-Chairperson
3. Hon. Shadrack Machanje Namuyu, MCA
4. Hon. Paul Muiruri Kiguathi Kados, MCA
5. Hon. Nicholas Juma Okwacho, MCA
6. Hon. David Magoba Odhiambo, MCA
7. Hon. Rosemary Masitsa Shitote, MCA
8. Hon. Maurice Ochieng Onyango, MCA
9. Hon. Stephen Ndegwa Gitau, MCA
10. Hon. Absalom Odhiambo Onyango, MCA
11. Hon. Kennedy Swaka, MCA
12. Hon. John Ndile Musila, MCA
13. Hon. Scolastica Muthoni Mande, MCA
14. Hon. Mark Mugambi Macharia Kevin, MCA
15. Hon. Sam Kanyi Kago, MCA
16. Hon. John Mwaniki Kwenya, MCA
17. Hon Paul Mathu Njambi, MCA

18. Hon Aaron Kangara Wangare, MCA
19. Hon Farhiya Daud Aden, MCA
20. Hon Beatrice Wandai Khungwa, MCA
21. Hon Sospeter Gathahu Mumbi, MCA
22. Hon Fredrick Njoroge Njogu, MCA
23. Hon James Kariuki, MCA

1.3. COMMITTEE SECRETARIAT

The Committee Secretariat is comprised of the following officers: -

1. Mr. Austin Inyundele – Snr. Clerk Assistant;
2. Mr. Benedict Ochieng’ – First Clerk Assistant

1.4. BACKGROUND FOR THE INDUCTION WORKSHOP

Hon. Speaker,

The County Assembly Committees are extensions of the Assembly established under the Nairobi City County Assembly Standing Orders and in accordance with Section 14 of the County Governments Act, 2012. The Committees are supposed to perform functions that the Assembly is not well fitted to consider in plenary. Following the constitution of County Assembly Committees, the Sectoral Committee on Transport and Public Works held its second induction workshop from 28th to 30th March, 2023 Mombasa County. The objectives of the workshop included the following;

- a. To enable the Committee, understand its role in generation of business;
- b. To enable Members to understand the Management of Committee and its business;
- c. To enable Committee, appreciate its role in the law making process;
- d. To enable Committee to appreciate its role in the budget making process; and
- e. To enable the Committee to consider its pending business.

1.5. ACKNOWLEDGEMENT

Hon. Speaker,

I wish to acknowledge with gratitude the offices of the Speaker and the Clerk of the County Assembly for the support extended to the Committee to facilitate its second induction workshop.

Finally, much thanks to the Members of the Committee and the Secretariat for their dedication, untiring commitment and valuable contributions during the induction workshop.

Hon. Speaker,

It is therefore my pleasant duty and privilege, on behalf of the Members of the Sectoral Committee on Transport and Public Works to lay on the Table of the Assembly the report of the Committee on the second induction workshop held from 27th to 30th March, 2023 at Maxland Hotel, Kiambu County.

Signed 
Hon. Maithya Musango, MCA
Chairperson

Date 

2.0. INTRODUCTION

The County Assembly Committees are extensions of the Assembly established under the County Assembly Standing Orders and in accordance with Section 14 of the County Governments Act, 2012. The Committees are supposed to perform functions that the Assembly is not well fitted to consider in plenary. Following the constitution of County Assembly Committees on 27th November, 2022, the Sectoral Committee on Transport and Public Works undertook its second induction workshop held from 28th to 30th March, 2023 in Mombasa County.

The workshop entailed the legal underpinning of Committees of the Assembly and the law making process in a legislature, various stakeholders in law making process, stages of law making and the role of the Committee on operationalization of an Act of the County Assembly; Committee management including the role of the Chairperson/Vice-Chairperson, Members and the Secretariat in generation and management of Committee business; budget making process, various budget documents involved in budget making process and their respective timelines; role Committee in budget making process, budget cycle and budget implementation, especially the role of the Committee in budget implementation.

2.1. OFFICIAL OPENING

The workshop was officially opened by a word of prayer by the Committee Chairperson before welcoming Members to the meeting. The Chair then invited Members, the facilitator and the Secretariat to introduce themselves and subsequently urged Members to actively participate in the proceedings to enable them grasp the basics on the law making process, management and operations of the Committee and the budget making process taking into consideration the role of the Committees on the same. In her introductory remarks, the presiding Chair stated the following as the objectives of the retreat;

- a. To enable the Committee, understand its role in generation of business;
- b. To enable Members to understand the Management of Committee and its business;
- c. To enable Committee, appreciate its role in the law making process;
- d. To enable Committee to appreciate its role in the budget making process; and
- e. To enable the Committee to consider its pending business.

The programme was unanimously adopted with amendment to commence with the law making process, followed by management and generation of Committee business and then the budget making process.

3.0. PRESENTATION ON THE LAW MAKING PROCESS

The Committee was taken through the second induction on various topical areas starting with law making process as follows: -

3.1. The Constitutional Underpinning of the Law Making Process

The Committee was informed that Governance based on Popular Sovereignty: Exercised directly or indirectly through democratically elected representatives in accordance with the supreme constitutional order. That the Kenya constitutional order demands Transparency, Accountability, Participation and Inclusiveness in Governance. The Constitution of Kenya, 2010 heralded various changes in the legislative process in Kenya. Among the changes are:

- Bicameral Parliament consisting of the National Assembly and the Senate;
- Creation of 47 County Assemblies in each of the 47 Counties;
- The requirement for public participation in policy making and legislation;

That the basic function of a legislative body is to make, amend or repeal the law. The process of law making or the legislative process, in relation to Parliament may be defined as the process by which a legislative proposal brought before it, is translated into the law of the land. All such legislative proposals are tabled in the form of Bills.

The process of law-making emanates from an idea to serve a particular goal in society, development of an appropriate policy and the decision to transmute the policy into legislation.

The legislative proposal or idea for a Bill can come from several sources: Members, Committees of the Assembly, the Executive, professional organizations, lobby groups or individuals through a petition to the County Assembly.

The Committee was informed that it was important for legislative bodies, policy makers, draftspersons and members of the public to not only sufficiently understand the legislative process, but also have the opportunity to participate meaningfully in the legislative process and have the capacity to analyze and ensure strict adherence to established standards and procedures.

Additionally, the Committee was informed that the ideal and recommended position in the legislative process was that policy precedes the formulation of a Bill or any other legislative instrument. The importance of developing a policy framework first was intended to amongst other salient features allow the executors to determine a clear road map, conduct an assessment of the problem and possible solutions, and define the opportunity to be embraced and the modalities or approaches to realize the benefit prior to proposing the necessary legal framework.

3.2. Principles of Law Making Process

3.2.1. Operational/Institutional Autonomy

The Committee was informed that the Kenya parliamentary model of administration is a Commission (Parliamentary Service Commission/Service Board in case of the Assembly) anchored in the Constitution of Kenya. This gives parliament/Assembly greater levels of

autonomy, promotion of reformation of parliamentary management structures, strengthening of corporate governance arrangements and financial controls, and independent governance of Parliament as corporate body.

That the County Assemblies are established under Article 176 of the Constitution as an organ of county government. The legislative power of the County Assembly is stipulated in Article 185(1) states that the legislative authority of a county assembly is vested in and exercised by its Assembly. Article 185(2) states that *a county assembly make any laws that are necessary for, or incidental to*, the effective performance of the functions and exercised of the powers of the county government under the Part Two of the Fourth Schedule to the Constitution 2010. In principle, County Assemblies perform the following functions: -

- ❖ Representation;
- ❖ Legislation (Law making);
- ❖ Oversight;
- ❖ Budget making, Approval of expenditure and revenue raising measures;
- ❖ Approval of appointments and removal thereof;
- ❖ Deliberation & resolution of issues of concern to residents

The Commission/Service Board as a corporate body headed by a Chairperson is responsible for determination of a range of services and facilities available to parliament, including staffing; secures an adequate parliamentary budget for its activities; provides leadership and strategic direction to the parliamentary/Assembly services; and reports to Parliament/Assembly and the public on its performance through annual reports.

That the Secretary of the Commission/Service Board as the head of the administrative wing of the service where he/she leads and manages the parliamentary/Assembly staff; causes the preparation of the annual budgets; ensures prudent management of expenditure; establishes proper financial procedures and controls; provides advice to the Commission/Board in all its administrative, institutional and financial matters; and acts as the chief procedural Advisor.

3.2.2. Separation of Powers

The Committee was informed that in separation of powers, Separation of powers no person to be in more than one organ; different institutions to be charged with the exercise of function of government; and different state organs perform different functions to avoid overlap and repetition. There should be no unprincipled separation of powers, but mutual coexistence, interdependence, checks and balances, collaboration and coordination for effective service delivery.

3.2.3 Powers of the County Assembly

The Committee was informed that in terms of powers, the County Assembly has Power to: -

- ❖ regulate internal affairs;
- ❖ determine own procedures and agenda;
- ❖ conduct inquiries: Grand jury of the Nation/County;
- ❖ call and examine witnesses (on oath);
- ❖ call for documents;
- ❖ obtain evidence; and
- ❖ deal with contempt.

3.2.4. Rights

The Committee was informed that in terms of rights, the County Assembly has right to: -

- ❖ control and discipline members (self-protective and not punitive): Expulsion, Suspension, Censure, Apology / withdrawal, Reprimand / admonishment;
- ❖ debate what it wishes;
- ❖ debate free from outside control;
- ❖ control access to sittings and to reports of proceedings;
- ❖ control its own agenda/business and Calendar; and
- ❖ make and vary its own procedures- Standing Orders.

3.2.5. Immunities

In terms of immunities, the Committee was informed that the County Assembly has immunities on: -

- ❖ Freedom from control and discipline by bodies outside the House;
- ❖ Freedom from legal liability for things said or done in the course of parliamentary proceedings;
- ❖ Immunity for parliamentary witnesses;
- ❖ Qualified immunity from legal process;
- ❖ debate what it wishes;
- ❖ Right to debate free from outside control; and
- ❖ Right to control access to sittings and to reports of proceedings.

3.2.6. Absolute Privileges

The Committee was informed that the County Assembly (Parliamentary) privilege is absolute where statements made in the House (or a Committee) are protected from legal action however injurious they are to another party. However, statements outside the House (or a committee) are subject to the normal laws of defamation and protected by

qualified privilege only. That parliamentary staffers enjoy immunity in the execution of their official legal duties.

3.3. Legislative process

The Committee was taken through the law making process from the initiation to the operationalization of the enacted Law as follows: -

1) Legislative Proposal or Idea for a Bill

The legislative proposal or idea for a Bill can come from several sources: Members of the Assembly, Committees of the Assembly, the Executive, professional organizations, lobbyists or individuals through a petition to the County Assembly.

2) Sponsorship of a Bill

A Bill must have a Sponsor in order to be introduced in the Assembly. The Sponsor can either be a member of County Assembly or Committee. In case of a Committee sponsorship it will be published in the name of the Chairperson or any other member appointed by the Committee.

3) Submission of a Legislative Proposal or Idea to the Speaker

The Sponsor (a Member or a Committee) submits the legislative proposal or idea for a Bill to the Speaker. The Speaker refers the legislative proposal to the Clerk for drafting. The Clerk is to check on conformity to the Constitution/ Money Bill.

4) The Bill Drafting Process

The legislative proposal is assigned to a legislative drafter who works closely with the sponsor or Committee to develop a draft Bill. The draft Bill, duly signed by the Sponsor, is then forwarded by the Clerk to the Speaker (whether it is a money Bill and whether it conforms to the Constitution and to the law in terms of format and style). The Speaker then directs whether to proceed with the Bill or not.

5) If the Bill is not a money Bill, the Speaker

Direct that the proposal be referred to the relevant Sectoral Committee for prepublication scrutiny in case of a legislative proposal not sponsored by a Committee or that the proposal be published into a Bill, in the case of a legislative proposal sponsored by a Committee.

6) If the Bill is a Money Bill

Where the Speaker is of the opinion that legislative proposal is a draft money Bill in terms of Section 21(3) the County Governments Act, 2012, direct that the legislative proposal be referred to the County Finance, Budget and Appropriations Committee and the proposal

shall be proceeded with only in accordance with the recommendations of the County Finance, Budget and Appropriations Committee after taking into account the views of the County Executive Committee Member responsible for finance.

The County Finance, Budget and Appropriations Committee shall consider only the money-bill or financial aspects of the proposal and submit a report to the Speaker within twenty-one (21) days of receipt of the proposal. The report shall contain the following: -

- ❖ The views of the County Executive Committee Member responsible for finance, if any;
- ❖ A detailed examination of the manner in which the legislative proposal affects the current and future budgets and may include implications on tax measures;
- ❖ A recommendation on whether or not the proposal should be proceeded with; and
- ❖ Any other appropriate recommendation relating to money bill aspects of the proposal.

Upon receipt of the recommendations of the County Finance, Budget and Appropriations Committee, the Speaker may direct that:

- ❖ The proposal be subjected to prepublication scrutiny before the relevant Sectoral Committee in case of a legislative proposal not sponsored by a Committee; or
- ❖ The proposal be published into a bill, in the case of a legislative proposal sponsored by a committee; or
- ❖ The legislative proposal not be proceeded with.

7) Publication of a Bill

Once the Speaker certifies that a draft Bill is ready for publication, the Bill is forwarded for publication by the Government Printer. Once a Bill has been published, the Clerk shall/should avail a copy for each Member. The Bill to be signed by a Member or Chairperson of the Committee depending on the sponsorship of the Bill.

A Bill may only be introduced in the Assembly after a period of seven (7) days in the case of a Budget related Bill or a period of fourteen (14) days in the case of any other Bill beginning from the date of publication.

8) First Reading

A Bill is read a first time by the Clerk, by the reading of the title of the Bill.

9) Committal to the relevant Committee and Public Participation

After the First Reading, the Bill automatically stands committed to the relevant Sectoral Committee. The Committee is required to facilitate public participation and to take into account the views of the public when it makes its report to the Assembly. The Committee

is further required to submit its report to the Assembly within twenty-one (21) calendar days. In undertaking public participation, the Committee use the following mechanisms: -

- ❖ Public hearings;
- ❖ Invitations for written submissions;
- ❖ Outreach to constituents;
- ❖ Facilitation to ensure all voices heard, all sides of debate aired;
- ❖ Allowing for one to one meetings for individuals as necessary;
- ❖ Use of a wide variety of ways to engage - Breakfast meetings, social media etc; and
- ❖ Follow up phone calls and request for specific materials.

10) Second Reading

This stage avails members the opportunity to debate the Bill and give their views on the essence and principles of the Bill.

11) Committee of the Whole Assembly

The Assembly considers the Bill clause by clause. Any member, other than the Sponsor of the Bill, who wishes to move an amendment to the Bill, must give written notification of the amendment to the Clerk at least twenty-four (24) hours before commencement of the sitting at which the amendment is to be considered.

12) Third Reading

Once Committee of the whole on a Bill is concluded, the Bill is reported back to the House. On adoption of the report on the Bill, the Third Reading is taken. No amendments may be moved at this stage.

13) Assent

Once a Bill been passed by the House, the Speaker refers the concluded Bill to the Governor for assent. The President/Governor is required within 14 days to either assent to the Bill or refer the Bill back to the Assembly for reconsideration noting any reservations the President/Governor has.

The Assembly may either amend the Bill in light of the President/Governor's reservations or pass it a second time with or without amendments that do not fully accommodate the President/ Governor's reservations.

14) Publication of the Law

Once a Bill has been assented to, the Bill is published as an Act of Parliament/ Assembly within seven (7) days after assent. An Act of Parliament/ Assembly comes into force on the

14th day after its publication in the Gazette and/or County Gazette unless the Act provides for a different date or time.

4.0. PRESENTATION ON MANAGEMENT OF COMMITTEES

The Committee was further inducted on the what Parliamentary Committees are; Role of Assembly committees in Legislation, Oversight, Representation and Budget making; Generating Committee business, tracking and effective output; Indicators of an effective Committee and Role of various actors for effective functioning.

4.1. Legal Underpinnings on Assembly Committees

The Committee was informed that a Committee of Parliament is a select group of Members, with fixed membership, that examines, prosecutes and processes specific business. Committees provide for a less formal approach as compared to plenary, by allowing observations, cross-examination, detailed scrutiny and probing. Among thematic areas that define committees are for example matters of health, transport, foreign relations, sports, labour issues, policing & administration, among others. Committees are agents of plenary.

That Article 176 of the Constitution establishes the county government for each county consisting of the county assembly and the county executive; Article 185 of the Constitution sets out the Legislative Authority of a county to the county assembly; Section 14 (a) and (b) of the County Governments Act 2012, provides for the procedures of a county assembly and establishment of committees respectively; and Some Committees are also established by statutes and others by resolutions of a County Assembly.

That Article 195 (1) stipulates that “A county assembly or any of its committee has the power to summon any person to appear before it to give evidence or provide information”. Article 195 (2) – An Assembly has the same powers as the High Court to

- ❖ enforce attendance of witness;
- ❖ compel production of documents; and
- ❖ request to examine witness abroad

Provisions in the Standing Orders;

Practice and Precedence.

4.2. Role of the County Assembly

4.2.1. Legislation

A Committee may develop legislation and present the same as a Committee Bill in the name of the Chairperson. Individual Members of the Committee can develop and initiate legislation in their names or once prepared, may relinquish the Bill to the Committee.

Pre-legislative scrutiny of Bills- Individual Members Bills whose subjects fall under the Committee mandate. Consideration of Bills after first reading. Facilitates public participation on Bills referred to the Committee. May recommend/introduce amendments to existing Acts of the County Government and Post legislative scrutiny of Acts to establish impact.

4.2.2. Oversight

County Assembly Members represents the citizens, the real sources of authority, owners of County resources and therefore responsible for shepherding use of resources and are the custodian of good governance responsible to ensure public needs are met and facilitate change of behaviour.

The Committee undertake the oversight role through questioning of the relevant county executive committee member/ Chief Officer at meetings; Vetting of relevant county executive nominees; conducting Committee inquiries on execution of mandate of the relevant county departments; Budget approval and Budget implementation oversight-after passing the budget; and Approval of county plans and policies e.g. CIDP, ADP, CFSP.

4.2.3. Representation

The Committees exercise the representation through by undertaking public hearings to collect views of the public and channel them to Assembly through Bills or Motions; taking petitions from the public and bringing them to Assembly on behalf of the citizens; undertaking inquiries following a request from the public; Budget making to implement the wishes of members of the public and vetting executive nominees-the Committee allows the public to submit memorandum on executive nominees.

4.2.4. Budget Making

The Committee undertake the budget making process by Consideration and approval of CIDP, ADP, CBROP, CFSP, Annual Budget Estimates, Supplementary Budget Estimates, and consideration of the Quarterly expenditure report of the Controller of Budget.

There are increasing demands on modern legislatures and committees serve as an important mechanism for division of labour.

- ❖ Committees allow members to discuss issues informally and to develop relationships with colleagues from other parties;
- ❖ They provide forums for compromise and agreement;
- ❖ Committee members (and committee staff) provide continuity, stability, historical knowledge and can develop expertise on certain matters;
- ❖ Committees can hold public meetings to disseminate information to the media and public and to gain feedback for legislative decisions;

- ❖ Committee hearings allow civil society leaders and experts to present their views;
- ❖ Committee hearings can also serve as the forum where members of the executive branch are questioned; and
- ❖ Committees provide an opportunity for members of opposition parties to have a say in the policy-making process.

4.3. Committee Business and Effective Output

4.3.1. Factors that determine the effectiveness of a Parliamentary Committee

The Committee was informed that effectiveness of the Parliamentary Committee largely depends on the following factors: -

- 1) A clarity of mandate – clear roles and responsibilities of the Committee;
- 2) Size of the Committee – large vs. small (too large or small it renders it ineffective; large Committees become unwieldy while small numbers limit the quality of ideas needed for effective work);
- 3) The skills of the chairperson in managing activities and meetings of the Committee;
- 4) The quality of support staff and resources available;
- 5) Level of commitment and involvement of Members in Committee matters;
- 6) Public & stakeholder involvement and participation;
- 7) Adequate preparation of the Committee Chair and Members;
- 8) Integrity of Committee membership – declaration of interest & acting above reproach;
- 9) Production of timely and qualitative Committee reports;
- 10) Ability to evaluate or assess its own performance;
- 11) Consensus building – the multiparty nature of legislatures often translates into multiparty Committees that calls for effective consensus building for Committee effectiveness;
- 12) Adequate resources and facilities to carry out assigned mandates;
- 13) Work plan – serves as roadmap to achievement of goals and focuses Committee to mandate;
- 14) Consistency – regular attendance of Members to Committee work;
- 15) Understanding of Procedure – knowledge of rules of procedure in Committees;
- 16) Punctuality – prompt attendance to Committee business; and
- 17) Open communication – builds trust, allows divergence of opinion and enhances teamwork.

4.3.2. Ingredients to effective Committee

The Committee was informed that for a parliamentary Committee to be effective, it should have the following ingredients: -

- 1) **Order of Proceedings** – Proceedings to be undertaken in strict adherence to Standing Orders. Commencement of meeting in time. Commencement of meeting when quorum is achieved. Sticking within the matter under discussion (avoid deviations and side shows. Sequence of Proceedings (As outlined in the Agenda);
- 2) **The Privilege, etiquette, decorum and conduct of Committee Members** – same as in House (Dress code, conduct and decorum) – Note that How you conduct yourselves in committees will translate to how witnesses conduct themselves before you;
- 3) **Conduct of Staff** – competence, committed, disciplined, et.c. 30 minutes in advance rule...In a planned meeting, staff get to venue in advance (including in workshops, conferences, etc); All Documents (for meetings) prepared in time;
- 4) **The Control of Conduct and Participation in Proceedings** – a member to only speak after catching the eye of the Chair. One Member to speak at a time. Disrespect to the Chair to face the consequences of the rules without compromise (friendship aside);
- 5) **Summoning of witnesses and rights of witnesses** – Witnesses can be accompanied by their lawyers. Principle of natural justice (Not to be condemned un-heard). Adequate Notification;
- 6) **Committee resolutions and building of consensus** – the need to avoid voting on matters (in committees as good practice); and
- 7) **Collective responsibility for committee members** – defend your reports and recommendations on the floor. Any member of the committee to be equal to the task.

4.3.3. Generation of Business

The Committee was informed that business in Committees maybe generated through;

- a) Work Planning (planning and prioritizing);
- b) Inquiries;
- c) Inspection tours/ spot-checks;
- d) Review of past decisions (Bills, motions, petitions, statements, laws/Acts, Reports);
- e) Identification of issues of concern in the County;
- f) Manifestos;
- g) Ministries, Departments and Agencies (Legal framework – establishing or review);
- h) Public Outcry/concerns;
- i) Media Reports;
- j) Audit Reports;
- k) Address by Governor, Dignitary;
- l) Matters of County Importance; and
- m) Review of Previous Business.

The Committee was further informed that Committee business is tracked through Minutes, Reports, Business tracker/ register and Periodic review of work-plan.

4.3.4. Roles of various players for Effective Committees

The Committee was taken through the role various players for an effective parliamentary Committee as follows: -

4.3.4.1. Liaison Committee

The Liaison Committee consists of the Deputy Speaker as Chairperson and the Chairpersons of all Sectoral and Sessional Committees of the Assembly excluding Ad-Hoc Committees.

The Liaison Committee is mandated to-

- a) guide and co-ordinate the operations, policies and mandates of all Committees;
- b) deliberate on and apportion the annual operating budget among the Committees;
- c) consider programmes of all Committees, including their need to travel and sit away from the precincts of the Assembly;
- d) deliberate and decide on which reports of the Committees shall be debated in the Assembly;
- e) ensure that Committees submit reports as required by these Standing Orders;
- f) determine, whenever necessary, which committee or committees should deliberate on a matter; and
- g) give such advice relating to the work and mandate of select committees as it may deem necessary.

The Liaison Committee shall consider reports of Committees that have not been deliberated by the County Assembly and shall report to the County Assembly on the consideration of such reports.

4.3.4.2. Chairperson and Vice-Chairperson

The Chairperson is the Presiding Officer in Committee, as the Speaker is for the Assembly. The Committee Chairperson is the most important personality and is usually responsible for convening meetings and managing the Committee. The Committee Chairpersons require qualities that will enhance effectiveness, such as: -

Competence; Flexibility and adaptability; Firmness and decisiveness; Honesty and dependability; Openness; Fairness; Tolerance; Attentive; Patience; Humility; Stamina; Consensus building; Impartial; Focused.

The chairperson is: -

- ❖ Spokesperson of the Committee – he/she presents position of the Committee and talks on behalf of the Committee;
- ❖ Presides over committee meetings, ruling on procedural and relevance issues, such as the relevance of questions or amendments to that committee’s mandate;
- ❖ Controls the public hearings 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;
- ❖ 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;
- ❖ Presents Committee business to the Assembly;
- ❖ Communicates undertakings of the County Executive relevant sector to House and Committee on Implementation.

4.3.4.3. Members of the Committee

The Committee was informed that for a Committee to be effective, the following are some of the roles and attributes of effective Members: -

- a) Regular attendance of committee meetings;
- b) Preparedness to take a lead occasionally on particular items of agenda;
- c) Active and interested participants in the committee proceedings;
- d) Assertive without being aggressive i.e. prepared to give an opinion/ start a point without being domineering;
- e) Conscious of the goals and mandate of the Committee;
- f) Maintains confidentiality on Committee matters;
- g) Supportive of other members of the Committee;
- h) Well prepared and contributes to discussion in a relevant and constructive way;
- i) Proactive, well briefed and informed about the various items on the agenda to be discussed;
- j) Attentive listener who respects the views of the other Members;

Equally, the Committee was taken through the following as some of the attributes of an ineffective Member: -

- a. Irregular in attendance- attends to maintain minimum threshold;
- b. Truancy in meetings/activities - technical appearances;
- c. Perennial late comer frequently arriving late and leaving early;
- d. Passive-unprepared to take part in the committee proceedings;
- e. Perennial complainant & critic – always complaining outside meetings;
- f. Uninformed of the committee agenda and mandate;
- g. Unwilling to do background research before committee meetings/activities;

- h. Over assertive - putting people down during committee discussion;
- i. One who arrives at committee meetings with fixed goals (influenced by external forces);
- j. Has secret agenda that he or she is unwilling to share with other Committee members;
- k. Attempt to take over the role of the Chair or is dismissive of the Chair; and
- l. Engages in distractive side shows during Committee work.

4.3.4.4. The Secretariat

- a) Procedural and technical advisor;
- b) Makes administrative arrangements for meetings, public hearings, and visits;
- c) Prepares notices and programme of meetings and facilitate their circulation;
- d) Prepares briefing materials for the Committee;
- e) Prepares minutes of meetings and draft reports;
- f) Assists Chairperson in conducting meetings;
- g) Ensures that Committee documents are filed and circulated ahead of the meeting;
- h) Provides information, advice and support to Assembly Committees;
- i) **Manages** communication/correspondences;
- j) **Planning**, coordination and budgeting of Committee activities;
- k) Provides independent research, drafting and impartial procedural support to Committees;
- l) **Communication link** between committee and stakeholders;
- m) Administers of oath to witnesses;
- n) Generally, ensures execution of Committee resolutions;
- o) Prepares documents for tabling in the Assembly adoption in the House; and
- p) Prepares talking notes for motions sponsored by or relating to the Committee.

5.0 PRESENTATIONS

5.1 OVERVIEW OF THE BUDGET PROCESS AND BUDGET DOCUMENTS

5.1.1 INTRODUCTION

On 29th March 2023, the workshop was facilitated by Mr. Robert Onyango who to the Members through an overview of the budget process and budget documents and the process of examining the CIDP, ADP and the CFSP which are the key preliminary documents in County budget process.

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.

5.1.2 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.

5.1.3 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.

5.1.4 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;
- ❖ 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.

5.1.5 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.

5.1.6 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.

5.1.7 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

5.2 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.

5.2.1 THE EQUITABLE SHARE

This is the revenue that 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.

5.2.2 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, Kilifi, Taita Taveta, Isiolo and Lamu as the marginalized Counties to benefit from the Fund for the first three years.

5.2.3 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
- ❖ Loans and Grants
- ❖ Construction of County Headquarters
- ❖ 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.

5.2.4 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
- ❖ Water and Sewerage Services

5.3 BUDGET MONITORING AND OVERSIGHT

5.3.1 INTRODUCTION

On 29th March 2023, the work shop was facilitated by Mr. Robert Onyango 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.

5.3.2 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.

5.3.3 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.

5.3.4 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
- ❖ Auditor-General ordinary and special reports

5.3.5 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

5.3.6 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.

5.3.7 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 approves 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.

5.3.8 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.

6.0 WAY FORWARD

1. That the Committee to step up its oversight role by conducting site inspection visits of impact and engaging the Sector further over quarterly reports regarding roll out of budget in every financial year;
2. The Committee to apply the approaches discussed in scrutiny and examination of budget documents going forward; and
3. The Committee leadership, Members and secretariat to take keen interest in their respective roles in the Committee in order to have and effectively working Committee.

MINUTES OF THE 16TH SITTING OF THE NAIROBI CITY COUNTY ASSEMBLY SECTORAL COMMITTEE ON TRANSPORT AND PUBLIC WORKS HELD ON 4TH MAY 2023 AT 11:00 AM AT COMMITTEE ROOM 8, CITY HALL BUILDINGS.

MEMBERS PRESENT:

1. Hon. Musango Maithya, MCA - Chairperson
2. Hon. David Magoba Odhiambo, MCA
3. Hon. Rosemary Masitsa Shitote, MCA
4. Hon. Absalom Odhiambo Onyango, MCA
5. Hon. Kennedy Swaka, MCA
6. Hon. Beatrice Wandai Ichung'wa, MCA
7. Hon. John Mwaniki Kwenya, MCA
8. Hon. Nicholas Juma Okwacho, MCA
9. Hon. Fredrick Njoroge Njogu, MCA
10. Hon. Scolastica Muthoni Mande, MCA
11. Hon. Sospeter Gathahu Mumbi, MCA
12. Hon. Shadrack Machanje Namunyu, MCA
13. Hon. Farhiya Daud Aden, MCA
14. Hon. Stephen Ndegwa Gitau, MCA
15. Hon. Aaron Kangara Wangare, MCA
16. Hon. Paul Mathu Njambi, MCA

ABSENT

1. Hon. Lawrence Otieno Odhiambo, MCA - Vice-Chairperson
2. Hon James Kariuki, MCA
3. Hon. Sam Kanyi Kago, MCA
4. Hon. Mark Mugambi Macharia Kevin, MCA
5. Hon. Paul Muiruri Kiguathi Kados, MCA
6. Hon. John Ndile Musila, MCA
7. Hon. Maurice Ochieng Onyango, MCA

SECRETARIAT

1. Mr. Austin Inyundele - Senior Clerk Assistant
2. Mr. Benedict Ochieng - Clerk Assistant

AGENDA

1. Preliminaries (Prayers and Adoption of the Agenda)
2. Consideration and adoption Report of the Sectoral Committee on Transport and Public Works on workshop held on 28th to 30th March 2023 at Flamingo Hotel in Mombasa County
3. Any Other Business
4. Adjournment

MIN.058/T&PW/MAY/2023 – PRELIMINARIES

The Chairperson called the meeting to order at 11.15 a.m and the meeting commenced with a word from Hon. David Magoba, MCA and seconded by Hon. John Mwaniki Kwenya, MCA.

MIN.059/T&PW/MAY/2023 – CONSIDERATION AND ADOPTION REPORT OF THE SECTORAL COMMITTEE ON TRANSPORT AND PUBLIC WORKS ON WORKSHOP HELD ON 28TH TO 30TH MARCH 2023 AT FLAMINGO HOTEL IN MOMBASA COUNTY

The Report of the Sectoral Committee on Transport and Public Works on workshop held on 28th to 30th March 2023 at Flamingo Hotel in Mombasa County, was considered and adopted by the Committee as proposed by Hon. Stephen Ndegwa Gitau, MCA and seconded by Hon. Shadrack Machanje Namunyu, MCA.

MIN.060/T&PW/MAY/2023- A.O.B AND ADJOURNMENT

The Committee having dispensed with the business of the day and the time being 11.45 a.m, the Chairperson adjourned the sitting. The date and venue of the next sitting was going to be communicated by way of notice.

CONFIRMED AS A TRUE RECORD OF THE PROCEEDINGS

	SIGN	DATE
CHAIRPERSON
SECRETARY