

GOVERNMENT OF NAIROBI CITY COUNTY



THE NAIROBI CITY COUNTY ASSEMBLY

OFFICE OF THE CLERK

SECOND ASSEMBLY-FOURTH SESSION

NBI CA. PLC. 2020 / (029)

18th June, 2020

PAPER LAID

Pursuant to Standing Order 191, I beg to lay the following Paper on the Table of the Assembly, today Thursday, 18th June, 2020.

THE REPORT OF THE SECOTAL COMMITTEE ON TRANSPORT AND PUBLIC WORKS ON WORKSHOP HELD FROM 7TH TO 10TH FEBRUARY 2020 AT TRAVELLERS HOTEL, MOMBASA.

(Chairperson, Sectoral Committee on Transport and Public Works)

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

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18/6/2020 at
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[Signature]
Approved
[Signature]
15/6/2020*



NAIROBI CITY COUNTY ASSEMBLY
THE REPORT OF THE SECTORAL COMMITTEE ON TRANSPORT AND PUBLIC WORKS
ON
WORKSHOP HELD AT TRAVELLERS HOTEL, MOMBASA
FROM 7TH TO 10TH FEBRUARY 2020

Approved
B. G. G. G.
18/6/2020

**CLERK'S CHAMBERS,
CITY HALL,
NAIROBI.**

JUNE, 2020

BACKGROUND

The Sectoral Committee on Transport and Public Works 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 transport, including county roads, street lighting, traffic and parking, public road transport, county public works and services including storm water management systems in built-up areas.

The County Assembly Select Committee on Liaison sat and resolved, through a schedule that the Sectoral Committee on Transport and Public Works undertakes its second quarter retreat from 5th to 8th December 2019 to induct new Members of the Committee following reconstitution of Committees and to review the budget process

MEMBERSHIP OF COMMITTEE

The Sectoral Committee on Transport and Public Works comprises the following members:

1. **Hon. Joyce Muthoni, MCA(Chairperson)**
2. **Hon. Mark Mugambi Macharia, MCA (Vice -Chairperson)**
3. Hon. David Ayoj, MCA
4. Hon. Margaret Mbote, MCA
5. Hon. Muchene Kabiru, MCA
6. Hon. Kennedy Obuya, MCA
7. Hon. Jared Okode Okoth, MCA
8. Hon. Abdi Osman Khalif, MCA
9. Hon. Kennedy Oyugi Odhiambo, MCA
10. Hon. John Ngángá Mukiri, MCA
11. Hon. Evans Otiso, MCA
12. Hon. Stazo Omung'ala Elijah Ang'ila, MCA
13. Hon. James Mwangi Wambui, MCA
14. Hon. Fredrick Njogu, MCA
15. Hon. John Kamangu, MCA
16. Hon. Mark Ndungu, MCA
17. Hon. Jared Akama, MCA
18. Hon. Anthony Ngaruiya, MCA
19. Hon. Mary Ariviza Mwami, MCA
20. Hon. Geoffrey Majiwa, MCA
21. Hon. Francis Ngesa, MCA

Hon. Members,

On behalf of the Members of Sectoral committee on Transport and Public Works, it is my pleasant duty and privilege, to present the Committee's Report on workshop that was held from 7th to 10th February, 2020 at Travellers Hotel, Mombasa.

DATE...16/06/2020.....

SIGN.....

HON. JOYCE KAMAU MUTHONI, CHAIRLADY

ACKNOWLEDGEMENTS

The Sectoral Committee on Transport and Public Works 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 CHAIRPERSON

The Chairperson thanked the Members for turning up at the retreat in order to execute a training workshop. She highlighted that the retreat programme was to cover a form of induction of the Members to the Transport Bill. 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. She 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.

PRESENTATIONS

1.1 PRESENTATION 1: POWERS AND PRIVILEGES OF ASSEMBLY AND ITS COMMITTEES AND LAW MAKING PROCESS

1.2 Introduction

On 8th December 2019, the Committee discussions were facilitated by Mr. Inyundele Austin, Clerk assistant and 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
- Deliberation & resolution of issues of concern to residents

The presenter informed the Members before the enactment of the County Assembly Powers and Privileges Act, 2017, Section 17 of the County Governments Act, 2012 applied with respect to the powers, privileges and immunities of the County Assembly.

The said Section 17 of the County Governments Act, 2012 provides thus, the national law regulating the powers and privileges of Parliament shall, with the necessary modifications, apply to a county assembly.

Assemblies therefore relied on the National Assembly (Powers and Privileges) Act. (Chapter 6) Of Laws of Kenya.

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.

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
- 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
- Protection from civil or criminal proceedings for Legislative work (committee, reports)

PRESENTATIO 2:

2.1 THE LAW MAKING PROCESS

2.2 Introduction

The Committee was informed that Legislative powers of the Senate and the National Assembly Parliament exercises its legislative mandate through Bills passed by Parliament and assented to by the President (Art.109(1))

Through Art.109(2) Any Bill may originate in the National Assembly. The legislative process is set out in the Constitution and the Standing Orders of the Senate, and the National Assembly.

Further, Article 185. (1) provides that the legislative authority of a county is vested in, and exercised by, its county assembly.

(2) A county assembly may make any laws that are necessary for or incidental to, the effective performance of the functions and exercise of the powers of the county government under the Fourth Schedule.

PRESENTATION 3

3.1 MEANING OF A BILL

The presenter informed the Members that a Bill is a legislative proposal.

A bill is a proposed law under consideration by a legislature. A bill does not become law until it is passed by the legislature and, in most cases, approved by the executive. Once a bill has been enacted into law, it is called an Act.

Members were informed that there were two types of Bills either Private Members bill or Public Bill.

PRESENTATION 4: PROCEDURE FOR ENCTMENT OF A BILL

The Committee was informed that a Bill not concerning county government is considered only in the National Assembly, and passed in accordance with Article 122 and the Standing Orders of the Assembly.

The Committee was informed that a Bill concerning county government may originate in the National Assembly or the Senate, and is passed in accordance with Articles 110 to 113, Articles 122 and 123 and the Standing Orders of the Houses.

4.1 Procedure for enactment of a Bill cntd'

The Committee was informed that Article 110. (1) In this Constitution, “a Bill concerning county government” means—

- (a) a Bill containing provisions affecting the functions and powers of the county governments set out in the Fourth Schedule;
- (b) a Bill relating to the election of members of a county assembly or a county executive; and
- (c) a Bill referred to in Chapter Twelve affecting the finances of county governments.

4.2 Concurrence of speakers

The Committee was informed that the Act. 110 (3) Before either House considers a Bill, the Speakers of the National Assembly and Senate shall jointly resolve any question as to whether it is a Bill concerning counties and, if it is, whether it is a special or an ordinary Bill.

(4) When any Bill concerning county government has been passed by one House of Parliament, the Speaker of that House shall refer it to the Speaker of the other House

4.3 First reading

The presenter mentioned that this is a purely formal stage, and there is no debate on the Bill. Every Bill shall be read a first time without motion made or question put.

A Bill having been read a First Time shall stand committed to the relevant Standing Committee/Sectoral Committee without question put. Standing/Sectoral Committee to report within 30 days of committal

4.4 Second Reading

The presenter highlighted that this is a debate on the main principles of the Bill, held in the chamber. The Government representative/mover of the Bill will open the debate by setting out the case for the Bill and explaining its provisions. The Opposition will respond and then other members are free to discuss it.

No amendments allowed at this stage

4.5 Committee of the whole Assembly and Third Reading

After Second Reading and consideration by the relevant Standing Committee. Rules and Business Committee determines when Bill will be considered in Committee of the Whole after which Bill is listed in the Order Paper for consideration in Committee of the whole.

Once Order for Committee of the Whole is read, Speaker to leave Chair automatically. Clerk normally reads order, then the House rises, the Speaker withdraws and the Chairperson of Committees takes the Chair at the Table.

He sits between Clerks.

Usually taken immediately after adoption of the report of the Committee of the whole. Amendments not usually entertained at this stage.

4.6 Presidential Assent /Governor Assent

A Bill that has been passed by both Houses or a County Assembly becomes law once it has been given Presidential Assent or assented to by the Governor in case of the County Assembly and has been published.

It then becomes an Act of Parliament/County Assembly

PRESENTATION 5: THE NAIROBI CITY COUNTY TRANSPORT BILL, 2020

5.1 Introduction

The Committee was informed to establish and provide for matters relating county roads, streets lighting, traffic and parking, public road transport, creation and competencies of public road transport and management board and county traffic marshals.

The Bill is composed of fifty six clauses.

PART I- PRELIMINARY

Clause 1 gives the short title of the Bill.

Clause 2 Gives the interpretations of various words used in the Bill.

Clause 3 Deals with the purpose and object of the Bil which includes:

- Provide safe and efficient county transport;
- Facilitate the management, planning and development of county transport;
- Give effect to balanced transport policy and planning.

Clause 4 states that the Bill applies to County Roads and County Transport, Infrastructure and Services.

PART II- PUBLIC ROAD TRANSPORT AND MANAGEMENT COMMITTEE

Clause 5 Deals with the establishment of Public Road Transport and Traffic Committee.

Clause 6 States that the committee shall be composed of a chairperson and four other members seconded from other departments within county government appointed by the governor and approved by the county assembly.

Clause 7 Powers and functions of the committee include the following;

- Issuing operating permits
- Conduct inspection;
- Advise county government;
- Conduct audit on county road safety;

Clause 8 States that the committees shall establish subcommittees within itself as it may consider necessary.

Clause 9 Outlines the conditions to be met by individuals or SACCOs applying to operate within the county roads.

Clauses 10 States the committee shall reserve the discretion to grant or decline any application for a permit to operate within county road.

Clause 11 The duration of the permit shall be for a period of 12 months but can also grant shorter periods not exceeding 3 months.

Clause 12 Gives the conditions under which the committee may revoke or suspend a permit to operate.

Clause 13 Any person aggrieved by the decision of the committee may appeal to the Appeals Board within the time prescribed.

Clause 14 States the procedure of conducting the meeting shall be as provided for in the 1st Schedule of the Act.

Clause 15 Provides that the member senior in age shall be considered as senior to the other members.

Clause 16 Provides that the committee in discharging their functions shall be protected from personal liability when acting in good faith.

Clause 17 Deals with the Appeal Board which shall have a maximum of seven members and a minimum of five members nominated from various county departments.

The chairperson of the appeals board shall be an advocate of the high court of Kenya with at least 5 years' experience.

The quorum of the board shall be 4 members and their decision shall be deemed to be binding and final.

PART III- PUBLIC ROAD TRANSPORT, STREET LIGHTING AND COUNTY ROADS

Clause 18 Deals with the right of entry by an authorized officer to enter and a public transport service and inspect.

Clause 19 States that no driver shall drive a motor vehicle without an operating licence.

Clause 20 Enumerates that no person shall prevent engagement of lawfully operated public transport vehicles.

Clause 21 States the a person in charge of a public transport shall not convey;

- An escaped convict;
- Any person escaping from a quarantined area;
- Any person as the county executive member may determine.

Clause 22 Deals with the terms of boarding and disembarking of public transport vehicle.

Clause 23 Deals with the queuing at public facilities which shall be established by the board and all passengers intending to enter a public vehicle must queue.

Clause 24 States the fair to be paid must not exceed the amount displayed on the vehicle according to the Public Service Vehicle Act.

Clause 25 Gives the rights and obligations of passengers when a public transport becomes defective.

Clause 26 Gives the actions prohibited on a public transport vehicle when passengers are on board, which include;

- Smoking;
- Playing loud music;
- Using offensive language;
- Committing an offensive act;
- Interfering with the comfort of any passenger;

Clause 27 Provides the if any property is left on the vehicle the driver must deliver it to the person who left it behind or take it to the lost property office or to the nearest police station.

Clause 28 States that only buses of the same Sacco or company shall ply the same route and shall bear the same colour and logo.

Clause 29 Conditions to be met to allow motor cycle taxis (boda boda) to operate within the city-

- Shall belong to a Sacco of at least 100 motor cycles;
- Each Sacco shall be allowed to operate within one route only;
- Each motorcycle shall operate with a 3rd party insurance cover;
- Riders belonging to the same Sacco to wear same colour of reflective jackets with the name of the Sacco;
- Each motorcycle shall carry one passenger;
- All passengers shall wear a reflective jacket and helmet.

Clause 30 No public vehicle shall be parked in a manner likely to obstruct and disrupt traffic.

Clause 31 Provides that pedestrians may cross a public road at a pedestrian crossing.

Clause 32 Gives restrictions on the use of hooter.

Clause 33 prohibits use of communication devices while driving.

Clause 34 Gives the general penalty for anyone who contravenes the provisions of the Act, which shall be a fine not exceeding one hundred thousand or imprisonment to a term not exceeding one year or both.

Clause 35 Deals with street lighting and maintenance which shall be the responsibility of the board.

Clause 36 States that anyone who damages the street light shall upon conviction be liable to a fine not exceeding one hundred thousand or imprisonment for one year or both.

PART IV- COUNTY TRAFFIC MARSHALS

Clause 37 Deals with the establishment and powers of the Nairobi Traffic Marshals.

PART V- PARKING ON COUNTY PUBLIC ROADS

Clause 38 No person shall be allowed to park in a manner which impedes the flow of traffic.

Clause 39 States that parking shall be in designated areas and parking fees shall be announced for different areas.

Clauses 40- 42 Deals with prohibited parking areas and actions prohibited on parking alleys.

Clause 43 States that towing fees shall be borne by the owner of the vehicle.

Clause 44 No parking on any alley unless the traffic control device otherwise permits.

Clause 45 No parking on the private property without the authorization of the owner of the property.

Clause 46 No trailer shall be parked on public roads unless it is attached to a vehicle by which it may be propelled.

Clauses 47-49 No parking of a vehicle which is not a taxicab in an area posted as a taxi zone.

Clause 50-51 Prohibits parallel parking, and gives guidelines for angled parking where no parking guidelines are visible.

PART VI- SAFE AND ADEQUATE SERVICE, JUST AND REASONABLE CHARGES

Clause 52 Provides for safe and adequate service; just and reasonable charges.

Clause 53 States that every county transport service provider shall file schedules showing the rates, fares and charges for the transportation of passengers which shall be kept open for public inspection.

Clause 54 Provides that no changes in rate, fares and charges shall be made without consultation with the county executive in charge of transport.

PART- VII- GENERAL PROVISIONS

Clause 55 Gives powers to the executive committee in consultation with the director of the department to make any further regulations for the administration of this Act.

Clause 56 Provides that the Act repeals, all by-laws in the county before the coming into effect of this Act.

PRESENTATION 6: ANNUAL DEVELOPMENT PLAN

6.1 Principles of County Planning

- Integrate national values in all processes & concepts;
- Protect the right to self-fulfillment within the county communities & with responsibility to future generations;
- Protect and integrate rights and interest of minorities and marginalized groups and communities;
- Protect and develop natural resources in a manner that aligns national and county governments policies;
- Align county financial and institutional resources to agreed policy objectives and programmes
- Promote the pursuit of equity in resource allocation within the county;
- Engender effective resource mobilization for sustainable development;
- Provide a platform for unifying planning, budgeting, financing, programme implementation and performance review; and
- Serve as a basis for engagement between county government and the citizenry, other stakeholders and interest groups

6.2 Priority setting

The meeting was informed that priority setting is one of the preliminary steps of planning.

Priorities inform key planning documents such as the County Integrated Development Plan (CIDP), Annual Development Plans (ADPs), the sector plans, and any other county plans

6.3 What guides priority setting

Even though counties have important functions under the Fourth Schedule to undertake they do not have the resources to undertake all these functions and ensure that the services in the county have reached an optimum level

They may have to forgo some projects or parts of specific functions to focus on those that have the maximum benefit to citizens.

Priority decisions should be informed by:

- the context and circumstances of the county
- data on diverse parameters of the county in comparison to other counties
- Comparison of the indicators with global standards
- inequalities within the county
- national and county policy documents

NB- Reliable data about both the county as a whole and differences among sub-counties and wards should be used to inform our priorities

7.2 Background

The PFM Act requires the counties to develop an Annual Development Plan which is in turn based with the 5 years CIDP. The annual Plan is a single extract from the CIDP. This then becomes a basis for the annual budget.

Members were informed that some terms used in the ADP are:

- Recurrent expenditure- expenditure on salaries goods and services and maintenance etc.
- Development(capital) expenditure- funds spent on acquisition of long term assets, total spending of such an asset would be divided across the years.

WAY FORWARD

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

1. The Committee to ensure that adequate mapping of the stakeholders who will come in handy during deliberations on key issues in the Committee;
2. Members to take leading role in coming up with legislations on various aspects of the mandate of the Committee;
3. 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
4. The secretariats to work professionally with Members in assisting them to discharge their mandate as far as the Committee is concerned.

