# COUNTY GOVERNMENT OF NAIROBI CITY



# NAIROBI CITY COUNTY ASSEMBLY

Approved.
Blake

SECOND ASSEMBLY - FOURTH SESSION

REPORT OF THE JOINT COMMITTEE ON COUNTY FINANCE, BUDGET AND APPROPRIATIONS AND ENERGY, INFORMATION AND COMMUNICATION

ON

CONSIDERATION OF THE SESSIONAL PAPER NO. 1 OF 2020 ON A POLICY FRAMEWORK FOR REVENUE COLLECTION AND MANAGEMENT IN NAIROBI CITY COUNTY

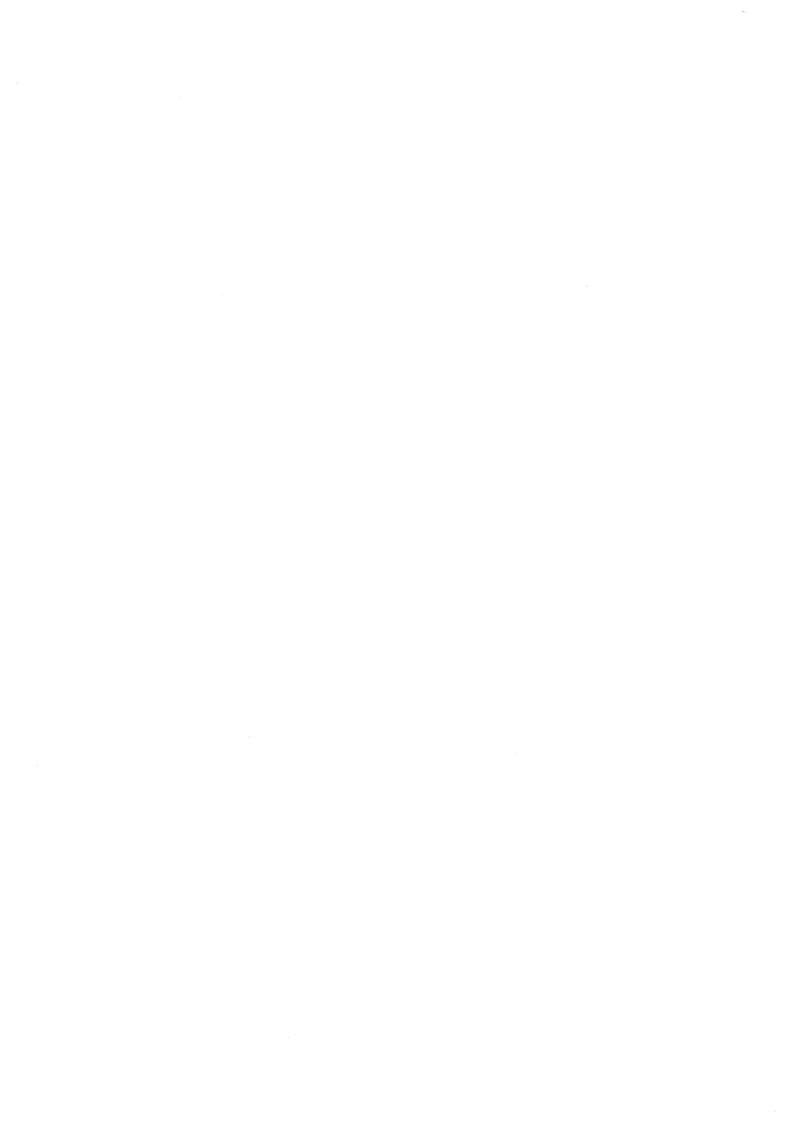
Clerk's Chambers City Hall Buildings NAIROBI 

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#### 1.0. PREFACE

### 1.1. Mandates and Composition of the Joint Committee

The Select Committee on Finance, Budget & Appropriations is established under the provisions of Standing Order 199 with a specific mandate among which is to:

- a) Investigate, inquire into and report on all matters related to coordination, control and monitoring of the of the county budget;
- b) Discuss and review the estimates and make recommendations to the County Assembly;
- c) Examine the County Fiscal Strategy Paper presented to the County Assembly;
- d) Examine Bills related to the county budget, including Appropriations Bills; and
- e) Evaluate tax estimates, economic and budgetary policies and programs with direct budget outlay

The Committee comprises of the following 23 Members:

1. Hon. Chege Mwaura, MCA

Chairperson

2. Hon. Michael Ogada, MCA

Vice- Chairperson

- 3. Hon. Mary Arivitsa, MCA
- 4. Hon. Samora Mwaura, MCA
- 5. Hon. Margaret Mbote, MCA
- 6. Hon. Muchene Kabiru, MCA
- 7. Hon. Elijah Mputhia, MCA
- 8. Hon. Millicent Mugadi, MCA
- 9. Hon. Paul Ndung'u, MCA
- 10. Hon. Millicent Jagero, MCA
- 11. Hon. Susan Makungu, MCA
- 12. Hon. Catherine Okoth, MCA
- 13. Hon. Emily Oduor, MCA
- 14. Hon. Paul Shilaho, MCA
- 15. Hon. John Mukiri, MCA
- 16. Hon. Cecilia Ayot, MCA

- 17. Hon. Herman Azangu, MCA
- 18. Hon. Emapet Kemunto, MCA
- 19. Hon. Mellab Atemah, MCA
- 20. Hon. Fredrick Okeyo, MCA
- 21. Hon. Kennedy Oyugi, MCA
- 22. Hon. Robert Mbatia, MCA
- 23. Hon. Patrick Karani, MCA

## Madam Speaker,

The Sectoral Committee on Energy, Information, Communication and Technology is established under Standing Order No. 203 (1). Its mandate pursuant to Standing Order 203 (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 analyse the relative success of the departments as measured by the results obtained as compared with its 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: and
- f) make reports and recommendations to the County Assembly as often as possible, including recommendation of proposed legislation.

The Committee comprises the following Members: -

- 1. Hon. Geoffrey Majiwa, MCA, MCA Chairperson
- 2. Hon. Anthony Ngaruiya, MCA Vice Chairperson
- 3. Hon. Clarence Munga, MCA
- 4. Hon. Catherine Apiyo, MCA
- 5. Hon. Alvin Palapala, MCA

- 6. Hon. Silas Matara, MCA
- 7. Hon. Mwangi Njihia, MCA
- 8. Hon. Joseph Komu, MCA
- 9. Hon. James Mwangi, MCA
- 10. Hon. Doris Kanario, MCA
- 11. Hon. Kariuki Wanjiru, MCA
- 12. Hon. Jackline Apondi, MCA
- 13. Hon. Patricia Musyimi, MCA
- 14. Hon. Waithera Chege, MCA
- 15. Hon. Solomon Magembe, MCA
- 16. Hon. Emily Oduor, MCA
- 17. Hon. Fredrick Okeyo, MCA
- 18. Hon. Geoffrey Majiwa, MCA
- 19. Hon. Melab Atemah, MCA
- 20. Hon. Jane Muasya, MCA

## 1.2. Consideration of the Sessional Paper No. 1 of 2020

The Sessional Paper No. 1 of 2020 on the Policy framework for Revenue Collection and Management for Nairobi City County was tabled in the County Assembly on Wednesday 8th July, 2020 for approval in accordance with Section 8(1) (e) of the County Governments Act, 2012. The Sessional paper was thereafter committed to the Select Committee on Finance, Budget and Appropriations; and Sectoral Committee on Energy and ICT for consideration and report to the Assembly.

During the period 10<sup>th</sup> to 15<sup>th</sup> July, 2020, the Joint Committee together with the responsible Sectors and Stakeholders held a workshop where Members were briefed on the content and objectives of the Policy. It's worth noting that the County Executive and the Committee have since met to discuss the contents of this crucial policy document.

Upon scrutiny of the Sessional Paper, the Committee noted that the paper intended to provide guidelines on revenue collection and management within Nairobi City County. The goal is to facilitate efficient, customer centred and centralized revenue collection in Nairobi City County for better planning and resourcing. However, the Committee observed that the tabled paper did not comprehensively address the whole question of revenue collection in the County. It is the view of the Committee that the paper had taken a narrow path of addressing measures being undertaken by Kenya Revenue Authority, which is the revenue collection agency appointed by the County Government and the National Government to collect revenue on their behalf, following the execution of the Deed of Transfer of Functions and the subsequent signing of Service Level Agreement between KRA and the County Government.

In that regard, the Committee embarked on a process of enriching the contents of the sessional paper by engaging key stakeholders namely; the County Executive, KRA, the Nairobi Metropolitan Services and the general public. This engagement has resulted in a more comprehensive Sessional Paper annexed to this report and titled; "a Policy Framework for Revenue Collection and Management in Nairobi City County; Towards enhancing efficient, customer centred and integrated revenue collection in Nairobi City County for better planning and administration of resources". This framework provides a broad guidance on how revenue collection shall be managed in terms of processes and systems. It appreciates the historical challenges that the County Government has encountered in revenue collection and as such, it guides how and when the County Government may engage third parties on matters concerning revenue collection. Thus, the policy paper shall be the yardstick on all revenue management arrangements that the County Government may decide to engage.

The Committees find the Policy a bold step towards addressing the Revenue Collection and Management challenges that have hampered service delivery in the City. The Committee therefore finds that it is in the interest of Nairobi City County that the County Assembly approves the Policy framework so that its implementation can commence

forthwith and guide present and future undertakings by the County Government and its agents on all matters related to revenue collection.

### 1.3. Appreciation

### Madam. Speaker,

We are grateful to the Members of the two Committees who committed their time to scrutinize the Sessional Paper. Special thanks to the Office of the Speaker, Office of the Clerk and the Committee secretariat for their support. The Committees also extends its appreciation to the Nairobi Metropolitan Services, KRA and the County Executive for their valuable contributions towards the development of the Sessional Paper. We also appreciate the stakeholders who presented their views particularly the Institute of Social Accountability (TISA)

On behalf of the Joint Committee, we now have the honor and pleasure to present this Report on the consideration of the Sessional Paper No.1 of 2020 on a Policy Framework for Revenue Collection and Management in Nairobi City County to this Assembly for adoption.

Signed

Hon. Chege Mwaura, MCA

(Chairperson)

Signed

Hon. Geoffrey Majiwa, MCA

(Chairperson)

[Finance, Budget & Appropriations Committee]

[Energy and ICT Committee]

Dated this day of uly 202

#### 2.0. INTRODUCTION

The Sessional Paper No.1 of 2020 on Policy framework for Revenue Collection and Management for Nairobi City County was tabled in the County Assembly on Wednesday 8th July, 2020 for approval in accordance with Section 8(1) (e) of the County Governments Act, 2012. The Sessional paper was thereafter committed to the Select Committee Finance, Budget and Appropriations; and Sectoral Committee on Energy and ICT for consideration and reporting to the Assembly. The Committee met and engaged various stakeholders over the period to scrutinize the policy.

Upon scrutiny of the tabled paper, the Committee observed that the paper did not comprehensively address the whole question of revenue collection in the County since it only addressed measures being undertaken by Kenya Revenue Authority as the appointed agency for revenue collection for the County Government as per the Deed of Transfer of Functions. Consequently, the Committee embarked on a process of enriching the contents of the sessional paper by engaging key stakeholders namely; the County Executive, KRA, the Nairobi Metropolitan Services and the general public.

Indeed, pursuant to Article 196 of the Constitution of Kenya, the Joint Committee was able to write to various stakeholders for their written memorandum. A notice was put in the local dailies on Friday 10<sup>th</sup> July, 2020 requesting members of the public to submit their memoranda. By the time of closure of submission of Memoranda, various stakeholders had submitted their memorandum namely TISA, KRA, NMS, NBK and County Secretary and CECM Energy & ICT. It is worth noting that the Committee held a meeting with the County Secretary and the County Executive Committee Member for Finance on Tuesday, 14<sup>th</sup> July, 2020 to seek their views on the paper. These engagements have resulted into a more comprehensive Sessional Paper annexed to this report and titled; *a Policy Framework for Revenue Collection and Management in Nairobi City County*"

The policy aims at promoting the principles of the devolved system of government as anchored in the Constitution. In particular, the paper takes into account the legislative frameworks for devolved government, specifically, the County Governments Act, 2012;

and the Inter-Governmental Relations Act, 2012. Thus, the paper is premised on the following:

- i) Articles 209 and 210 of the Constitution grants powers to County Governments to impose, vary or waiver taxes, fees, levies and other charges.
- ii) There has been gross underperformance of Nairobi County Government annual revenue collection *vis a vis* its annual expenditure.
- iii) The underperformance is attributed to challenges in collection and administration of county revenue comprising of taxes, fees and charges.
- iv) The challenges and gaps identified include the following:
  - Inadequate revenue collection and administration policies and legislation;
  - Multiplicity of fees and charges;
  - Human resource capacity deficits;
  - Weakness in systems of enforcing compliance by tax payers;
  - Low automation and integrated revenue administration; and
  - Ineffective internal controls and audit mechanisms.

## 3.0. EXAMINATION OF THE SESSIONAL PAPER

## 3.1. Analysis of the Contents of the Policy Paper

#### (a) Objectives

The specific objectives of this Policy Paper include the following:

- To achieve a customer centric process of revenue collection
- To identify the gaps in revenue collection
- To assess the revenue streams and their performance
- To optimize revenue collection
- To enhance transparency in revenue collection
- To centralize the revenue collection systems

### (b) Revenue Collection Systems

The paper emphasises on the role of automation in revenue collection due to the efficiency gains associated with automation and sealing of leakages.

## (c) Revenue Collection Processes

The paper notes that current revenue generating processes show that:

- Most processes are manual or semi-manual. Only Daily Parking and Single Business Permit stand out as services that are automated.
- Duplication and replication of roles which results in inefficient workflows and poor service delivery.
- Processes are not predictable. This is because there are no existing internal Service Level Agreements (SLAs) to guide processing of customer applications and requests.
- Most processes are not documented. This creates room for abuse and manipulation. Auditing the processes is also not easy due to lack of proper reference documents.
- Processes are not full proof and are prone to influence and interference by both staff and customers

- Limited customer touchpoints and payment options. Most processes require the applicant to visit an office to make an application. Payments can only be validated at the Cash Office.
- Processes are generally long and tedious. Most processes involve actors whose workflows are not interlinked in a system.

#### (d) Personnel in Revenue Collection

The paper notes that the Nairobi City County is constrained in terms of numbers and capacity of personnel to cover all revenue streams in revenue collection and administration. These constraints have led to low revenue collection as the County is forced to deploy more of revenue enforcers without skills in areas like revenue potential assessment, forecasting, and cost of collection assessment, revenue management and administration. The staff are also not equipped with the necessary tools and resources to enable them perform their work effectively.

#### (e) Revenue Potential

The paper notes that since the onset of devolution, the Nairobi City County has had its fair share of challenges on attempt to realize the full potential of revenue required to fund the key components of the budget. Data on record indicate that as a proportion of the total projected revenues Nairobi City County had consistently faced a gap of between 20-25%. The Institute of Economic Affairs on its review of the County's revenue potential found out that the County is operating below 50% of its revenue capacity.

## 3.2. Legal and Policy Recommendations

The recommendations set in the paper are anchored in Article 201 of the Constitution which sets out the principles that guide all aspects of public finance in the Republic. The County is enjoined by the Constitution to ensure openness and accountability in public finance, to facilitate prudent and responsible utilisation of public money and to facilitate responsible financial management and clear fiscal reporting. The paper proposes a

harmonised legal framework for Revenue administration as the principal foundational precept for the development of an efficient and effective revenue collection system.

#### 3.3. Institutional Framework

The paper appreciates that the existing framework for the revenue collection in Nairobi City County has evolved over time and has involved multi-sectoral diverse strategies, approaches, institutional arrangements and system evolution. This has, over time, cumulatively resulted in systems with identified inadequacies and subject to legal, infrastructural, security and ethical challenges. Consequently, the foregoing has resulted in inefficiencies in service delivery. The paper opines that the electronic or manual initiatives that have been adopted to redress these challenges have faced bottlenecks including; technology, legislative, human resource, institutional, behavioural among others both from within the County and from customers. The existing legal framework has rather compounded the undesirable experiences and processes by instituting ineffective coordination of responsibilities.

#### 3.4. Revenue Administration

The paper notes that the place of revenue administration is as important as revenue collection in a government as it provides mechanisms through which tax bases are assessed, rates of fees and charges determined, how the customers are billed, how payment is made, receipted, enforcement on fees applicable, accountability, auditing, reporting and oversight.

# 3.5. Revenue Collection Technology

The paper proposes that the Nairobi City County should adopt technology that is able to incorporate all its revenue streams, provide real time information and be easy to use.

#### 3.6. Processes

With regard to the processes at the Nairobi County Government, the paper recommends the following measures: -

i) A comprehensive audit of the County processes be conducted to identify gaps, bottle-necks and inefficiencies in current processes that result in revenue loss and poor customer experience.

- ii) Business Process Re-engineering (BPR) be undertaken continually to redesign the various processes with the aim of simplifying them; and to keep up with the ever changing technology world.
- iii) A status report of BPR initiatives carried out be presented to the County Assembly periodically, or on request, by the authority in charge of service delivery

#### 3.7. Systems

This Policy proposes that the current existing systems be retired and in their place, a modern and more robust system be introduced to address the system challenges addressed in Chapter two. The system to be adopted should be capable of: -

- a) Integrating various facets in the revenue management process (revenue assessment, payments, compliance and enforcement and reporting) into a single system.
- b) Providing both customers and County staff with simple easy to use interfaces and a variety of channels to choose from depending on their technology awareness levels.
- c) Scalability at minimal costs to accommodate changes in the operating environment, technology, legislative and policy changes.
- d) Integrating and leveraging on existing authoritative data sources (e.g IPRS, Telcos, KRA, Ministry of Lands, BRS, KNBS) to ensure that data quality is achieved.
- e) Leveraging on geo-technology such as Global Positioning System (GPS) and Geographical Information System (GIS) to enhance revenue mapping, projections and collections.
- f) Delivering a stable and secure revenue management system
- g) Providing clear audit history of changes, system logins and transactions for accountability and reporting purposes.
- h) Provide a comprehensive Support and Maintenance Framework for deployed solutions.

### 3.8. Service Delivery

The Paper proposes the development of a comprehensive Customer Support Framework that establishes the following:

- a. Nairobi County Service Charter
- b. Nairobi Customer Relationship Management (CRM) System entailing:
  - i. Complaints/Service Request Management
  - ii. Contact Center
  - iii. Customer Reward/Loyalty Program

## 3.9. Compliance and Enforcement

The paper appreciates that compliance and enforcement of revenue collection in Nairobi City County has faced numerous challenges; in particular, the process of revenue collection, assessment of taxes, fees and charges, payment and receipting, enforcement, auditing, reporting and oversight. There has also been resistance and hostility from taxpayers who insist that service provision is not commensurate to the taxes they pay. It has been observed that the discrepancy in revenue collections has been as a result of lack of requisite skills and/or capacity of the personnel to provide realistic projections and strengthen the enforcement efforts. In view of the foregoing the paper proposes the following measures in order to improve on revenue collection as follows:

# i.) Nairobi Revenue Office

Establishment of a centralized office to be known as the Nairobi Revenue Office which shall be the designated and authorized office to enforce revenue collections. This office should be anchored in law and its processes and general operations oversighted by the County Assembly.

# ii.) Power of Revenue Officers and their identification

The Nairobi Revenue Office shall have authorized revenue collection officers who shall the power to enter and inspect at any time any premises that is believed to have failed to pay revenues. The revenue collection officers shall properly

identify themselves before entering and/or inspecting to avoid instances of impersonation.

The Authorized Officers shall account for all the revenue collected.

iii.) Access and inspections of premises, equipment, goods, computers and data

The Nairobi Revenue Office may make own assessments of revenue owed by revenue payers or on request by the payers. The assessments (which shall not alter the due date of payment) shall be served on Revenue payers and state the amount payable and the time period within which the revenue/tax payer is expected to pay.

iv.) Power to evict, reposes properties and revenue refund

Due process must follow before any action is taken to evict or reposes any property. This process should be anchored in law to prevent abuse and arbitrary use of force. A tax payer who has paid in excess must be refunded and/or the payments carried forward.

#### v.) Personnel

Only staff with requisite skills should be designated as revenue collection and enforcement officers. They should be redeployment periodically to enhance efficiency and prevent corruption.

### vi.) Penalties and offences

A tax payer who gives false and misleading information on revenue payments or failing to pay revenue within the stipulated period or makes an incorrect or false statement which affects their liability to pay revenue or claiming refund or relief or obstructs County revenue officers from carrying out their tasks commits an offence that is punishable by law.

## 3.10. Role of the Nairobi City County Government (NCCG)

The paper proposes that the role of Nairobi City County Government will be to provide the policy direction, support and monitor the implementation of the revenue collection framework. Policy implementation will include the facilitation of a conducive business environment for taxpayers as the County Government strives towards self-sustaining in terms of own-source revenue.

## 3.11. Role of the Revenue Collection Agent

The paper proposes that the revenue collection agency identified by the Nairobi City County Government will play a key role in providing a centralised revenue collection system. The system shall be transparent to avoid fraud, evasion and under-collection. It shall also be able to provide daily reconciliations, automatically remind the collection officer when payments are due and monitor the level of fraudulent payments presented by the collection officer, and alerting supervisors of possible problems. The system shall require minimal training for both the revenue collectors and taxpayers.

### 3.12. Role of taxpayers

The paper notes that the tax payers' role shall be to comply in payment of taxes when they are due and cooperate with the revenue collection agent. Equally, organized groups and associations of tax payers which have a structured framework for engagement shall serve as useful agents and information dissemination platforms.

#### 3.13. Human and financial resources

The paper appreciates that effective revenue collection requires competent revenue collectors, enhanced revenue sources and taxpayer awareness. To achieve all this, adequate funding is required. In this regard, through the budgeting framework, adequate funds shall be set-aside to finance the maintenance of the revenue collection system, training of revenue officers, continuous mapping of revenue streams and conducting public awareness on revenue obligations.

#### 3.14. Monitoring and Evaluation

The paper notes that the Nairobi City County Government shall ensure that an effective Monitoring and Evaluation (M&E) system is developed for successful implementation of these policy recommendations. A comprehensive monitoring and evaluation system facilitates identification of deviations from set targets and ensures that corrective measures are taken. Joint monitoring and evaluation will be undertaken by Nairobi City County Government, revenue collection agent representatives of tax payers and other relevant stakeholders. Quarterly and annual progress reports on implementation will be developed at this level and shared amongst all the stakeholders.

The paper further proposes that capacity building will also be undertaken to equip the staff with relevant skills to collect and process timely and reliable data that is necessary for effective M&E exercise. The M&E report will in turn be utilized within Nairobi City County Government and other stakeholders in order to improve on the revenue collection system and the overall optimise revenue collection.

#### 3.15. Submissions by Key stakeholders

In accordance with the Article 196 of the Constitution, Section 115 and Section 87 of the County Government Act, 2012, the County Assembly wrote to stakeholders with a view to invite submissions of the written memoranda on the policy framework for revenue collection and management in Nairobi City County on Thursday, 9th July, 2019 and be forwarded to the Office of the Clerk by Tuesday 14th July, 2019. The Committee received written memoranda from the following stakeholders amongst others;-

- i. The Institute for Social Accountability (TISA);
- ii. Kenya Revenue Authority (KRA);
- iii. Nairobi Metropolitan Services (NMS);
- iv. County Secretary and CEC ICT; and
- v. National Bank of Kenya (NBK)

The issues raised in the memoranda are hereby annexed.

# a) The Institute for Social Accountability (TISA)

TISA Submitted Memoranda containing comments, areas of concern and remarks with proposed recommendations. TISA observations centered on eminent factors affecting NCC revenue collection and recommendations to promote optimum revenue collection system which can stimulate and guide the economic and social development of the County.

## b) Kenya Revenue Authority (KRA)

KRA Submitted memoranda containing comments, in regards to challenges they have faced during the three months period and the proposed recommendations in various revenue streams. They proposed a standardization of collection processes.

## c) Nairobi Metropolitan Services (NMS)

NMS memorandum highlights on the following:-

- Need for compliance and enforcement of revenue collection,
- End stagnation of revenue collection staff by promotion, confirming all those in acting capacities and promote staff across board,
- The need for use of technology to carry out census and automation of the Sub-county offices.
- Need for a system that allows integration with other payment platforms for real time reports.
- The need for development of regulations to enable full implementation of various Acts and a drafted and gazette policy document to guide operations and decisions is crucial. Fast tracking the acquisition of the ICRMS is essential.
- There is need for incorporating views, comments and observations by NMS to improve on the quality of specific areas of the proposed policy.

# d) Submissions by the County Secretary and CEC Member for ICT

The County Executive submitted in a meeting held on 14th July, 2020 that there is need for the policy to provide clear operational structure that allows for

coordination of staff supervision between KRA, NMS and the Executive on operations and revenue collection. The County Executive also recognized the entire need to post enough technical officers to efficiently enforce on all revenue streams and more staffs be deployed. Further, there is need to clarify on the currently running contracts between the County Government and other third party agents.

#### e) National Bank of Kenya (NBK)

- That they require clarity on the status of their running contract agreement with the County Government regarding revenue collection in view of the proposed policy; and
- That they support the Kenya Revenue Authority and the Nairobi Metropolitan Services in executing their mandate to enhance revenue collection in the County.

#### 4.0. COMMITTEE OBSERVATIONS

### Madam. Speaker,

The Committee in its process of considering the Policy observed as follows: -

- That myriad of challenges have continued to hamper revenue collection process therefore not achieving revenue targets;
- ii) That lack of a clear policy has been the root cause of revenue collection challenges and therefore development and approval a clear revenue collection will go a long way in guiding current and future revenue collection arrangements;
- iii) That the proposed policy paper, as enriched by the Committee following various stakeholder engagements, shall ensure that revenue collection is automated, revenue leakages are sealed, there is accountability in revenue collection and that tax payers will have an easy task in payment of revenue. Similarly, there will be clear roles of the County Government and an agent which may be assigned to collect revenue on behalf of the County Government; and
- iv) That the Policy was developed through a comprehensive stakeholder participation and therefore most concerns of the stakeholders have been addressed.

#### 5.0. RECOMMENDATIONS

#### Madam Speaker,

The Committee recommends that in accordance with Section 8(1) (e) of the County Governments Act, 2012 and provisions of Standing Order 191(6):- that;

THAT this Assembly approves the Sessional Paper No. 1 of 2020 on the Policy Framework for Revenue Collection and Management in Nairobi City County annexed to this report with the following recommendations: -

- 1. That the County Executive puts in place administrative and institutional changes to ensure effectiveness and efficiency in revenue collection and management in accordance with the Policy Framework;
- 2. That the County Executive's current existing revenue collection systems be retired/terminated and in their place, a modern and more robust system be introduced in accordance with the Policy Framework;
- 3. That the County Executive should adopt technology that is able to incorporate all its revenue streams, provide real time information and be easy to use in accordance with the policy framework; and
- 4. That the County Executive submits to the Assembly within 60 days of adopting this report, a legislation to provide a framework for the general administration of revenue raising rules amongst other proposal contained in the Policy.