#### **GOVERNMENT OF NAIROBI CITY COUNTY**



THE NAIROBI CITY COUNTY ASSEMBLY

OFFICE OF THE CLERK

**SECOND ASSEMBLY** (FIFTH SESSION)

NCCA/TJ/PL/2021(18)

29th June 2021

#### PAPER LAID

Pursuant to Standing Order 191, I beg to lay the following Paper on the Table of the Assembly today, Tuesday 29th June, 2021:

- THE REPORT OF THE **SECTORAL** COMMITTEE ON ENVIRONMENT AND NATURAL **RESOURCES** THE CONSIDERATION OF THE NAIROBI CITY COUNTY SESSIONAL PAPER NO. 2 OF 2020 ON AIR QUALITY.

(Chairperson, Sectoral Committee on Environment and Natural Resources)

Copies to: The Speaker The Clerk Hansard Editor Hansard Reporters

The Press

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#### GOVERNMENT OF NAIROBI CITY COUNTY



29/6/2021

THE NAIROBI CITY COUNTY ASSEMBLY

SECOND ASSEMBLY (FIFTH SESSION) 29th June 2021 Canaply

#### NOTICE OF MOTION

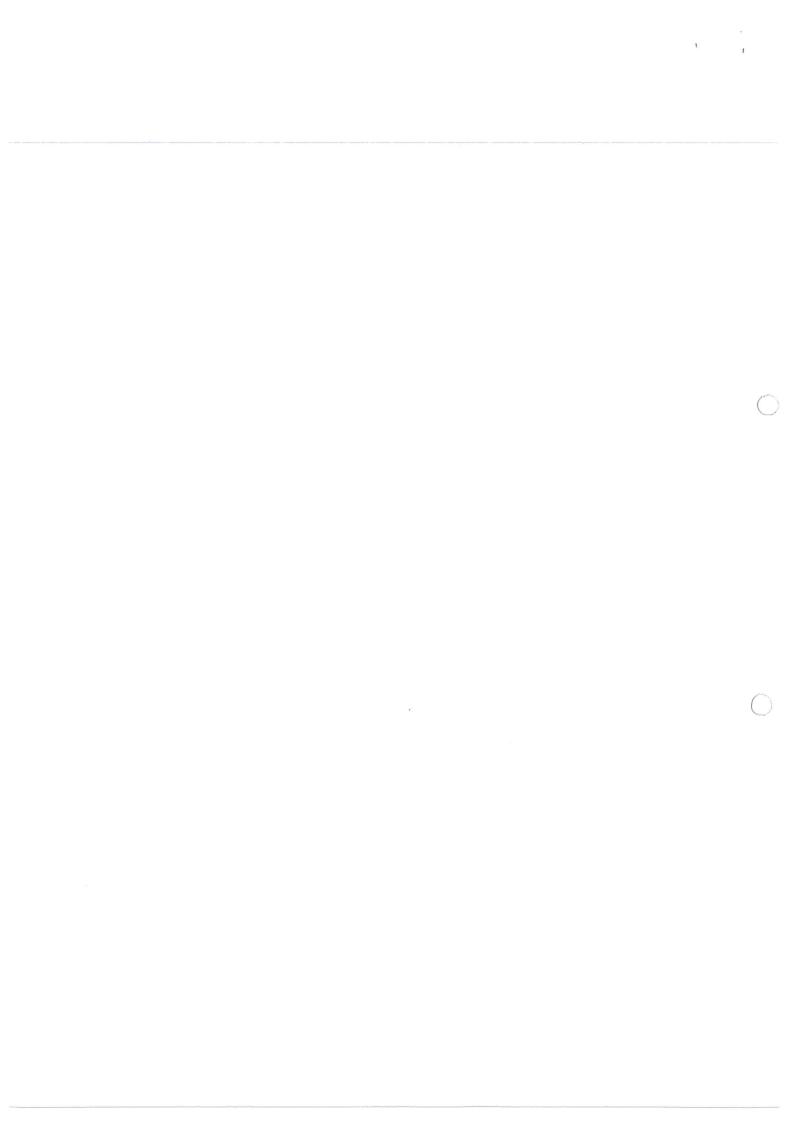
Subject: Adoption of a report of a Select Committee

Hon. Speaker, I beg to give notice of the following motion:-

— THAT this Assembly adopts THE REPORT OF THE SECTORAL COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES ON THE CONSIDERATION OF THE NAIROBI CITY COUNTY SESSIONAL PAPER NO. 2 OF 2020 ON AIR QUALITY, tabled in the Assembly on Tuesday, 29th June 2021.

(Chairperson, Sectoral Committee on Environment and Natural Resources)

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#### THE NAIROBI CITY COUNTY GOVERNMENT



#### NAIROBI CITY COUNTY ASSEMBLY

#### SECOND ASSEMBLY - (FIFTH SESSION)

#### **INTERNAL MEMO**

TO

: PRINCIPAL CLERK ASSISTANT (L&P)

**FROM** 

: PRINCIPAL CLERK ASSISTANT (C)

DATE

28<sup>TH</sup> JUNE, 2021

### RE: THE REPORT OF THE SECTORAL COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES ON THE CONSIDERATION OF THE NAIROBI CITY COUNTY SESSIONAL PAPER NO 2 OF 2020 ON AIR QUALITY

The above subject refers

The Sectoral Committee on Environment and Natural Resources considered and adopted the Report on Sessional Paper on Air Quality.

This is therefore to forward to you as adopted by the Committee for your further action.

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Ag. Principal Clerk Assistant (c)

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### NAIROBI CITY COUNTY ASSEMBLY SECOND ASSEMBLY - FIFTH SESSION

# THE REPORT OF THE SECTORAL COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES ON THE CONSIDERATION OF THE NAIROBI CITY COUNTY SESSIONAL PAPER NO 2 OF 2020 ON AIR QUALITY

Clerks Chambers
Nairobi City County Assembly
City Hall Buildings
Nairobi

JULY, 2021

#### TABLE OF CONTENTS

1.0. PREFACE	4			
1.1. Committee Mandates	4			
1.2. Committee Members	5			
2.0. EXECUTIVE SUMMARY	6			
2.1. Background	6			
2.2. Introduction of the Sessional Paper No. 2 of 2020 on the Nairobi City County Ai Quality in the Assembly	r 9			
2.3. Legislative powers of the County Assembly	9			
2.4. Public participation and the legal Underpinning	10			
2.6. The key Committee recommendations	11			
2.7. Acknowledgement	11			
3.0. AN OVERVIEW OF THE NAIROBI CITY COUNTY SESSIONAL PAPER NO. 2 O	F 2020			
ON AIR QUALITY	13			
3.1. Chapter one: Introduction	. 13			
3.2. Chapter 2: Goals, Objectives and Guiding principles	14			
3.2.1. Goals	14			
3.2.2. Objectives	14			
3.2.3. Guiding principles	15			
3.3. Chapter 3: Legal and regulatory Framework				
3.3.1. The Constitution of Kenya	16			
3.3.2. Current policy and legislation	18			
3.3.3. Institutional arrangements	19			
3.4. Chapter 4: Emission Reduction Measures	19			
3.4.1. Policy statement for Transport sector	20			
3.4.2. Policy statement for Waste management Sector	21			
3.4.3. Policy statement for Housing Sector	21			
3.4.4. Policy statement for Agriculture Sector	22			
3.4.5. Policy statement for Energy Sector	22			
3.4.6. Policy statement for Industrial Sector	23			
3.4.7. Policy statement for Cross Cutting sectors	23			

3.5.	Chapter 5: Governance and Regulations	24		
3.6.	Chapter 6: Research and Technology			
3.7.	Chapter 7: Education and Public Awareness			
3.8.	Chapter 8: Implementation Framework	27		
4.0.	KEY COMITTEE OBSERVATIONS	30		
4.1.	Challenges observed during the consideration of the Sessional Paper	32		
4.2.	Submissions made before the Policy was laid on the floor of the Assembly	33		
5.0.	KEY COMMITTEE RECOMMENDATIONS	34		

#### **APPENDICES**

- i) Sessional Paper No. 2 of 2020 Nairobi City County Air Quality Policy
- ii) Committee Minutes
- iii) Motion on Air Policy Pollution by Hon. Waithera Chege

#### **ABBREVIATIONS**

CIDP : County Integrated Development Plan

NIUPLAN : Nairobi County Integrated Urban Management Development Plan

#### 1.0. PREFACE

#### 1.1. Committee Mandates

#### Mr. Speaker Sir,

The Sectoral Committee on Environment and Natural Resources is established under Standing Order No. 203. 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;
- f) vet and report on all appointments where the Constitution or any law requires the County Assembly to approve, except those under Standing Order 185(Committee on Appointments): and
- g) make reports and recommendations to the County Assembly as often as possible, including recommendation of proposed legislation.

#### Mr. Speaker Sir,

In accordance with the Second Schedule of the Standing Orders, the Sectoral Committee is further mandated to consider all matters relating to:- implementation of specific national government policies on natural resources and environmental conservation, including soil and water conservation and forestry and control of air pollution, noise pollution, other public nuisances and refuse removal, refuse dumps and solid waste disposal.

#### 1.2. Committee Members

The Committee comprises the following Members:-

1. Hon. John Kamau, MCA

Chairperson

2. Hon. Joseph Ndonji, MCA

Vice Chairperson

- 3. Hon. Wanjiru Kariuki, MCA
- 4. Hon. Anthony Kimemia, MCA
- 5. Hon. Joseph Wambugu, MCA
- 6. Hon. Laura Mwende, MCA
- 7. Hon. James Mwangi, MCA
- 8. Hon. John Kamangu, MCA
- 9. Hon. Solomon Magembe, MCA
- 10. Hon. Joyce Muthoni, MCA
- 11. Hon. Margaret Mbote, MCA
- 12. Hon. Anthony Kiragu, MCA
- 13. Hon. Leah Supuko, MCA
- 14. Hon. Jacinta Wanjiru, MCA
- 15. Hon. Peter Imwatok, MCA
- 16. Hon. Francis Ngesa, MCA
- 17. Hon. Rose Masitsa, MCA
- 18. Hon. Millicent Okatch, MCA
- 19. Hon. Emily Waithaka Wanjiku, MCA
- 20. Hon. Redson Otieno Onyango, MCA
- 21. Hon. Michael Ogada MCA
- 22. Hon. Evans Otiso, MCA
- 23. Hon. Fuad Hussein, MCA
- 24. Hon. Wahinya Njau Peter, MCA
- 25. Hon. Eunice Wanjiku Maribe, MCA

#### 1.3. Committee Secretariat

- 1. Mr. Guyo Sankala
- Senior Clerk Assistant
- 2. Ms. Vyonne Wamucii
- Researcher

#### 2.0. EXECUTIVE SUMMARY

#### 2.1. Background

#### Mr. Speaker Sir,

Nairobi has experienced rapid development in the last 30 years. This growth trend has resulted in deterioration of the city's air quality posing a threat to the environment and the health and wellbeing of Nairobi City County residents, visitors and its neighbors. Although air quality measurement conducted in Nairobi City County are few and most are short-term and thus not comparable to WHO guidelines for ambient air quality, they clearly point to the need to address the serious impacts of air pollution. Air pollution has been linked to numerous illnesses including asthma, strokes, heart disease and dementia.

#### Mr. Speaker Sir,

The upsurge in children respiratory illnesses in parts of Nairobi City County is also attributed to increasing levels of air pollution. Quite a number of Industries degrade our environment on daily basis through emissions of harmful gases into our atmosphere or dumping of toxic waste in Nairobi River. It is evident that emissions of gases such as carbon dioxide, nitrogen dioxide, methane, ozone and chlorofluorocarbons into the atmosphere do not only cause global warming and respiratory problems but also deplete the ozone layer that protects us from harmful ultra violet rays.

#### Mr. Speaker Sir,

Some of the worst pollution levels have been shown to be in economically disadvantaged communities where exposure to water, soil, noise and air pollution are a daily reality. United Nations Environment Programme has found out that exposure to fine particulate matter in Kenya contributes to over 18,000 premature deaths annually from both indoor and outdoor sources and was estimated to cost USD 2,244 million per year.

#### Mr. Speaker Sir,

Nairobi makes a large contribution to the national GDP generating over 60% of Kenya's GDP. Thus, although the social-economic impacts of air pollution to Nairobi City County have not yet been estimated, the County Government is cognizant that the biggest health and financial burden of air pollution in Kenya is borne by Nairobi. For this reason, taking steps to permanently address and resolve air pollution brought about by human activities is important.

#### Mr. Speaker Sir,

The development of the Nairobi City County Air Quality Policy forms part of the strategy development to reduce the growing challenge of air pollution through support of enabling factors and identifying priority key sectors. The priority sectors identified are: transport, waste management, industry, housing, energy, road construction and agriculture. The Air Quality Policy has been developed together with an Air Quality Action Plan. The Action Plan outlines various interventions that the Nairobi City County Government will undertake in the first action-planning period (2021-2025) in order to tackle the growing problem of air pollution in the County. The development of this Policy is one of the key actions outlined under objective 3 of the Action Plan, that is, develop effective approaches for air quality management in Nairobi City County. The Policy establishes the foundation for future development of legislative and regulatory options for Air Quality Management in Nairobi City County as envisaged by the Action Plan.

#### Mr. Speaker Sir,

This Sessional Paper is organized into 9 Chapters starting with the Introduction under Chapter 1. Chapter 2 contains the Goals, Objectives and Guiding Principles of the policy while Chapter 3 provides a comprehensive Legal and Regulatory Framework for air quality in Kenya. Chapter 4 details the Emission Reduction Measures in Transport, Waste Management, Housing, Agriculture, Energy sector and Industrial sector. Chapters 6,7,8 and 9 deal with Research and Technology, Education and Public Awareness, the Implementation Framework and Resource Mobilization respectively.

#### Mr. Speaker Sir,

Hon. Waithera Chege, Member of County Assembly (MCA) for Nairobi South Ward played an instrumental role on development of the draft Air Quality Policy. She is the sole innovator and mover of motion on Air Pollution which was consequently adopted in the Assembly on 29th September, 2020. In her motion she pointed out how the Capital City is undergoing environmental degradation and how this has caused numerous illnesses including asthma, strokes, heart disease and dementia.

#### Mr. Speaker Sir,

Thus, to counter these challenges, Hon. Waithera Chege urged the Government of Nairobi City County to come up with sound legal framework to address the problems in order to provide institutional and legal framework as well as cure the gaps experienced in similar pieces of legislations to provide panacea to the endemic problem caused by air pollution.

#### Mr. Speaker Sir,

Hon. Waithera Chege further advised that development of Air Quality Policy and legislation would promote the Nairobi Beatification Initiative (NBI) which has been one of the agenda in the Nairobi Recovery Plan (NRP) aimed to uplift the Nairobi City to the International standards.

#### Mr. Speaker Sir,

In view of the foregoing therefore, the Sessional Paper No. 2 of 2020 on the Nairobi City County Air Quality was laid on the table of the Assembly on Tuesday, 24<sup>th</sup> November 2020 at 2:30pm. The Sessional Paper was committed to the Sectoral Committee on Environment and Natural Resources for consideration and thereafter submission of a report to the Assembly.

#### Mr. Speaker Sir,

The Sessional Paper seeks to address the problem of air pollution in Nairobi City County by providing guidance for implementation strategies to minimize air pollution. The absence of a policy and legislative framework to target reduction of air pollution in Nairobi threatens the livelihoods, health, wellbeing and social economic status of its residents and environ. Thus, this Policy seeks to fill the gap created by lack of an adequate policy and legal framework to address air pollution at county level, and at the same time domesticate, align and contextualize the frameworks that already exist at national level.

#### Mr. Speaker Sir,

The primary idea behind the development of the said sessional Paper was conceived out of the realization that hitherto there has been a dearth of a law with respect to the Air Pollution.

#### Mr. Speaker Sir,

The Sectoral Committee is therefore mandated to critically consider the provisions of the said Policy taking into account the provisions of Article 196 (b) of the Constitution and standing orders 131(3) before submitting its report to the Assembly for enactment into a law. The Committee hopes that the policy would provide panacea to the entire gamut of challenges as elicited by Air Pollution.

### 2.2. Introduction of the Sessional Paper No. 2 of 2020 on the Nairobi City County Air Quality in the Assembly

#### Mr. Speaker Sir,

The Nairobi City County Sessional Paper No. 2 of 2020 on Air Quality was laid on the table of the Assembly on Tuesday, 24th November 2020 at 2:30pm. The said Sessional Paper was thus committed to the Sectoral Committee on Environment and Natural Resources for consideration and thereafter submission of a report to the Assembly.

#### 2.3. Legislative powers of the County Assembly

#### Mr. Speaker Sir,

Article 185 of the Kenya's Constitution provides that;-

(1) 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.
- (3) A county assembly, while respecting the principle of the separation of powers, may exercise oversight over the county executive committee and any other county executive organs.

#### 2.4. Public participation and the legal Underpinning

#### Mr. Speaker Sir,

Article 196(b) of the Constitution of Kenya states that;

- 'The County Assembly shall facilitate public participation and involvement in the legislative and other business of the assembly and its committees'.

In view of the above, Mr. Speaker Sir, the Assembly placed a notice in the local dailies on Wednesday, 23<sup>rd</sup> December, 2020 calling for any representations and amendments from the public on the said Policy. The Committee having received none of the public views thus advised placing of the second advert on 2<sup>nd</sup> March, 2021. Further, the Committee also identified key stakeholders and invited them to either submit their comments or attend Committee meetings where they could give their views on the Bill.

#### Mr. Speaker,

It is worth noting that all the efforts by the Assembly to call for public views the Committee has not received any oral or written memoranda.

#### 2.5. Pre-publication scrutiny

#### Mr. Speaker,

A workshop was organized by the Nairobi Metropolitan Services and held in Mombasa at Travellers Beach Hotel from 20<sup>th</sup> to 25<sup>th</sup> October, 2020. Besides, the Committee, the Nairobi Metropolitan Services (NMS) invited key legal, environment experts and program officers particularly from the United Nations Environment Program, Strathmore University, Stockholm Environment Institute who part from giving expert input also provided financial and technical assistance in the drafting of the

comprehensive Draft Air Quality Policy document which was later forwarded to the Assembly as a Sessional Paper No. 2 of 2020 for consideration.

The Committee members who attended the said workshop were taken through the document and their views captured.

#### 2.6. The key Committee recommendations

In view of the above, the Committee recommends that the **Assembly approves the Nairobi City** County Sessional Paper No. 2 of 2020 on Air Quality with the following recommendations; -

- 1. That past, present and future undertakings in regards to Air Quality be done within the framework of the Sessional Paper No. 2 of 2020 Nairobi City County Air Quality Policy and the recommendations of this report; and
- 2. That the County government should with the liaise with the Assembly to enact a Nairobi City County Air Quality Bill to provide for a comprehensive legal framework for air quality

#### 2.7. Acknowledgement

Mr. Speaker Sir, 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 in the consideration of this crucial Bill.

#### Mr. Speaker Sir,

I also wish to extend my gratitude to all legal, environment experts and program officers particularly the United Nations Environment Program, Strathmore University, Stockholm Environment Institute, Nairobi Metropolitan Services and Nairobi City County Executive all of whom took instrumental roles in the development of the said Sessional Paper.

#### Mr. Speaker Sir,

The Committee considered their valuable contributions and is glad to engage them further in the development of legislation once the Assembly adopts the Committee's

report on consideration of the Nairobi City County Sessional Paper No. 2 of 2020 on Air Quality.

#### Mr. Speaker Sir,

Many thanks goes to Hon. Waithera Chege who initiated this process by first introducing and moving a crucial motion in the Assembly which gave birth to this valuable Sessional Paper with the single most aim of mitigating air pollution and the consequent health and ecological effects that tag along.

#### Mr. Speaker Sir,

Finally, much thanks to the Members of the Committee, and the Secretariat particularly the Senior Clerk Assistant in charge of the Committee for their dedication, untiring commitment and valuable contributions during the consideration of this Bill.

#### Mr. Speaker Sir,

On behalf of the Committee, I now have the honour and pleasure to present the Report of the Committee on Consideration of the Nairobi City County Sessional Paper No. 2 of 2020 on Air Quality for consideration and adoption.

Signature

Hon. John Kamau Muthiga,

(Chairperson Sectoral Committee on Environment and Natural Resources)

Date 18th May 2021

### 3.0. AN OVERVIEW OF THE NAIROBI CITY COUNTY SESSIONAL PAPER NO. 2 OF 2020 ON AIR QUALITY

**Mr. Speaker Sir**, the Nairobi City County Sessional Paper No. 2 of 2020 on Air Quality has eleven chapters. Thus, in this report we provide synopsis of each of the chapter.

#### 3.1. Chapter one: Introduction

Mr. Speaker Sir, this chapter introduces air pollution, the problems associated with it, the causes of the air pollution and effects that come along.

Mr. Speaker Sir, Nairobi City County is one of the fastest growing cities in Africa. The growth however has also seen an increase in unsustainable activities which increase emissions of fine polluting particles and gases such as in open waste burning, increased motorization, domestic use of biomass and kerosene, back-up diesel generators, unpaved road and construction dust, unregulated industries, and poor solid waste management. In addition, most of the urban poor in Nairobi City County live in informal settlements with poor sanitary conditions, near roadways, with poor access to clean energy and with congested housing with poor ventilation. Therefore, they are worst affected by air pollution. Thus, in the absence of interventions, the impact of air pollution on health, environment and the economy in Nairobi City County is disproportionate and has an added element of increasing inequality.

#### Mr. Speaker Sir,

In this chapter also policy interventions are proposed. For instance, targeted interventions that inform urban development, encourage greener policy actions to mitigate the effects of air pollution on human health and environment are needed for Nairobi City County. This should align with the existing policy framework, the County Integrated Development Plan (CIDP) and the Nairobi County Integrated Urban Management Development Plan (NIUPLAN)

#### Mr. Speaker Sir,

The Nairobi City County Sessional Paper No. 2 of 2020 on Air Quality seeks to address the problem of air pollution in Nairobi City County by providing guidance for

implementation strategies to minimize air pollution. The absence of a policy and legislative framework to target reduction of air pollution in Nairobi threatens the livelihoods, health, wellbeing and social economic status of its residents and environ. Thus, this Policy seeks to fill the gap created by lack of an adequate policy and legal framework to address air pollution at county level, and at the same time domesticate, align and contextualize the frameworks that already exist at national level.

#### 3.2. Chapter 2: Goals, Objectives and Guiding principles

#### 3.2.1. Goals

#### Mr. Speaker Sir,

The goal of Sessional Paper is to ensure the protection of the right to a clean and healthy environment for residents of Nairobi City County and its environs through the promotion of measures for clean air by all stakeholders. Further, domestication of rights of people of Nairobi through the institutions such as the Nairobi Metropolitan Service (NMS) whose aim is to deliver services for the Nairobi residents.

#### 3.2.2. Objectives

#### Mr. Speaker Sir,

The objectives of this Policy are to:

- a) Provide a framework for an integrated approach in all sectors and institutions to air quality management in Nairobi City County;
- b) Strengthen the legal and institutional framework for effective coordination and management of air quality in Nairobi City County;
- c) Promote education, communication and public awareness on air quality by all stakeholders;
- d) Promote participation of key stakeholders, including the civil society, the Nairobi Metropolitan Service, private sector and industry, and local communities, in air quality management in Nairobi City County;
- e) Promote and enhance research and use of science and technology in policy decisions for clean air and environmental management in Nairobi City County;

- f) Provide the policy framework to facilitate the development and effective implementation of a scientifically informed and periodically updated County Air Quality Action Plans;
- g) Support capacity building as needed for all stakeholders in air quality management; and
- h) Ensure that air pollution is avoided and where it cannot be avoided minimized to the least harmful quantities.

#### 3.2.3. Guiding principles

#### Mr. Speaker Sir,

The governance and management of quality air in Nairobi City County Government will be informed by the mandatory national values and principles of governance set out in Article 10 of the Constitution, together with principles stipulated in Articles 43, 60, 69 and 232 of the Constitution. More specifically, the following provisions apply:

- a) Environmental Right: Under the 2010 Constitution, every person in Kenya has a right to a clean and healthy environment and a duty to safeguard and enhance the environment. Air quality regulation seeks to safeguard the right to a clean and healthy environment.
  - b) Public Participation: A participatory and consultative approach to air quality management and environmental protection will be enhanced to ensure that all actors, including County government departments, private sector and industry, civil society and city residents are involved in planning, implementation and decision-making processes as per the existing laws.
  - c) Precautionary Principle: Where there are credible threats of serious or irreversible damage to key environmental resources, lack of full scientific certainty will not be used as a reason for postponing cost-effective measures to prevent environmental degradation.
  - d) Polluter Pays Principle (Extended Producer Responsibility): The polluter and users of environmental and natural resources shall bear the full environmental and social costs of their activities.

- e) Good Governance and transparency: Rule of law, effective institutions, transparency and accountability, respect for human rights and the meaningful participation of citizens will be integrated in air quality management and environmental protection.
- f) Mainstreaming climate change: Section 19 of the Climate Change Act, 2016 requires county governments to mainstream climate change actions and the National Climate Change Action Plan across various sectors. Air quality management should be integrated in County Integrated Development Plans as a priority.
- g) **Human Rights:** The right to a clean and healthy environment in Article 42 of the Constitution is a fundamental right that should be protected at all levels of government.
- h) Intergenerational Equity: The Constitution of Kenya 2010 embodies the principle of Intergenerational Equity in Article 42 by requiring that the environment be protected for the benefit of present and future generations. The same is also provided in the Environmental Management and Coordination Act of 1999.
- i) Consultation and Cooperation between governments: Air quality regulation cuts across both levels of government and in accordance with Article 189 of the Constitution, governments at each level are required to cooperate in the performance of functions mandated by the Constitution.

#### 3.3. Chapter 3: Legal and regulatory Framework

3.3.1. The Constitution of Kenya

#### Mr. Speaker Sir,

a) The Constitution has addressed the issue of air pollution through provisions on environmental management and sustainability. Its promulgation in 2010 marked an important chapter in Environmental Policy legislation as it contains elaborate provisions on environmental management. The **Preamble** recognizes the environment as a heritage which should be respected and sustained for the benefit of future generations. **Article 10** of the Constitution highlights Sustainable Development as one of the principles of governance. Governments, including county governments should strive to ensure sustainability in every project they undertake to address issues affecting citizens and air pollution is one such issue.

- b) Kenya is party to international treaties and protocols relating to protection of the environment and control of air pollution which by virtue of **Articles 2 (5)** and **2 (6)** of the Constitution, form part of the laws of Kenya.
- c) The Constitution, **Article 42** guarantees the right to a clean and healthy environment, which includes the right to have the environment protected for the benefit of present and future generations through legislative and other measures.
- d) The Bill of rights in the Constitution provides for enjoyment of economic and social rights under **Article 43 (a-f)** which include the right to the highest attainable standard of health and to reasonable standards of sanitation. In the provision of these basic rights, the issue of inequalities in distribution of wealth and resources should be addressed.
- e) The Constitution, Article 21 places an obligation on the State to take legislative, policy and other measures including setting of standards, in order to achieve progressive realization of these fundamental rights provided for in Article 43. Counties should ensure the implementation of these basic rights.
- f) The Constitution has championed the protection of the environment through provision for environmental and natural resources principles in Article 69 which impose a duty on the state to maintain a tree cover of at least 10% and eliminate processes and activities that are likely to endanger the environment. Every citizen has a duty to cooperate with state organs and other persons to ensure that natural resources are used in an ecologically sustainable manner.

- g) The Constitution recognizes the distribution of functions and powers between the national and county governments under **Chapter 11.**
- h) The County Assemblies are empowered under **Article 185** to make any laws that are necessary for the effective performance of the functions and exercise of the powers of the county government under the Fourth Schedule, control of air pollution being one of them. The Assemblies may also receive and approve policies and plans that relate to the exploitation of the county's resources.

#### 3.3.2. Current policy and legislation

#### Mr. Speaker Sir,

Air quality standards in Kenya are guided by the following legislation both at the national and county level;

- a) The Environmental Management and Coordination Act, 1999
- b) The Forest Conservation and Management Act, 2016
- c) The County Governments Act, 2012
- d) The Climate Change Act, 2016
- e) The Intergovernmental Relations Act, 2012
- f) The Public Finance Management Act, 2012
- g) The National Environment Policy 2012
- h) The Kenya Climate Change Policy
- i) The National Land Use Policy
- j) Kenya National Adaptation Plan 2015-2030
- k) The Kenya Vision 2030
- The Environmental Management and Coordination (Air Quality) Regulations,
   2014
- m) The Nairobi City County Solid Waste Management Act, 2015
- n) The Nairobi City County Integrated Urban Management Plan (NIUPLAN)
- o) The Green Economy Strategy and Implementation Plan 2016-2030

- p) The Kenya Building Research Centre Strategy
- q) The National Climate Change Action Plan 2018-2022

#### 3.3.3. <u>Institutional arrangements</u>

Mr. Speaker Sir, the following institutional frameworks to ensure smooth implementation of the Environment Laws and Regulations;-

- a) Ministry of Environment and Forestry
- b) The National Environment Management Authority
- c) The Nairobi Metropolitan Service
- d) Kenya Meteorological Department
- e) The Kenya Bureau of Standards
- f) The National Environment Tribunal
- g) The National Climate Change Council
- h) The Environment and Land Court (ELC)
- i) County Environment Committees
- j) Sectoral Committee on Environment and Natural Resources

#### 3.4. Chapter 4: Emission Reduction Measures

#### Mr. Speaker Sir,

The County Government will put in place measures and interventions to promote clean air and reduce emissions of different pollutants as per the existing national and county laws, and in particular the Environmental Management and Coordination Act, 1999 (EMCA) that provides the framework for the overall management of the environment in Kenya, including the compliance and monitoring of air quality across all sectors such as transport, energy, and waste management, among others.

#### Mr. Speaker Sir,

The proposed measures will follow the Environmental Management and Coordination (Air Quality Regulations) 2014 that include provisions to reduce impacts of air pollution, guidelines to reduce greenhouse gas (GHG) emissions, and recommendations

of appropriate air pollution control technologies that apply to all internal combustion engines, premises, places, processes and operations from which emissions may occur.

Priority actions to target the following sectors, conscious of the *informality* of the major sectors that are key sources of both stationary and mobile pollutants in Nairobi City. The Climate Change Act 2016, Section 19 requires the county governments to integrate and mainstream climate change actions and the National Climate Change Action Plan (NCCAP) in all sectors.

#### Mr. Speaker Sir,

The NCCAP 2018-2022 seeks to ensure that Kenya achieves her Nationally Determined Contributions to the Paris Agreement, reduction of GHG emission being one of them. NCCAP therefore distributes the emission targets across different sectors in order to achieve the mitigation targets set.

#### Policy sectors for various sectors

#### 3.4.1. Policy statement for Transport sector

#### Mr. Speaker Sir,

- a) Update pre-existing air quality standards and strengthen enforcement capacity;
- b) Enforce regulations that promote non-motorized, non-polluting and efficient infrastructure for mass transport system;
- c) Enforce regulations that promote non-polluting modes of transport and clean mobility, carpooling;
- d) Invest in development of infrastructure that support alternative means of transport;
- e) Develop and expand road networks to include cycling paths and safe walking paths;
- f) Enhance monitoring and enforcement of compliance with sets fuel quality standards for petrol, diesel fuels, and any biofuels used in road vehicles as well as for gas oil used in non-road-mobile machinery;
- g) Develop incentives and disincentives for use of fuel-efficient vehicles; and

h) Expand private sector partnerships to speed up investments and technology in public transport.

#### 3.4.2. Policy statement for Waste management Sector

#### The County Government to:

- a) Update pre-existing air quality standards and strengthen enforcement capacity;
- b) Prohibit open burning of waste and invest in infrastructure to control and reduce emissions;
- Organize and carry out campaigns to raise awareness on the risks related to poor waste management and the resulting effects;
- d) Advance rethinking, reduction, re-use, recycling and recovery of waste;
- e) Invest in infrastructure suitable for effective waste management;
- f) Encourage public-private-partnership in waste management;
- g) Undertake public awareness and education campaigns in waste management techniques;
- h) Facilitate training in proper waste management practices and disposal systems (Reuse, Reduce, Recycle); and
- i) Develop a policy framework for medical waste management in compliance with international emission standards.

#### 3.4.3. Policy statement for Housing Sector

- a) Implement energy efficiency in buildings by raising building standards with an aim to reduce operational emissions;
- b) Ensure indoor air quality standards for workplaces, schools and hospitals are upheld as per the national occupational, health and safety standards.
- c) Invest in clean energy for use in cooking, cleaning and lighting and support renewable energy networks in construction;
- d) Develop incentives for safe and sustainable methods of construction;
- e) Invest in local sourcing, reusing or recycling of building materials in order to minimize pollution that results from construction processes;

- f) Partner with the private sector to support sustainable financial initiatives for green buildings;
- g) Monitor outdoor air quality and publicly publish the data in order to raise awareness on the effects; and
- h) Monitor indoor air quality and publicly share data in high occupancy areas for example informal settlements such as Mukuru kwa Njenga, Kibera, Juja, Dandora among others.

#### 3.4.4. Policy statement for Agriculture Sector

#### The County Government to:

- a) Ensure burning of agricultural residue and waste is limited by educating people on alternative waste management practices;
- b) Prohibit free surface spreading of liquid manure and encourage shallow injection instead;
- c) Encourage improved housing design for cattle to reduce ammonia emissions;
- d) Encourage the use of low emission mineral fertilizers;
- e) Train farmers on safe and best available agricultural practices that require minimal reliance on pesticides and herbicides;
- f) Conduct campaigns on the harmful effects of emissions from agricultural practices and their alternatives; and
- g) Encourage the adoption of smart agricultural practices such as the use of high quality seeds and planting materials that focus on adaptation mechanisms while simultaneously lowering GHG emissions.

#### 3.4.5. Policy statement for Energy Sector

- a) Update pre-existing air quality standards and strengthen enforcement capacity;
- b) Promote the use of alternative and best available technologies including improved cooking stoves that are non-polluting;
- c) Collaborate with the private sector to provide incentives and flexible payment plans for clean energy such as solar panels and gas;

- d) Promote the use of alternative sources of energy that are less polluting like solar energy;
- e) Create awareness on the all-round affordability of clean energy alternatives;
- f) Enact a policy that promotes the construction of energy efficient buildings with less reliance on artificial lighting through improvement of building insulation and lighting systems; and
- g) Collaborate with the private sector to facilitate transition towards a more sustainable and low carbon energy model.

#### 3.4.6. Policy statement for Industrial Sector

The County Government to:

- a) Develop and promote economic incentives for investment in more efficient, clean and environment-friendly production technologies;
- b) Promote corporate and social responsibility and accountability;
- Ensure compliance for all industrial sectors with at source emission and ambient air quality limits. Through the use of capacity tools such as monitoring station in Mukuru, Kimathi Avenue;
- d) Plan the County effectively by positioning industries away from residential areas to limit the effects of toxic emissions on human health;
- e) Enforce industrial emission limit values based on the Best Available Techniques (BAT); and
- f) Train the relevant actors in proper industrial waste management including treatment of waste before disposal to minimize air pollution.

#### 3.4.7. Policy statement for Cross Cutting sectors

- a) Mainstream air pollution into the County fiscal policies to support implementation measures for air quality standards.
- b) Ensure coordination across all its departments to ensure the integration of information and harmonizing responses to air pollution, data sharing and consultation on mutual issues.

#### 3.5. Chapter 5: Governance and Regulations

#### Mr. Speaker Sir,

The Nairobi City County Government will put in place governance mechanisms and regulations to promote cleaner air in Nairobi City and will do so in close collaboration with the National Government and counties within the Nairobi Metropolitan Region.

#### Mr Speaker Sir,

In line with Article 10 of the Constitution which identifies public participation as a binding national value during the implementation of any public policy or decision, or in the making or implementation of any law, the County Government recognizes the importance of developing strong partnerships with the different stakeholders, including residents, local communities, private sector and industry, NGOs and the wider public to ensure effective action for realizing clean air and improved health of Nairobi residents.

#### \* Policy statements \*

- a) Develop an Air Quality Legislation for the County;
- b) Put in place an appropriate institutional coordination mechanism within the County Government structure to enhance inter-sectoral coordination of air pollution mitigation measures across all sectors;
- c) Put in place an appropriate institutional coordination mechanism within the County Government structure to enhance coordination with other counties;
- d) Mainstream air quality into county planning processes, including the County Integrated Development Plans (CIDP), and the short to medium term budget making process;
- e) Regularly review and amend relevant sectoral laws and policies in order to integrate air pollution control measures and actions in respective sectors;
- f) Develop a framework and invest in tools for air quality monitoring;
- g) Put in place mechanisms for public consultation and participation in air quality management;

- h) Promote and support residents' associations, community groups and consumer organizations to create public awareness on the challenge of air pollution;
- i) Partner with the Nairobi Air Quality Unit to enhance institutional governance and assist in the coordination of issues relating to air pollution; and
- j) To develop tools that capture real time evidence, credible and reliable evidence to avoid corruption.

#### 3.6. Chapter 6: Research and Technology

#### Mr. Speaker Sir,

Innovation of new technologies through support of science and technology strive to provide at affordable cost emission controls to reduce exposure to and levels of air pollution concentration.

#### **Policy statements**

The County Government will partner with the research institutions and private sector to:

- a) Identify research and technology needs for effective air quality management, including technology development and diffusion;
- Enhance the capacity of the public and private sectors, civil society and research institutions to develop and utilize technological innovations for Air Quality Management;
- c) Identify and implement incentives for the private sector and institutions of higher learning to undertake Research and Development to support Air Quality Management measures;
- d) Promote the development of improved emission-tracking mechanisms in order to ascertain the risk and measure progress of pollution control strategies;
- e) Develop air purification mechanisms in industries and develop modern incinerators fitted with gas-cleaning equipment;
- f) Promote the use of open source and best available technologies including satellite imagery to identify pollution hotspots and guide decision making;

- g) Promote public awareness by disseminating near to real time air quality information through live streaming in public areas including on billboards and mobile phone platforms and;
- h) Partner with research institutions and the private sector to establish a data management center led by the County which will promote public awareness through the dissemination of information.

#### 3.7. Chapter 7: Education and Public Awareness

#### Mr. Speaker Sir,

Air quality communication involves understanding the status of air quality, the emission sources and impact on environment and human health. It is dependent on other components of air quality management. This information can be used to raise awareness of air pollution issues and foster voluntary behavioral change among key stakeholders.

#### Policy statements

The County Government will:

- a) In partnership with the private and public sector and research institutions, develop and maintain a publicly accessible air quality management database;
- b) Put in place a strategy for identifying, refining and disseminating air quality information and data to the public and other stakeholders in user-friendly formats;
- c) Ensure information on air quality is accessible to all citizens by having it in popular versions, translated into Kiswahili and also coded in a manner accessible to the visually and hearing impaired persons.
- d) Collaborate with private sector and civil society in disseminating air pollution information and knowledge through advocacy and public awareness raising programs;
- e) Promote campaigns for clean air, including car free days, regular tree planting and promotion of green and open spaces in urban areas including the restoration and revitalization of degraded areas;

f) Partner with educational institutions within the County to promote green initiatives such as organizing tree planting campaigns in schools to educate children on the importance of tree planting as carbon sinks and their role in ensuring clean air and mitigating the effects of air pollution;

#### 3.8. Chapter 8: Implementation Framework

#### Mr. Speaker Sir,

Implementation of Air Quality Policy priorities and other actions will require significant planning, including detailing the full cost to determine budgetary and other economic implications. This Policy will be implemented through specifically developed and fully costed Air Quality Action Plans commencing with the Nairobi City County Action Plan 2021 - 2025 and continuing through new and amended action plans developed in at least five-year intervals. In addition, the Policy will be implemented through enactment of a Nairobi City County Air Quality Bill and a Nairobi City County Air Quality Regulations.

#### **Policy statements**

- a) Enact a Nairobi City County Air Quality Bill to provide for a comprehensive legal framework for air quality;
- b) Enact a Nairobi City County Air Quality Regulations to operationalize the Nairobi City County Air Quality Bill and related national frameworks on air pollution;
- c) Prepare and implement comprehensive, fully priced and periodically reviewed Air Quality Action Plans under the framework of this Policy;
- d) Ensure that climate related interventions in the Air Quality Action Plan (2019-2023) and the CIDP are aligned with the Air Quality Policy to facilitate its implementation;
- e) Enact policies and programmes to tackle climate change through the reduction of carbon dioxide emissions and effective management of County resources;

- f) Undertake programs to raise awareness on climate change and air pollution and promote behavioral change;
- g) Adopt measures to move towards more sustainable energy sources through decarbonising the County's energy supply, reducing the energy consumption and supporting measures for moving towards zero emission transport;
- h) Facilitate continuous consultations and public awareness across all sectors, interest groups and the public;
- i) Develop emission inventories that show what pollutants are emitted into the air, the peak period and their sources as well as their dispersion;
- Establish sampling stations across the city that take regular measurements of emissions, to constitute the air quality monitoring network with a capacity for real to near real time data flow; and
- k) Build capacity by working with experts across scientific and policy implementation fields.

#### 3.9. Chapter 9: Resource Mobilization

#### Mr. Speaker Sir,

A clean air quality action plan is necessary for Nairobi air quality management because it will enable the government as well as wider stakeholders to mobilize resources in the most effective and efficient manner to achieve air quality objectives. The National Climate Change Action Plan (NCCAP) establishes the County Climate Fund which is designed to finance adaptation in local climate change issues.

#### **Policy statements**

- a) Allocate resources for air quality management actions in the county budgetary processes;
- b) Build capacity to mobilize and enhance absorption of resources for air quality management interventions;

- c) Mobilize finances to fund implementation of this Policy and the associated Air Quality Action Plans from internal and external sources; and
- d) Promote the use of green investments by establishing funds such as a Green Bond through a private public partnership arrangement to facilitate funding of air quality management processes across the County.
- e) Ensure the policy maximizes the opportunities of the climate finance fund/policy (Climate Fund Policy 2017) to fund the implementation of this policy.

#### 4.0. KEY COMITTEE OBSERVATIONS

My speaker Sir, while examining the said Sessional Paper, the Committee observed the following amongst others;

#### That,

- The policy was developed as a response to various persistent challenges facing the Members of the Public in particular that threaten the health, safety, comfort, convenience;
- ii) The policy is essential in ensuring that the Nairobi Beautification Initiative is achieved. That Nairobi was once a clean and green city and it is through such effort and perhaps enactment of consequent legislation that it regain its lost glory;
- iii) Implementation of Air Quality Policy priorities and other actions will require significant planning, including detailing the full cost to determine budgetary and other economic implications. This Policy will be implemented through specifically developed and fully priced Air Quality Action Plans commencing with the Nairobi City County Action Plan 2021 2025 and continuing through new and amended action plans developed in at least five-year intervals. In addition, the Policy will be implemented through enactment of a Nairobi City County Air Quality Bill and a Nairobi City County Air Quality Regulations;
- iv) Air quality communication involves understanding the status of air quality, the emission sources and impact on environment and human health. It is dependent on other components of air quality management. This information can be used to raise awareness of air pollution issues and foster voluntary behavioral change among key stakeholders. This means that in Nairobi County, there is a low level of awareness among various stakeholders [19]. Hence, the County Government of Nairobi should emphasize community ownership of air quality issues in order for its citizens to understand the effects;

- v) Research and technology may provide sustainable solutions to the air pollution challenges faced by the county. Air quality monitoring networks using emerging technologies have provided innovative, efficient and effective ways of measuring the levels of particulate matter, sulphur dioxide, nitrogen dioxide and carbon monoxide in the air. These measurements have been used to establish whether the city's air quality meets the WHO guidelines;
- vi) There is urgent need to put in place governance mechanisms and regulations to promote cleaner air in Nairobi City and will do so in close collaboration with the National Government and counties within the Nairobi Metropolitan Region;
- vii)It is further observed that multi-sectoral approach is recommended in mitigation of the air pollution within the County and beyond. For instance the Committee observed that the risks posed by air pollution are systemic and interlinked, with major effects on human health, education, finance, urban planning and the general environment;
- viii) Use of fossil fuels such as coal, diesel and petrol to generate power is a source of air pollutants such as nitrogen oxides, sulphur oxides, particulate matter, carbon monoxide and heavy metals. Thus, Communication, awareness raising and advocacy on the benefits of using clean energy for cooking and lighting will help the population transition from using harmful biomass fuels and kerosene. The county government should collaborate with the private sector to come up with solutions that ensure affordability of clean energy;
- ix) The County need targeted interventions that inform urban development, encourage greener policy actions to mitigate the effects of air pollution on human health and environment are needed for Nairobi City County. This should align with the existing policy framework, the County Integrated Development Plan (CIDP) and the Nairobi County Integrated Urban Management Development Plan (NIUPLAN) and

x) The policy will help develop a workable framework to bridge the perceived gap between legislation, regulation and industry realities within Nairobi County.

#### 4.1. Challenges observed during the consideration of the Sessional Paper

Mr. Speaker Sir, the Committee is fully aware legal requirement of having public participation as enshrined the Article 196(b) of the Constitution of Kenya which expressly states that; 'The County Assembly shall facilitate public participation and involvement in the legislative and other business of the assembly and its committees'.

Mr. Speaker Sir, the Committee is also alive to the realities and challenges that for instance due to social restrictions placed on movements and social contacts as occasioned by the noble Covid-19 Pandemic, the public participation on the proposed legislation would not be fully achieved.

Mr. Speaker Sir, in the previous Assembly sessions, before Covid-19 Pandemic became a global menace and before Ministry of Health issued advisory and guidelines on social gatherings, the Assembly conducts physical public gatherings in the seventeen (17) subcounties. In such, physical public participation, Committee coordinates and with support of the legal counsels takes the members of the public through the provisions of the aforementioned Policy.

Mr. Speaker Sir, in the case of this Sessional Paper however, the Committee thus noted that physical public participation would not be possible. It would be very difficult controlling group (s) of people from various sections of society and would definitely risk the lives of more people getting exposed to the dangers posed by the global pandemic of Covid-19 rather than mitigating the problem.

The Committee expected therefore to receive written views on the Sessional Paper from members of the Public and Stakeholders. However, this was not very successful as none of the stakeholders and members of the Public responded either in terms of verbal or written submissions.

#### 4.2. Submissions made before the Policy was laid on the floor of the Assembly

However, it must be noted that during the prepublication scrutiny of the Document (before the sessional was laid before the Assembly and committal to the Committee), the Committee was taken through provisions contained in the said policy document and thereafter engaged in lengthy deliberations during a workshop which was organized by the Nairobi Metropolitan Services and held in Mombasa at Travellers Beach Hotel from 20th to 25th October, 2020.

Besides, the Committee, the Nairobi Metropolitan Services (NMS) invited key legal, environment experts and program officers particularly from the United Nations Environment Program, Strathmore University, Stockholm Environment Institute who part from giving expert input also provided financial and technical assistance in the drafting of the comprehensive but clear Draft Air Quality Policy document which was later forwarded to the Assembly for consideration.

It was at the workshop that the Nairobi Metropolitan Services (NMS), the Sector County Executive Committee and the Committee came into consensus after sieving through the said document. Therefore, the laid sessional paper contained all the views, suggestions and recommendations of the Nairobi Metropolitan Services (NMS) and the Sector County Executive Committee.

#### 5.0. KEY COMMITTEE RECOMMENDATIONS

#### Mr. Speaker sir,

The Committee recommends that this Assembly approves the Nairobi City County Sessional Paper No. 2 of 2020 on Air Quality with the following recommendations; -

- That past, present and future undertakings in regards to Air Quality be done
  within the framework of the Nairobi City County Sessional Paper No. 2 of 2020
  on Air Quality and the recommendations of this report;
- 2. That the County should set out clear priorities and adequate budgetary allocations for Air Quality programmes;
- 3. That the Nairobi City County should collaborate with National Government in terms of adopting regulations in order to promote cleaner environment; and
- 4. That upon adoption of this report, the Assembly considers a Bill on Air Quality and enacts it into a law.

## MINUTES OF THE 26<sup>TH</sup> SITTING OF THE NAIROBI CITY COUNTY ASSEMBLY SECTORAL COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES ON TUESDAY, 18<sup>TH</sup> MAY, 2021 VIRTUALLY AT 7:30PM

#### **PRESENT**

1)	Hon.	John Kamau,	<b>MCA</b>

- 2) Hon. Joseph Ndonji, MCA
- 3) Hon. Wahinya Njau Peter, MCA
- 4) Hon. Solomon Magembe, MCA
- 5) Hon. Joyce Muthoni, MCA
- 6) Hon. Francis Ngesa, MCA
- 7) Hon. Millicent Okatch, MCA
- 8) Hon. Anthony Kiragu, MCA
- 9) Hon. Peter Imwatok, MCA
- 10) Hon. Leah Supuko, MCA
- 11) Hon. Anthony Kimemia, MCA
- 12) Hon. Rose Masitsa, MCA
- 13) Hon. Eunice Wanjiku, MCA
- 14) Hon. Jacinta Wanjiru, MCA
- 15) Hon. Wanjiru Kariuki, MCA
- 16) Hon. Emily Waithaka Wanjiku
- 17) Hon. James Mwangi, MCA
- 18) Hon. Margaret Mbote, MCA
- 19) Hon. Redson Onyango, MCA
- 20) Hon. Laura Mwende, MCA
- 21) Hon. Michael Ogada, MCA

#### ABSENT

- 1) Hon. Joseph Wambugu, MCA
- 2) Hon. John Kamangu, MCA
- 3) Hon. Evans Otiso, MCA
- 4) Hon. Fuad Hussein, MCA

#### **SECRETARIAT**

- 1) Mr. Guyo Sankala Snr. Clerk Assistant
- 2) Ms. Yvonne Wamucii Researcher

#### **AGENDA**

- 1) Preliminaries (prayers & adoption of the Agenda)
- 2) Adoption of the Sessional Paper No. 2 of 2020 on Air Quality

#### Chairperson

Vice Chairperson

- 3) Any Other Business
- 4) Adjournment

#### MIN.078/MAY/2021 - PRELIMINARIES

The Committee Chairperson called the meeting to order at 7:30pm after leading the members in a word of prayer. He welcomed and thanked everyone for taking his or her time to attend the Meeting. He then took the members through the agenda of the sitting.

Agenda was confirmed after being proposed by Hon. James Mwangi and Hon. Rosemary Masitsa.

### MIN.079/MAY/2021 ADOPTION OF SESSIONAL PAPER NO. 2 OF 2020 ON AIR QUALITY

Having considered the Sessional Paper on Air Quality, the Committee unanimously adopted it after being proposed and seconded by Hon. Anthony Kimemia and Redson Onyango respectively.

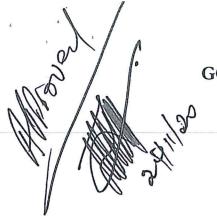
#### MIN.080/MAY/2021 - ANY OTHER BUSINESS

There was no any other business considered by the Committee.

#### MIN.081/ MAY/2021 -ADJOURNMENT

There being no other business considered by the Committee the meeting was adjourned at 7:44pm.

CONFIRMED AS TRUE COPY OF THE PRO	CEEDINGS	011 1 21
CHAIRPERSON.	DATE	26/05/10
SNR. ASSISTANT	DATE	26th May 2021



GOVERNMENT OF NAIROBI CITY COUNTY



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THE NAIROBI CITY COUNTY ASSEMBLY

OFFICE OF THE CLERK

#### SECOND ASSEMBLY-FOURTH SESSION

NBI CA. PLC. 2020 / (65)

24th November, 2020

#### PAPER LAID

Pursuant to Article 185(4) of the Constitution of Kenya, I beg to lay the following Paper on the Table of the Assembly, today Tuesday 24th November, 2020.

THE SESSIONAL PAPER NO. 2 OF 2020 ON NAIROBI CITY COUNTY AIR QUALITY POLICY.

(The Leader of Majority Party)

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

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