

GOVERNMENT OF NAIROBI CITY COUNTY



THE NAIROBI CITY COUNTY ASSEMBLY

OFFICE OF THE CLERK

**SECOND ASSEMBLY
(FIFTH SESSION)**

NCCA/TJ/PL/2021(16)

15th June 2021

PAPER LAID

Pursuant to Standing Order 191, I beg to lay the following Paper on the Table of the Assembly, today Tuesday 15th June, 2021:

— **THE REPORT OF THE SECTORAL COMMITTEE ON HEALTH SERVICES ON WORKSHOP HELD FROM 5TH TO 6TH MARCH 2021 AT GRAND ROYAL SWISS HOTEL, KISUMU.**

(Chairperson, Sectoral Committee on Health Services)

Copies to:
The Speaker
The Clerk
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NAIROBI CITY COUNTY



NAIROBI CITY COUNTY ASSEMBLY

SECOND ASSEMBLY - FIFTH SESSION

REPORT OF THE SECTORAL COMMITTEE ON HEALTH SERVICES

ON

WORKSHOP FOR MEMBERS

HELD AT GRAND ROYAL SWISS HOTEL, KISUMU COUNTY

Clerks Chambers
City Hall Buildings
NAIROBI

JUNE, 2021

TABLE OF CONTENTS

PAGE

PREFACE.....	3
Secretariat.....	4
INTRODUCTION.....	6
PROCEEDINGS OF THE WORKSHOP.....	6
SESSION 1: OFFICIAL OPENING	6
SESSION 2: NAIROBI CITY COUNTY FOOD SAFETY AND FORTIFICATION BILL ..	6
OBJECT OF THE ACT	7
ADMINISTRATION AND CORDINATION	8
i) Establishment of a Directorate	8
ii) County Interagency Coordination Committee	9
FOOD SAFETY AND FORTIFICATION	10
Production of food articles and raw materials.....	10
Conditions for sale of food in public places.....	10
Premises not to be used unless licensed	11
Food handlers' certificates.	11
SESSION 3: NAIROBI CITY COUNTY ENVIRONMENTAL HEALTH AND SANITATION BILL	12
Memorandum of Objects and reasons	12
General guiding principles of the Act	12
Administration and Coordination	13
Provision of Sanitation Services	14
Licencing requirements	14
Prevention and Control of Infectious diseases	15
Food safety and quality control	15
PLENARY.....	16
CONCLUSION.....	17

PREFACE

Hon. Speaker,

01. The Sectoral Committee on Health Services 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 analyze 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 196(Committee on Appointments): and
- g) make reports and recommendations to the County Assembly as often as possible, including recommendation of proposed legislation.

02. Specifically, and in accordance with the Third Schedule of the Standing Orders, the Sectoral Committee on Health Services is mandated to consider all matters relating to: - *“health services, including, in particular County health facilities and pharmacies, ambulance services, promotion of primary health care, licensing and control of undertakings that sell food to the public, veterinary services (excluding regulation of the profession), cemeteries, funeral parlours and crematoria.”*

Hon. Speaker,

01. This Report contains the deliberations of the Health Services Committee on the draft Nairobi City County Food and Safety and Fortification Bill and the draft Nairobi City County Environmental Health and Sanitation Bill

The Committee comprises the following members:

1. **Hon. Peter Warutere, MCA** - Chairperson
2. **Hon. Anita Thumbi, MCA** - Vice Chairperson
3. Hon. Beatrice Gakuru, MCA
4. Hon. Julius Maina, MCA
5. Hon. Chege Mwaura, MCA
6. Hon. June Ndegwa, MCA
7. Hon. Charles Thuo, MCA
8. Hon. Silvia Museiya, MCA
9. Hon. John Mukiri Ng'ang'a, MCA
10. Hon. Naftaly Mathenge, MCA
11. Hon. Samora Mwaura, MCA
12. Hon. Nancy Muthami, MCA
13. Hon. Naftali Ogola, MCA
14. Hon. Moses Ogeto, MCA
15. Hon. Jairus Omayo, MCA
16. Hon. Patrick Longendi, MCA
17. Hon. Stazo Omung'ala, MCA
18. Hon. Nimo Hajji, MCA
19. Hon. Maurice Gari, MCA
20. Hon. Emily Odenje Oduor, MCA
21. Hon. Maurice Ochieng', MCA
22. Hon. Paul Shilaho, MCA
23. Hon. Alvin Palapala, MCA
24. Hon. Catherine Okoth, MCA
25. Hon. David Mbithi, MCA

Secretariat

02. The Committee Secretariat comprised of the following officers: -

- i) Mr. Wilfred Manyi (Senior Clerk Assistant)
- ii) Ms. Mercy Senewa (Clerk Assistant)
- iii) Ms. Faith Wanjiru (Office Assistant)

Hon. Speaker,

Hon. Speaker,

The Committee Members attended the workshop at Grand Royal Swiss Hotel in Kisumu County to be deliberate on two draft Sector legislations namely:-

- The Nairobi City County Food Safety and Fortification Bill; and,
- The Nairobi City County Environmental Health and Sanitation Bill

The workshop proceeded in various sessions where an Officer from the Assembly Legal office made presentations tackling salient areas of the two bills as follows: -

- i) Introduction*
- ii) Memorandum of objects and reasons*
- iii) General guiding principles*
- iv) Administration and Coordination*
- v) General provisions of the Bills*

In addition, at the end of each session a plenary was held where Members reacted to the presentations by way of questions and general comments.

Hon. Speaker,

The Committee is grateful to the Offices of the Speaker and the Clerk of the County Assembly for facilitating the workshop. The Committee also extends its appreciation to the secretariat who have remained supportive to ensure the Committee is well guided.

It is now my honor, on behalf of the Committee to present and recommend this report to the County Assembly.

SIGN.....

DATE.....

Hon. Peter M. Muriithi, MCA - Chairperson

REPORT OF THE PROCEEDINGS OF THE WORKSHOP FOR THE MEMBERS OF HEALTH SERVICES COMMITTEE HELD ON 5TH – 6TH MARCH, 2021, AT THE GRAND ROYAL SWISS HOTEL, KISUMU COUNTY

INTRODUCTION

1. The workshop was held in order to take Members through in-depth deliberations of the two Sector draft legislations intended to implement the right of every person to sanitation and clean and health environment and also to create an enabling environment for food safety and fortification by improving policy, leadership and governance for food fortification as envisaged in Article 43 (1) (b) & (c) of the Constitution of Kenya, 2010
- The workshop was to assist Members of the Committee to understand thematic areas of the proposed legislations and discuss ways the same could be strengthened.

PROCEEDINGS OF THE WORKSHOP

2. Several presentations on the two proposals were made by the facilitator during the retreat period and were discussed per session as follows: -

SESSION 1: OFFICIAL OPENING

3. The Chairperson officially opened the workshop and stated the importance of understanding the two Sector draft legislations. It was also stated that law making remained one of the cardinal roles of the Assembly; and as such, it was imperative for the Committee to have in-depth discussions that will culminate into legislations that are watertight and people-focused to stand test of time.

SESSION 2: NAIROBI CITY COUNTY FOOD SAFETY AND FORTIFICATION BILL

Session Chair: - Hon. Peter M. Warutere, MCA – Chairperson.

Presenter: Ms. Flora Savai – Legal Officer

The facilitator commenced with introduction and submitted that:-

- **Short title** of the draft Bill was the Nairobi City County Food Safety and Fortification Bill, 2021
- **Part 1** dealt with the title and object of the Bill where the **Long title** was to read as Bill for an Act of the Nairobi City County Assembly to give effect to Article 43, 46, schedule 4 Section 2 (2) of the Constitution, the County Governments Act, 2012 and for connected purposes
- Article 43 of the CoK, 2010 on Economic and Social rights provides for right to highest standards of health, accessible and adequate housing and reasonable standards of sanitation, free from hunger and adequate food of acceptable quality, clean and safe water in adequate quantities
- Art 46 of the CoK, 2010 on Consumer rights provides for right to goods and services of reasonable quality and protection of their health, safety and economic interests

OBJECT OF THE ACT

The facilitator stated that the Bill aimed to:-

- Ensure production, storage, distribution and consumption of safe and fortified food product to the consumer at all time
- Create an enabling environment for food safety and fortification by improving policy, leadership and governance for food fortification;
- Strengthen regulatory monitoring of fortified foods at the industry and market levels;
- Increase demand and consumption of safe and adequately fortified foods;
- Monitor and evaluate food safety and food fortification programme performance at the industry, market and household levels.
- Provide a framework for resource mobilization, financing and performance management for Food safety and fortification

ADMINISTRATION AND CORDINATION

The Committee was informed about the role of County Executive Committee Member responsible for Health Services in administration and coordination of this Act as follows:-

- Further the objects of this Act by taking action to preserve, protect or promote food safety and fortification for improved health within the county;
- Promote national standards for food safety and fortification within the county to ensure compliance with this Act;
- Develop policies and guidelines that are relevant to identifying risks/barriers to food safety and fortification; or improving quality management system at production, storage and distribution of safe and fortified foods to the extent that may be necessary, practicable or desirable, to cooperate and coordinate with national or international actors consistent with the objects of this Act
- Primary source of advice to the Government on health preservation, protection and promotion; and,
- Any other functions assigned to the County Executive Committee member by this Act

i) Establishment of a Directorate

The facilitator stated that the bill established a Directorate in the County Government that will be responsible for environmental health and sanitation matters and was to be known as the Directorate of Environmental Health and Sanitation.

The Directorate was to have the following powers and functions: -

- Undertake the promotion and preservation of public health through the enforcement of environmental health and sanitation laws and standards throughout the county;
- Monitor food hygiene, environmental pollution, vector control and waste management within the jurisdiction of the county;

- Develop and implement county policies and plans to ensure maximum enjoyment of the right to reasonable standards of sanitation and provision of appropriate sanitation services to the people in urban and rural areas having regard to those who cannot afford such services by reason of vulnerability or marginalization;
- Enhance sector-wide and cross-sector coordination by developing annual, medium term and long term plans to guide the environmental health and sanitation sector and its intersection with other related sectors;
- Develop, administer and coordinate environmental health and sanitation activities and interventions which shall include public health, preventive and rehabilitative programmes;
- Issue licenses or permits for sanitation services where the powers are vested in the Department by law or executive order issued in accordance with the law;
- Develop mechanisms for public participation, public awareness, education and stakeholder engagement in environmental health and sanitation; and,
- Promote and co-ordinate human resources development and institutional capacity within the County to effectively implement environmental health and sanitation programmes

ii) County Interagency Coordination Committee

- It was stated that the Nairobi City County Food and Safety and Fortification Bill, 2021 also provided for establishment of a County Inter-agency Coordination Committee whose objective is to ensure a coordinated, efficient, effective and consultative approach to environmental health and sanitation and may for that purpose, formulate county policies; implement, monitor, evaluate and review strategies; and mobilize resources for purposes of administration of this Act.

The County Inter-agency Coordination Committee is be composed of:

- CECs responsible for environmental health and sanitation(chairperson); Chief officer(sec) water affairs; environment affairs; trade affairs; agriculture and veterinary affairs; public works and roads affairs; and,
- Key civil society and private sector stakeholder bodies Food Safety and Fortification

FOOD SAFETY AND FORTIFICATION

The facilitator took members through part III of the thematic area of the bill and highlighted as follows:-

Production of food articles and raw materials.

- Every person who owns, operates or is in charge of the growing, harvesting or production of food articles or raw materials to be used in the preparation of food shall ensure that such operations are conducted under clean and sanitary conditions free from any contamination.
- Notwithstanding the generality of sub-section (1), the harvesting operations for food articles or raw materials shall ensure that: -
 - (i) unfit food articles or raw materials are **segregated** out during harvesting and disposed of in such place and such manner that they may not contaminate any other food or water supply; and,
 - (ii) harvesting devices do not constitute a source of contamination to food articles or raw materials.
- A producer of fortified food articles is required to have the right technical and infrastructural capacity in terms of the right human resources, technology and sustainable micro-nutrient.

Conditions for sale of food in public places

- No person shall sell, prepare, manufacture, store, transmit, or otherwise offer for sale any food for human consumption which is: -
 - i) Rotten, stale, unwholesome or unripe foods which are likely to harm the human body;
 - ii) Foods which contain or are likely to contain poisonous or harmful substances;
 - iii) Foods that are or are likely to be contaminated by microbes which may cause disease or harm to the body; or
 - iv) Foods that is likely to harm the human body due to uncleanness or adulteration.

Premises not to be used unless licensed

- No person shall sell, prepare, package, store, distribute or display any food for sale in a fairground, public park, market, streets or similar places or event unless he/she is authorized by the Chief Officer responsible for environmental Health and Sanitation
- No person shall sell, prepare, package, store, distribute or display fortified foods that do not comply with the Fortification Standards.

Food handlers' certificates.

- No person shall be employed in the preparation of food in a food premise without a valid food handler's certificate issued by the County Government department responsible for environmental health and sanitation.
- Any operator or owner of a food premise who employs or engages food handlers who do not have valid food handler's certificate shall be guilty of an offense.
- Any person who contravenes the requirements of this section shall be guilty of an offense and punishable;
- A fine not more than 50,000 Kenya Shillings or imprisonment of a term not exceeding 6 months or both;
- Subsequent offender a fine not more than 100,000 Kenya Shillings or imprisonment of a term not exceeding 12 months or both.
- An authorized officer may issue a notice prohibiting the sale, preparation, packaging, display or distribution of food in a premises on grounds of public health.
- Any person who contravenes the requirements of this section shall be guilty of an offense and punishable;
- First offender a fine not more than 200,000 Kenya Shillings or imprisonment of a term not exceeding 12 months or both

SESSION 3: NAIROBI CITY COUNTY ENVIRONMENTAL HEALTH AND SANITATION BILL

Session Chair: - Hon. David Mbithi, MCA

Presenter: Ms. Flora Savai – Legal Officer

The facilitator and submitted that:-

Memorandum of Objects and reasons

- The Bill being a prototype bill aims to assist every County Government formulate enabling legislation to implement the right of every person to sanitation and clean and healthy environment.
- The social costs attached to poor environmental health and sanitation and the economic loss caused by preventable diseases, all make the protection and improvement of public and environmental health outcomes and the control of conditions that impact on public and environmental health foremost policy imperatives/vitals.
- Its main policy objective is therefore to tackle the social and economic costs attached to poor environmental health and sanitation and preventable diseases and to give effect to the right to reasonable standards of sanitation and the right to a clean and healthy environment through service provision.
- The primary object of the Act is to promote and protect environmental health and the wellbeing of individuals and communities in all counties across the country

General guiding principles of the Act

- **Part II** of the Act establishes the general principles underpinning the interpretation, application and enforcement of the Act.
- These principles are derived from the applicable constitutional provisions, the international human rights framework and other general principles and jurisprudence relating to environmental health and sanitation.
- They include:-
 - i) National values and principles of governance under Article 10 of CoK, 2010

- ii) Creation of enabling environment,
- iii) Allocation of financial and administrative resources
- iv) Public participation by users beneficiaries and stakeholders in matters sanitation
- v) Promotion of fair administrative action
- vi) Delegation of functions and the right to reasonable standards of sanitation;
Every person has the right to reasonable standards of sanitation, which includes the right to seek redress where the right has been, is being or is likely to be, denied, violated, infringed or threatened, in a court or tribunal of competent jurisdiction in addition to any other legal remedies that are available in respect of the same matter.

Administration and Coordination

- Part III establishes an institutional framework for administration of the Act; CEC as the top of the chain of administration.
- A Directorate responsible for environmental health and sanitation matters is established, whose functions shall include, among other things, the promotion and preservation of public health through the enforcement of the provisions of the Act or regulations made thereunder.
- The Act also establishes a County Inter-agency Committee whose objective is to ensure a coordinated, efficient, effective and consultative approach to formulation of policies, regulation, monitoring and mobilization of resources for environmental health and sanitation activities in the county.
- Functions of the CEC responsible for environmental health and sanitation include;
 - i) Furthering the objects of this Act by taking action to preserve, protect or promote environmental health and sanitation within the county;
 - ii) Promoting proper standards of environmental health and sanitation within the county by ensuring that adequate measures are taken to give effect to the provisions of this Act and to ensure compliance with this Act;

- iii) Developing policies or codes of practice that are relevant to —
- iv) Identifying risks to environmental health; or
- v) Setting standards in connection with any activity, material, substance or equipment relevant to environmental health and sanitation; or
- vi) Providing for other matters relevant to the operation or administration of this Act, for matters that may be subject to regulations under this Act, or for such other matters as the County Executive Committee member thinks fit

Provision of Sanitation Services

- Part IV prescribes requirements in respect of the provision of sanitation services. It specifies the duty of the County Government to provide sanitation services, duty of sanitation service users and manner of application for a license to be a sanitation service provider and the conditions for the grant or renewal of a license. The Part further provides for the revocation or surrender of a license.
- Establishment of a sanitary Authority and Sanitary Service providers whereby Nairobi City County is designated as the Authority.
- The County Government may perform the function of sanitation service provision through the department responsible for environmental health and sanitation or it may arrange for the exercise and performance of that function by one or more agents, to be known as a sanitation service provider.

A sanitation service provider shall be responsible for –

- the provision of sanitation services within the area specified in its authorizing legislation, regulations, order or license; and the development of assets for sanitation services provision.

Licencing requirements

- No person may operate as a sanitation service provider by way of a business or for payment of service charges without the approval of the County Government or any other sanitary authority.
- Any approval in terms of sub-section (1) –shall be for a prescribed period; and may be granted subject to conditions.

- Any person who, at the commencement of this Act, was acting as a sanitation services provider without approval from the County Government, may continue to do so until the expiry of reasonable notice, which notice must not be longer than one year, given by the County Government or any other sanitation authority-
 - Application for sanitation service provision licenses.
- Any person may apply to the County Government for a licence to operate a utility or to be a service provider.
- An application shall be accompanied by an environmental health impact assessment issued under regulations made under this Act or any other written law.

Prevention and Control of Infectious diseases

- PART V deals with prevention and control of infectious diseases. This Part specifies precautions to be taken in respect of infectious diseases and the powers of the County Executive Committee member responsible for health, Chief Officer or Director in respect of the prevention and containment of infectious diseases.
- Requirement to notify of infectious diseases- public health officer or officer in charge of health in the nearest government health facility. Contravention of this amounts to an offence
- Declaration of an infected Local Area - The County Executive Committee member may, where he or she is satisfied that there is an outbreak of an infectious disease in any area within the jurisdiction of the county, or that any area is threatened with an epidemic of any infectious disease, by order published in the Gazette, declare such area to be an infected local area.

Food safety and quality control

- Part VI establishes standards for food quality, hygiene and safety.

- This Part stipulates requirements in respect of food handlers and food establishments generally and the functions of the County Government in respect of licensing and control of undertakings that sell food to the public.
- Every person who owns, operates or is in charge of the production of food articles shall ensure that such operations are conducted under clean and sanitary conditions free from any contamination.
- A producer of fortified food articles is required to have the right technical and infrastructural capacity in terms of the right human resources, technology and sustainable micronutrient
- Conditions for sale of food in public places. No person shall sell, prepare, manufacture, store, transmit, or otherwise offer for sale any food for human consumption which is: -Rotten, stale, unwholesome or unripe foods; Foods which contain poisonous or harmful substances; Foods that are contaminated by microbes; or Foods that are adulterated; Damaged or deformed food articles

PLENARY

- During plenary, Members sought the following clarifications:-
 - a) If Committee can consider bills that cut across sectors
 - b) How a policy is approved by the Executive before submission of a bill for consideration by a Committee of the County Assembly
 - c) The procedure and order of dispensing with clauses during the Committee of the Whole house
- In response, the presenter informed as follows:
 - a) A special Committee can be established by the Assembly to deal with legislative proposal that cuts across various Sectors
 - b) The County Executive must first develop a policy before submitting any Bill to the Assembly.
 - c) The policy is approved at the County Executive meeting before a bill is generated and submitted to Assembly after it goes to the legal team and public participation steered by the Executive

- d) That in dispensing with Clauses of a Bill during Committee of the Whole house, the order commences with clauses three, new clauses, schedules, new schedules, interpretation then clause one and then title.
- e) Clauses without amendments need not appear in the Order Paper and need not be debated

CONCLUSION

— The workshop for the Committee on deliberations of the draft Nairobi City County Food and Safety and Fortification Bill and the draft Nairobi City County Environmental Health and Sanitation Bill was successful as Members gained infallible knowledge on salient areas of the proposed legislations. The Committee committed to engage more with the Directorate of Health Services, Nairobi Metropolitan Services for purposes of pulling necessary synergies in passage of these key Sector legislations.

XXXXXXXXXXXXXXXXXXXXXXXXXENDSXXXXXXXXXXXXXXXXXXXX

**MINUTES OF THE 12TH MEETING OF THE NAIROBI CITY COUNTY ASSEMBLY
COMMITTEE ON HEALTH SERVICES HELD ON WEDNESDAY 28TH APRIL, 2021
THROUGH VIDEO TELECONFERENCING AT 10.00 AM**

PRESENT

1. Hon. Peter Warutere, MCA -Chairperson
2. Hon. Beatrice Gakuru, MCA
3. Hon. Emily Oduor, MCA
4. Hon. Jairus Omay, MCA
5. Hon. Naftali Ogola, MCA
6. Hon. Stazo Omung'ala, MCA
7. Hon. John Mukiri Ng'ang'a, MCA
8. Hon. Julius Maina, MCA
9. Hon. Maurice Gari, MCA
10. Hon. Chege Mwaura, MCA
11. Hon. Paul Shilaho, MCA
12. Hon. Patrick Longendi, MCA
13. Hon. Nancy Muthami, MCA
14. Hon. Charles Thuo, MCA
15. Hon. Moses Ogeto, MCA

ABSENT WITH APOLOGIES

1. Hon. David Mbithi, MCA
2. Hon. Alvin Palapala, MCA
3. Hon. June Ndegwa, MCA
4. Hon. Naftaly Mathenge, MCA
5. Hon. Nimo Hajji, MCA
6. Hon. Maurice Ochieng', MCA
7. Hon. Catherine Okoth, MCA
8. Hon. Samora Mwaura, MCA

SECRETARIAT - COUNTY ASSEMBLY

Mr. Wifred Manyi - Senior Clerk Assistant

MIN No. 50/HSC/APRIL/2021 - PRELIMINARIES

The meeting was called to order at 10.00am and commenced by Word of Prayer said by the Chairperson, Hon. Peter Warutere, MCA

MIN No. 51/HSC/APRIL/2021- ADOPTION OF THE AGENDA

The agenda of the meeting was adopted having been proposed by Hon. Nancy Muthami, MCA and seconded by Hon. Jairus Omay, MCA as follows: -

- 1) *Prayer*
- 2) *Confirmation of previous minutes*
- 3) *Adoption of Report of Committee Retreat held from 4th -7th March, 2021 in Kisumu County*
- 4) *Any Other Business*
- 5) *Adjournment*

MIN No. 52/HSC/APRIL/2021– CONFIRMATION OF PREVIOUS MINUTES

- The Members were taken through the minutes of the 6th meeting held on Wednesday 10th March, 2021. They were adopted having been Proposed by Hon. Nancy Muthami, MCA and seconded by Hon. Julius Maina, MCA as the true record of the proceedings of the meeting

MIN No. 53/HSC/APRIL/2021– ADOPTION OF COMMITTEE REPORT

- The Committee was informed that two draft bills proposed by the Directorate of Health Services, Nairobi Metropolitan Services which were discussed during the Committee retreat were the Nairobi City County food safety and fortification bill and the Nairobi City County environmental Health and Sanitation Bill
- The draft bills intended to give effect to Articles 43 and 46 of the Constitution of Kenya, 2010 on economic and social rights and consumer rights respectively
- On the other hand the draft Environmental Health and Sanitation bill sought to give effect to right to sanitation and clean health environment

The report was adopted having been Proposed by Hon. Stazo Omung'ala, MCA and Seconded by Hon. John Mukiri Ng'ang'a, MCA

MIN No. 54/HSC/APRIL/2021– ANY OTHER BUSINESS & ADJOURNMENT

- The Hon. Chairperson informed Members that Dr. Josephine Kibaru had officially handed over her position of Director responsible for Health Services to Dr. Oluga.
- It was also reiterated that many complaints lodged by Members remained unaddressed but the change of guard at the Directorate was likely to make a difference in terms of provision of quality services.
- The Chair was requested to follow up with the Health Directorate regarding the unresponsiveness to construct a clinic on a piece of land in Soweto that had been allocated by Hon. Stazo Omung'ala, MCA
- There being no any other business, the meeting was adjourned at Thirty Minutes past Ten O'clock. The next virtual meeting was to be held Thursday 29th April, 2021 at 10.00am

CONFIRMED AS TRUE COPY OF THE PROCEEDINGS.

SIGN DATE..... 28/04/2021

CHAIRPERSON

SIGN DATE..... 28/04/2021

SECRETARIAT