

GOVERNMENT OF NAIROBI CITY COUNTY



*Paper laid
by the chairperson
from 14th to 17th Nov
1/12/22*

THE NAIROBI CITY COUNTY ASSEMBLY

OFFICE OF THE CLERK

THIRD ASSEMBLY
(FIRST SESSION)

NCCA/TJ/PL/2022(22)

1st December, 2022

PAPER LAID

SUBJECT: REPORT C&CS ON INDUCTION

Pursuant to Standing Order 196, I beg to lay the following Paper on the Table of this Assembly, today Thursday 1st December 2022.

- THE 1ST REPORT OF THE SECTORAL COMMITTEE ON TRANSPORT AND PUBLIC WORKS ON THE COMMITTEE'S INDUCTION WORKSHOP HELD FROM 14TH TO 17TH NOVEMBER 2022 IN MOMBASA COUNTY.

(The Chairperson, Sectoral Committee on Transport and Public Works)

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



COUNTY GOVERNMENT OF NAIROBI CITY



NAIROBI CITY COUNTY ASSEMBLY

THIRD ASSEMBLY – FIRST SESSION

1ST REPORT OF THE SECTORAL COMMITTEE ON TRANSPORT AND PUBLIC WORKS
RETREAT HELD AT MOMBASA CONTINENTAL RESORT, MOMBASA, FROM
MONDAY 14TH NOVEMBER - THURSDAY 17TH NOVEMBER, 2022

Clerk's Chambers
Nairobi City County Assembly
City Hall Buildings
Nairobi

NOVEMBER, 2022



Table of Contents

1.0. PREFACE	4
1.1. Establishment and Mandate	4
1.2. Committee Membership	4
1.3. Committee Secretariat	5
2.1 Background of the Committee induction Workshop	6
2.2 Acknowledgement.....	6
2.3 INTRODUCTION	7
2.4 PRESENTATION BY THE FACILITATOR.....	7
2.5 COUNTY ASSEMBLY COMMITTEES	7
2.5.1 Legal Underpinning of Committees of the Assembly.....	7
2.5.2 Rationale for Committees.....	8
2.6 POWERS OF ASSEMBLY COMMITTEES.....	8
2.7 MANDATE OF THE SECTORAL COMMITTEE ON CULTURE AND COMMUNITY SERVICES.....	9
2.7.1 Mandate of the Committee and it's limitation	9
2.7.2 Sector's Oversight	9
2.7.3 Means of discharging mandate	9
2.4.4 Management of Committees.....	9
2.4.5 Effective Committees.....	10
2.4.6 Qualities of a good Chairperson.....	10
2.4.7 Roles of the Committee Chairperson.....	11
2.4.8 Role and attributes of a Committee Member	12
2.4.9 Roles of the Secretariat in the Effectiveness of a Committee	12
2.5 PROCEDURE AND PRACTICE IN COMMITTEES.....	13
2.6 Reports of Committee.....	14
2.7 Qualities of a good report.....	15
2.8 Role of Committee Members in Consideration of Committee reports	15
2.9 PUBLIC INQUIRIES.....	15
2.10 Stages in an inquiry process	16
2.11 Powers of committee in relation to evidence taking	16
2.12 Questioning witnesses	16
2.13 Rights of witnesses	17
3.2 The Budget Statutes and their place in budgeting	18
3.3 The Budget Cycle/Medium Term Expenditure Frameworks (MTEF) Process	18
3.4 County Integrated Development Programme and Annual Development Programme	19
3.5 Budget Estimates	19
3.6 Key concepts in programme-based budgeting	19



3.7 The role of Committees budget estimates	20
3.8 Revenue raising measures	20
3.8.1 The Equitable Share.....	21
3.8.2 Equalization Fund.....	21
3.8.3 Conditional grants.....	21
3.8.4 Local revenue.....	21
3.9 BUDGET MONITORING AND OVERSIGHT.....	22
3.9.1 Introduction.....	22
3.9.2 Oversight	22
3.9.3 Office of the Auditor General.....	22
3.9.4 Tools of oversight.....	23
4.0 CONCLUSIONS AND WAY FORWARD.....	23
4.1 CONCLUSION	23
4.2 WAY FORWARD.....	23



1.0. PREFACE

1.1. Establishment and Mandate

Hon. Speaker,

The Sectoral Committee on Transport and Public Works is established under Standing Order No. 209, and its mandate amongst others, as outlined under the third Schedule includes to investigate, inquire into and report on all matters related to County transport, including county roads, street lighting, traffic and parking, public road transport, county public works and services including storm water management systems in built-up areas.

1.2. Committee Membership

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

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



20. Hon Beatrice Wandai Ichung'wa, MCA
21. Hon Sospeter Gathahu Mumbi, MCA
22. Hon Fredrick Njoroge Njogu, MCA
23. Hon James Kariuki, MCA

1.3. Committee Secretariat

The Committee is currently facilitated by:-

1. Mr. Austine Inyundele – Senior Clerk Assistant
2. Mr. Benedict Ochieng – Clerk Assistant



2.1 Background of the Committee induction Workshop

Hon. Speaker,

The County Assembly Committees are extensions of the Assembly established under the County Assembly Standing Orders and in accordance with Section 14 of the County Governments Act, 2012. The Committees are to supposed to perform functions that the Assembly is not well fitted to consider in plenary. Following the constitution of County Assembly Committees on 27th October, 2022 and consequent election of Chairpersons, the Sectoral Committee on Transport and Public Works held its induction workshop from 14th to 17th November, 2022 at Mombasa Continental Hotel, in Mombasa County. The objectives of the induction workshop included the following:-

- i. Appreciate and understand the role and place of Committees in the Assembly;
- ii. Appreciate the role and mandate of the Committee;
- iii. Appreciate and understand the role of the Committee Chairperson and the structures of the Committee;
- iv. Appreciate practice and procedure in Committees; and the
- v. Committee's role in Budget Examination.

2.2 Acknowledgement.

Hon. Speaker,

I wish to acknowledge with gratitude the Offices of the Speaker and the Clerk of the County Assembly for the support extended to the Committee in execution of its mandate.

Hon. Speaker, I also thank the Secretariat for their input and valuable contribution during compilation of this report.

Hon. Speaker, finally, I would like to appreciate the Members of the Committee on Transport and Public Works for their commitment and valuable contributions towards ensuring the Committee implements its mandate

Hon. Speaker, it is therefore my pleasant duty and privilege, on behalf of the Members of the Sectoral Committee on Transport and Public Works to present the report of the induction workshop which was held from 14th – 17th November, 2022 at Mombasa Continental Hotel, Mombasa County.

Signed.....

THE HON. MUSANGO MAITHYA, MCA (CHAIRPERSON)



Date

01/12/2022

2.3 INTRODUCTION

The workshop entailed the overview establishment and role of Committees in achieving the mandate of the County Assembly, legal underpinning of Committees of the Assembly, rationale for Committees in the Assembly, types of the Committees, limitation of mandate of Committees, overview of the management and operation of Committees in the Assembly, mandate of the Committee, roles/duties of Committee Chairperson and Vice-Chairperson, management of Committees, as well as procedure and practices in Committees.

2.4 PRESENTATION BY THE FACILITATOR

Introduction

The Committee was trained by Mr. George Otieno Onyango from Senate Kenya who facilitated discussions on topics as follows:

2.5 COUNTY ASSEMBLY COMMITTEES

2.5.1 Legal Underpinning of Committees of the Assembly

The Committee learned that the power for Assemblies to establish Committees is inherent in its authority/functions given under Articles 176 and 185 of the Constitution.

Aside from the Constitutional provisions, the Members were informed that the Section 14(1) (b) of the County Governments Act, 2012 grants the Assembly power to establish Committees. The Members also learned that they are Committees, which are constituted as results of Statutes/Acts of Assembly. For example, the Nairobi City County Assembly (Powers and Privileges) Act 2017 and Nairobi City County Ward Development Fund Act, 2014 establishes the Select Committees on Powers and Privileges and Ward Development Fund respectively. However, a Committee may be formed on a resolution of the Assembly

It was also worth noting that Nairobi City Standing Orders provide for establishment of Assembly Committees and prescribe subject areas and mandate. Thus, the facilitator reiterated that Members should keep themselves acquainted with the provisions of the Standing Orders particularly on the 3rd schedule from time to time.

Mr. George Otieno Onyango in his bid to explain the core functions of the Assembly pointed out the following as the principle roles and functions of–

- ✓ Representation
- ✓ Legislation
- ✓ Oversight



- ✓ Approval of expenditure and revenue raising measures
- ✓ Approval of appointments and removal thereof
- ✓ Deliberation & resolution of issues of concern to residents

The presenter informed the Members that County Assemblies discharge the above stated roles either within plenary sittings or within Committees of the Assembly.

He defined Committees of the Assembly as smaller units or groups of Members of the County Assembly that allow the Assembly to perform multiple functions simultaneously.

2.5.2 Rationale for Committees

The Committee was informed that the role of the County Assemblies under Article 185 and Part 2 of the Fourth Schedule of the Constitution is broad and one that cannot be effectively discharged in the plenary.

Further, members learned that Committees are critical in enhancing the efficiency of the Assemblies in the following manner:-

- ✓ Summoning persons or witnesses.
- ✓ Frequency of Sittings.
- ✓ Conducive environment for presentation of evidence.
- ✓ Carrying out inspection tours and field visits.
- ✓ Formation of sub-Committees.

2.6 POWERS OF ASSEMBLY COMMITTEES

Members were informed that for effective discharge of mandate, Committees are guaranteed powers and immunities that are conferred collectively and individually. These powers and immunities are derived from the following documents:

- ✓ The Constitution (Art. 196 of the Constitution)
- ✓ County Governments Act (s. 17)
- ✓ County Assemblies Powers & Privileges Act
- ✓ Standing Order 183

It is however important to note that immunities are limited to the extent of the nexus with parliamentary work and precincts of the Assembly.

The Members were further informed that besides the privileges and immunity enjoyed by the Members the Committees have the following powers:

- ✓ Power to Summon witnesses to appear
- ✓ Power to enforce attendance of witnesses
- ✓ Power to examine witnesses on oath/affirmation
- ✓ Power to compel production of documents
- ✓ Power to compel answering of questions
- ✓ Power to examine to issue commission or request to examine witnesses abroad
- ✓ Freedom of debate and speech



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

2.7 MANDATE OF THE SECTORAL COMMITTEE ON CULTURE AND COMMUNITY SERVICES

The facilitator explained in depth the Committees' mandate as follows:-

2.7.1 Mandate of the Committee and its limitation

The mandate is related to matters that include: Cultural activities, public entertainment and public amenities, including casinos and other forms of gambling, racing, liquor licensing, cinemas, video shows and hiring, libraries, museums and cultural activities and facilities and county parks, beaches and recreation facilities; firefighting services and disaster management, control of drugs and pornography; ensuring and coordinating the participation of communities and locations in governance at the local level and assisting communities and locations to develop the administrative capacity for the effective exercise of the functions and powers and participation in governance at the local level.

The presenter informed the Committee that in discharging its mandate, the Committee is confined to its mandate as per the Standing Orders, extension as may be directed by the Assembly, Bill committed unto it or mandate of the Counties in Part 2 of Fourth Schedule of the Constitution.

2.7.2 Sector's Oversight

The Committee was informed that the oversight role is one of the four crucial roles of the County Assembly Committees and Committees do so on the corresponding Sectors at the County Executive. The Committee Sectoral Committee on Transport and Public Works exercises oversight over one sub-sector:

- ✓ Roads, Transport and Public Works

2.7.3 Means of discharging mandate

The Committee learnt that there are various ways through which it can discharge its mandate. The facilitator thus listed them as follows:

- ✓ Review of Legacy Report of previous Committee
- ✓ Committee meetings/Sub-Committee meetings
- ✓ Request for memoranda
- ✓ Site visit inspections
- ✓ Public hearings/Questioning witnesses for oral evidence
- ✓ Public Inquiries/Fact finding visits
- ✓ Benchmarking visits
- ✓ Review of public audit Reports by Independent Offices & Commissions

2.4.4 Management of Committees



With regard to management and administration of Committee's operations, the Committee was informed of three broad areas namely, supervisory, direction, administration, resource provision and the direct management. Committees work under the direction of the Speaker, the Assembly Business Committee and Supervised by the Liaison Committee.

Administratively, the Clerk through the Department of Committee Services supports the Committees. Thus, the Committee learned the centrality of the Office of the Clerk in the Management of each Committee. In this regard, Clerk Assistants who are representatives of the Assembly Clerk are attached to various Assembly Committees.

Further, the County Assembly Service Board through provision of staff, committee rooms and financial resources resource the Committees. Finally, the Committee members learned that the Chairperson manages Committees with assistance of Vice Chairperson.

2.4.5 Effective Committees

The Committee was informed that the effectiveness of a Committee can be measured based on the following factors:

- ✓ The skills of the chairperson in managing activities and meetings of the committee;
- ✓ The quality of support staff and resources available;
- ✓ Consensus building - bipartisanship;
- ✓ Level of commitment and involvement of Members in Committee matters;
- ✓ Public & stakeholder involvement and participation;
- ✓ Adequate preparation of the Committee Chair and Members;
- ✓ Integrity of Committee membership – declaration of interest;
- ✓ Production of timely and qualitative Committee reports;
- ✓ Ability to evaluate or assess its own performance;
- ✓ Quality of staffing is essential for effective functioning;
- ✓ Consensus building – the multiparty nature of legislatures often translates into multiparty committees that calls for effective consensus building for committee effectiveness;
- ✓ Adequate resources and facilities to carry out assigned mandates;
- ✓ Manageable size of the committee – if a committee is too large or too small it renders it ineffective; large committees become unwieldy and small numbers limit the quality of ideas needed for effective work; and
- ✓ Commitment of Members to committee business.

2.4.6 Qualities of a good Chairperson

The presenter highlighted the following as the attributes of Chairperson and Vice Chairperson that are requisite for effective management of the Committee:



- ✓ The Chairperson should be competent and demonstrate understanding of parliamentary process.
- ✓ He/she should have a solid working relationship with members and key staff and know the content of key matters assigned to the committee.
- ✓ The Chairperson must be flexible and adaptable to new conditions when circumstances change.
- ✓ He/she should demonstrate firmness and decisiveness when decision are made.
- ✓ He/she should demonstrate honesty and dependability with committee members, staff and media in order to earn respect.
- ✓ The Chairperson needs to be open and build strong open communication links for trust
- ✓ He/she must exercise fairness in dealing with Committee Members
- ✓ He/she needs to be tolerant with an understand and accept that members will not support committee leadership all the time
- ✓ He/she should demonstrate patience and the right time to be one.
- ✓ The Chairperson should embrace humility and accept responsibility for mistakes,
- ✓ The Chairperson needs to have stamina and project high energy level however long it may take to address matters
- ✓ He/she should be able to build consensus and demonstrate high sensitivity to diverse opinions in view of building synergy in the Committee
- ✓ He/she is expected to be impartial and treat all members and attendees with equity
- ✓ Irrespective of party or position.

2.4.7 Roles of the Committee Chairperson

The Committee was informed that the Chairperson is the most important personality in the Committee and is usually responsible for convening meetings and managing the committee (S.O. 177).

The Chairperson of the Committee is among other things expected to perform the following roles:-

- ✓ Spokesperson of the Committee – he/she presents position of the Committee and talks on behalf of the Committee
- ✓ Presides over committee meetings, ruling on procedural and relevance of issues, such as the relevance of questions or amendments to that committee's mandate;
- ✓ Performs the functions and exercises the powers assigned to office of the Chairperson by the committee, resolutions of the Assembly or legislation
- ✓ Deals with disorder among members or by the public where the latter are admitted to hearings;
- ✓ Answers oral questions and responds to Statements in the Assembly on behalf of the committee;
- ✓ Signs committee reports after consideration of a matter



- ✓ requests the appearance of witnesses or the production of papers on behalf of the committee;
- ✓ Controls the public hearings of evidence and directs the proceedings;
- ✓ Liaises with the government and other members of the committee on the progress of important legislation; and
- ✓ Maintains open communication channels with all committee members for effective functioning of Committees
- ✓ Presents Committee business to the Assembly
- ✓ Determines questions of privilege

2.4.8 Role and attributes of a Committee Member

The facilitator stated the effectiveness of the Committee also depends on certain attributes of the Members.

In this regard, he stated that an effective Committee Member should be able to demonstrate the following attributes:

- ✓ Regular attendance of committee meetings;
- ✓ Be prepared to take a lead occasionally on particular items of agenda;
- ✓ Should be active and interested participants in the committee proceedings;
- ✓ Be assertive without being aggressive, in essence, be prepared to give an opinion/ start a point without being domineering;
- ✓ Be conscious of the goals and mandate of the committee
- ✓ Should maintain confidentiality on Committee matters
- ✓ Be supportive of other members of the committee;
- ✓ Be well prepared and contributes to discussion in a relevant and constructive way
- ✓ Be proactive, well briefed and informed about the various items on the agenda to be discussed
- ✓ Should be an attentive listener who respects the views of the other Members
- ✓ Be respectful of opposing and divergent views and opinions of other Members
- ✓ Observe punctuality in attending Committee meetings and activities
- ✓ Be collaborative and objective without being influenced by party ideology or personal differences

2.4.9 Roles of the Secretariat in the Effectiveness of a Committee

The Committee was informed that a professional team of secretariat are key to Committee success. The secretariat plays a key role in the effective running of a Committee in the following respects:

- ✓ Procedural and technical advisor;
- ✓ Makes administrative arrangements for meetings, public hearings, and visits;
- ✓ Prepares notices and programme of meetings and facilitate their circulation;
- ✓ Prepares briefing materials for the committee;



- ✓ Prepares minutes of meetings and draft reports;
- ✓ Assists Chairperson in conducting meetings
- ✓ Ensures that committee documents are filed and circulated ahead of the meeting;
- ✓ Provides information, advice and support to Assembly committees;
- ✓ Manages communication/correspondences
- ✓ Planning, coordination and budgeting of committee activities;
- ✓ Provides independent research, drafting and impartial procedural support to committees
- ✓ Communication link between committee and stakeholders;
- ✓ Administers of oath to witnesses;
- ✓ Generally ensures execution of committee resolutions.
- ✓ Prepares documents for tabling in the Assembly for adoption by the House;
- ✓ Prepares talking notes for motions sponsored by or relating to the Committee

2.5 PROCEDURE AND PRACTICE IN COMMITTEES

The Committee was informed that these procedures as provided for in the standing orders are central to processing of Committee business.

In his presentation, the facilitator stated that Committees undertake tasks on behalf of the Assembly and are therefore an extension of the Assembly. They derive authority on delegated basis and are governed in their proceedings by procedures and practice which reflect those that prevail in the Assembly.

Therefore the Members were informed that no Committee is superior to the Assembly and the Assembly will always deal with a matter a Committee has reported on as it deems fit. Further, it was noted that except as and to the extent to which the chairperson may otherwise direct for the purpose of facilitating full consideration and discussion of a matter referred to a committee, the procedure in Committees shall be as nearly as possible, the same as that in the Committee of the Whole Assembly. The Chairperson of any Committee represents Hon. Speaker and has similar powers in the Committee as the Chairperson in the Committee of the Whole Assembly.

In the context of procedure in the Committees, Members noted the following provisions:

- ✓ Chairing of Select Committees and quorum - Chairperson in absence of whom vice-chairperson chairs and in absence of both, a Member of the Committee is elected by the Committee to chair that specific sitting. S.O. 174,
- ✓ Sitting of Select Committees- determined by Chairperson or upon a petition by at least 7 Members. S.O. 178
- ✓ Sub- Committees of Select Committees - formed for effective, simultaneous & timely delivery on tasks (at least a third of total membership Members adversely mentioned. – S.O. 179



- ✓ Members adversely mentioned -be excluded from deliberations except when giving evidence. S.O. 180
- ✓ Adjournment for lack of quorum - 30 minutes from scheduled time. S.O. 181
- ✓ Frequency of meetings - at least once in two months ... frequency determined by mandate and ceilings as per SRC. S.O. 182. On the same breadth, the Members learnt that a Committee cannot sit when Assembly is sitting unless with Speaker's permission. This therefore means that a meeting of the Committee is suspended whenever division bell is rung (proceedings would become void)
- ✓ Absence of Chairperson and Vice Chairperson – member designated by Chair, in absence of which Members present elect a Chair for that sitting. S.O 184.
- ✓ Attendance by non-Members – non-Members may attend but cannot vote (precedence is accorded to Members). S.O 192. The Committee learned that a friend of the Committee who is among persons elected or nominated to the House is at liberty to attend any sittings of the Assembly Committees, make comments, suggestions during deliberations as long as he or she cannot take part in decisions made by the Committee. For instance, when a committee is making deliberations on an ongoing inquiry or even a capital project in certain wards, a relevant MCA is at liberty to attend or invited to attend to shed more light on a given topical issue.
- ✓ Temporary absence of a Member - in the event that any member of a Committee is absent or otherwise unable to attend the sittings of the committee, the party whip of that Member's party may, with permission of the Speaker, appoint another Member to act in that Member's place during the period of such absence or inability. S.O 189 (1)
- ✓ Voting in the Committee to be arrived at through voting (S.O. 192) (minority or dissenting views are recorded). Chairperson only has original vote (S.O 191), however, the Committee was informed that it consensus is the good practice in Committee's decision-making.
- ✓ Limitation of debate - The Assembly may, on a Motion made by any Member in accordance with this Standing Order, impose a limit in respect of debate on any particular Motion or Bill by allotting a limited period of time for such debate or by limiting the time during which Members may speak in such debate or by imposing such limitations. S.O 106. (1)
- ✓ Public access to meetings of Select Committee - All committee proceedings shall be open to the public unless in exceptional circumstances the Speaker has determined that there are justifiable reasons for the exclusion of the public. S.O 195
- ✓ Taking oath – instances when required and manner of administration
- ✓ Joint sitting of Committees - with other Committee on a matter of crosscutting nature (chaired by Chair with longest cumulative period of service). S.O 200

2.6 – Reports of Committee



The meeting was informed that pursuant to Standing Order 196, the reports of a select committee should be prepared and kept in the same form as the Votes and Proceedings of a Committee of the whole County Assembly and in such other form as may be prescribed in the Committee Manual.

Further, the report of the committee, having been adopted by a majority of the members should be signed by the chairperson on behalf of the Committee. A minority or dissenting report may be appended to the report by any member(s) of the Committee

A report of a select Committee including any minority report, together with the minutes of the proceedings of the committee, and with such note or record of any evidence by the committee as the Committee may deem fit should be laid on the Table of the County Assembly by the chairperson or the vice chairperson or by a member authorized by the committee on its behalf within fourteen days of the conclusion of its proceedings.

2.7 Qualities of a good report

The Committee was informed that a good report of a Committee should be characterised by the following attributes:

- ✓ Be factual, i.e based on facts, verified information and valid proofs.
- ✓ Be clear and easily understandable
- ✓ Be free from errors and duplication
- ✓ Should facilitate right decision making
- ✓ Be result focused and result oriented
- ✓ Be well organized and structured
- ✓ Possess ethical reporting style
- ✓ Be prepared in time and tabled in the Assembly

2.8 Role of Committee Members in Consideration of Committee reports

During consideration of reports, the Members are expected to do the following:

- ✓ Give opinions and derive recommendations
- ✓ Adopt report/express dissent if necessary
- ✓ Support the Chair/Vice Chair by seconding motion for adoption of the Committee Reports
- ✓ Be present and contribute to the Motion on adoption of Committee Reports in the Assembly
- ✓ Support the adoption of the Report (lobbying and negotiations)

2.9 PUBLIC INQUIRIES

The Committee was informed that enquiries are in-depth investigations and are conducted to establish the causes behind certain incidents that have affected or affecting the citizens.



The Committee was thus informed that most Sectoral Committee work is undertaken through inquiries into particular subjects within their mandate. In this regard, the Members noted that;

- ✓ Committees themselves choose inquiry topics and suitable methodologies
- ✓ Suggestions for inquiry subjects may come from self-referred or referral by the Assembly.
- ✓ Conduct of inquiries should be programmed in a manner that still leaves room for urgent response to changing events.

Further, the Committee noted that the length and number of sittings/sessions for an inquiry is determined by the magnitude of the subject matter. The need to balance the desirability of hearings also determines the range of witnesses to be contacted by the Committee. The balance helps to keep the inquiry topical and avoid being overtaken by policy change or other events.

The Members also noted that an inquiry should ideally not take more than one month to conclude lest the matter is overtaken by events.

2.10 Stages in an inquiry process

The facilitator informed that when committees conducts an enquiries, they should observe the following steps in order for its Members to have a sound and an objective enquiry;

- ✓ Receipt and consideration of terms of reference
- ✓ Collecting evidence through call for information/participation or letters inviting submissions;
- ✓ Processing of submissions/evidence
- ✓ Hearings
- ✓ Preparation of a draft report and adoption
- ✓ Tabling Report in the Assembly
- ✓ Consideration by the Assembly
- ✓ Implementation of recommendations

2.11 Powers of committee in relation to evidence taking

The Committee was informed that Assembly Committees have the power to require people to attend, the giving of evidence and the production of documents. This is line with the provisions of article 185 of the Constitution.

During the preparation for investigations, Committee may require witnesses to provide written submission and or oral evidence. Oral evidence sessions are held in public, with the Committee interrogating the witnesses. The Secretariat prepares background briefs for each oral evidence session including suggested questions targeting specific information from the witnesses.

2.12 Questioning witnesses



The Committee was informed that the following need to be in the mind of the Committee during meetings with witnesses:

- ✓ Questions are intended to draw evidence from the witness
- ✓ Members not to respond to questions on behalf of the witness
- ✓ Committee members not to make statements or outline their own views during oral sessions
- ✓ Members' views and statements to be reflected during report writing
- ✓ Questioning techniques for Members are necessary.
- ✓ Witnesses with respect and courtesy.

2.13 Rights of witnesses

The Committee was informed that the County Assemblies Powers and Privileges Act, 2017 provides for the rights of witnesses whenever they appear before a Committee. They include the following:

- ✓ They should be given reasonable notice of the meeting
- ✓ They should be supplied with a statement of the matters expected to be
- ✓ They should be invited to appear, and are summoned only where a committee makes a deliberate decision to issue a summons;
- ✓ They should be permitted to submit a written submission prior to appearing to give oral evidence;
- ✓ They should be allowed to answer only those questions that are relevant to the committee's inquiry;
- ✓ They should be permitted to be accompanied by counsel and to consult counsel for advice;
- ✓ They should be given latitude to object to answering any questions on any ground of self-incrimination, or invasion of privacy. (*Committee may however insist on an answer*)
- ✓ They should not be subject to interference or improper influence (intimidation, or promise of inducement) in respect of evidence that may be given before a committee
- ✓ They should be given latitude to give evidence in private session or make a confidential written submission subject to the agreement of the committee.

3.0 THE BUDGET PROCESS

3.1 Introduction

The session was facilitated by the County Assembly Fiscal Analyst who took the Members through an overview of the budget process and budget documents and the process of examining the CIDP, ADP and the CFSP which are the key preliminary documents in County budget process.

The Committee was informed that Chapter Twelve of the Constitution provides broadly on the aspect of public finance and of interest was the principles of public finance whose



intent was to instill values regarding management and administration public finances. The principles include:

- Openness and accountability;
- Promotion of equitable society;
- The burdens and benefits of the use of resources and public borrowing to be shared equitably between present and future generations;
- Public money to be used in a prudent and responsible way; and
- Financial management to be responsible and fiscal reporting to be clear

Further, subsidiary legislations, for instance, the PFM Act and the County Government Act provides for the procedure on how the County Governments can raise revenue and incur expenditures.

The role of the County Assembly in the budget process was not to be overemphasis because it is legally underpinned. The Assembly plays a critical role during the planning, approval, implementation and reporting stages of the process. At the centre of this, are the Members of the County Assembly who are constitutionally mandated to oversight the use of public resources at the County level.

3.2 The Budget Statutes and their place in budgeting

It was reiterated that the budgeting process is anchored in the Constitution and the appropriation of public funds for the County commences with the passage of the annual Division of Revenue Act by Parliament which allocates funds to both levels of governments.

Subsequently and pursuant to Article 201, Senate is required to pass the annual County Allocation of Revenue Act that allocates funds to the various Counties by a formula.

The PFM Act and the regulations, at this point spells out the responsibilities of institutions and elaborates the procedures. Subsequently, the Controller of Budget Act spells out the responsibilities of the Controller of Budget regarding the office's role on expenditure control both at the National and the County levels.

Further, the Public Procurement and Disposal Act comes in at this point to guide institutions on aspects of acquisition and disposal of assets and utilities.

Finally, the Public Audit Act sets out the role of the Office of the Auditor General to assess and recommend on whether procedures were/are followed and institutions are accountable for appropriation of public money.

3.3 The Budget Cycle/Medium Term Expenditure Frameworks (MTEF) Process

The Committee was informed that the MTEF is annual, rolling three year-expenditure planning. It sets out the medium-term expenditure priorities and hard budget constraints against which sector plans can be developed and refined. It also contains outcome aspect for the purpose of performance monitoring.



The process begins by the formulation of policies and plans (CDIP, ADP and CFSP), a process that is driven by the County executive Committee Member and the County Treasury with the approval of the County Assembly. Subsequently, the CEC prepares the budget estimates for approval by the Assembly too. By adhering to the approved revenue raising strategies, the County collects revenues and the same apportioned to spending units. Finally, the County Assembly and the Office of the Auditor General ensures that the actual expenditure is as per the approved budget through their respective mandates.

3.4 County Integrated Development Programme and Annual Development Programme

It was important to note that the County Integrated Development Plan (CIDP) is the five year plan that informs the annual planning document, the County Annual Development Plan (ADP) which must both get Assembly's approval. The ADP outlines the County's sectoral strategic priorities in order to inform the CFSP and County Budget Estimates. They are both to be submitted not later than 1st September.

The ADP contains the following information:

- ✓ Strategic priorities for the medium term that reflect the county government's priorities and plans;
- ✓ Description of how the county government is responding to changes in the financial and economic environment;
- ✓ Programmes to be delivered with details for each programmes
- ✓ Payments to be made on behalf of the county government, including details of any grants, benefits and subsidies that are to be paid;
- ✓ Description of significant capital developments;
- ✓ such other matters as may be required by the CoK, 2010

The CFSP on the other hand, is submitted not later than 28th February and sets out the broad strategic priorities and policy goals that will guide the County Governments in preparing their budgets both for the following financial year and over the medium term. It also proposes the expenditure limits for County Executive and County Assembly.

The said paper is committed to the Finance Budget and Appropriations Committee and all Sectoral Committees for scrutiny and the final report Tabled in the House and if approved, it informs the basis of the Budget Estimates.

3.5 Budget Estimates

The Counties are required to prepare the Budget Estimates in a programme-based format and submitted to the County assembly for scrutiny and approval by 30th April. The Estimates are committed to FBAC and all Sectoral Committees for scrutiny and reporting to the House. The report forms the basis of the Appropriations Bill.

3.6 Key concepts in programme-based budgeting



- ✓ Impacts refers to the long-term effects of government interventions, what is expected to change.
- ✓ Outcomes represents changes to target communities or citizens occasioned by government interventions or the effectiveness of the interventions.
- ✓ Outputs are the public goods and services produced or delivered.
- ✓ Activities refer to a set of processes used to produce goods and services.
- ✓ Inputs refer what is used to produce the goods and services. They are the items of expenditure, e.g. finance, human labour, equipment.
- ✓ Budget Ceiling refers to the total expenditure limit set for a budget sector based on total available resources or the resource envelope.
- ✓ County Revenue Fund is a combination of accounts into which all County public funds are paid and retained until the county assembly decides on their application. It is established under Article 207.

3.7 The role of Committees budget estimates

The Committee was informed that Assembly Committees are at the centre of the process during the scrutiny, reporting and approval. The role of Committees include:

- ✓ Analyze overall budget expenditure in line with effect on the overall economy and Build up to achievement of the vision 2030 objectives and the millennium development goals;
- ✓ Scrutinize program key outputs, performance indicators and targets in line with PBB criteria;
- ✓ Analyze and approve the allocation per vote, Administrative department and County department in line with the overall budget allocation;
- ✓ Determine the deviation of overall ceilings and vote ceilings as set under the approved CFSP;
- ✓ Analyze sectoral performance of the previous budget per sector and department i.e. this involves determining the absorptions rate of resources and capacity to spend allocated funds, adherence to fiscal rules in the estimates; and
- ✓ Recurrent and development allocations for the county department and overall budget

3.8 Revenue raising measures

The Committee was informed that the Constitution sets out the sources of revenue for the County Government as outlined below:

- ✓ Equitable Share from the National Government which should be at least 15% of the most recently audited revenue raised nationally (Article 202(1) 203(2))
- ✓ Conditional and unconditional grants from the National Government share of revenue (Article 202(2))
- ✓ Equalization fund based on half of 1% of revenue raised nationally(Article 204)
- ✓ Local revenues in form of fees, charges, taxes e.t.c.; and



- ✓ Loans and grants.

3.8.1 The Equitable Share

This is the revenue that is raised nationally and shared between the two levels of Government through the annual Division of Revenue legislation and the Annual County Allocation of Revenue law.

The Committee noted that the sharing of the revenue amongst the 47 Counties is done using a formula that takes into account a number of parameters including population, equitable share, poverty index, land size, fiscal effort and the development factor.

3.8.2 Equalization Fund

The Committee noted that the Fund is an establishment of Article 204 of the Constitution whose purpose is to provide basic services including water, roads, health facilities and electricity to marginalized areas.

The Constitution mandates the Commission on revenue allocation to determine, review and publish policy on marginalized areas. For instance, in 2014, the CRA identified Turkana, Marsabit, Samburu, Wajir, Narok, Kwale, Garissa, Kilifi, Taita Taveta, Isiolo and Lamu as the marginalized Counties to benefit from the Fund for the first three years.

3.8.3 Conditional grants

The Committee was informed that these are funds used to implement County related funds on agreement with the County Governments bearing in mind that some of the County functions are augmented by the National Government.

These funds are shared among Counties and are determined by some factors but are not uniformly distributed. Some of the grants include:

- ✓ Level 5 Hospitals
- ✓ Free Maternal Health Care
- ✓ Leasing of Medical Equipment
- ✓ Emergency Medical Care
- ✓ Foregone User Fees
- ✓ Road Maintenance Levy
- ✓ Loans and Grants
- ✓ Construction of County Headquarters
- ✓ Rehabilitation of Youth Polytechnics

It was noted that Nairobi County benefits from the fund as grant to level 5 hospitals, development of village polytechnics, compensation of user foregone, leasing of medical equipment and road maintenance fuel levy.

3.8.4 Local revenue

The Committee was informed that the Constitution permits Counties to impose the following:



- ✓ Property rates;
- ✓ Entertainment taxes;
- ✓ Charges for services they provide; and,
- ✓ Any other tax or licensing fee authorized by an Act of Parliament

For Nairobi County, the following are the revenue streams that contribute to Own Source of Revenue (OSR):

- ✓ Property-related revenue
- ✓ Administrative fees & charges
- ✓ Business permits
- ✓ Vehicle parking fees
- ✓ Natural resources, exploitation &
- ✓ Conservancy
- ✓ Public health services
- ✓ Markets, trade services & slaughter
- ✓ Houses
- ✓ Public health & sanitation services
- ✓ Cess
- ✓ Water and Sewerage Services

3.9 BUDGET MONITORING AND OVERSIGHT

3.9.1 Introduction

The Committee was taken through the County Assembly's role of monitoring and oversight of appropriation of County funds.

The Part 2 of Chapter Eleven of the Constitution establishes the County Assemblies as the guardians of public finances at the County level. It provides the checks and balances on the Executive Arm of the County Government.

3.9.2 Oversight

The Committee was informed that oversight is a concept and a tool that enables the Assembly to hold the government accountable over the use of public resources; protect rights and liberties of citizens; promote transparency, rule of law and good governance; improve efficiency and effectiveness in the use of public resources; and monitor milestones.

3.9.3 Office of the Auditor General

The Committee noted that Article 229 (4) of the Constitution give powers to the Auditor General to audit the County Government (County Executive and County Assembly) and its entities.

- ✓ The Auditor-General may audit and report on the accounts of any County entity that is funded from public funds.



- ✓ An audit report confirm whether or not public money has been applied lawfully and in an effective way.
- ✓ Audit reports are submitted to the relevant county assembly for scrutiny and reporting for action
- ✓ Within three months after receiving an audit report, the county assembly shall debate and consider the report and take appropriate action.

3.9.4 Tools of oversight

The Committee was informed that in the exercise of its oversight mandate, the County assembly has varied tools including:

- ✓ Inquiries and hearings
- ✓ Inspection visits
- ✓ Statements
- ✓ Quarterly reports
- ✓ Auditor-General ordinary and special reports

4.0 CONCLUSIONS AND WAY FORWARD

4.1 CONCLUSION

The Assembly Liaison Committee approved the schedule for the induction workshops for all Assembly Committees. Accordingly, the Sectoral Committee on Transport and Public Works undertook its workshop from 14th to 17th November 2022 whose objective was to equip the Committee Members with the relevant knowledge regarding the mandate, operations and management of the Committee. During the said workshop, Members interacted with the facilitator through presentations and plenary sessions. At the conclusion of the workshop, the Committee considered the legacy report of the previous Committee that would inform the work plans. The Committee undertook to give its mandate the seriousness it deserves with respect to legislation, oversight, representation and budget making.

4.2 WAY FORWARD

Upon conclusion of the workshop, the Committee adopted the following resolutions:

That,

1. Members to take leading role in coming up with legislations on various aspects of the mandate of the Committee;
2. The Committee to follow up on pending Committee Business as was enlisted in the Legacy Report from the 1st Assembly;
3. The Committee to adopt sound and relevant periodic work plans on issues that fall within the scope of its mandate;



4. The Chairperson of the Committee to take charge of the affairs of the Committee and ensure that Members work together and with decorum while conducting the business of the Committee;
5. The Members to work in unison, observe the rules of engagement and uphold the dignity of both the Committee and the Assembly;
6. The Committee to ensure that adequate mapping of the stakeholders who will come in handy during deliberations on key issues in the Committee;
7. Members of delegations visiting foreign countries to observe protocol and to have proper briefing at the pre-travel for productive engagement;
8. Members to take leading role in coming up with legislations on various aspects of the mandate of the Committee;
9. The Committee to hold a meeting with the County Executive to deliberate on the circumstances under which the Fleet management function was transferred from the Roads, Transport and Public Works Sector;
10. A meeting among Transport, Environment, Health and Water Committees on management of sanitation (solid waste and sewerage) in the County;
11. The Deputy Speaker to inform the Speaker on the need for the County Executive to involve the County Assembly Committees in matters related to relevant mandates;
12. Members to maintain confidentiality of reports under considerations;
13. Members to make effective use of the tools available in the Standing Orders, i.e. Statements, Motions, Petitions, Bills, inquiries, stakeholder meetings e.t.c in addressing the various issues of concern to the County; and
14. The secretariats to work professionally with Members in assisting them to discharge their mandate as far as the Committee is concerned.

