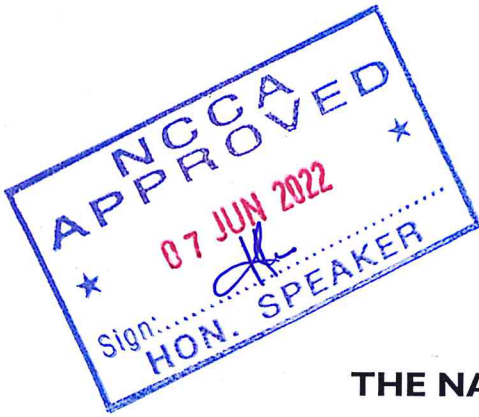


GOVERNMENT OF NAIROBI CITY COUNTY



*Paper laid by Hon.  
Peter Wanyorke on  
7/6/22 @ 9:30am  
Wanyorke*

THE NAIROBI CITY COUNTY ASSEMBLY

OFFICE OF THE CLERK

SECOND ASSEMBLY  
(SIXTH SESSION)

NCCA/TJ/PL/2022(20)

7<sup>th</sup> June 2022

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PAPER LAID

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Pursuant to Standing Order 191 (6), I beg to lay the following Paper on the Table of the Assembly, today Tuesday 7<sup>th</sup> June, 2022:

— **THE REPORT OF THE SECTORAL COMMITTEE ON TRANSPORT AND PUBLIC WORKS ON WORKSHOP HELD FROM 18<sup>TH</sup> TO 21<sup>ST</sup> SEPTEMBER 2021.**

**(Chairperson of the Sectoral Committee on Transport and Public Works)**

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



THE GOVERNMENT OF NAIROBI CITY COUNTY



NAIROBI CITY COUNTY ASSEMBLY  
(SECOND ASSEMBLY – FIFTH SESSION)

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REPORT OF THE SECTORAL COMMITTEE ON TRANSPORT AND PUBLIC WORKS  
FOR THE WORKSHOP HELD FROM 18<sup>TH</sup> TO 21<sup>ST</sup> MARCH 2021  
AT CONTINENTAL HOTEL, MOMBASA COUNTY

CLERK'S CHAMBERS,  
NAIROBI CITY COUNTY ASSEMBLY  
CITY HALL,  
NAIROBI.

JUNE, 2022

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## 1.1 PREFACE

### 1.1.1 Committee Mandate

Hon. Speaker,

The Sectoral Committee on Transport and Public Works is established under Standing Order No. 203, 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.*

### 1.1.2 Committee Membership

Hon. Speaker,

The Committee on Transport and Public Works is composed of the following Members:-

1. The Hon. James Mwangi, MCA - Chairperson
2. The Hon. Mark Mugambi Macharia, MCA – Vice Chairperson
3. The Hon. Abdi I. Hassan, MCA
4. The Hon. Osman Adow, MCA
5. The Hon. Joseph Komu, MCA
6. The Hon. Patricia Mutheu, MCA
7. The Hon. Mark Ndung'u, MCA
8. The Hon. Peter Wanyoike, MCA
9. The Hon. Geoffrey Ng'ang'a, MCA
10. The Hon. Anthony N. Gatune, MCA
11. The Hon. Asli Mohammed, MCA
12. The Hon. John Kamau, MCA
13. The Hon. Fredrick Njogu, MCA
14. The Hon. David Ayo, MCA
15. The Hon. Abdi Osman Khalif, MCA
16. The Hon. Kennedy Oyugi Odhiambo, MCA
17. The Hon. Nicholas Okumu, MCA
18. The Hon. Evans Otiso, MCA
19. The Hon. Stazo Omung'ala Elijah Ang'ila, MCA
20. The Hon. Mary Ariviza Mwami, MCA
21. The Hon. Jared Okode Okoth, MCA
22. The Hon. Husin Lawi, MCA
23. The Hon. Geoffrey Majiwa, MCA
24. The Hon. Wilson Ochola, MCA
25. The Hon. Hafsa Khalif, MCA

### 1.1.3 Background

The Committee held a two-day workshop from 18<sup>th</sup> to 21<sup>st</sup> March, 2021 in Mombasa. The objective of the workshop was to enable the Committee to undertake the following;

- a. Review the Nairobi City County Transport Act, 2020 and modalities of its implementation;
- b. To equip the Members with the knowledge of the Budget Making process in Kenya;
- c. To enable Members to understand the Budget Documents - from CIDP, ADP, CFSP, Budget Estimates, Supplementary Estimates and the implementation of the Documents; and
- d. To enable the Members gain skills on consideration and scrutinize the Budget Documents committed to the Committee.

This will acquaint Members with the provisions of the Act and in turn enable the Committee recommend budgetary allocation for the implementation of the Act. Further, the Members' knowledge on the budget process and scrutiny will be enhanced and new approaches learnt to enable the Committee produce output that will have impact on the process and by extension, to the residents of the County. This workshop was expected to culminate into this report detailing the deliberations held and the way forward.

### 1.1.4 Acknowledgement

Hon. Speaker,

The Committee takes this opportunity to thank the Offices of the Speaker and the Clerk of the County Assembly for the logistical support accorded to it in the execution of its mandate. Further, the Committee extends its gratitude to the Secretariat for their contributions during and after the workshop and compilation of this report.

Finally, on behalf of the Sectoral Committee on Transport and Public works, it is my pleasure and duty to present to the Assembly, the Committee's retreat report pursuant to the Standing Orders of the County Assembly.

Thank you.

Signed .....

Hon. James Mwangi Wambui, MCA  
(Chairperson)

Sectoral Committee on Transport and Public Works

Dated this 3<sup>rd</sup> day of May 2021

## DAY 1 OF THE WORKSHOP

### 3.1 PRESENTATION: Nairobi City County Transport Act, 2020

#### 3.1.1: Introduction

The workshop was officially opened by a word of prayer from the chair Hon. James Mwangi MCA before welcoming the Members to the meeting. The chair then invited the members and the secretariat to introduce themselves and subsequently urged members to be actively participate in the proceedings to understand and scrutinize the provisions of laws, policies, and regulations in the City County Transport Act, 2020.

The county assembly legal counsel took the Members through the Nairobi city County Transport Act, 2020 as follows:-

- i. Clause 1 provides that the above Act may be cited as the Nairobi City County Transport Act, 2019.
- ii. Clause 3 provides that the object and purpose of this Act is to facilitate the management, planning, development and funding of county transport facilities and infrastructure in the most adequate, safe and efficient way. It will also provide a legal framework for County transport in order to give effect to part 2 of the fourth schedule of the constitution of Kenya 2010.
- iii. Clause 4 provides that this Act applies to roads and transport system in the County.
- iv. Clause 5 of this act details the roles and responsibilities of the county executive committee member for the efficient implementation of this act as follows
  - a. Preparation of the capital City Transport Plan
  - b. Construction and maintenance of county roads and their drainages
  - c. Regulation of parking on county roads
  - d. Regulation for parking off- street parking
  - e. Smooth flow of traffic in the county
  - f. Regulation of an integrated public transport system in the county
  - g. Promotion of non- motorized transport and
  - h. Determination of the contribution of developers to interventions necessary to mitigate traffic and transport impacts of development proposals.

It further proposes that the County Public Services Board may designate such number of the authorized officers as may be necessary for the enforcement of this Act.

- v. Clause 6 of the Act provides for partnerships and cooperation of the county executive member with the following bodies to help carry out its functions
  - a. State department responsible for matters relating to transport;
  - b. Public corporations with duties and responsibilities concerning transport
  - c. Other concerned Counties.
- vi. Clause 7 provides that every five years the committee member shall, after consultation with the stakeholders at the national and county level prepare a capital city transport plan.

Clause 7 (2) provides that the plan shall be consistent in timing and content with the county integrated development plan (CIDP) and national transport policy.

Clause 7 (3) of the act expounds on what the plan provided in subsection (1) contains and they are;

- (a) An integrated transport framework for all modes of transport to support the economic and social development of the capital city
- (b) An appreciation of the unique transport challenges faced by the capital city
- (c) Policies and priorities for road infrastructure and maintenance and parking management over the five years in question
- (d) Proposal of the Nairobi metropolitan area transport authority for declared transport corridors
- (e) Policies and programmes for the development of public transport and mass transit and associated legal and regulatory reform over the five years in question
- (f) Programmes and projects of national and metropolitan road and transport agencies over the five- year period within the county.
- (g) Programmes and projects of the county government committed and proposed over the five- year period
- (h) Specific proposals for the introduction and implementation of the intelligent transport systems for parking and traffic management and control
- (i) Particulars of the costs of the programmes and projects contained in (e), (f) and (g) above, and their funding sources
- (j) Particulars of any factors which may affect the implementation of the plan and the measures which will be taken to ensure the execution of the plan.

Clause 7 (4) of the act also provides that the committee members shall present the plan to the county assembly for its approval.

- vii. Clause 8 of the city county transport ACT 2020 provides arrangements for the executive committee member in consultation with the public service board to ensure that the following positions are established and filled and these are;-

- (a) Chief officer, transport and planning
- (b) Chief Officer, infrastructure and public works

Clause 8 (2) of the Act further states that no person shall occupy both the posts in subsection (1), either in an acting or substantial capacity.

Clause 8 (3) provides that the Chief Officer, Transport and Planning shall have three directors appointed who will be responsible for transport policy, transport services and parking services.

- viii. Clause 9 provides that there shall be established a transport planning Advisory committee.

Clause 9 (1) of the act provides the members of this committee as mentioned below

- (a) The county Executive Committee Members
- (b) The permanent secretary, state Department for Transport or a person nominated by the permanent secretary
- (c) The Chief Office, Transport and Planning
- (d) The chief Officer, infrastructure and public works
- (e) The permanent secretary, State department for infrastructure or a person nominated by the permanent secretary
- (f) The chief executive officer of the Kenya National Highways Authority.
- (g) The chief executive officer of the Kenya Urban Roads Authority



- (h) The chief executive Officer of Kenya Rural Roads Authority
- (i) The Chief executive officer of the Nairobi Metropolitan Area Transport Authority (ex-officio)
- (j) The Director General National Transport and Safety Authority.
- (k) A transport sector professor of the University of Nairobi appointed by the committee Member (ex-officio)
- (l) A representative of the Transport industry, appointed by the committee member (ex- officio)
- (m) A representative of workers in the public transport industry nominated by the Transport workers union ( ex- officio)
- (n) A representative nominated by the Traffic police (ex-officio)
- (o) Any other persons or representative of stakeholders that the committee members may co-opt as ex- officio member

Clause 9 (3) of the Act stipulates that the Transport Planning Advisory Committee shall be

- (a) Chaired by the County executive committee member for Transport
- (b) Have a secretary the Chief Officer, Transport and Planning
- (c) Meet no less frequently than four times per year
- (d) Be quorate with a minimum of five members

Clause 9 (4) of the Act provides that the function of the committee shall be to advise the committee member on broad issues of transport policy and planning with a view to improving the movement of both people and freight and coordinating the activities of sectors actors within Nairobi.

Clause 9 (5) provides that members of the committee may be reimbursed for the attendance at committee meetings in accordance with the directions of the committee member

Clause 9 (6) provides that the committee shall be established within one month of the operationalization of this Act.

ix. Clause 10 of the act provides for the establishment of the Nairobi City County Transport Management Fund.

Clause 10 of the act also provides that the monies of the Fund shall consist of

- (a) A percentage of all car parking fees to be determined annually by the County Finance Act, being not less than twenty percent.
- (b) All other fees and charges collected as result of the implementation of this Act.
- (c) Monies appropriated in the annual County Budget for the purposes of the Fund.
- (d) Grants, monies or assets donated to the Fund in accordance with the public Finance and Management Act,2012
- (e) Assets donated to the Fund by any foreign government, international agency or other external body of persons or corporates.

Clauses 10 (3) proposes that the fund shall be managed by the chief Officer, Transport and planning.

Clauses 10 (4) provides that monies of the Fund shall be deposited in a separate bank account.

Clause 10 (5) states that the accounts of the Fund shall be audited annually by an auditor appointed by the Assembly.

Clause 10 (6) provides that audited accounts shall be presented to the Assembly no later than 6 months after the end of the financial year to which the accounts are pertinent.

Clause 10 (7) provides that the fund may be applied for-

- (a) The implementation and operation of any project or programme contained in the approved capital city transport plan.
- (b) Any operational expenses incurred in the collection of income sources set out under this Act.

x. Clause 11 of the act provides for the identification of county roads as follows; That the county executive member shall identify and classify the county roads by the criteria of-

- (a) Location
- (b) Length of the road
- (c) Class of the road
- (d) Road number
- (e) The road name.

Clause 11(2) of the act states that County Executive Committee shall submit the inventory of county roads for approval by the County Executive Committee and once approved it shall be published in the Kenya Gazette.

Clause 11(3) provides that the County Executive committee member may, by notice in the Gazette, amend the inventory and classification of roads from time to time.

xi. Clause 12 of the act provides for private roads and states that

A land owner who constructs a road on their property may;

- (a) Only connect that the road with a public road following the approval of the County
- (b) Seek the adoption of the County for the road to be declared a county public road.

Clause 12(2) of the act also provides that a private road shall not be adopted for the purpose of maintenance unless-

- (a) Its design and construction meets the standards required by the County
- (b) The County Executive Committee Member grants an approval

xii. Clause 13 of the act provides that a road reserve shall be the designated area on fixed distance either side of the center line of the road.

Clause 13 (2) of the Act also provides that the fixed distance in subsection (1) shall be determined in accordance with regulations and may vary depending on the class of Road.

Clause 13 (3) states that despite subsection (2), the minimum fixed distance in each side of the center line of any class of road shall be nine meters.

Clause 13 (4) provides that the County shall place physical marks on road reserves.

xiii. Clause 14 of the act provides the designation of Road reserves (1) that a road reserved designated under this Act shall have the effect of reserving the strip of land described in such notice for road purposes.

Clause 14 (2) states that no person shall undertake any activity on a road reserve except the construction of a road.

Clause 14 (3) clarifies that subsection (2), the County Executive Committee member may permit limited use of the land reserved for road subject to such conditions as may be imposed.

Clause 14 (4) of the act states that a person who contravenes this section commits an offence and is liable upon conviction to a fine not exceeding Kenya Shillings one hundred thousand or to imprisonment for a term not exceeding one year or to both.

- xiv. Clause 15 of the act provides for a road development plan whereby the County Executive Committee Member shall prepare and submit to the County Assembly a Road Development Plan of the County every five years.

Clause 15 (2) expounds that the road development plan shall;

- (a) Contain all existing roads and proposed roads in the County at that time, and their proposed maintenance plans
- (b) Contain a programme for the integrated development of the road network in the County
- (c) Be consistent with the capital City Transport Plan

Clause 15 (3) states that any public agency engage in planning, developing and constructing roads shall on the request of the County Executive Committee Member provide details of the proposal of that agency for-

- (a) The construction of new roads in the County
- (b) Modifications in alignment or width or number of lanes or any other material fact affecting existing roads
- (c) Modifications to junctions of existing roads
- (d) Changes to the management of any roads under the Kenya Roads Act, 2007

Clause 15 (4) of the act provides that a road development plan approved by the County Assembly shall be published and publicized.

- xv. Clause 16 of the acts provides for Road maintenance standards that the County shall maintain the roads for which it has jurisdiction to standards that the County Executive Committee member may from time to time determine.

Clause 16 (2) states that any road agency shall maintain the roads under its jurisdiction to such standards as the County Executive Committee Member may from time to time determine.

Clause 16 (3) of the Act clarifies that standards set under subsection (1) and (2) above may

- (a) Vary by class of road
- (b) Include construction, drainage and safety issues.

- xvi. Clause 17 of the act provides the scheduling of utilities that the members shall cause to be prepared a schedule of such utilities in the County that cross, or are under, or are above, or are on, any public road or footway.

Clause 17 (2) of the Act provides that in pursuance of the preparation and updating of the database in subsection (1) any statutory undertaker in the County is required to provide the member with such information as the ministry may request.

Clause 17 (3) of the act provides that pursuant to its functions, any road authority may request in writing access to information in that schedule and such information shall not be unreasonably withheld.

xvii. Clause 18 of the Acts provides that an owner of commercial building may construct and maintain a footway next to a commercial building where the county-

(a) Has designated an area next to the building for the construction of a footway.

(b) Has not constructed or has failed to maintain the footway.

Clause 18 (2) of the Act provides that a person shall construct or maintain a footway under subsection (1)-

(a) Upon approval of the county executive committee member

(b) In accordance with any prescribed standards.

xviii. Clause 19 of the act provides an Agency agreement that any road agency may enter into an agreement with the County government to carry out works on the agency's roads.

Clause 19 (2) of the act clarifies that if in the opinion of the committee member any road under the jurisdiction of any road agency other than the County government, is unsafe in its design or operation, the committee member shall notify the agency in writing requesting for proposals to improve the road safety.

xix. Clause 20 of the act provides that an authorized officer of the County government may enter land to remove obstructions, except buildings, or execute any other works that may be required to remove-

(a) A safety hazard

(b) An obstruction of a road sign

(c) Any obstruction to drainage

xx. Clause 21 (1) of the Act states that an authorized officer of the county Government may enter land to alter the position of any pipe, sewer, drain or wire, or to allow the person controlling such utilities to execute the work themselves.

Clause 21(2) of the act also provides that it shall be the responsibility of the County government to ensure the maintenance or supply of any produce using the sewer, drain, pipe or wire should works be carried out under this section.

Clause 21 (3) of the act provides that the County government may require the person controlling any utility to remove any pipe, sewer, drain or wire from within a road reserve, or to allow the County government to execute the work itself at the cost of the person controlling the utility.

xxi. Clause 22 of the act provides the power to remove a structure in that the committee member may require any person controlling a structure or a thing above or below a county road to remove that thing at his cost, or allow the county government to remove such a thing itself and to recover the cost from the person in control of that thing.

Clause 23 (1) provides for the approval of public transport infrastructure that a person who wishes to operate a public transport infrastructure or services in the County shall obtain consent from the County Executive Committee member. Clause 23 (2) of the act also provides that the County executive Member shall expeditiously

process any application to operate a public transport services in the county and may only withhold such application where-

- a) It conflicts with the approved transport plan of the county
- b) It imposes costs on the County that the County Executive Committee member deems unreasonable
- c) The county executive committee member is of the opinion it may cause unreasonable disruption of public transport services in the County

xxii. Clause 24 of the act state that no person shall drive a motor vehicle on a public road except under the authority and in accordance with the conditions of a license issued in accordance with the relevant national law.

xxiii. Clause 25 (1) of the act provides that the county executive committee member shall prepare a plan for a network of bus routes to operate to, from and within the County.

It further states in subsection (2) that a person shall not operate a public service route in the county unless-

- a) Incorporated under the companies Act or registered as a SACCO
- b) A Valid bus license has been issued by the National Transport and Safety Authority
- c) A bus route permit has been issued by the county.

Moreover the clause in subsection (3) provides that a bus route permit shall be granted to a bus operator provided that the proposed bus route-

- a) Is a part of the plan approved under subsection (1)
- b) Operating and performance standards and fares regime are agreed with the county in a bus route contract.
- c) Is operated by buses that have permanent access to parking and maintenance facilities and that the address of these facilities is provided to the County
- d) Is operated by a maximum of two companies, SACCOs or operators.

Clause 25 (4) of the Act states that the driver of a public transport vehicle shall, when ferrying passengers for hire or reward, follow such routes as are laid down under subsection (2) Clause 25 (5) states that a person who contravenes this section commits an offence and is liable on conviction to a fine not exceeding Kenya Shillings Fifty thousand or to imprisonment for a term not exceeding six months or to both.

xxiv. Clause 26 of the act provides that the County Executive Committee member shall designate public transport vehicles terminals in the County

The clause further states that in subsection (2) in designating terminals, the County Executive committee member shall ensure that such terminals are part of an integrated public transport network.

Clause 26 (3) of the acts provides that the County Executive Committee member may amend the designation of any terminal for any existing or proposed public service route to align them with an integrated public transport network.

xxv. Clause 27 of the act provides that (1) a registered owner of a public transport vehicle shall submit to the county executive committee member with a copy of the vehicle's

operative timetable indicating the schedule times of arrival and departure of all services for approval.

Clause 27 (2) of the Act provides the County Executive committee member may, before approving the timetable require necessary amendments and alterations be made for efficient and smooth running of a bus stations.

The clause further states in subsection (3) that all public transport vehicles shall adhere to the approved timetable.

xxvi. Clause 28 of the Act provides that a public transport vehicle shall only pick up or drop passengers at a designated bus stop.

Clause 28 (2) states that no public transport vehicle shall be parked at a bus station for a period designated by the county executive member from time to time.

Clause 28 (3) of the act provides that where the approved timetable provides an interval exceeding one hour between the arrival and departure of any public transport vehicle, such vehicle shall-

- a) Be removed from the bus station to a lawful place of parking not being a parking provided adjacent to a carriage way
- b) Shall not be returned to the bus station earlier than thirty minutes before the departure time.

xxvii. Clause 29 of the act provides that a registered owner of public transport vehicle using a bus station shall pay to the County fees prescribed.

Clause 29 (2) also provides that a person shall park a public service vehicle at a bus station for the purpose of picking and dropping passenger upon payment of the required fees

Clause 29 (3) of the act states that a person who contravenes this section commits an offence and is liable on conviction to a fine not exceeding Kenya shillings fifty thousand or to imprisonment for a term not exceeding six months, or to both.

xxviii. Clause 30 of the act provides that a public service vehicle operator shall develop a fare guide based on subsection 25(3) b

Clause 30 (2) states that a fare guide will be displayed at a location that is visible to all passengers.

Clause 30 (3) states that a passenger shall not be required to pay a fare that exceeds the amount displayed on the vehicle.

The clause moreover provides in subsection (4) that a public service vehicle operator shall notify the County Executive committee member of any changes to the published fare guide.

xxix. Clause 31 of the Act provides that no person shall through use of force, intimidation, threats or prevent-

- a) Any person from obtaining or engaging a public transport vehicle
- b) A driver of a public transport vehicle from picking or dropping passengers or
- c) Operation of any public transport vehicle which is lawfully operated.

xxx. Clause 32 of the act provides that all public transport vehicles shall have designated seats close to the alighting door for passengers with a physical disability or special needs.

Clause 32 (2) provides that the number of seats shall be designated for passengers with a physical disability or special needs or pregnant women or elderly people or person with an infant as follows-

- a) Vehicles with a capacity of not less than seventeen passengers to have one designated seat.
- b) Vehicles with a capacity of eighteen to thirty- five passengers to have two designated seats
- c) Vehicles with a capacity of over thirty- five passengers to have three designated seats.

xxxii. Clause 33 of the Act provides that if a public transport vehicle becomes defective during a journey, for any reason is unable to proceed on with the journey to the outlined destination, the passengers shall, the operator of such defective vehicle shall provide-

- a) Provide an alternative vehicle within a reasonable time
- b) An adequate refund of fare for the remainder of the journey.

Clause 33 (2) of the Act provides that a public service vehicle operator who fails to comply with subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding fifty thousand shillings.

Clause 33 (3) of the act states that a driver of a vehicle that becomes defective shall take reasonable steps to ensure the security of the passengers and the vehicle operator shall be held responsible for any loss or injury suffered to passengers as a result of negligence.

xxxiii. Clause 34 of the act provides prohibited activities in a public transport vehicle whereby the following activities are prohibited on a public transport vehicle-

- a) Smoking
- b) Offensive or excessive loud music
- c) Obscene or offensive language
- d) Interfering with the comfort of any passenger
- e) Damaging or interfering with an equipment of the vehicle
- f) Endangering the life of a passenger
- g) Showing or displaying of any pornographic material
- h) Any other activity prohibited by law

Clause 34 (2) further states that a person who contravenes this section commits an offence and is liable to a fine not exceeding twenty thousand shillings.

xxxiiii. Clause 35 of the act provides for motorcycle transport that the rider and pillion passenger on a motorcycle shall-

- a) Wear a helmet and a reflecting jacket when on board
- b) Comply with national traffic legislation.

Clause 35 (2) of the act provides the carrying capacity for motorcycle shall be one pillion passenger and three passengers for tuk-tuk.

Clause 35 (3) of the act also states that a pillion passenger on a motor cycle shall be at least 13 years old.

Clause 35 (4) states that a motorcycle shall only carry passengers for commercial purposes if the operator has obtained a permit issued by the county.

Clause 35(5) provides that any motor-cycle carrying passengers for commercial purposes shall operate on zonal arrangements and each zone shall have a distinct color mark by given county.

- xxxiv. Clause 36 of the act provides that a County Executive Committee Member may designate any authorized officer to service as a traffic marshal for purpose of this part.  
 Clause 36 (2) of the act provides that a Traffic Marshal when pursuing their duties wear a required uniform and carry such identification and authorization.  
 Clause 36 (3) of the act provides that the duties and functions of traffic Marshals shall-
- a) To collect fees and charges set out under this Act
  - b) Manage traffic flow in the county roads
  - c) Perform any other duty of an authorized officer.
- xxxv. Clause 37 of the Act provides that the county executive committee member shall designate cycling lanes for the exclusive use of pedal cycles in the county roads.  
 Clause 37 (2) states that no motorized vehicle shall enter a lane designated for cycling.
- xxxvi. Clause 38 of the act provides pedestrians only lanes roads in that a road signed with a pedestrian only sign, including the footways and carriageway, shall be for the exclusive use of pedestrians and no motorized vehicle or pedal cycle shall enter or ply on such road.
- xxxvii. Clause 39 of the act provides for public transport vehicles only road where a road is signed with a public transport vehicle only sign, no motorized vehicle other than a public transport vehicle operated on an approved route may enter or ply that road.  
 Clause 39 (2) of the act clarifies that despite subsection (1), the following vehicles are exempt-
- a) Police cars and motorcycles
  - b) Ambulances
  - c) Fire engines.
- xxxviii. Clause 40 of the act provides that a person shall not park or allow to be parked a public transport vehicle in a non- designated parking area  
 Clause 40 (2) of the acts states that a public transport vehicle, when picking or dropping passengers, shall not-
- a) Traverse a pedestrian crossing when picking or dropping a passenger
  - b) Park in a designated parking place longer than is required.
- This clause subsection (3) clarifies that the County shall establish lay-bys for public transport vehicles shall not park or block the entrance or exit of the lay by.  
 Clause 40 (4) of the act states that a person who violates this section commits an offence, and is liable on conviction to a fine not exceeding fifty thousand shillings or to imprisonment for a term not exceeding eight months or to both.
- xxxix. Clause 41 of the act provides a utility company which in exercise of a statutory mandate on a county road or footpath may affect the flow of traffic shall seek an approval from the County Executive Committee member in writing.  
 Clause 41 (2) of the act states that the County Executive Committee member shall approve any request under subsection (1) where a utility company has clearly identified-
- a) Location and nature of the proposed works
  - b) Duration of the proposed works



c) Measures proposed to ensure the smooth flow traffic and pedestrians

Clause 41 (3) of the act provides that the County Executive Committee Member may issue temporary traffic orders to regulate traffic during the duration of the works.

The same clause in subsection (5) provides that in undertaking any works on a county road, a utility company shall be responsible for the safety of workers at the site and of the pedestrians

This clause in subsection (6) provides that upon completion of the works, a utility company shall ensure that the road and footway, signs and road markings are reinstated to appropriate standard.

xi. Clause 42 of the act provides for the designation of truck routes that no truck above the gross vehicle weight indicated shall enter any road where a lorry ban sign is erected.

Clause 42 (2) of the act provides that the County may designate-

- a) Certain roads as trucks routes through the erection of class B advisory signs or
- b) Any part of any county road or area as a truck park

Clause 42 (3) of the acts states that no truck unloading goods shall park in any place except a place designated as truck park.

Clause 42 (4) clarifies that the county may levy a charge on trucks parking in a designated truck park.

xli. Clause 43 of the act provides for traffic impact assessments that any person who applies for the development, redevelopment or change of use of a building or structure exceeding 2,000sq.m. gross floor area shall only be approved where-

- a) The building or structure contains within its curtilage the approved number of car parking spaces
- b) A traffic impact assessment report has been submitted by the developer, proposer or owner of the building or structure.

Clause 43 (2) of the acts provides a traffic impact assessment report shall contain:

- a) A forecast of the number of people and vehicles of all types that will be attracted to the building or structure in the year following the year of submission of the report and the following ten years.
- b) A review of existing transport and traffic conditions in the area the transport network is likely to be affected by the proposed building or structure
- c) An assessment of the additional transport infrastructure and services required in the affected area to accommodate the traffic and transport demands generated by the building or structure with a view of ensuring that there is no net detrimental effect on traffic and public transport congestion.

xlii. Clause 44 of the act provides for the implementing traffic impact assessment report (1) as a condition of the planning approval the developer or proposer or owner of the building or structure may be required to implement at their cost the measures in the

approved traffic impact assessment.

Clause 44 (2) of the acts states that despite subsection (1) ,a developer, proposer or owner of the building or structure may be required to implement at their cost the measures in the approved traffic impact assessment.

Clause 44 (3) adds that any commuted sum shall be the subject of an agreement between the developer, proposer or owner of the building or structure and the County.

xliii. Clause 45 of the Act provides that the County Executive Committee Member may order a county road be closed for a certain period of time in any direction for any class of traffic.

Clause 45(2) states that prior to effecting any closure, the County Executive Committee member shall-

- a) Publish and publicise the proposed order and
- b) Consider written submissions on the proposed order.

xliv. Clause 46 of the Act provides that a person shall not park or permit a vehicle to be parked on a public road contrary to a traffic sign or in a manner that impedes the flow of traffic

This clause also provides in subsection (2) that parking shall be at strictly in areas designated as such at a parking fee as shall be determined by the County Executive Committee member for different areas within the county government.

xlv. Clause 47 of the Act provides that a public transport vehicle shall not without prior authority by the County, be parked in any place other than a designated public transport vehicles terminal.

The same clause in subsection (2) states that this section shall not apply to a public transport vehicle parked at a bus stop for sole purpose of dropping and picking passengers.

xlvi. Clause 48 of the Act provides for prohibition of parking areas whereby (1) a person shall not park a motor vehicle in any other area other than a designated parking area.

Clause 48 (2) clarifies that unless legally permitted, a person shall not stop or park a vehicle-

- a) At an intersection nearer than ten meters to the projection of the curb line immediately ahead or immediately to the rear.
- b) Within ten meters on the approach to a stop sign or give way sign
- c) Within five meters of any fire hydrant or when the hydrant is not located at the curb within five meters of the point on the edge of the roadway nearest the hydrant.
- d) Within ten meters of the approach to a pedestrian crossing
- e) On a footway
- f) Facing oncoming traffic
- g) On any bridge or approach to any bridge
- h) In a passenger loading or unloading space posted as such by a traffic control device except when taking or discharging passengers

- i) On any portion of a public road posted with the sign 'No Parking '
- j) On any space posted as a fire lane except for emergency vehicles
- k) On any space posted for disabled persons unless such vehicle is designated as a disabled person's vehicles or
- l) In such a manner so as to obstruct an emergency

Clause 48 (3) states that a person shall not park a vehicle or permit a vehicle to be parked on a private property without permission by the owner of such property or a person having lawful possession or control.

Subsection (4) of the same clause states that a trailer shall not be parked on a public road unless attached to a vehicle by which it may be propelled or drawn and when so attached, the trailer shall be deemed to be part of the vehicle and subject to the provisions pertaining to vehicles

Subsection (5) of the same clause also states that a vehicle that is not a taxicab shall not be parked in an area designated as a taxi zone.

- xlvi. Clause 49 of the acts provides for the parking bays for permit holders that the Committee Member may declare that a designated parking bay or bays may only be used for the parking of vehicles for permit holders only

Clause 49 (2) provides that the County government may issue a permit to a person for a period not less than three months on payment of a fee if that person has-

- a) A residence or business close to the permit holders only bays and
- b) No means of parking a vehicle within the curtilage of the building that houses that residence or business.

The same clause subsection (3) states that any vehicle parked in a permit holder bay shall visibly display such a permit commits an offence.

Subsection (4) of this clause clarifies that any permit granted does not guarantee the holder a parking space.

- xlviii. Clause 50 of the act provides that a committee member can direct road agencies on safe parking if the opinion of the Committee member, the parking of vehicles at a location on a road not under the jurisdiction of the County government constitutes a traffic congestion or safety hazard the committee member may write to the agency responsible for that road directing that parking be regulated in a manner that reduces that hazard.

- xlix. Clause 51 of the act provides that (1) no person shall own or operate an off street car park that is accessible to the public for reward unless granted an off street parking license by the county.

Clause 51(2) states that an application for an off street car park license shall be made to the County executive committee member in the prescribed manner and include-

- a) The proposed number of car parking spaces
- b) Proposed hours of operation
- c) Proposed car parking charges
- d) Number of proposed spaces for vehicles transporting drivers or passengers living with disabilities
- e) The prescribed fees and
- f) Statement on impact of the car park on traffic congestion

Clause 51 (3) of the act states that an off street car park license shall not be granted if its operation is likely to create traffic congestion

Subsection (4) of the same clause provides that in granting a license, the county executive committee member may place conditions on-

- a) The number of car parking spaces to be operated
- b) The opening hours of the car park
- c) The charges for parking
- d) The duration of effect of the license
- e) Number of spaces for vehicles transporting drivers or passengers living with disabilities.

Subsection (5) states that a license may be granted for a period less than two years and not exceeding five years.

Subsection (6) provides the following entities operating public off street car parks are exempt from the requirements of this section-

- a) Government offices
- b) Parks
- c) School
- d) Universities
- e) Vocational training colleges and institutes.

- I. Clause 52 of the act states that a congestion charge in central business district will be charged by the County Executive Committee member on the owner or operator of every institution, company or building or land within any controlled area that-
  - a) Contains car parking spaces within the curtilage of the building or land
  - b) Is a public off street car park

Clause 52 (2) of the act provides that in levying a congestion charge, the county Executive committee member shall take into account-

- a) The amount of traffic and
- b) Representations made with affected stakeholders.

- li. Clause 53 (1) of the act provides that any vehicle parked contrary to provisions of this Act, or which has broken down at a place not designated for parking, shall be removed within the hour by the owner, failing which it shall be towed away by authorized officers at the owner's expense.

Clause 53 (2) of the act provides that when a vehicle breaks down on a road, owner shall place an authorized hazard sign at least 10 meters behind the vehicle.

- lii. Clause 54 of the act states that a person shall not park a vehicle on any road unless designation for parking otherwise permits, except for the following purposes-
  - a) The loading or unloading of goods from a commercial vehicles for a reasonable period or
  - b) The loading or unloading of goods or passengers from a vehicle other than a commercial vehicle for a reasonable period

Clause 54 (2) of the act clarifies that despite subsection (1) , no person while loading or unloading passengers or goods shall park in such a manner as may obstruct the passage of other vehicles.

- liii. Clause 55 of the Act provides that the operator of a taxicab upon any roadway other than within a taxi zone, unless such taxicab is displaying a 'Not for Hire' sign and the operator is out of the taxicab.
- liv. Clause 56 of the Act provides use of footway to be for use by pedestrians and subsection (2) states a person shall not drive, park, or erect a structure on a footway. The clause also states in subsection (3) that a person who contravenes this section commits an offence and is liable, on conviction, to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding six months, or to both
- lv. Clause 57 (1) of the Act provides that a person driving a motor vehicle shall not park the vehicle on any part of a county road that has signs or markings indicating that parking is prohibited at the time of the day or that day of the week.  
 Clause 57 (2) states that a person shall not use a parking bay other than for the purpose of parking a motor vehicle and in accordance with such conditions as may be prescribed by the county executive committee member.  
 This clause in subsection (3) further states a person who contravenes this section is required to pay a penalty.  
 The clause further provides in subsection (4) that a person who fails to pay the penalty commits an offence and is liable, on conviction, to a fine not exceeding fifty thousand shillings or to imprisonment for a term not exceeding three months or both.  
 This clause subsection (5) provides that where the owner of a motor vehicles contravenes this section, the county Executive committee member may cause the motor vehicle to be seized and such vehicle shall only be released to the owner upon payment of the required fine and charges.
- lvi. Clause 58 (1) of the Act provides special parking bays that the county executive committee member shall designate parking bays for-
  - a) The reserved parking of petroleum tanker vehicles in accordance with section 99 of the Energy Act and
  - b) The parking of heavy commercial vehicles.
 Clause 58 (2) states that a person driving a petroleum tanker vehicles or a heavy commercial vehicle shall not park the vehicle in an area other than that which is designated for parking of such vehicles.  
 Clause 58 (3) clarifies that despite subsection (2), a person may park a petroleum tanker vehicle or a heavy commercial vehicle outside the designated areas for the purpose of loading or offloading goods where-
  - a) The loading or offloading process is continuous
  - b) The goods are of such weight that they cannot be reasonably conveyed otherwise than by means of a vehicle.
  - c) The vehicle is parked near as possible to the loading or offloading site and
  - d) The loading or offloading activity is carried out promptly.
 Clause 58 (4) of this Act also states that a person who contravenes this section commits an offence and is liable, on conviction, to a fine not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding one year or to both.

The same clause subsection (5) states that where the owner of a motor vehicle contravenes this section the county executive member may seize the motor vehicle and such a vehicle shall only be released to the owner upon payment of the required fine and charges.

lvii. Clause 59(1) of the Act provides that the county executive committee member shall by notice in the county gazette, publish standards on the approved number of car parking spaces to be provided within a building structure.

Clause 59 (2) states that the standards published under subsection (1) shall relate to

- a) The proposed use of the building or structure
- b) The geographical location of the proposed building or structure
- c) In the case of a non- residential development the gross floor area of the proposed building or structure
- d) In the case of a residential development, the number of proposed bedrooms and
- e) Any other factor the County Executive Committee Member deems fit to include.

lviii. Clause 60 (1) of the Act provides street lighting that the county shall install and maintain street lights on all its roads.

The same clause subsection (2) states that in installing the street lights, the County shall prioritise the roads guided by the criteria of-

- a) Volume of traffic
- b) Volume of pedestrians
- c) Safety and
- d) Security

Clause 60 (3) of the act further states that any national government road agency shall install and maintain street lights on roads under its jurisdiction within County Executive Committee member may from time to time determine.

lix. Clause 61 of the act provides that no sign, advertisement or billboard may be erected on a road or a footway or within a road reserve except-

- a) On approval by the County Executive Committee Member on application made through a prescribed form and
- b) Payment of the prescribed fee.

lx. Clause 62 (1) of the Act provides that the County executive committee member may designate any area of county to be a low emission zone. The clause also state in subsection (2) that the designation of a low emission zone shall be published and publicized.

lxi. Clause 63 (1) of the Act states that from January 1<sup>st</sup> 2025 no motorized vehicle may be driven or parked on any public road within low emission zone unless-

- a) Proof of payment of the low emission fee is able to be demonstrated by the driver of that vehicle or any passenger in that vehicle.
- b) The appropriate low emission zone fee has been paid for that vehicle in accordance with regulations.

Clause 63 (2) of the acts further states that any vehicle that does not display the proof of payment of the climate change mitigation fee shall be liable to an immediate penalty of five times the fee payable for one day.

Clause 63 (3) further states that any vehicle for which the penalty in subsection (1) is not paid within two hours may be caused to be taken to a designated impounding yard and shall only be released on payment of a release fee.

lxii. Clause 64 (1) states that from January 1<sup>st</sup> 2035 no motorized vehicle whose means of propulsion is an internal combustion engine may be driven or parked on any public road within the low emission zone.

Clause 64 (2) states that any vehicle in contravention of subsection (1) is liable to a penalty of ten thousand shillings and the vehicle shall be taken to a designated impounding yard.

lxiii. Clause 65(1) of the Act provides that every two years the Committee Member shall prepare and submit to the Assembly a report on the status of non- motorized transport in the county

This clause under subsection (2) states that in preparing the report that the committee member shall have regard to

- a) The demand for non-motorized transport
- b) The stock and quality of infrastructure devoted to non- motorized transport
- c) Such activities that have been implemented to foster and encourage the use of non- motorized transport, particularly cycling and walking in Nairobi.

lxiv. Clause 66 (1) of the act states that the County Executive Committee member shall make guidelines for non-motorized transport.

Clause 66 (2) provides the guidelines on the design and provision of-

- a) Safe roads
- b) Safe footpaths
- c) Cycle lanes
- d) Cycle parking
- e) Safe pedestrian crossing
- f) Access to buildings, social and educational facilities
- g) Access for persons with mobility disability
- h) Safe movement of rickshaws and hand carts

Clause 66 (3) of the Act provides that no person shall construct any road, footway or any part of any road or any building or public facility without taking into account the prescribed design guidelines.

lxv. Clause 67(1) of the Act provides that the County Executive committee member may make regulations for the efficient administration of this Act including on-

- a) Operation of public transport vehicles within the county
- b) Designated public transport vehicle timetable
- c) Public transport vehicle timetables
- d) Public transport fares
- e) Designated parking bays
- f) Regulation on taxicabs
- g) Regulation of tuk-tuks
- h) Road reserves

- i) Regulation of motor cycle taxis
- j) Parking fees and excess charges chargeable under this Act and
- k) Fines payable for contravening the provisions of this Act.

## DAY 2 OF THE WORKSHOP

### 4.1 PRESENTATIONS: OVERVIEW OF THE BUDGET PROCESS AND BUDGET DOCUMENTS

#### 4.1.1 Introduction

On 20<sup>th</sup> March 2021, the workshop 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 speaks broadly on the aspect of public finance management 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 overemphasized 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.

#### 4.1.2 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.

#### **4.1.3 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.

#### **4.1.4 CIDP and ADP**

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 1<sup>st</sup> 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; and
- such other matters as may be required by the CoK, 2010

The CFSP on the other hand, is submitted not later than 28<sup>th</sup> 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 paper is committed to the FBAC 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.

#### 4.1.5 Budget Estimates

The Counties are required to prepare the estimates in a programme-based format and submitted to the County assembly for scrutiny and approval by 30<sup>th</sup> 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.

#### 4.1.6 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 refers to 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.

#### 4.1.7 The role of Committees in 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

## 4.2 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.

### 4.2.1 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.

### 4.2.2 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.

#### 4.2.3 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
- Forgone 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 through grants to level 5 hospitals, development of village polytechnics, compensation of user foregone, leasing of medical equipment and road maintenance fuel levy.

#### 4.2.4 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

### 4.3 BUDGET MONITORING AND OVERSIGHT

#### 4.3.1 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.

#### 4.3.2 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.

#### 4.3.3 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.

#### 4.3.4 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

#### **4.3.5 Monitoring and evaluation**

The Committee was informed that whereas monitoring is a continuous function that uses the systematic collection of data on specified indicators to provide management and the main stakeholders of an ongoing development intervention with indications of the extent of progress and achievement of objectives and progress in the use of allocated funds, evaluation is the systematic and objective assessment of an ongoing or completed project, program, or policy, including its design, implementation, and results.

The aim of monitoring and evaluation is to determine the relevance and fulfillment of objectives, development efficiency, effectiveness, impact and sustainability.

The process of monitoring and evaluation should provide information that is credible and useful, enabling the incorporation of lessons learned into the decision-making process

#### **4.3.6 Types of M&E indicators**

The Committee noted that indicators are measurable variables of an aspect that are used to determine change in it over time through observation or measurement. In doing monitoring and evaluation, indicators are needed to observe whether the intended purpose or objective was achieved and by how much has it not met the objectives in order to inform remedial measures.

#### **4.3.7 Role of the County Assembly in monitoring and evaluation of County budget**

Although the County Assembly may not have the professional capacity to conduct M&E, but it is their responsibility to perform the following in its oversight role to ensure plans, policies and budgets are implemented as approved for the benefit of citizens:

- Monitor all county government policies and programmes to ensure efficient use of county resources;
- Improve the efficiency, economy, and effectiveness of county government's operations;
- Evaluate programs and performance of various County Departments to inform budget making;
- Detect and prevent poor administration, waste, abuse, arbitrary and capricious behavior, or illegal and unconstitutional conduct;

- Protect civil liberties and constitutional rights;
- Inform the general public and ensure that executive policies reflect public interest;
- Gather information to develop new legislative proposals or amend existing county laws; and
- Ensure administrative compliance with legislative intent.

#### 4.3.8 Monitoring tools for County Assembly

The Committee was informed that the County Assembly and its Committees may exercise monitoring by applying the following tools at their disposal:

- Reports of the Auditor General;
- Committee reports on Statements, hearings, inquiries, inspection visits, meetings with the Sector;
- Reports from the County Sectors;
- Reports from the Office of the Controller of Budget; and
- Reports from the County Treasury.

### 5.1 CLOSING OF WORKSHOP

#### 5.1.1 Way Forward

1. The Committee, while considering the CFSP and the Budget Estimates, to allocate funds to the Sector to facilitate the implementation of the Transport Act, 2020 and formulation of the relevant regulations;
2. That the Committee to step up its oversight role by conducting site inspection visits of impact and engaging the NMS and the Sector further over quarterly reports regarding roll out of budget in every financial year;
3. The Committee to apply the approaches discussed in scrutiny and examination of budget documents going forward; and
4. The Committee to engage the National Government bodies in the transport sector, for instance, the Kenya Urban Roads Authority (KURA) and NAMATA regarding their work plan for Nairobi County as far as the Fuel Levy Fund is concerned; and Mass Transportation initiative (Commuter rail and BRT) in the County.





MINUTES OF THE (VIRTUAL) SITTING OF THE SELECT COMMITTEE ON TRANSPORT AND PUBLIC WORKS HELD ON MONDAY 3<sup>RD</sup> MAY, 2021 AT 1.00 PM

PRESENT

1. Hon. Wilson Ochola, MCA - Chairing
2. Hon. Peter Wanyoike, MCA
3. Hon. Fredrick Njogu, MCA
4. Hon. Mary Ariviza Mwami, MCA
5. Hon. Evans Otiso, MCA
6. Hon. Kennedy Oyugi, MCA
7. Hon. Mark Mugambi, MCA

ABSENT

1. Hon. Nicholas Okumu, MCA
2. Hon. James Mwangi, MCA - Chairperson
3. Hon. Jared Okode, MCA - Vice- Chairperson
4. Hon David Ayo, MCA
5. Hon. Asli Mohammed, MCA
6. Hon. Osman Adow, MCA
7. Hon. Patricia Mutheu, MCA
8. Hon. Geoffrey Majiwa, MCA
9. Hon. Anthony Gatune, MCA
10. Hon. Osman Khalif, MCA
11. Hon. Hafsa Khalif, MCA
12. Hon. Geoffrey Ng'ang'a, MCA
13. Hon. Stazo Omung'ala ,MCA
14. Hon. Husni Lawi, MCA
15. Hon. Abdi Hassan, MCA
16. Hon. John Kamau, MCA
17. Hon. Mark Ndung'u, MCA
18. Hon. Joseph Komu, MCA

SECRETARIAT:

1. Mr. Austin Inyundele – Snr. Clerk Assistant
2. Mr. Benedict Ochieng' – Clerk Assistant

AGENDA

1. Prayers
2. Adoption of Agenda
3. Adoption of the Committee's draft report on the workshop held from 18<sup>th</sup> to 21<sup>st</sup> March 2021
4. AOB & Adjournment

MIN.0066/T&PW/APRIL/2021: Preliminaries

The Chairperson called the meeting to order at 1:00 p.m and opened the meeting with a word of prayer. She then read the agenda that was adopted and proposed by Hon. Evans Otiso, MCA and seconded by the Hon. Mark Mugambi, MCA.

MIN.0067/T&PW/APRIL/2021: Adoption of the Committee's draft report on the workshop held from 18<sup>th</sup> to 21<sup>st</sup> March 2021

The Committee was informed that the Committee was expected to file a report following the workshop that was held in Mombasa. The Ag. Chairperson informed the Committee that the first part of the report was considered during the previous sitting and that at the meeting, the Committee is expected to consider the second part on the budget process. The Ag. Chairperson invited the Clerk of the Committee to take the Members through the report.

The Clerk of the Committee took the Committee through the report mentioning key issues that include the key documents, timelines for submission and reporting, statutory anchoring of various issues of the cycle, the role of Sectoral Committees, sources of revenue for Counties and monitoring and evaluation. The meeting ended on 20<sup>th</sup> March 2021 with the following resolutions:

1. The Committee, while considering the CFSP and the Budget Estimates, to allocate funds to the Sector to facilitate the implementation of the Transport Act and formulation of the regulations that are stipulated therein.
2. That the Committee to step up its oversight role by conducting site inspection visits of impact and engaging the NMS and the Sector further over quarterly reports regarding roll out of budget in every financial year;
3. The Committee to apply the approaches discussed in scrutiny and examination of budget documents going forward; and
4. The Committee to engage the National Government bodies in the transport sector, for instance, the Kenya Urban Roads Authority (KURA) and NAMATA regarding their work plan for Nairobi County as far as the Fuel Levy Fund is concerned; and Mass Transportation initiative (Commuter rail and BRT) in the County.

The Ag. Chairperson thanked the Clerk for the elaborate presentation. The Committee was satisfied with the content of the report. The report was adopted having been proposed by Hon. Patricia Mutheu, MCA and seconded by Hon. Mary Ariviza, MCA.

MIN.0068/T&PW/ APRIL/2021 –adjournment and date of next meetings

There being no other business to consider, the Chairman adjourned the meeting at 2.38 p.m. The date of next meeting would be communicated by notice.

**CONFIRMED TO BE TRUE RECORD OF THE PROCEEDINGS**

CHAIRPERSON .....

23/6/2021

SECRETARY .....

23<sup>rd</sup> June 2021