



# MURANG'A COUNTY ASSEMBLY

## THIRD ASSEMBLY-FIRST SESSION

A REPORT ON CAPACITY DEVELOPMENT FOR MEMBERS OF GOVERNANCE, LABOUR, JUSTICE  
AND LEGAL AFFAIRS COMMITTEE UNDERTAKEN AT NAIROBI FROM NOVEMBER 12-14, 2022

Clerk's Chambers

Murang'a County Assembly

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## **1.0 Acknowledgement**

Members of Governance, Labour, Justice and Legal Affairs Committee wish to acknowledge the Office of The Speaker and Clerk of the County Assembly for the support accorded towards undertaking the induction programme.

The skills and knowledge acquired will help them in undertaking the oversight and legislative roles well.

## **2.0 Background**

The Committee on Governance, Labour, Justice and Legal Affairs was constituted and elected Chairperson and Vice Chairperson pursuant to standing order No. 172 (1) (a) on October 19, 2022.

The Committee comprises of the following Members:

- a) Hon. Jeremiah Gichobe Mbatia -Chairperson
- b) Hon. Pauline Muchiri - Vice Chairperson
- c) Hon. Grace Sharleen Wambui - Member
- d) Hon. Anthony Marubu Chege - Member
- e) Hon. Laban Chomba Njaramba - Member
- f) Hon. Bernard Ruiru Njeri - Member
- g) Hon. Thomas Muteti Mwaura - Member
- h) Hon. Mark Gicheru Wainaina - Member
- i) Hon. Loise Muthoni Mbogo - Member
- j) Hon. Moses Muchiri Maina - Member

Upon constitution, the Committee is expected to undertake their mandate going into the future, as such, the Committee is expected to undergo capacity building to enable it discharge its functions effectively and efficiently.

## **3.0 Training areas for the induction workshop meeting**

The following were set out as training areas for the induction workshop meeting;

1. Mandate, Roles and Functions
2. Legal Affairs, Vetting and Public Participation
3. Role of Committee Secretariat
4. Budget making process, statutory reports & their scrutiny
5. Law making process

#### **4.0 Problem Statement**

Orientation and induction is the task of introducing Members of County Assembly to the Committee's operations, its policies, procedures and rules. Inducting Members of the County Assembly and committees would thus facilitate them with the requisite knowledge and skills in pursuing their oversight and legislative role as envisaged in the Constitution of Kenya, 2010, County Governments Act, 2012 and County Assembly Standing Orders.

Further, induction of Members of the County Assembly based on past experiences gathered from first and the second assembly has positively impacted on both plenary and committee activities.

It is with this regard that the office of the Clerk of the County assembly organized an induction for the Committee on Governance, Labour, Justice and Legal Affairs for knowledge transfer purposes at Nairobi, Elysian Hotel from November 12-14, 2022. This would promote vibrant efforts aimed at enhancing both committee business.

#### **5.0 Methodology**

The induction workshop was undertaken through the following techniques;

1. Presentations by Committee Secretariat
2. Contributions from Members of County Assembly and staff

#### **6.0 Capacity Development Workshop**

##### **6.1 Opening remarks**

###### **Chairperson**

The Committee Chairperson made the following remarks;

- ✓ He welcomed all participants to the workshop meeting.
- ✓ Invited participants to introduce themselves
- ✓ He indicated that the knowledge gathered would be helpful in steering the Committee to greater heights
- ✓ He emphasized on the need for Members to pay attention to every detail
- ✓ He also underscored the need for commitment and punctuality in carrying out the business of the committee

## **6.2 Training areas**

### **6.2.1 Mandate, Roles and Functions of the Governance, Labour, Justice and Legal Affairs Committee**

Facilitated by John Kahari, Clerk, Governance, Labour, Justice and Legal Affairs Committee

#### **Timelines, key deliverables and challenges**

The facilitator on his opening remarks regarding the subject indicated that the Committee mandate revolves around the Public Service and Administration department, County Public Service Board and Governorship, and emphasized on the need for precision when doing scrutiny of the programmes of the said entities in line with the mandate, roles and functions.

#### **Why Committees in the County Assembly**

The following was provided on the why of committees;

- ✓ Committees in the Assembly are smaller units or groups of Members of the County Assembly
- ✓ Committees allow the Assembly to perform several functions simultaneously
- ✓ They provide the opportunity for more detailed investigation and discussion before the findings and outcomes of these committee meetings are presented as reports to the broader group (assembly in plenary) for debate and adoption.
- ✓ Committees are a vital tool or organ in the working processes of legislatures
- ✓ Without Committees, the proceedings of a legislature would grind to a halt from the sheer volume of activities that would have to be considered at the plenary
- ✓ Committees are agents of the assembly that enable legislatures to organize their work in order to perform numerous activities simultaneously and expeditiously

#### **General roles of Committees**

The roles include:

- ✓ Considering proposed legislation within the purview of their mandate
- ✓ Reviewing legislation
- ✓ Reviewing and approving the budget and expenditure of the county government

- ✓ Scrutinizing governance activities, policies, and programs and assessing whether they meet the intended objectives of legislation, policy frameworks, and development plans
- ✓ Investigating special issues
- ✓ Vetting and approving executive appointments
- ✓ Providing a platform for public participation in the execution of specified business

**Mandate of the Committee SO 204(5)**

- ✓ To investigate, inquire into and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the Department of public service and the county public service board;
- ✓ To study the program and policy objectives of Department of public service and the county public service board and the effectiveness of their implementation;
- ✓ To study and review all the legislation referred to it;
- ✓ To study, assess and analyze the relative success of the Department of public service and the county public service board measured by the results obtained as compared with their stated objectives;
- ✓ To investigate and inquire into all matters relating to the Department of public service and the county public service board as may be deemed necessary, and as may be referred to it by the House;
- ✓ To vet and report on all appointments where the Constitution or any law requires the County Assembly to approve;
- ✓ To make reports and recommendations to the House as often as possible, including recommendation of proposed legislation.
- ✓ Fourth Schedule of the Constitution, 2010 (County Governments)- Function No. 14:
- ✓ 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

## Effective Committee Meetings

The following tips should be taken into account:

- ✓ Active participation in the deliberations in an assertive manner but without being aggressive on the part of Members;
- ✓ Avoid distraction from the proceedings by being calm and attentive listeners;
- ✓ Keeping in mind the mandate and goals of the committee and advance these in their contributions.
- ✓ Declaring any interest, where applicable, in the matter being discussed.
- ✓ Observing the rules for orderly conduct of committee meetings, especially in regard to seeking the chairperson's permission before speaking.
- ✓ Being supportive of the qualified views of other members and where one is of a contrary view, voice their objection in decorum
- ✓ Punctuality and avoiding absenteeism

### a) Presides over meetings.

The following are the key elements of presiding over a meeting:

- ✓ Call the meeting to order on time and ask a member to read a prayer.
- ✓ Welcome everyone present to the meeting, where necessary, have a guided introduction of members and non-members;
- ✓ Briefly state the purpose for which the meeting has been convened.
- ✓ State the procedure and modalities for disposing of the agenda of the meeting.
- ✓ Ensure that the proposed agenda is adopted by the meeting;
- ✓ Keep control of the meeting to ensure deliberations focus on one agenda item at a time and that the agenda is disposed of in the sequence adopted;
- ✓ Moderate the proceedings of the meeting by choosing who to speak at a time and keeping order;
- ✓ Re-state and re-affirm the decision of the committee before proceeding to the next agenda for clarity and avoidance of doubt on the decision taken;



- ✓ Adjourn the meeting at the conclusion of business and, where applicable, announce the date for the next meeting;
- ✓ Confirm that there is quorum at the commencement of the meeting and when adopting committee reports
- b) Sign minutes of previous meeting after being proposed, seconded, and confirmed by the members present;
- c) Maintain order during the meeting, including dealing with errant members;
- d) Ensure that members do not infringe the rights of witnesses or other persons appearing before the committee;
- e) Determine questions of procedure and/or privilege during the meeting;
- f) Decide whether there is a need to exclude the public from the committee meeting. If so determined, the chairperson may adjourn the meeting to seek leave of the speaker to authorize exclusion of the public.

NB: In the absence of the chairperson and vice-chairperson at any meeting, a member designated by the chairperson takes the chair, and in the absence of such designated member, the members present elect one of them to take the chair

The role of Committee Members is to participate in the business of the committee

#### **Duties of the Clerk responsible for the Committee**

- ✓ Prepare the agenda in consultation with the chairperson
- ✓ Circulate the notice of meeting to all members in accordance with S.O 181
- ✓ Advise members on all matters related to the Budget Process
- ✓ Ensure that the committee room has all the basic requirements for the committee meeting
- ✓ Record the attendance of the members during every meeting
- ✓ Write Committee minutes promptly and table them before the committee for adoption
- ✓ Prepare a payment schedule for meetings attended in a given time
- ✓ Track and implement the decisions of the committee
- ✓ Ensure confidentiality, proper filing and storage of committee documents

- ✓ Prepare Committee's work plan
- ✓ Prepare Committee's budget
- ✓ Prepare and facilitate committee workshops
- ✓ Facilitate committee to formulate/review legislations/policies
- ✓ Facilitate the committee to undertake local and foreign trips
- ✓ Draft and facilitate tabling of reports

### 6.3 Facilitated by John Kahari, Clerk, Governance, Labour, Justice and Legal Affairs Committee

#### 6.3.1 Budget making process, statutory reports & their scrutiny

##### The Budget calendars

Mr. Kahari provided the following as the county budget calendar;

- **Budget Circular** issued by County Treasuries by **30<sup>th</sup> August**.
- County Executive Committee member (planning) to submit a **development plan** to the county assembly for approval by **1<sup>st</sup> September**.
- Urban areas and cities shall prepare a **strategic plan** consistent with the County Fiscal Strategy Paper and the county integrated development plan.
- **Budget Review and Outlook Paper (BROP)** is prepared and submitted to County Executive Committee (CEC) by **30<sup>th</sup> September for approval**
- Submit BROP to county assembly 7 days upon approval by CEC.
- Prepare and submit the **County Fiscal Strategy Paper** to county assembly by 28<sup>th</sup> February.
- **Budget Estimates** and other Bills submitted to County Assembly by **30<sup>th</sup> April**

- County assembly approves the budget estimates and passes a county **Appropriation Bill** by **30<sup>th</sup> June**.
- County Executive Committee member (finance) to make a **public pronouncement of revenue raising measures** on the date the County Finance Bill is submitted to County.
- County Assembly to approve County **Finance Bill before** the passing of the County Appropriation Bill.

### **Phases of budget making process**

The following were introduced as phases of budget making process;

#### **Strategic phase**

Strategic Phase: The preparation and approval of Integrated Development Plans (CIDP):-

- A CIDP is prepared by each County Government and domesticates national goals as defined by the National agenda-Vision 2030, Constitution of Kenya, Sustainable Development Goals and other international commitments.
- It also contains county priorities as identified by the county residents.
- The County Governments Act, 2012 (CGA), 104 obligates a county to develop an integrated plan, designate planning units at all county administrative levels and to promote public participation and engagement by non-state actors in the planning process.

***The CIDP is submitted to the County assembly for approval by 1<sup>st</sup> September***

#### **What legislatures look for in CIDP**

The following was issued as highlights of the topic;

- Does the current CIDP provide a review of the previous CIDP and what are the implications for the current CIDP

- Were targets set achieved over the past five years, and, if not, have the reasons for shortcomings provided?
- Are there ongoing projects/programs from the previous CIDP that require funding, need to be abandoned, or need to be overhauled?
- Are there proposed projects that have not yet been implemented? If so, why weren't they implemented?
- What socio-economic issues remain a challenge after the implementation of the previous CIDP and how does the current CIDP address these challenges?
- How is the county building on achievements in development over the past five years (if applicable) in the current CIDP?
- Does the CIDP provide a clear and realistic development strategy for the county over the next five-year period, Setting out priorities.
- Does the CIDP provide for programs and projects to be implemented to achieve the desired developmental change.
- Does the CIDP provide a clear and realistic revenue mobilization strategy for the county over the five-year period.

### **The Annual Development Plan (ADP)**

The following was introduced as the ADP by John Kahari;

Prepared as per **Section 126 of the PFMA, 2012** and in accordance with article **220 (2) of the Constitution of Kenya, 2010.**

- is an *extract* from CIDP
- should detail development priorities for the financial year and how each sector will strive to achieve these objectives.
- Programs to be delivered with details for each program;
- Description of significant capital developments;
- A detailed description of proposals with respect to the development of physical, intellectual, human, and other resources... and indicators where feasible; and
- A summary budget in the format required by regulations

## **The County Budget Review and Outlook Paper**

The following was provided in regards to the topic;

### **Section 118 of the PFMA, 2012**

- County Treasury shall prepare CBROP
- submit it to the County Executive Committee for approval, by 30<sup>th</sup> September in each financial year.
- The County Executive Committee shall consider the CBROP with a view of approving it, with or without amendments, within fourteen days after its submission.
- Not later than seven days after the (CBROP) has been approved by the County Executive Committee, the County Treasury shall
- submit the paper to the County Assembly

### **Contents of a CBROP**

- Actual fiscal performance in the previous financial year compared to the budget appropriation for that year;
- Budget sector ceilings for the next three financial years;
- Updated economic and financial forecasts with sufficient information to show changes from the forecasts in the most recent County Fiscal Strategy Paper;
- Information on how actual financial performance for the previous financial year may have affected compliance with the fiscal responsibility principles or the financial objectives in the latest CFSP; and
- The reasons for any deviation from the financial objectives in the County Fiscal Strategy Paper together with proposals to address the deviation and the time estimated for doing so.

## **The County Fiscal Strategy Paper**

Kahari submitted the following in regards to the County Fiscal Strategy Paper;

- The CFSP set out government policies which are implemented through the budgets
- The CFSP should state among others total revenue, total expenditures and anticipated total deficit (financing).

- The CFSP should also state expenditure ceilings for all sectors based on priorities
- The County Budget Review and Outlook Paper (CBROP), sets “provisional” sector ceilings which are revised and firmed up in the CFSP in February.
- CFSP should clearly identify priorities for funding or the distribution of needs across sectors.
- This involves identifying priority spending areas.
- The county should be able to identify key priorities and low priority areas so that funds can be reallocated to high priorities
- This should also reflect in the figures provided in the sector ceilings
- The narrative in the priorities should correlate to the figures in the ceilings.
- CFSP should provide final sector Ceilings
- The ceilings should show the amount of money the counties will spend on meeting the identified priorities.

#### **Approval of the Budget Estimates: Documentation and the role of County Assembly**

The following was provided as approval process on the budget estimates;

- According to the Constitution 224 the county budgets can only be passed after the enactment of the Division of Revenue and the passage of County Fiscal strategy paper.
- The Estimates are laid before the County assembly before or by 30<sup>th</sup> April.
- Review for realism and adherence to recommendations and approved CFSP & the CIDP and also strategic plans.
- *Amendments to the budget should be informed by a critical scrutiny of the estimates and should be in line with the County agenda as espoused in the CIDP, C-BROP and CFSP.*

#### **Preparation and approval of estimates Phase**

##### **In Absence of Appropriations Act**

The following was provided in regards to the topic;

There are only two instruments to draw funds these are an appropriation act or a vote on account.

Should the Assembly conclude on the Appropriations Bill but for a reason it cannot be ascended to by end of June, then the Assembly should consider the Motion for Vote on Account based on the Sum approved by the Assembly when adopting the Report of the Budget Committee and Appropriations.

#### **Vote on account**

The following was provided by Kahari in regards to the vote on account;

Following approval of the Budget Estimates, if the Appropriation Bill for a financial year has not been assented to, or is not likely to be assented to by the beginning of that financial year, the Assembly may authorize the withdrawal of money from the Consolidated Fund in accordance with Art 222 of the Constitution

- Money withdrawn
- May be used only for the purpose of meeting expenditure necessary to carry on the services of the County Government during the financial year concerned until such time as the relevant appropriation law is passed; and
- May not exceed in total one-half of the amount included in the estimates of expenditure submitted to the County Assembly for that year.

#### **Budget implementation and the continuous oversight**

The following was presented in regards to the topic;

- Appropriation Act,
- Governors Warrant/General warrant: *This is the authority issued by the Governor after the County assembly passes the Appropriations Act. It authorizes CEC Finance to issue money from the Fund. It also authorizes expenditures to be charged to the Fund provided the amount so charged equals approved appropriations.*
- Cash flow plans, work plans and procurement plans
- In year financial reports

#### **Legal framework for budget implementation**

John Kahari introduced the following as the legal framework for budget implementation;

- **The Constitution 2010 Article 225**

- **PFM Act 2012, Sec. 39(8)** The Controller of Budget shall ensure that members of the public are given information on budget implementation both at the national and county government level in accordance with Article 228 of the Constitution.
- **PFM Act 2012, Sec. 104 (1)** the County Treasury is responsible of coordinating the implementation of the annual county budget and report regularly to the county assembly
- PFM regulations (Sec.19(b)) tasks the standing committees of the County Assemblies with the responsibility of monitoring budget implementation at least on a quarterly basis.
- **The County Government Act, 2012**
- **County Assembly Standing Orders.**

#### **Evaluation and audit**

The following was presented in regards to evaluation and audit;

- At the end of the year all entities are required to prepare financial statements.
- Statements are submitted to the auditor General
- Auditor General Audits the statements and submits to the legislature
- The legislature should review and hold the executive to account
- Ensure the recommendations inform the next budget.

#### **Using the Tools for Oversight for review and approval of the estimates**

The following were identified as tools for oversight for review and approval of estimates;

- **The Technical Staff:** analysis and review
- **The Committee system:** to review and make recommendations



- **Public Participation:** - Ensure adherence to the requirements of the constitution and providing for **inclusiveness**
- **The legal framework:** the only authority to draw resources from the Consolidated fund is through an appropriation act.

### **SCRUTINY OF STATUTORY REPORTS**

The CPSB is required under section 59 (1) (d) (f) of the County Governments Act, 2012 to prepare and submit the following statutory reports to the County Assembly each December:

- ✓ The report on the execution of the functions of the Board;
- ✓ The report on the extent to which the values and principles referred to in Articles 10 and 232 of the Constitution, 2010
- ✓ The reports by the CPSB should include all the steps taken and decisions made by the Board and the specific recommendations that require to be implemented in the promotion and protection of the values and principles pursuant to section 59(5) of the County Governments Act, 2012
- ✓ The Committee is required to submit a report to the House for consideration in February upon when the House resumes from recess

#### **6.4 Role of Committee Secretariat-By Nevy Kimani, Hansard Reporter & John Macharia, Sergeant at arms**

##### **6.4.1 Role of Hansard in Committee-Nevy Kimani, Hansard Reporter**

This is to help every member appreciate the place and roles of Hansard in Legislature.

Hansard in the County Assembly of Murang'a is established under SO 273

It is a report which, though not strictly verbatim, is substantially the verbatim report with repetitions and redundancies omitted and with obvious mistakes (including grammatical mistakes) corrected, but which, on the other hand, leaves out nothing that adds to the meaning of the speech or illustrates the argument. This is as per terms of reference set by House of Commons Select Committee in 1893.

The Hansard is of significant because;

- ✓ They record the decisions taken upon legislative business (motions, votes, Bills, amendments etc.). The Hansard has a format for capturing the resolutions of the House. For instance, if a Motion is passed with or without amendments or whether it was rejected by the House, the Report will indicate the decision taken by the House.
- ✓ Also, in cases of Bills, the Report will indicate whether the Bill was passed with or without amendments and whether there were any new clauses, new parts or schedules added to the Bill.
- ✓ The Report will capture all the processes involved when passing Bills; from First Reading, Second Reading, Committee of the Whole House, Third Reading and Concurrence of the other House.
- ✓ When a Bill is read a Third Time and passed accordingly, the Office of the Clerk will prepare Votes and Proceedings of that day together with a vellum copy and a copy of the Hansard and forward them to the Attorney-General for onward transmission to the President for assent. But the Attorney-General must first satisfy himself that the said documents are in agreement. In cases of doubt, they come back to the Hansard to verify any discrepancy. So, the Hansard is the definitive record of the proceedings of the Assembly.
- ✓ Judiciary to interpret legislation. In Kenya, the Judiciary has used Hansard reports in the Goldenberg Scam, election petitions to determine whether a certain Member of Parliament can conduct parliamentary business using either the national language (Kiswahili) and English as the official language. The Hansard Editor will often be summoned to court to present evidence of any official record or Hansard to show that the said representative has made contributions in the House or not. The election petition against Hon. Waibara is a classical case.
- ✓ It is also used by courts to establish the spirit of any piece of legislation
- ✓ Constitution making process and Amendment of Act of Parliament. They are a reliable source of information. Since the demand for constitutional reform right from IPPG, the Bomas Draft, the Wako Draft, the Great Rift Valley Constitutional Retreat, among

others, the Hansard has been a source of authority and information for all stakeholders involved in constitution making in Kenya leading to promulgation of Constitution of Kenya 2010:

- ✓ Transparency and Accountability; It helps the electorate to know how their representatives vote on crucial legislative matters. This can have far reaching consequences on the elected representatives especially if they vote for unpopular legislation. The electorate will vote out unpopular leaders or leaders who do not represent them well in Parliament. So they must articulate the issues affecting their constituents well.
- ✓ Parliament holds public hearings to get the views of the public and incorporate them in the legislative process, for instance, when preparing the national budget. In case of claim that public views were not included Hansard will be reviewed to give factual views of public.
- ✓ Used to Discipline Members who are disorderly. The term discipline here will mean several things; a Member can be asked to apologize to the House for being disorderly or failure to substantiate his allegations even after being given the opportunity to do so. Equally, the Presiding Officer can ask the member who has been found in breach of privileges of the House to withdraw from the precincts of the Parliament for a given period and denied access to even his ward office. The worst scenario is where a member is named for gross misconduct. The speaker will refer to the Hansard to see what the member did leading to his suspension or being named. That is why Members always say that the Hansard will bear them witness.
- ✓ They are a rich source of contemporary history. They provide detailed information on all matters touching the life of the nation and its citizens. They bring to light political, economic and social conditions of even the remotest parts of the country. Besides, they serve as a mirror of the hopes and aspirations, concerns and apprehensions of the nation as voiced by its chosen representatives.
- ✓ Reference material by researchers and educationists, including pupils and students. University students doing their postgraduate studies also rely on the Hansard.

- ✓ It helps them to know how the House through the chosen representatives and the Government reacted towards a particular matter of public concern.

#### **6.4.2 Role of Sergeant at arms in Committee-John Macharia, Sergeant at arms**

Mr. Macharia informed the Committee the following regarding his role in the Committee:

- ✓ Ensure that the committee room has all the basic requirements for the committee meeting
- ✓ Record the attendance of the members during every meeting
- ✓ Ensure signing of an actual budget for meetings attended in a given time
- ✓ Implement speaker's/Chairperson's orders
- ✓ Collect fuel receipts
- ✓ Maintain order during committee proceedings

#### **6.5 Vetting and Public Participation-By Yvonne Njoki-Head of Legal Services**

The facilitator insisted on the Committee pursuing the mandate assigned under the law within the confines of the Constitution and other laws.

##### **Purpose**

- SO 204 on Sectoral Committees, (5) vetting in accordance with SO 198 as well.
- To provide for the procedure of approval of public appointments by County Assemblies.
- This is pursuant to the Article 179 of the Constitution County Governments Act Section 35 (2) and the Public Appointments (County Assembly Approval Act), 2017 and Standing Order 204 and 198 of our SO.
- Standing Order 204 (5) vetting of other offices except those vetted by Committee on Appointments.
- In this case CO appointed under our CEC, County Attorney and Members of the CPSB under Section 51 CGA.

## Process

- Based on Appointments Act
- Section 5 of No. 5 of 2017 An advertisement inviting applications for nomination for an appointment shall be done.
- The advertisement shall specify that the candidate shall be required to appear before a committee of the assembly.
- The relevant appointing authority shall notify the relevant County Assembly of the person it has nominated for appointment
- The communication shall be in writing and lodged with the Clerk of the County Assembly.
- The appointing authority shall notify members of the public of the proposed nomination through such media and platforms as it considers appropriate
- The notification shall comprise information concerning the nominee

## Approval hearing

- The speaker shall first report receipt of the notification.
- The notification shall then be committed to the relevant committee.
- The chair of the committee shall determine the place and time for holding the hearing.
- The hearing shall be held in public and within working hours.
- Section 7 the clerk shall notify a candidate of the time and place for holding the hearing by notice in at least two newspapers of national circulation and by writing or such other communication that he finds appropriate.
- The committee is tasked with notifying members of the public of the time and place of the hearing in at least two newspapers of national circulation
- Section 7 ;The clerk shall notify a candidate of the time and place for holding the hearing by notice in at least two newspapers of national circulation and by writing or such other communication that he finds appropriate.
- The committee is tasked with notifying members of the public of the time and place of the hearing in at least two newspapers of national circulation

### **Focus during approval Hearing**

They shall focus on a candidate's;

- ✓ Academic credentials
- ✓ Professional training and experience
- ✓ Personal integrity
- ✓ Background
- ✓ The committee is also required to use a questionnaire while vetting. It is to be filled by the candidate, through the clerk before the date set by the committee. The contents are specified under the first schedule.
- ✓ The committee is also required to use an assessment form as set out in the second schedule. Each member should fill this form independently.

### **Contest on Suitability of a Candidate**

- Any person may before the hearing, by written statement on oath, provide the clerk with evidence contesting suitability of a candidate.
- The candidate shall have a right to be heard.
- As per the County Governments Act, a new executive committee shall be constituted within twenty-one days of the swearing in of members of the County Assembly.
- The committee is required to prepare a report and table it in the County Assembly.
- S. 10 of No. 5 of 2017 The appointing authority will submit the name of another candidate and the same process of approval shall apply.

### **Powers of the Committee**

- Enforce attendance of witnesses and examine them on oath or affirmation.
- Compel production of documents
- Issue a commission or request to examine witnesses abroad
- The Committee has powers to summon any person giving evidence.

- Section 12 of the Act (and Article 195 Constitution) gives the Committee the powers of the High Court to compel attendance of witnesses, production of documents and issue a commission of witnesses abroad.

## **6.6 LAW MAKING PROCESS By Annie Macharia-Deputy Clerk**

### **Legislative authority**

The facilitator submitted that Article 185 (1) of the Cok,2010 gives legislative authority to County Assemblies

What is legislative authority?

- ✓ This is the making of laws to ensure effective performance of the functions and exercise of powers of the county government as set out in the fourth schedule was defined by the facilitator as the capacity for introspection and the ability to reconcile oneself as an individual separate from the environment and other individuals.
- ✓ The Fourth Schedule, Part 2 outlines the functions of County Governments upon which the County Assembly may legislate on:
  - Agriculture
  - Crop and animal husbandry
  - Livestock sale yards
  - County abattoirs
  - Plant and animal disease control; and
  - Fisheries

### **Types of Bills**

- ✓ Public Bills- emanates from a member or a committee Comes in form of a legislative proposal with a memorandum setting out the objects and reasons which is submitted to the speaker
- ✓ The speaker then refers the legislative proposal and memorandum to the Clerk for consideration, drafting in proper form and submitting it to the Speaker with comments on whether the legislative proposal is a draft money Bill in terms of section 21 of the County Governments Act; and

- ✓ whether the legislative proposal conforms to the Constitution and the law and is in order as to format and style in accordance with the Standing Orders.
- ✓ Upon receiving comments from the Clerk, the Speaker shall-
- ✓ If the legislative proposal is a draft money Bill in terms of section 21 of the County Governments Act, 2012, direct that the legislative proposal be referred to the Budget Committee and shall be proceeded with only in accordance with the recommendations of the Budget Committee after taking into account the views of the Member of County Executive Committee responsible for finance and examining the manner in which the legislative proposal affects the current and future budgets;
- ✓ where no Committee is in charge of a legislative proposal, refer the legislative proposal to the relevant Committee for **pre-publication scrutiny** and comments and the Committee shall submit its comments on the legislative proposal to the Speaker within **fourteen days** of receipt of the legislative proposal.
- ✓ The speaker shall direct upon receiving the committee recommendations that either the legislative proposal;
- ✓ Is Rejected
- ✓ Is accepted and proceeds to be published as a bill in the Gazette
- ✓ (the Chairperson of the Committee shall sign the Bill)

#### **FIRST READING (S.O 133)**

- The Title of the Bill is read by the Clerk.
- Afterward, the Bill shall stand committed to the relevant Sectoral Committee without question put. (A bill may be committed to a select committee)
- **Task:** subject the Bill to Public Participation (collect views and recommendations of the public and consider them when **reporting** to the Assembly within **twenty-one** days of committal of the bill)



## **SECOND READING (S.O 135)**

- This is done through a motion.
- The bill is moved by the sponsor and is seconded.

## **Committee of the Whole Assembly**

- This is where a bill is considered clause by clause
- Amendments are considered at this stage

## **Reporting Stage**

- This is where the Assembly resumes and the Chairperson takes the Speaker's chair.
- The Member in charge of the Bill reports the Bill to the Assembly.

## **THIRD READING (S.O 145)**

- This is the final stage.
- This is done through a motion
- Final vote is taken.

## **Assent to Bills (S.O 148)**

- ✓ The speaker shall within fourteen days after a Bill has been passed, forward it to the governor.
- ✓ The governor shall within fourteen days after receipt –
- ✓ Assent to the bill; or
- ✓ Refer the Bill back to the Assembly with a memorandum stating the reasons
- ✓ The Assembly may then-
- ✓ amend the Bill taking into account the issues raised by the governor; or
- ✓ (Speaker to re-submit bill to the governor within fourteen days)
- ✓ pass the Bill without amendment
- ✓ (Speaker to re-submit bill to the governor within seven days and governor to assent within seven days)

NB: If the Governor does not assent to a Bill or refer it back within the required period, the Bill shall be taken to have been assented to on the expiry of that period

## **7.0 Findings**

1. County Assembly Standing Orders were essential in undertaking both committee and plenary business
2. Programme based budget was important in itemizing the projects to be undertaken in the county.
3. The own source revenue in a county is important in generating cashflow to manage its operations.
4. Pending bills degrade the ability of county governments in sustaining their operations.

## **8.0 Recommendations**

1. That the Members of the Committee on Governance, Labour, Justice and Legal Affairs should be regularly inducted to bring them up to speed with the mandate of the said committee
2. That Members of the Committee should familiarize themselves with the County Assembly Standing Orders. This would help them in proper undertaking the assembly business both in committee and plenary sittings.
1. That the County Executive should submit to the County Assembly programme/itemized budget every year to facilitate the Committee in scrutiny and analysis of the departmental budgets that fall within the ambit of scrutiny of the Committee.
2. That the County Government should strive to ensure that there is cordial working relationship particularly on matters, public service, governance and execution of mandate pursuant to the values and principles of public service in line with the Constitution
3. The County Government's departments must operate within the confines of the law in all its operations especially in public service and administration and all other matters falling within the jurisdiction of the County Secretary, County Attorney, CEC Member for Public Administration and the County Public Service Board

**9.0 Adoption of the report**

The following Committee Members adopted the report:

1. Hon. Jeremiah Gichobe Mbatia
2. Hon. Pauline Muchiri
3. Hon. Grace Sharleen Wambui
4. Hon. Anthony Marubu Chege
5. Hon. Laban Chomba Njaramba
6. Hon. Bernard Ruiru Njeri
7. Hon. Thomas Muteti Mwaura
8. Hon. Mark Gicheru Wainaina
9. Hon. Loise Muthoni Mbogo
10. Hon. Moses Muchiri Maina

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