

# COUNTY GOVERNMENT OF KITUI



## COUNTY ASSEMBLY

### SECOND ASSEMBLY – (FOURTH SESSION)

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#### COMMITTEE ON LANDS INFRASTRUCTURE AND URBAN DEVELOPMENT

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#### REPORT ON CONSIDERATION OF THE MWINGI MUNICIPAL CHARTER

Clerk's Chambers,  
County Assembly Buildings,  
**Kitui, Kenya**

**MARCH, 2020**

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## ACRONYMS AND ABBREVIATIONS

- C.B.O(s)..... Community Based Organisation(s)
- C.E.C.M..... County Executive Committee Member
- D.T.A..... Deputy Town Administrator
- K.C.B..... Kenya Commercial Bank
- N.G.O(s)..... Non- Governmental Organisation(s)
- P.W.D(s)..... Person(s) with Disability
- U.A.C.A..... Urban Areas and Cities Act

## **1.0 PREFACE**

**Mr. Speaker Sir,**

On behalf of the Sectoral Committee on Lands Infrastructure and Urban Development, it is my pleasure to present to this House the Committee's report on Consideration of the Mwingi Municipality Charter.

### **1.1 Composition of the Committee**

**Mr. Speaker Sir,**

The Committee on Lands, Infrastructure and Urban Development was established pursuant to standing order 190 of the Kitui County Assembly Standing Orders.

The Committee as currently constituted comprises of the following Members:

- |                            |                  |
|----------------------------|------------------|
| 1. Hon Geoffrey Mwalimu    | Chairperson      |
| 2. Hon Alex Wambua         | Vice Chairperson |
| 3. Hon Colleta Koli        | Member           |
| 4. Hon Charles Maema       | “                |
| 5. Hon James Wangunze Kula | “                |
| 6. Hon Boniface Katumo     | “                |
| 7. Hon David Thuvi         | “                |
| 8. Hon Anthony Ndooh       | “                |
| 9. Hon Eunice Katheke      | “                |
| 10. Hon Jehoshaphat Nzamba | “                |
| 11. Hon Alex Mbili         | “                |

### **1.2 Mandate of the Committee**

**Mr. Speaker Sir,**

The Committee is established pursuant to Standing Order 190(1) with its subject matter as set out in the Second Schedule. Its functions are as set out in Standing Order 190(5) and include generally to:

- a) investigate, inquire into and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned departments;
- b) study the programme and policy objectives of departments and the effectiveness of implementation;
- c) study and review all County legislation referred to it;
- d) study, assess and analyze the relative success of the departments as measured by the results obtained as compared with their stated objectives;
- e) investigate and inquire into all matters relating to the assigned department as they may deem necessary, and as may be referred to them by the County Assembly
- f) vet and report on all appointments where the Constitution or any law requires the County Assembly to approve except under Standing Order 184 (Committee on Appointments);
- g) make reports and recommendations to the County Assembly as often as possible including recommendation of proposed legislation.

### **1.3 Committee Meetings**

**Mr. Speaker Sir,**

The committee conducted a public participation on Friday, 17<sup>th</sup> January, 2020 at Mwingi Resource Centre and subsequently retreated to Summer Springs Hotel in Mwingi, for report writing on 18<sup>th</sup> January 2020. Prior to the public participation and committee's report writing exercise, the County Executive Committee Member for Lands Infrastructure, and Urban Development on Friday 11<sup>th</sup> October, 2019, took Members of the committee through the proposed Mwingi Municipal Charter.

### **1.4 Acknowledgement**

**Mr. Speaker Sir,**

The Committee is grateful to the Offices of the Speaker and the Clerk of the County Assembly for the support extended to it in fulfilling its mandate.

I also wish to thank Members of the Committee and staff of Assembly who worked tirelessly to compile this Report. In addition, I wish to thank Members of the public

who sacrificed their time to attend the public participation exercise held at Mwingi Resource Centre and gave their valuable views on the proposed Mwingi Municipal Charter.

**Mr. Speaker Sir,**

I wish to confirm that the recommendations of the Committee in this Report were unanimous. It is therefore my pleasant duty and privilege, on behalf of the Committee on Lands Infrastructure and Urban Development to table this Report to the House for consideration and adoption.

**SIGNED: .....**

**HON. GEOFREY MULI MWALIMU, M.C.A.**

**CHAIRPERSON, COMMITTEE ON LANDS INFRASTRUCTURE AND URBAN DEVELOPMENT.**

**DATE: .....**

## **2.0 LEGAL FRAMEWORK**

**Mr. Speaker Sir,**

### **The Constitution**

The Constitution of Kenya under Article 184 provides that a national legislation shall provide for the governance and management of urban areas and cities and shall inter alia provide for the criteria for classification of areas as urban areas and cities as well establish principles of governance and management of urban areas and cities.

### **The County Governments Act, 2012**

**Mr. Speaker Sir,**

Pursuant to **section 104** of the County Governments Act, 2012, a county government has an obligation to plan for the county and no public funds shall be appropriated outside a planning framework developed by the county executive committee and approved by the county assembly. Such county planning should integrate economic, physical, social, environmental and spatial planning. Further the Act provides that the county government shall designate county department, cities and urban areas, sub counties and wards as planning authorities of the county.

Section 111 of the County Governments Act requires that each city or municipality should have the following plans; - City or municipal land use plan, City or municipal building and zoning plans, City or urban area building and zoning plans and Location of recreational areas and public facilities which the county cannot achieve without the conferment of the status of Mwingi town to that of a municipality.

### **The Urban Areas and Cities Act**

**Mr. Speaker Sir,**

To this end, the parliament through the Urban Areas and Cities Act of 2011(the Principal Act), the Urban Areas and Cities (Amendment) Bill, 2017 and the Urban Areas and Cities (Amendment) Act, 2019 established the criteria for conferring municipality status on towns and that of conferring town status into other areas.

Section 9(1) of the Urban Areas and Cities Act, 2011 provides that a Governor may, on the resolution of a County Assembly, confer the status of a municipality on a town that meets the criteria in Section 9(3) of the same Act.

Section 9(3) of the Urban Areas and Cities (Amendment) Bill, 2017 states that a town is eligible for conferment of municipal status if it satisfies the following criteria:

- a) has a resident population of a least fifty thousand residents ;
- b) has an integrated urban area development plan in accordance with this Act and other existing laws;
- c) has the capacity to effectively and efficiently deliver its services to its residents and has in existence, the services provided in the First Schedule;
- d) has demonstrable good system and records of prudent management.

**Mr. Speaker Sir,**

On 12<sup>th</sup> November, 2019, H.E. the Governor of Kitui County Government forwarded to the County Assembly, the Mwingi Municipal Charter accompanied by other related documents on the conferment of Mwingi town into a municipality, upon the same meeting the criteria established under Section 9(3) of the Urban Areas and Cities (Amendment) Bill, 2017, in line with the provisions of section 9 (1), of the principal act- Urban Areas and Cities Act, 2011.

On 19<sup>th</sup> November, 2019 the Speaker of the County Assembly of Kitui made a communication to the house on the Mwingi Municipal Charter, after which it stood committed to the Committee on Lands, Infrastructure, and Urban Development to facilitate public participation and further table a report to the House.

### 3.0. BACKGROUND OF THE MWINGI MUNICIPALITY CHARTER

**Mr. Speaker Sir,**

On 25<sup>th</sup> February 1992, Mwingi trading centre was conferred as status of Mwingi town council through an act of parliament from formerly Kitui county council. The town council covered a radius of 16kms from KCB roundabout. The town council started its operations when first council was constituted on 25<sup>th</sup> February 1993 after the December 1992 general elections. The town council comprised of five (5) locations namely; mwingi, kiomo, kyethani, mumbuni and nzeluni. All these have further been split to more locations due to increased demand of quality services by citizens.

There were several attempts to upgrade mwingi town council to municipality through various correspondences between the defunct council and the ministry of local government. The efforts for upgrading the town to municipality was overtaken by events after the 2010 constitution which replaced the councilors with members of county assembly.

After inauguration of constitution 2010 which established the county government units, Mwingi town administration was established as per the Urban Areas and Cities Act. The town administration is a department in the county ministry of lands infrastructure Housing and Urban development headed by CECM.

The need for conferment was informed by the County Government commitment to offer effective services to the citizen of mwingi town. Support to urban areas in counties through grants and technical support has been through municipal structures and mwingi has hitherto not benefitted to its urban status of town. Its conferment to municipality status therefore presents an opportunity to mwingi to receive support from development partners including World Bank.

It is in this spirit that the County Executive Committee Member (CECM) to this ministry appointed a sixteen (16) members' task force committee as per the annexed letters of appointment referenced *CGOKTI/CEC-LIUD/MUNICIPALITY/VOL.1/1* dated 8<sup>th</sup> July,

2019 to ascertain the eligibility of Mwingi town administrations conferment to municipality. (See annex III)

**Mr. Speaker Sir,**

The County Executive Committee Member (CECM-LIUD) provided a concept note to the county executive committee. Following the concept note, the County Executive Committee Member submitted a **cabinet memo no. 47 dated 4<sup>th</sup> July 2019** and the same was approved **on 6<sup>th</sup> July 2019** paving way for the formation of the taskforce committee on the conferment of Mwingi town to a municipality status.

The taskforce terms of reference included:-

1. There shall be formed an ad hoc committee to review mwingi town eligibility for the classification as a municipality and recommend to the governor for the conferment to municipality status. (See Annex IV)
2. A report of the public participation shall form part of the basis of key records for the municipality.
3. The county Governor shall transmit the recommendations to the county assembly in form of a charter for approval.
4. The county assembly shall consider and approve the municipality charter and forward to the governor for adoption and conferment
5. The county governor shall, confer the status of municipality on mwingi town by grant of a Charter.
6. Municipality board and municipal Manager shall be appointed as per UACA Act (Revised 2019).

**Mr. Speaker Sir,**

The following members were appointed as taskforce members by the County Executive Committee Member (CECM-LIUD) vide letters referenced **CGOKTI/CEC-LIUD/MUNICIPALITY/VOL.1/1** dated **8<sup>th</sup> July, 2019**. (See annex III)

- 1) Mr. Patrick Koki Musau- CECM Tourism
- 2) Mr. Ben. Katungi -CECM Public Mangement and Administration

- 3) Mr. Odanyiro Wamukoya- Office of the Governor
- 4) Eng. Christopher Syengo- Chief Officer, Lands, Infrastructure
- 5) Mr. Justus Kalii- Chief Officer planning
- 6) Mrs. Agnes Mulwa – Ag. Directors Housing & Urban Department
- 7) Mrs. Marianne Wanza- Legal Officer
- 8) Mr. Gladstone Muyanga- Principal planner
- 9) Mrs. Grace Kimanzi- Ag. Mwingi Town Administrator
- 10) Mr. Edwin Mutevu – County Land Administrator
- 11) Mr. Aron Mwaniki, DTA- Environment, Culture, recreation and Community Development
- 12) Mr. Sammy Kathike- Municipality of Kitui
- 13) Ms. Grace Njambi – Municipality of Kitui
- 14) Ms. Irene Mwema – Mwingi Town
- 15) Ms. Regina K. Maitha, Snr. Office Administrator
- 16) Ms. Hanrietta Ndunge, Budget, County Treasury

**Mr. Speaker Sir,**

The taskforce meetings were undertaken at Mwingi and culminated in the production of the taskforce report necessary for conferment of Mwingi Municipality which came up with the following key recommendations;

1. That the cabinet adopts the task force report and its annexes for the conferment of Mwingi town to Mwingi municipality.
2. That the county Assembly approves the proposal for conferment of Mwingi Municipality.
3. That upon approval by the county assembly ,the county Governor grants mwingi Town Municipal status through the mwingi Municipality.
4. That upon granting of the municipal status to mwingi town, the cabinet approves the formation of Mwingi Municipal Board.

5. That the cabinet approves the preparation of Urban Integrated Strategic Plan for Mwingi and Urban area and its environs.

### **Public Participation on Mwingi Municipality by the County Government of Kitui-Executive**

**Mr. Speaker Sir,**

The executive carried out a public participation exercise on 1<sup>st</sup> November, 2019 at the Mwingi Resource Centre. The public participation was attended by members of public from Mwingi North, Mwingi Central and Mwingi West sub-counties and it was clear that the public was impressed by the proposed Mwingi Municipality. They made their proposals which were captured by the secretariat. Majority of the Members of Kitui County assembly from the region and Kitui County were present.

Members of National Assembly for Mwingi North, Mwingi West and a representative for Mwingi Central were also present.

Her. Excellency the Governor Charity Ngilu and Deputy Governor Dr. Wathe Nzau, several County Executive Committee Members and several Chief Officers for various Ministries were in attendance.

Several County Executive technical officers including members of the taskforce committee also attended the public participation forum.

The following umbrella groups were also represented;

- i. Clergy
- ii. Youth representatives
- iii. Business community
- iv. Former elected leaders
- v. National Government representative
- vi. Civil society
- vii. CBOs and NGOs
- viii. Women groups
- ix. PWD representatives

The members of the public made the following proposals:

1. **Mr Mvinga** former councillor urged Her Excellency the Governor to check the roles and functions of the board and adhere to the guidelines as provided for in the Urban Areas and Cities Act in appointing the board members .He highlighted that the charges of the municipality will not go up but will attract donor funding like World Bank.
2. **Madam Mary Musyoka** a representative of the People Living with disability urged H.E Governor to construct friendly offices for the PLWDs and also consider their inclusivity in various planning and development committees.
3. **Madam Milka** was specifically pleased by the Women empowerment fund initiative and said that it was a wakeup call by H.E the Governor to the other leaders to empower women in Kitui County. The youth representative also thanked Governor for the youth empowerment fund, creation of employment opportunities in the textile industry KICOTEC among other employment avenues.
4. The Deputy Speaker Hon. Kasee Musya urged the participants to consider the municipality as the value addition to the mwingi residents and Kitui County as a whole.
5. The member of National Assembly Mwingi North **Hon Paul Nzengu** requested waita to be included in the municipality and be considered as a potential revenue avenue.
6. The member of National Assembly Mwingi West **Hon Charles Nguna** insisted that Waita and Mumbuni should be included in the proposed municipality. He also noted that a third of the Kitui County Development Budget should be allocated for development of the larger mwingi.
7. The women representative Kitui County **Hon Irene Kasalu** congratulated H.E the Governor and urged her to work on the sewerage system and water pipeline in Mwingi town and also insisted that Waita be included in the municipality.

The taskforce through the ministry submitted the mwingi municipal charter together with the taskforce report to the County Assembly for consideration.

## **THE MWINGI MUNICIPALITY CHARTER**

### **3.1. Objectives of the Municipality**

**Mr. Speaker Sir,**

The Municipality of Mwingi seeks to, *inter alia*:

- i) provide efficient and accountable management of the affairs of the municipality;
- ii) provide for a governance mechanism that will enable the inhabitants of the Municipality to;
  - a) participate in determining preferable social services and regulatory framework which will best satisfy their needs and expectations.
  - b) Verify whether public resources and authority are utilized and exercised, as the case maybe, to their satisfaction.
  - c) enjoy efficiency in service delivery;
- iii) Vigorously pursue the developmental opportunities which are available in the Municipality and to institute such measures as are necessary for achieving public order and the provisions of civic amenities, so as to enhance the quality of life of the inhabitants of the Municipality.
- iv) Promote social cohesiveness and a sense of civic duty and responsibility among the inhabitants and stakeholders in Municipality in order to facilitate collective action and commitment towards achieving the goal of a harmonious stable community.
- v) Providing for services, laws and other matters for Municipality's benefit.
- vi) Fostering the economic social, and environmental well-being of its community.

### **3.2. Functions of the Municipality**

**Mr. Speaker Sir,**

The Municipality of Mwingi shall, within the boundaries of the Municipality, perform the following functions:

- a) Promotion, regulation and provision of an integrated wastes management system;

- b) Promotion and provision of water and sanitation services and infrastructure within the Municipality.
- c) Construction and maintenance of urban roads and associated infrastructure;
- d) Construction and maintenance of storm drainage and flood controls;
- e) Construction and maintenance of walkways and other non-motorized transport infrastructure;
- f) Construction and maintenance of recreational parks and green spaces;
- g) Construction and maintenance of street lighting;
- h) Construction, maintenance and regulation of traffic controls and parking facilities;
- i) Construction and maintenance of bus and taxi stands, and boda-boda sheds;
- j) Regulation of outdoor advertising;
- k) Construction, maintenance and regulation of municipal markets and abattoirs;
- l) Construction and maintenance of fire stations; provision of fire-fighting services, emergency preparedness and disaster management;
- m) Promotion, regulation and provision of municipal sports and cultural activities;
- n) Promotion, regulation and provision of animal control and welfare;
- o) Development and enforcement of municipal plans and development controls;
- p) Municipal administration services (including construction and maintenance of administrative offices);
- q) Promoting and undertaking infrastructural development and services within municipality;
- r) Any other functions as may be delegated by the County Executive Committee.

### **3.3. Establishment of the Board of the Municipality**

**Mr. Speaker Sir,**

There is established a Board of the Municipality of Mwingi.

The Board of the Municipality shall be a corporate body with perpetual succession and a common seal and shall in its own corporate name, be capable of:

- a) Suing and being sued;
- b) Taking, purchasing or otherwise acquiring, holding, charging or disposing of movable and immovable property;

- c) Borrowing money or making investments within the limits imposed by law
- d) Entering into contracts; and
- e) Doing or performing all other act or things for the proper performance of its functions in accordance with the Urban Areas and Cities Act or any other written law which may lawfully be done or performed by a body corporate.

There shall be a principal and agency relationship between the Board of the Municipality and the County Government of Kitui, where the Board shall be the agent, whereas the County Government shall be the principal.

This in essence means that the Board will only exercise powers and functions that are legally delegated to it by the County Government through its authorized officers.

### **3.4. Composition and Term of the Board of the Municipality**

**Mr. Speaker Sir,**

Section 14 of the principal Act;- (Urban Areas and Cities-Act 2011) is repealed and replaced by the Urban Areas and Cities (Amendment) Act, 2019 with the following new section;-

- 1) A board of a municipality shall consist of nine (9) members appointed by the county governor with the **approval** of the county assembly.
- 2) The members of the board appointed under subsection (1) shall be constituted as follows;-
  - a. the county executive member for the time being responsible for cities and urban areas or his representative;
  - b. three members who shall be appointed by the county governor, with the approval of the county assembly;
  - c. four members who shall be nominated by an association and appointed by the county governor, with the approval of the county assembly;
  - d. the chief officer responsible for urban development; and
  - e. the municipal manager appointed under section 28 who shall be the secretary of the board and an ex-officio member of the board.

- 3) The four members of the board of a municipality specified under subsection (2)(c), shall be nominated by:-
  - a. an umbrella body representing professional associations in the area;
  - b. an association representing the private sector in the area;
  - c. a cluster representing registered associations of the informal sector in the area; and
  - d. a cluster representing registered neighbourhood associations in the area.
- 4) The county governor shall, while appointing the members of the board, ensure gender equity, representation of persons with disability, youth and marginalized groups.
- 5) The county governor shall while considering the nominated members identified by the organizations specified under subsection (2), require the organizations to produce:-
  - a) signed minutes as evidence of an accountable process of nomination;
  - b) evidence of compliance with statutory obligations; and
  - c) vetting form to establish that the nominee has complied with the prescribed criteria for appointment as a member of the board.

#### **Qualification for appointment as a Chairperson of the board**

- 6) A person shall be qualified for appointment as a Chairperson of the board if that person:-
  - a) holds at least a degree from an institution recognized in Kenya;
  - b) has a distinguished career in a medium level management position in either the private or public
  - c) holds at least ten years' post-qualification professional experience;
  - d) satisfies the requirements of Chapter Six of the Constitution;
  - e) is ordinarily resident or has a permanent dwelling in the municipality; and

- f) carries on business in the municipality or has lived in the municipality for at least five years.

### **Qualification for appointment as a Member of the board**

7) A person shall be qualified for appointment as a member of the board if that

Person;-

- a) holds at least a diploma from an institution recognized in Kenya;
- b) has a distinguished career in a medium level management position in either the private or public sector;
- c) holds at least five years' post-qualification professional experience; and
- d) satisfies the requirements of Chapter Six of the Constitution;
- e) is ordinarily resident or has a permanent dwelling in the municipality; and
- f) carries on business in the municipality or has lived in the municipality for at least five years.

### **Disqualification for appointment as a Member of the board**

8) A person **shall not** be appointed as a member of the Board if that person;-

- a) is an undischarged bankrupt;
- b) has been removed from office for contravening the Constitution or
- c) is not a citizen of Kenya; or
- d) has in the conduct of his or her affairs not met any statutory obligations.

The term of the members of the Board of the Municipality shall be five years and they shall serve on part time basis.

### **3.5. The Municipal Manager**

**Mr. Speaker Sir,**

Section 28 of the Principal Act (Urban Areas and Cities Act-2011) establishes the Office of the Municipal Manager who shall be the administrative head of the Municipality and secretary to the Board.

Furtherance to section 28, sections 29 and 30 of the Principal Act provides for the qualifications of a person to hold the office of the municipal manager. The manager shall implement decisions and functions of the Board of the Municipality and shall be answerable to the Board. This means that the County Assembly will oversight the workings of the Board and the Municipality in general, through the County Executive Committee Member for the time being responsible for urban planning in the County.

#### **4.0. SUBMISSIONS FROM MEMBERS OF THE PUBLIC DURING THE PUBLIC PARTICIPATION BY THE COUNTY ASSEMBLY.**

**Mr. Speaker Sir,**

Article 196(1) (b) of the Constitution requires the County Assembly to facilitate public participation in its business. The County Assembly's Committee on Lands, Infrastructure and Urban Development through the office of the clerk placed an advert in one of the local dailies; the Star, dated Friday, January 10, 2020 inviting the stakeholders and the general members of the Public to present their views on the charter to the proposed Mwingi Municipality.

In fulfillment of this requirement, the County Assembly Committee on Lands, Infrastructure and Urban Development conducted a public participation exercise on the proposed Mwingi Municipal Charter on 17<sup>th</sup> January, 2020 at Mwingi Resource Centre for members of the public to give their views.

**Mr. Speaker Sir,**

Among the participants were members of the chamber of Commerce, the business Community, and former MCAs. The members of the public were taken through the Charter by the Chairperson of the Committee.

In support of the Charter, members of the public made the following proposals;

- i) Mr. Stephen Musunza Mwinzi emphasized that Security within the municipality is paramount and that the envisaged Board should ensure

that its residents live in a secure environment to enable business activities thrive and attract investors. This would assist in establishing a 24 hour economy which would boost the economy of the municipality.

- ii) Mr. Muimi Mutua was of the opinion that Market days should be increased from one to two days per week, in order to boost the economy of the town.
- iii) Ms Jemimah Kilutu was of the opinion that the Board establishes a good infrastructure system to aid in the planning of the municipality particularly; tarmacking of access roads, electricity connection, development of proper sewerage systems, modern market sheds for vegetable vendors and Motor bikes (*Boda Boda*) operators to decongest the urban centres.
- iv) Bishop Julius Nyerere and Mr. Josephat Wambua both from Kivou Ward, observed that the Clergy (Christians and Muslims) were equally important in the society and needed to be represented thus they ought to be considered in the nomination of Members to the Board.
- v) Eligibility and qualification of board members and staff should be fair and just. Mr. Julius Muinde Mutukaa highlighted that persons appointed to the Board and staff employed, should be qualified for the positions through a competitive process to ensure that the administration of the Municipality is managed effectively and efficiently, and should come from larger Mwingi.
- vi) While giving his views on the boundaries, the former MCA Hon Bernard Sila a representative of the area Member of Parliament Hon Gideon Mulyungi, urged the County Assembly's committee on Land infrastructure and urban development to capture Mwingi Central district as the basis of consideration to form the municipality. These will include mwingi central ward, kivou ward and Waita Ward as a whole.
- vii) Joseph Maluki-(Migwani ward)-while making his submission on the proposed municipality charter, urged the Committee to consider the

following sub locations in migwani ward to be part of the municipality:-  
kisungula and Kwanungu sub locations- in Mumbuni Location; Mutuathi  
and katalwa in Katalwa location; and finally kilulu and kisofo, in kisofo  
location.

- viii) Nelson Kilonzi (Mwingi central) during his submission to the proposed Municipality charter, urged the committee to consider Ndaluni sub-location in kyome location to be part of the Municipality in kyome /Thaana ward.
- ix) The former town clerk of Mwingi town council (Mr Kimwele) supported the conferment of Mwingi to status of Municipality, noting that, it comes with a number of economic benefits including and not limited to; Job creation, increase revenue generating capacity and increase property value.

## **5.0. COMMITTEE'S FINDINGS AND OBSERVATIONS**

**Mr. Speaker Sir,**

The Committee made the following general observations:

1. The committee observed that the charter did not fully capture in details the Citizen fora in clause 3.16 of the charter pursuant to Urban areas and Cities Amendment Bill 2017 which it is proposed to amend-  
Citizen Fora

(1) Subject to the Second Schedule, residents of a city, municipality or town may-

a) deliberate and make proposals to the relevant bodies or institutions on-

- i. the provision of services;
- ii. proposed issues for inclusion in county policies and county legislation;
- iii. proposed national policies and national legislation;
- iv. the proposed annual budget estimates of the county and of the national government;

- v. the proposed development plans of the county and of the national government; and
  - vi. any other matter of concern to the citizens;
- (b) plan strategies for engaging the various levels and units of government on matters of concern to citizens;
- (c) monitor the activities of elected and appointed officials of the urban areas and cities, including members of the board of an urban area or city; and;
- (d) receive representations, including feedback on issues raised by the county citizens, from elected and appointed officials.
2. The committee observed that Clause 3.2.1 of the charter states that the board of municipality shall be composed of ten **(10)** members appointed by the Governor which contravenes the section 14 of the Urban Areas and Cities (amendments) Acts 2019 which states that “A board of municipality shall consist of nine **(9)** members appointed by the county governor with the approval of the **County Assembly**.”
  3. The committee observed that clause 3.4.2 of the charter, did not fully capture the powers and functions of the board pursuant to Section 21 of the Urban Areas and Cities (Amendment) Bill 2017. Section 21(f) of the Urban Areas and Cities (Amendment) Bill 2017 which states that; “make bye-laws or make recommendations for issues to be included in bye-laws,” was omitted in the Charter.
  4. The Committee noted that Clause 3.5.2 of the charter i.e. chairperson and Vice chairpersons of the Board ought to be of the **Opposite** gender and not of different gender.
  5. Clause 3.6 of the Charter- Removal of the Chairperson and Vice-Chairperson, the Committee observed that resignation in writing to the governor was not captured as among the grounds for removal from office hence contravening section 16 of the Principal Act Urban Areas and Cities Act 2011.

6. The committee noted with concern that clause 3.7.7 (c) of the charter which states that; the municipal manager shall make reports and recommendations to the board of the municipality about the needs of the Municipality, would usurp the spirit of citizen fora and public participation.
7. The committee observed that clause 3.9 of the charter on remuneration of the members of the board reads as follows; “that the board of the municipality shall not be entitled to salary, however member of the board of municipality shall be paid such allowances and benefits as determined by salaries and remuneration commission circular.” This is contrary to the Urban Areas and Cities Act, 2011 section 25 which states that; “Chairperson, Vice-chairperson and Members of a Board or town committee shall not receive a salary from the board or town committee but shall be paid such allowances and benefits as the **county executive committee** shall, with the approval of the **county assembly**, and on the advice of the Salaries and Remuneration Commission, determine.
8. The Committee noted that, in Clause 3.11.5 of the Mwingi Charter there was notable omission of Committees, and the board given precedence hence killing the committees.
9. Clause 6.1.2 of the charter states that no payment shall be made out of the fund of the board unless it has been provided for the approved annual or revised or supplementary estimates of expenditure **whereas** the Urban Areas and Cities Act, 2011 section 43(3) states that; No payment shall be made out of the funds of a board or town committee unless it has been provided for in the approved annual or revised or supplementary estimates of expenditure and authorized by the **board** or town committee.
10. The Committee observed that in Clause 8.1.3 of the Charter, the liabilities were not captured together with the assets and funds as properties of Mwingi Town.
11. The committee noted that the law was silent on the municipality logo.

## **6.0. COMMITTEES RECOMMENDATIONS**

**Mr. Speaker Sir,**

Upon reviewing the proposed Mwingi Municipality Charter and considering the views of the public, the Committee makes the following recommendations: **THAT;**

- 1) The Charter should capture the composition of the board as it is in section 14 of the Urban Areas and Cities (amendments) Acts 2019 which states that “A board of municipality shall consist of nine (9) members appointed by the county governor with the approval of the County Assembly.
- 2) Section 21(f) of the Urban Areas and Cities (Amendment) Bill 2017 which states that “make bye-laws or make recommendations for issues to be included in bye-laws; should be added to the powers and functions of the board of the mwingi municipal charter.
- 3) Clause 3.7.7 (c) of the charter which states that; the municipal manager shall make reports and recommendations to the board of the municipality about the needs of the Municipality should be re-considered to ensure that it is the public who shall advocate for the needs of the municipality through public participation and citizen fora.
- 4) On the remuneration of the members of the board, the mwingi municipality charter should align itself to the Urban Areas and Cities Act, 2011 section 25 which states that; “Chairperson, Vice-chairperson and Members of a Board or town committee shall not receive a salary from the board or town committee but shall be paid such allowances and benefits as the county executive committee shall, with the approval of the county assembly, and on the advice of the Salaries and Remuneration Commission, determine.
- 5) Clause 6.1.2 of the charter should be in line with the Urban Areas and Cities Act, 2011 section 43(3) which states that; No payment shall be made out of the funds of a board or town committee unless it has been provided for in the approved annual or revised or supplementary estimates of expenditure and authorized by the board or town committee.

- 6) The board should develop an organogram. This is important as it would help make planning easier and defining the organizational structure and culture while showing clearly the line of authority and of responsibility of each individual in the municipality.
- 7) That section 4 of the Charter on legislative Authority be amended to require the Municipal Board submit all the by-laws to the County Assembly for approval as provided under article 185 of the Constitution, 2010.
- 8) Clause 6.1 of the Charter- Sources of the municipality's fund and revenue i.e. borrowing-the committee recommends that all the municipality borrowing should be approved by the County Assembly through the County Executive Committee member for urban planning.
- 9) The committee recommends for the establishment of a municipality logo. This will have a significant impact on a municipality's public perception thus an **important** branding tool for the municipality.

That, pursuant to the provisions of Section 9(1) of the Urban Areas and Cities Act of 2011(the Principal Act), the Urban Areas and Cities (Amendment) Bill, 2017 and the Urban Areas and Cities (Amendment) Act, 2019 this House resolves that Mwingi Town be conferred the status of Municipality by H.E. the Governor by grant of a Charter with the proposed amendments.

*This Report was compiled by:*

*Dennis Makuthu and Patrick Mutua*

## **7.0 ADOPTION OF THE REPORT**

We, Members of the Committee on Lands Infrastructure and Urban Development have adopted this Report on Consideration of the Mwingi Municipal Charter and hereby

affix our signatures to it to affirm our approval and confirm its accuracy, validity and authenticity:-

NAME	DESIGNATION	SIGNATURE
1. Hon Geoffrey Mwalimu	Chairperson	.....
2. Hon Alex Wambua	Vice Chairperson	.....
3. Hon Colleta Koli	Member	.....
4. Hon Charles Maema	“	.....
5. Hon John Kisangau	“	.....
6. Hon Boniface Katumo	“	.....
7. Hon David Thuvi	“	.....
8. Hon Anthony Ndoo	“	.....
9. Hon Eunice Katheke	“	.....
10. Hon Jehoshaphat Nzamba	“	.....
11. Hon Alex Mbili	“	.....

**8.0 ANNEXTURES**

- I. Adoption of the report
- II. Public Participation register

- III. Appointment letters to the task force committee on conferment of municipality status to mwingi town
- IV. Approved Cabinet memo.