



**CORRUPTION RISK ASSESSMENT (CRA) REPORT**

**OF**

**THE SYSTEMS, POLICIES, PROCEDURES AND PRACTICES OF**

**THE MUNICIPAL COUNCIL OF MOMBASA**

*Prepared By:*

*Kenya Anti-Corruption Commission  
Directorate of Research, Education, Policy  
and Preventive Services*

*August 2005*

*Tuangamize Ufisadi*

# TABLE OF CONTENTS

<b>EXECUTIVE SUMMARY</b> .....	<b>3</b>
<b>1. BACKGROUND</b> .....	<b>4</b>
1.1 OBJECTIVES .....	6
1.2 TERMS OF REFERENCE .....	6
1.3 SCOPE.....	6
1.4 METHODOLOGY .....	6
<b>2. INTRODUCTION</b> .....	<b>8</b>
<b>3. FINDINGS AND RECOMMENDATIONS</b> .....	<b>9</b>
3.1 GENERAL OPERATIONS AND MANAGEMENT .....	9
3.2 FINANCIAL AND ASSETS MANAGEMENT .....	12
3.2.1 Revenue Collection.....	12
3.2 .2 Payments and Expenditure.....	15
3.2.3 Assets Management .....	18
3.3 INTERNAL AUDIT.....	20
3.3 PROCUREMENT AND STORES MANAGEMENT .....	21
3.4 HUMAN RESOURCES MANAGEMENT .....	25
3.5 QUALITY CONTROL AND ASSURANCE.....	29
3.6 RECORDS MANAGEMENT .....	32
<b>4. CONCLUSION</b> .....	<b>34</b>
<b>5. GENERAL OBSERVATIONS</b> .....	<b>35</b>
<b>APPENDIX 1</b> .....	<b>37</b>

## **EXECUTIVE SUMMARY**

This report contains findings and recommendations arising from the corruption risk assessment on the systems, policies, procedures and practices in the operations and management of the Municipal Council of Mombasa. A team of officers from the Kenya Anti-Corruption Commission Directorate of Research, Education, Policy and Preventive Services carried out the assessment. The purpose was to identify and to profile corruption risk areas and to make recommendations on how to seal the identified corruption loopholes. In order to achieve this objective, the assessment team gathered information through formal and informal interviews with senior officers of the Council, Councillors and clients. The team also studied documents relating to procurement, financial management, and personnel among others and carried out spot checks in the relevant areas.

Findings arising from this assessment suggest that there exist loopholes for corrupt practices in the operations of the Council. Corrupt practices are exhibited in all areas examined.

The report covers the findings in the broad categories of the operations of the Council, which include: General Administration; Financial and Assets Management; Internal Audit; Procurement and Stores Management; Human Resource Management; Quality Control and Assurance; and Records Management. Critical issues have also been raised on the relationship between the Civic Leaders and the Executive as well as the ethical standing of the members of staff. This is because harmonious working relationships between the executive and the politicians and the integration of ethical framework into the operations of the Council are crucial in enhancing transparent governance. The net effect is an effective service delivery system. The last section of the report is the conclusion, which covers broad areas of management, policy and legal issues, which must be addressed in order to enhance governance of Local authorities.

Recommendations have been made to assist the Council to revise its procedures and methods of work in order to reduce the likelihood of occurrence of corrupt practices. Some of the recommendations emphasize the need to enforce existing regulations and policies while others propose the design of new guidelines and strategies. In addition there are recommendations for investigation and restitution where Council has been defrauded.

It is the expectation of KACC that the Management of the Council will immediately embark on implementation of the recommendations in this Report. This will include preparation of an implementation schedule to be submitted to KACC two weeks after the submission of the report.

## 1. BACKGROUND

Local Authorities occupy a significant role in the governance of the Kenyan society. Ideally Local Authorities are designed to help the Government to maintain close contact with the citizens. Indeed the grassroots communities provide part of their legitimacy through election of Councillors. They are expected to assist the citizens determine their welfare and development priorities which are consequently communicated to the central government. In so doing they are therefore uniquely placed to facilitate the participation of grassroots communities in the formulation and implementation of government policies. This makes them essential partners to Central Government institutions. This relationship is articulated in detail in the Local Government Act (Cap 265 – Laws of Kenya).

The Local Government Act provides for the establishment of Local Authorities which include Municipalities, Counties, Town and Urban councils and defines their functions and powers. These powers include the power to enter into contracts for procurement of goods and services and other contracts necessary for the discharge of any of their functions. They may also acquire land and other assets.

The Act also provides for a far reaching regulatory function of the Central Government, which includes budgetary approvals; consents for a variety of activities and transactions; the power to institute investigations, research and inquiries and to make rules for regulation of the Local Authorities. It also permits Central Government to second personnel to Local Authorities to work in various capacities.

Local authorities are vested with powers and responsibilities of providing various essential services to the local communities. These services include roads, schools, health facilities, housing, water, sewerage and drainage: and garbage collection. They also have miscellaneous and wide-ranging powers of control on *inter-alia*, matters of trade and occupations, planning, and burials. Although the Central government and other institutions also provide these services, the proximity of local authorities to the people puts them in a more advantageous position in terms of direct impact to the communities within their jurisdiction.

In order for local authorities to provide essential services the law mandates them to collect revenue in the form of fees, rates and rents from residents. They also receive substantial amounts of resources from the exchequer in terms of the Local Authority Transfer Fund (LATF). Some of the local authorities identified by the Kenya Roads Board (KRB) as its agencies also receive road maintenance funds. It is imperative that all these resources be managed prudently for the purposes for which they are intended.

Poor governance in local authorities countrywide has been a source of concern. Many have been the subject of investigation or inquiries which have revealed major weaknesses that undermine service delivery. One of the critical areas of concern is the lack of accountability upwards to the central government and downwards to the local people. This is manifested by opportunistic behaviour and corrupt practices which include illegal disposal of assets and mismanagement of resources among other unethical activities. In essence corruption is rife in local authorities.

The lack of accountability is sometimes traced to the conflict arising from the sharing of responsibilities between the Central Government and Local Authorities. One of the areas in which this conflict is manifested is in the maintenance of road works where both the Council and the Ministry of Roads and Public Works carry out road works without a harmonised plan. The Councils jurisdiction falls within constituencies, which receive road maintenance funds through the Ministry, and yet the Council receives the same funds. The management of water is a potential area of conflict as it is vested on various players namely: the Ministry of Water Development; The National Water Conservation and Pipeline Corporation; and Local Authorities. In Mombasa the Corporation manages water but the Council is preparing to take over the function with a view to privatisation. These are but an example of the intricacies involved in addressing integrity issues within local authorities.

The Kenya Anti Corruption Commission is empowered to ensure that public institutions are managed in a transparent manner that leaves no room for corruption. This becomes particularly critical as regards management of public resources. The Commission may institute an examination into an institution with a view to discovering corruption loopholes. This mandate is derived from Section 7 (1) (d) (e) and (f) of the Kenya Anti-Corruption and Economic Crimes Act. Thus the Commission is empowered to:

- Examine the practices and procedures of public bodies in order to facilitate the discovery of corrupt practices and to secure the revision methods of work or procedures that, in the opinion of the Commission, may be conducive to corrupt practices.
- Advise heads of public bodies of changes in practices or procedures compatible with effective discharge of the duties of such bodies that the Commission thinks necessary to reduce the likelihood of the occurrence of corrupt practices.

The Corruption Risk Assessment of Municipal Council of Mombasa was carried out between 20th and 28th June 2005 pursuant to these provisions and in response to reports of corrupt practices in the operations of the Council. The persistent reports and complaints by members of the public either through the media or to the Kenya Anti-Corruption Commission (KACC) alleged various forms of corrupt practices in the Council. Some alleged that corruption is rife in the awarding and management of Contracts, Procurement, approval of housing plans, and in the utilization of Local Authority Transfer Funds (LATF) and Road Maintenance funds among other areas. All these complaints suggested existence of weaknesses and loopholes in the processes of service delivery by the Council.

Accordingly, in order to enhance the accountability of the Council, KACC found it necessary to assess the degree of integrity and transparency in the key functional areas of the Council. The purpose was to identify weaknesses, loopholes, avenues and opportunities that may be used for corrupt practices and to offer appropriate advice for enhancement of effective governance systems in the Council.

## **1.1 OBJECTIVES**

The objectives of this assignment were:

- i. To examine existing policies, systems, practices and procedures in order to identify and profile corruption prone areas in the Council.
- ii. To provide instant advice on findings that would require urgent action.
- iii. To assess the need for a full examination of the systems, policies, procedures and practices of the Council.

## **1.2 TERMS OF REFERENCE**

The terms of reference were:

- a) Examining the operations and management of the Council to establish the existence of, and, adherence to:
  - i. Operational Guidelines and procedures used by the Council in its management.
  - ii. Strategic and action plans for the Council
  - iii. Policies and procedures for financial records management
  - iv. Policies and systems for human resource management
  - v. Policies and systems for procurement of goods and services
  - vi. Policies and systems for records management
  - vii. Procedures for investment and assets management
  - viii. Procedures for elections of chairpersons for various Council committees
- b) Assessing the appropriateness of existing systems, policies, procedures and practices in enhancing integrity and good governance.
- c) Preparing a report of findings and making recommendations on how to seal identified corruption loopholes.

## **1.3 SCOPE**

The assessment covered all the Departments of the Council.

## **1.4 METHODOLOGY**

1. Interviews were carried out with the Management, Heads of Departments, Sections Heads and Chairs of Council Committees. (See appendix I for a list of Council members and departmental staff)

2. Observation of the working environment including physical facilities such as office space, and equipment. Observations were also made with regard to behaviour, communication and interactions between members of staff and clients.
3. The team also interviewed some members of the public who had corruption related complaints.
4. Information was also generated through content analysis of various documents. These included files, circulars, memos, and copies of annual accounts, audit reports, complaint letters, minutes of various committees and various internal and external correspondences.
5. The Team made reference to the following materials among others:
  - ix. Administrative Circular No. 1 of 1998 Guidelines of the Administration of Local Authorities
  - x. Amendment to the Local Government Act (Legal Notice No.83 of 2000 )
  - xi. The Local Government Act (Cap. 265-Laws of Kenya)
  - xii. The Public Health Act (Cap 242- Laws of Kenya)
  - xiii. The Government Financial Management Act 2004
  - xiv. The Anti-Corruption and Economic Crimes Act 2003
  - xv. The Public Officer Ethics Act 2003
  - xvi. The Public Audit Act ( Act No 12 of 2003 )
  - xvii. The Exchequer and Audit (Public Procurement) Regulations (Legal Notice No.51 of 2001)

## 2. INTRODUCTION

In the past few years, the Municipal Council of Mombasa has been in the process of being upgraded to a city status. However the Council has not yet received the Official Charter for a city status. Currently the council is divided into 7 functional departments, which work together in the implementation of its core mandate of providing basic services to its residents. These departments are:

- i. Town Clerk's Office
- ii. Town Treasurer's Office
- iii. Education
- iv. Engineering
- v. Housing & Social Services
- vi. Public Health
- vii. Environment

These departments are headed by Chief Officers and are guided by the resolutions of various Council Committees. The Local Government Act provides for the formation of committees to assist in the management of Council affairs and to enhance the democratic processes in the Local Authorities. The Municipal Council of Mombasa has created the following Committees:

- i. Finance and General Purpose
- ii. Public Transport
- iii. Establishment
- iv. Town Planning
- v. Housing Development
- vi. Engineering and Works
- vii. Environment
- viii. Housing and Social Services
- ix. Public Health
- x. Inspectorate
- xi. Education
- xii. Water and Sewerage

Recently the Council initiated a restructuring programme which, at the time of the assessment, had not been documented. This programme is intended to improve the management of the Council. Some of the features of the programme include:

- Creating a Town Planning Department to deal with all matters of house planning currently handled under the Department of Engineering.
- Creating a Human Resource Department to handle all functions of the establishment section currently under Town Clerk's Department.

In addition, the Council is preparing to take over water management from the National Water and Conservation Pipeline Corporation with the intention of privatising its management as is being done by other Councils in line with the on-going public sector reforms.

### 3. FINDINGS AND RECOMMENDATIONS

The findings and recommendations contained in this Report have been divided into the following seven areas namely:

- i. General operations and Management
- ii. Financial and Assets Management
- iii. Internal Audit
- iv. Procurement and Stores Management
- v. Human Resources Management
- vi. Quality Control and Assurance
- vii. Records Management

#### 3.1 GENERAL OPERATIONS AND MANAGEMENT

This section presents findings on weaknesses identified in the general operations and management of the Council. It also provides recommendations for improvement.

1. The Municipal Council of Mombasa has not prepared its strategic plan in spite of having passed a resolution to that effect in 2004.

*A strategic plan is vital in guiding the Council direction in its operations. It will also help the Council in the management of its resources. Therefore the Town Clerk should immediately initiate the process of preparation of an appropriate strategic Plan for the Council. This plan should be used as a vital working document to ensure its implementation.*

2. The last approved Councils budget was in the year 2000/01. However the Council has continued to incur expenditure on all items as per its unapproved budgets. This clearly contravenes the provisions of section 214 of the Local Government Act, which provides that if the annual estimates are not approved or disallowed by the Minister for Local Government before the commencement of the financial year for which they are prepared, the Local Authority may incur expenditure on:

- a) Personal Emoluments excluding special emoluments
- b) Other recurrent charges

at monthly rates not exceeding those provided in the estimates of the approved estimates of the preceding financial year.

*The Town Clerk should submit the Councils financial estimates to the Permanent Secretary Ministry of Local Government and ensure that the Council's budget is approved in order to support its expenditures.*

3. The rate of turnover for the professional staff and especially for Town Clerks and Town Treasurers is very high. This negatively impacts on continuity of certain programmes.

*The Permanent Secretary Ministry of Local Government should develop guidelines on the deployment of professional staff to Local Authorities. The guidelines should include the minimum period that an officer should serve in one station.*

4. Health facilities run by the Council are in poor condition. Some of them do not have running water due to disconnection for non-payment and hence basic health procedures especially for family planning cannot be performed.

*The Town Clerk should make it a priority to pay water bills especially for the health facilities. This will improve delivery of health services to the public.*

5. The Council has not stocked vaccination cards for a long time. However these are readily available in the market and when members of the public are advised to procure the cards from the market, they avoid going for vaccination and opt to have the cards stamped in the parallel market. Although the Council losses revenue, the practice exposes the ignorance of the members of the public as they endanger their life.

*The Permanent Secretary Ministry of Health should provide appropriate guidance on the availability of vaccination cards in the market with a view to protect the members of the public. In addition, the Permanent Secretary should initiate programmes for sensitising members of the public on the importance of vaccinations.*

6. Although the Council is represented in the District Roads Committee, the road works programmes under the Ministry of Roads and Public Works and that of the Council are not yet fully harmonised. This may result in overlapping of road works projects, loss of revenue and inflation of costs for road construction and maintenance. Consequently this creates corruption loopholes in accounting for the funds by the Council and the Ministry.

*The Town Clerk should liaise with Permanent Secretary, Ministry of Roads and Public Works to come up with modalities for harmonizing road works programmes. This will enhance efficiency in the utilisation of the funds by both the Council and the Ministry.*

7. Although the Council is involved in the implementation of two donor-funded projects namely Education for Marginalized Children of Kenya (EMACK) and Kenya School Improvement Programme (KENSIP), the Department of Education does not have the project documents to guide in the implementation process.

*The Town Clerk should obtain the project documents from the programme managers in order to familiarize the Council with the resources, requirements and areas of interventions outlined in the*

*projects. This will enable the Council to clearly understand its role in the implementation of the projects.*

8. Some of the duties of the Town Planning Committee include approving building plans, change of classification of land use, consolidation and subdivision of plots among others. However, the committee is usually used to ratify and rubber stamp decisions made by the Engineers Department.

*The Town Clerk should ensure that the Engineers Department does not make decisions before the Town Planning Committee deliberates on them. The Chairman of the Town Planning Committee should organise for site visits by the members of the committee as part of the approving process. In addition, where such decisions have been made in the past, the Town Clerk should take appropriate legal action to nullify the transactions.*

9. Council Committees are sometimes not fully informed of the decisions made by the Executive. For example the decision of the Council to enter into a contract for garbage collection with Hakika Transport was not communicated to the Environment Committee.

*The Town Clerk should ensure that all issues within the Committee's mandate are tabled to the relevant Committees for deliberations before decisions are made and implemented. This will enhance transparent working relationship between the Civic leaders and the executive arm of the Council.*

10. The Council has been carrying out a computerisation programme (GIS) largely without the involvement of officers from the computer section. A retired computer manager who used to work for the Council was hired to assist with the computerization programme.

*The Town Clerk should immediately embark on training all officers from the Computer Section on GIS and on the management of the computerization programme for smooth handing over from GEOMAPS to the Council. In future the Town Clerk should always involve relevant Council officers in design and implementation of all programmes for continuity.*

## 3.2 FINANCIAL AND ASSETS MANAGEMENT

The systems, policies, procedures, practices and guidelines of the Council in the area of Financial and Assets management were assessed and material weaknesses discovered. The findings and recommendations have been divided into three areas, namely revenue collection, payments and expenditure and assets management for ease of reference.

### 3.2.1 Revenue Collection

This section brings to the fore the weaknesses discovered in the process of revenue collection and safeguarding the revenue sources by the Council and outlines recommendations to address the identified weaknesses.

1. The Council Management estimates that only 30% of all revenue collected reaches the Council and that over 60% is lost at various collection points.

*The Town clerk should enhance supervision at all points through:*

- a) *Initiating a mechanism of collecting the money from collection points at least twice a day and ensuring that it is promptly banked..*
- b) *Initiating frequent spot checks at the collection points to verify cash at hand against the receipts.*

2. Market Masters and Cess Assessors stay in one market for too long such that when they retire, some continue to collect market fees, which they do not remit to the Council. In addition the Cess Assessors are inadequate.

*The Town Clerk should develop a system whereby Market Masters and Cess Assessors are transferred within a period of not more than one year and ensure training of more assessors. In addition the Market Masters and Cess Assessors should always be uniformed displaying official identification badges, which should be surrendered to the Council upon retirement.*

3. The Council does not maintain data on the number of traders operating in the markets making it difficult to track the expected revenue. This creates an opening for collectors to falsify documents.

*The Town Clerk should create a database for traders within the market areas and ensure that it is regularly updated to capture any changes. This will assist the Council to forecast revenue collection, compare it with actual collection and carry out an analysis of any variances arising.*

4. The Council collects market fees from hawkers and in areas that have not been designated as market areas. However, the Council does not have the relevant data on the hawkers and the traders operating in these areas.

*The Town Clerk should bring to the attention of the relevant Council Committee the anomaly with a view to coming up with the appropriate Council resolution for designation of additional market areas to accommodate the hawkers. This will enable the Council to keep data on the hawkers and to track the revenue collection.*

5. The Council does not collect all rent due from its tenants. By May 2005 the Council was owed approximately Kshs 208,380.00 in rental arrears from two estates. Furthermore, the Council loses a lot of money in legal suits for failing to follow proper eviction procedures.

*The Town Clerk and Finance Committee should enforce the payment of rents by tenants. Where tenants default, the Town Clerk should carry out evictions in accordance with the law.*

6. Money collected for primary mock examinations from private schools is not accounted for by the Council as it is handled by the Divisional School Advisors supposedly for payment of mock examination markers. Each advisor has the discretion on how much to pay the markers, as marking fee is not standardised.

*The Town Clerk should make sure that all mock examinations fees are paid to the central cash office and all markers are paid from the office at a standard rate.*

7. A Court injunction was issued against the decision by the Council to contract Kenya Revenue Authority (KRA) to collect land rates on its behalf following complaints by the residents of Nyali. As a result the Council does not collect land rates from the said upmarket area.

*The Town Clerk should, subject to the directions of the Court, ensure that the residents of Nyali continue to pay land rates to the Council pending the final decision of the court on the matter.*

8. Some Council workers collude with businessmen to falsify the nature and details of their business in order to undervalue the amount payable for Single Business Permits. In addition Council workers collude with businessmen who have outstanding arrears to change business names in order to evade payment of the arrears. Sometimes the Council workers issue current year business permits even when the previous years' have not been paid for.

*The Town Clerk should develop a computerised database of all businesses operating within the municipality. The database should reflect online the nature of business, payments made and outstanding arrears. This will assist the Council in issuing permits only to those who have no outstanding arrears.*

9. The counting machines in the stadium entry points broke down in the year 2003. It was alleged that occasionally, Council employees collude with Kenya Football Federation (KFF) and football clubs officials to understate the number of entrants to the stadium especially during football matches. This leads to loss of revenue for the Council, which gets 15% of the total amount collected. In some instances fake receipts are issued for entrance to the stadium.

*The Town Clerk should immediately repair the counting machines at the stadium in order to reduce losses that occur during football matches. In addition, the Council should print receipts with adequate security features to prevent forgeries.*

10. Money collected by parking attendants is not surrendered to the Cash Office on a daily basis. The Council loses approximately Kshs. 10,000.00 daily after verification. In May 2005 ninety-one attendants misappropriated Kshs 241,742.00. Some of the collectors retain the money collected for their own personal use and advise the Council to deduct from their salaries.

*The Town Clerk should institute appropriate disciplinary action against those who do not remit monies collected on behalf of the Council. In addition the Town Clerk should institute a system where money is collected for banking at the collection point daily.*

11. Although the Council levies varied parking fees for different categories of vehicles, only one standard receipt of Kshs 40.00 is printed. Parking attendants are advised to issue two or more receipts depending on the size of the vehicle. This opens up opportunities for negotiations and corrupt practices.

*The Town Clerk should print receipts with adequate security features indicating the various charges for different categories of vehicles. In addition the Finance Committee should consider establishing a standard rate to be charged to all vehicles regardless of size.*

12. The Council collects monthly fees for reserved parking. However, some of the companies collude with Council workers to under declare the number of the reserved slots so as to avoid paying the full amount applicable.

*The Town Clerk should adopt a system whereby all reserved parking slots are clearly marked indicating the reserving company. All vehicles parked outside the reserved areas should be charged the applicable daily parking fees.*

13. Council workers sometimes falsify cash receipts for revenue collection such that the actual amounts paid and what is reflected on counterfoil and duplicate receipts is different. The Public Health Department lost Kshs.122, 500 in such circumstances between January and May 2004.

*The Town Clerk should immediately replace existing receipt books with the self-carbonating ones. The Town Clerk should further institute investigations into the loss of cash by the Public Health Department with a view to taking disciplinary action against the officers who were involved.*

14. It is alleged that Social Welfare Assistants collect money for hire of social halls at night and do not remit the money collected to the Council.

*The Town Clerk should investigate this allegation and enhance supervision of Social Welfare Assistants such that usage of the social halls is strictly upon production of an appropriate payment receipt.*

### **3.2 .2 Payments and Expenditure**

This section highlights the weaknesses discovered in the process of making payments and incurring expenditure by the Council and outlines recommendations to address the identified weaknesses.

1. Members of staff reported that in some instances, they sign for imprest to procure user items then the imprest is issued to certain Supplies Officers.

*The Town Clerk should enforce the requirement that only the imprest claimant is issued with the money for accountability.*

2. The Council has been utilizing the Road Maintenance Fund from the Kenya Roads Board to pay salaries. For example, during the month of March 2005, the Council spent Kshs. 15 million from this fund for payment of salaries. This contravenes the agreement on utilisation of the Road Maintenance Fund by the Kenya Roads Board Agents, which is based upon approved work plans. Withdrawals from the Road Fund Account other than for road works are reflected as a debt that the Council will pay later.

*The Town Clerk should utilize the road maintenance fund only for the programmes it is intended and desist from utilizing it to pay salaries. Furthermore, the Town Clerk should immediately pay back the debts from the road maintenance fund.*

3. The Council spends on average Kshs. 10 to 12 million monthly for payment of the three garbage collection companies. This translates to approximately Kshs 120 to 144 million annually. This is in spite of the Council garbage collection budget, reflected in budget estimates, averaging Kshs. 23 million annually. Apart from the three contracted companies, the Council also collects garbage in some areas of the municipality.

*The Town Clerk should service the Council garbage collection vehicles lying at the parking yards and procure additional garbage collection trucks in line with its current budget with a view to stop contracting garbage collection. This will assist the Council to cut down expenditure on garbage collection.*

4. The Council irregularly implemented resolutions enhancing the Mayors' and other Councillors allowances, which are paid on a monthly basis regardless of the number of sittings. These resolutions have not been ratified by the Minister for Local Government in accordance with section 19 of Local Government Act. In processing payment for these allowances, the Council accepts responsibility of the irregular payment by stating on the payment voucher that the payment is "subject to recovery in case increment is not approved by the Minister".

*The Town Clerk should immediately suspend further payments of the increased allowances and submit the Council resolutions to the Minister of Local Government for his decision.*

5. The Town Treasurer and Town Clerk are the only signatories to all Council bank accounts, except the Road Maintenance Fund account where the Chief Engineer is also a signatory. The Treasurer is the custodian of all cheque books for the different bank accounts. Whenever the expenditure section has to raise a cheque, the Town Treasure issues a single cheque leaf with instructions as to the payee.

Where there are only two signatories, with one of the signatories being the custodian of the cheque books there is a possibility of payments being done before procedures are completed, only to be regularized later.

*The Town Clerk in conjunction with the Finance Committee should identify an appropriate Chief Officer as the third signatory to the Council bank accounts. The Cheque books should be maintained by the Officer in-charge of payments who should not be a signatory to the accounts.*

6. The Council maintains petty cash of Kshs. 200,000.00, without guidelines on its utilisation. This is prone to misappropriation especially for procurement of consumables. Furthermore the Council has not developed guidelines on the limit and usage of standing imprest and does not enforce the time period within which the imprests in general should be surrendered. This has resulted in there being un-surrendered imprest of Kshs. 8.6 million for two consecutive years. The management has not made any efforts to recover these imprests yet some of the officers with outstanding imprest have now been transferred or dismissed without the council recovering from their final dues.

*The Town Clerk should come up with guidelines for the usage of petty cash and standing imprest, specifying the maximum amount that should be spent in a month and for what purpose. The time period within which imprests ought to be surrendered should be strictly adhered to. The Town Clerk should commence immediate recovery of all outstanding imprest from salaries of staff still in service, wherever they are, who have got any outstanding imprests. Outstanding imprest in the names of retired or dismissed officer(s) should be surcharged to the officer responsible for the maintenance of imprest*

*register, for failing to take appropriate action at the time that officer(s) were being retired or dismissed.*

7. The Council has not set a limit to which an officer can be issued with salary advance and the repayment period.

*The Town Clerk should set a limit on the amount of salary advance that can be issued to Council employees and the repayment period.*

8. The Council's current liabilities as at 30<sup>th</sup> June 2004 were Kshs. 824,640,460. Included in this figure are cooperative and statutory deductions such as NHIF, PAYE and NSSF. Despite this high level of indebtedness the Council has not formulated and adhered to a well-laid down re-payment plan aimed at paying off these huge debts. Payments to creditors are in most cases made depending on individual follow-ups. In the current financial year's budget, the Council has planned to pay up Kshs.99,195,873.00. This is clearly inadequate in view of the huge outstanding creditors figure.

*The Town Clerk should carry out a comprehensive audit and review of the outstanding creditors figure and come up with an enforceable comprehensive repayment plan, to avoid possible litigation and freezing of Council bank accounts. Payments to creditors should be strictly as per plan and not individual follow-ups. Preference should be given to statutory and co-operative deductions, for they attract huge penalties and interest charges.*

9. Preparation of payment vouchers is not centralised. Some payment vouchers are prepared in Accounts section while others are prepared in expenditure section. This exposes the Council to possibilities of double payment of suppliers.

*The Town Clerk should immediately centralise preparation of all payment vouchers.*

10. The Council sometimes makes payments on profoma invoices. However in certain instances it takes too long for the goods to be delivered and occasionally they are delivered partially or not at all.

*The Town Clerk should only make payments on profoma invoices only when it is absolutely necessary. Where such payments are made, the Council should clearly state the period within which the goods should be delivered failure to which the Council should seek legal redress.*

11. The Council does not have a qualified lawyer hence it hires advocates to handle all legal matters. Payment to these advocates is usually done on the basis of correspondences and not fee notes detailing the work done.

*The Town Clerk should ensure that payments to lawyers are based on fee notes indicating the work done as per the Advocates' Remuneration Order. The Town Clerk should also liaise with the*

*Permanent Secretary, Ministry of Local Government, to post a qualified Lawyer to handle most of the legal matters on behalf of the Council.*

12. Sometimes the Council makes payments without invoices some of which are submitted long after payments have been made. Payment vouchers in such instances are raised on the strength of written instructions and phone calls to the payments section by either the Town Treasurer or the Town Clerk.

*The Town Clerk and the Town Treasurer should desist from making telephone calls and passing written instructions to the payments section to be used as a basis for making payments. The Town Clerk and Town Treasurer should adhere to the best practices in financial management by ensuring that payment vouchers are raised on the strength of valid invoices only.*

### **3.2.3 Assets Management**

This section examines the weaknesses discovered in the manner the Council records and manages its fixed assets and outlines recommendations to address the identified weaknesses.

1. Some Council houses have been irregularly disposed off. For example 12 houses at Kizingo estate, which had been, constructed for senior officers and some institutional houses were disposed off irregularly.

*The Town Clerk should institute investigations on the disposal of council houses. Should the investigation reveal that the houses were disposed off irregularly and at low prices, the Council should either seek to repossess or petition those who bought to pay up the current market prices.*

2. The Council does not have guidelines on change of tenancy for the rental houses. Those allocated Council houses pass them to family members without reverting back to the Council for formal allocation. Houses, which are occasionally surrendered to the Council, are allocated either on friendly basis or through political intervention. In one case, a politician directed the Council to allocate house No. MG 34 to be used for rehabilitation of street children. This house is not being used for the intended purpose yet the allottee continues to occupy it without paying rent to the Council.

*The Town Clerk should develop a policy on allocation of Council Houses, which should stipulate the process for change of tenancy. In addition, the Town Clerk should be more vigilant in inspection of the houses for better management and for the Council to satisfy itself that the occupants of the houses are the tenants on record. The Town Clerk should immediately repossess house no. MG 34 and ensure that the occupant pays outstanding rent.*

3. There are too many vehicles, which are grounded at the Council yard yet some of these vehicles are serviceable. As at May 2005 there were approximately 63 serviceable vehicles at the yard. It is alleged that some Council workers and Civic Leaders are interested in purchasing some of these vehicles. The Council resolution to dispose some of the vehicles was rejected by the Ministry of Local Government for not following the laid down procedures.

*The Town Clerk should ensure that all serviceable vehicles are repaired and put back to use by the Council. Those that are unserviceable should be boarded for sale following the appropriate procedures.*



*Some of the grounded vehicles at the Council yard*

4. The Council does not maintain a fixed assets register to guide in the management of its assets. Such a register is vital for identifying Council's fixed assets, determining depreciation rates and making decisions on disposal.

*The Town Clerk should ensure that a fixed assets register is prepared, encompassing all fixed assets of the Council.*

### 3.3 INTERNAL AUDIT

The Internal Audit function plays a pivotal role in the formulation and review of sound systems, policies, procedures and practices and ensuring that they are consistently adhered to. This section discusses some of the key weaknesses identified in the Internal Audit Section. Recommendations for overcoming the weaknesses are also given.

1. The Legal Notice No 83 of May 2000 made it mandatory for the Audit function in Councils to be independent. However the Internal Audit section of the Council still reports to the Town Treasurer in contravention of this requirement.

*The Town Clerk should abide by the provisions of the Legal Notice No.83 of May 2000 and de-link the Internal Audit Section from the Town Treasurer's Department. The Internal Audit Section should report to an audit committee as well as the Finance and General Purpose Committee.*

2. The Internal Audit Section is engaged in many duties, (including receiving of supplies and clamping of vehicles among others) which do not conform to the principle of separation of duties. This undermines its independence in carrying out the audit function.

*The Town Clerk should relieve the Internal Audit Section of all duties that are not relevant to its functions. The Section should focus on reviewing internal systems and processes and making recommendations for their improvement.*

3. There is no qualified accountant in the Internal Audit Section. Most of the personnel working in the Section are at various stages of accounts qualifications.

*The Town Clerk should immediately source for a qualified accountant to fill the position of Chief Internal Auditor. In addition the Council should train the current accounts staff in order to upgrade their skills.*

4. The Internal Audit Section raises various queries in its Audit reports. However the Council does not respond to these audit queries.

*The Finance and General Purpose Committee should ensure that the relevant Departmental Heads respond to all audit queries.*

5. Due to lack of qualified Accountants, the Council usually contracts the preparation of annual accounts. However the Council accounts have not been audited since 1992.

*The Town Clerk should immediately liaise with the Permanent Secretary Ministry of Local Government to post at least two qualified Accountants who will help in the preparation of final accounts. The Town Clerk should also liaise with the Kenya National Audit Office for*

### **3.3 PROCUREMENT AND STORES MANAGEMENT**

The procurement and stores management systems, policies, procedures, practices and guidelines were assessed and found to be inadequate, thereby creating loopholes for corruption and irregularities. The following areas of concern were identified and recommendations made to deal with the weaknesses.

1. (a) The Council entered into a computerisation project for which approximately Kshs. 21 million was paid yet the project was never implemented.
- b) The Council had entered into a contract with Y-NOT Company to collect parking fees on its behalf. By the time the contract was terminated the company had ripped off the Council approximately Kshs 300 million. It later emerged that the company was registered after the contract was awarded and some of the Council staff were Directors of the Company.
- c) The Council entered into a contract with Umoja Consultants for collection of advertisement fees. At the time, the Council handed over its receipt books and letterheads to the company. Although the contract was cancelled the company did not hand over Council properties and continues to collect advertisement fees in certain instances in collusion with the Council staff.

*The Town Clerk should investigate the three cases further and ensure that appropriate disciplinary action is taken against the officers involved. In addition the Town Clerk should seek legal redress with a view to recovering the money from the companies involved. Further the companies should be blacklisted from doing business with the Council.*

2. Some of the drugs supplied to the Council have a very short shelf life. At the pharmacy, there were a lot of supplies of 'Doxy', a drug used for treatment of diarrhoea with an expiry date of 1<sup>st</sup> September 2005. Most of these drugs were supplied from the Kenya Medical Supplies Agency (KEMSA). The officer at the Pharmacy indicated that most of the drugs are not fast moving.

*The Town Clerk should ensure that drugs and medical supplies supplied to the Council have a long shelf life and meet the consumption needs of the Council.*

3. It is alleged that companies associated with Civic Leaders are awarded tenders, which at times they do not execute fully (in terms of quality and quantity) yet they are paid in full. This is done in collusion with the members of staff.

*The Town Clerk should investigate the allegation and in line with the Public Officer Ethics Act, 2003, institute clear procedures for addressing the issue of conflict of interest with regard to civic leaders doing business with the Council.*

4. The Council contracted repair works for the ceiling board and painting of the offices occupied by the Department of Health three times yet no works have been carried out and it is alleged that the contractors were paid.

*The Town Clerk should investigate the allegation and make sure that all works are professionally inspected and certified by the user department before payments are made.*



*A present image of the roof alleged to have been repaired three times*

5. There are cases where, road works are commenced before the contract documents are signed. Furthermore additional works are sometimes added to the existing contracts before completion of prior works without following the tendering procedure. For example, the ongoing road works on the Old Malindi Road, budgeted at a cost of Kshs 30 million, was additional works. In some situations one contractor is awarded three jobs to run concurrently.

*The Town Clerk should ensure that all the necessary tender documents are completed before commencement of contracts. Awarding of tenders for additional works should be in accordance with the procurement procedures. The Town Clerk should further ensure that contractors are awarded additional contracts only after successful completion of the previous ones to avoid delays and substandard work.*

6. The Council has contracted collection of garbage on the island to three private companies, namely; Hussein Dairy, Hakika Transport Services and Mariakani Auto Parts. Some of the companies only collect and dump at a transfer point from where the others collect to the Mwakirunge dumping site. However, supervision and verification of garbage collection by the Council is

inadequate. For example one company had overstated the tonnage capacity of its lorries which resulted into overstatement of invoices.

*The Town Clerk should develop a checking system where an authorised officer supervise garbage collection and the tonnage capacity of the lorries used and this is cross checked at the dumping site. The Council should further revise the method of garbage collection to ensure that the companies collect and deliver to the final destination.*

7. The current Procurement Officer is a Senior Clerical Officer and has no basic training in procurement. This raises doubt on his ability to effectively adjudicate procurement issues or offer professional and technical guidance on the procurement process. As a junior officer and the Secretary to the Procurement Committee he is likely to be intimidated by senior officers. The Council has a qualified procurement officer deployed in a different area.

*The Town Clerk should deploy the in-post Procurement Officer in the relevant department or seek for a Procurement Officer from the Ministry of Local Government.*

8. The Local Purchase Orders (LPO's) issued to suppliers do not indicate the duration within which goods should be delivered in accordance with procurement regulations. This has occasioned delays in the delivery of goods. For example a firm was awarded a tender to supply drugs in October 2004. However, the supplies were not delivered until January 2005.

*The Town Clerk should ensure that all Purchase Orders clearly indicate the duration within which goods should be delivered. Where delivery is delayed, orders should be cancelled and the Council ceases dealing with such suppliers.*

9. In some cases the Procurement and Audit Sections are involved in receiving goods without the involvement of the user departments. The Council does not maintain Goods Received Notes/Vouchers (GRN/V) and only signs on the Delivery Notes. Sometimes delivery notes are signed without verification of goods delivered.

*The Town Clerk should ensure that user Departments are represented in receiving and verification of goods. Furthermore, the council should maintain Goods Received Notes/Vouchers, in which goods received should be entered after proper verification.*

10. a) Although the Council's accountable documents were procured from Nairobi, no market surveys were carried out to guide appropriate pricing in the tendering for these documents.  
b) The process of procurement by quotations is open to abuse as there is a tendency for quotations to be obtained from one supplier.

*The Town Clerk should ensure that market surveys to identify suppliers for various goods and services are carried out every financial year and generate lists of suppliers. This could be facilitated through advertisements for pre-qualification of suppliers.*

11. The Council does not have a clearly defined system for maintenance of procurement and tender documents. The Town Clerk maintains some procurement and tender documents, while the Engineers Department maintains those related to road works. With this type of system confusion reigns and loss of documents is likely to occur. In addition, this makes it impossible to access procurement documents.

*The Town Clerk should centralize the custody of all procurement and tender documents in the Procurement Section.*

12. Stores personnel do not promptly and accurately post BIN cards upon receipt or issue of goods. The BIN cards are not arranged in sequence for ease of retrieval. This indicates that the supervisors do not have accurate information on what is in stock at any given time making it possible for losses to occur without a trace.

*The Town clerk should ensure that BIN cards are promptly and accurately posted and that they are arranged in sequence for ease of retrieval and supervision.*

13. The Council's Central store is poorly maintained and lacks basic facilities. At the time of the assessment, the store was flooded due to leaking roofs and was being used as a dumping site for old documents, which were wet and decomposing.

*The Town Clerk should urgently repair the leaking roofs and rehabilitate the central stores, provide basic facilities and desist from using it as a dumping site for old documents.*



*Old and decomposing documents in the Council's Central Store*

14. Sometimes LPOs are executed in parts and the stores personnel do not reconcile goods received to the LPO's. In certain instances, copies of LPOs meant for reference by stores personnel are received long after goods have been delivered to the stores. This makes it possible for payments to be made for goods not supplied in full and also for excess deliveries to be received.

*The Town Clerk should institute a system whereby copies of all LPOs are immediately forwarded the stores personnel upon issuance to suppliers. The Stores personnel will use them for reconciliation purposes when goods are delivered. In addition, the Town Clerk should only authorise payments for goods that have been delivered as per the LPOs instructions.*

15. Letters of tender awards to suppliers are issued before tender security documents are provided where such security is required contrary to the Legal Notice No. 51. It is after the award that the winner is asked to provide bid bonds.

*The Town Clerk should strictly adhere to the Legal Notice No.51, which requires that bid bonds accompany tender application forms and no award is made to any bidder who has not submitted such bonds.*

### **3.4 HUMAN RESOURCES MANAGEMENT**

This section discusses pertinent weaknesses discovered in the systems, policies, procedures, practices and guidelines in the area of Human Resources Management by the Council. Various inadequacies were discovered, thereby creating obvious loopholes and likelihood for corruption and irregularities to occur. The following areas of concern were identified and recommendations for overcoming the weaknesses given.

1. In certain instances Councillors interfere with deployment and the disciplinary process of members of staff. The interference extends even to retirement and retrenchment with Councillors insisting on some staff members staying on even after retirement. This partly explains why the Council has not complied with the Ministry of Local Government directive to retrench part of its workforce in the year 2000.

*The Town Clerk should deploy members of staff in accordance with their professional skills. In addition, the Town Clerk and the Mayor should work together to ensure that the resolutions of the Council especially on personnel management are appropriate for the better management of the Council. Extension of service for the professional cadre should be strictly based on the guidelines of the Public Service Commission (PSC).*

2. The Council has a high number of officers in acting capacity most of whom do not have any technical training in the areas they are acting.

*The Town Clerk should liaise with the Public Service Commission for the confirmation of the qualified staff in acting capacities and further liaise with the Permanent Secretary Ministry of Local Government for deployment of qualified staff to the Council.*

3. Some Public Health workers fraudulently issue medical certificates to food handlers who have not undergone medical tests and licenses to hotels that have not complied with premises health and sanitation standards. This is exacerbated by the existence of fake medical certificates.

*The Town Clerk should institute appropriate mechanism for supervision of Public Health Technicians. In addition, the Council should consider printing serialised Certificates with adequate security features. Furthermore only those who have fully paid all Council fees and have been adequately tested should be awarded the medical certificates.*

4. Some Estate managers extort money from defaulting tenants using eviction threats. Some of these managers have worked in one station for a long period of time.

*The Town Clerk should ensure close supervision of the Estate Managers and set a three months grace period before defaulting tenants can be evicted.. This information should be well communicated to all tenants. In addition, the Town Clerk should set in motion a system of transferring and redeploying Estate Managers who have worked in one station for a long period of time.*

5. It is alleged that some Council drivers pilfer fuel from Council vehicles hence the high expenditure on fuel.

*The Town Clerk should come up with modalities for monitoring fuel consumption. Appropriate entries on fuel consumption should be entered in the work ticket to assist in monitoring.*

6. There is generally low morale and apathy among staff in the Department of Engineering due to poor management and information flow.

*The Town Clerk should institute a management mechanism where departmental meetings are regularized to allow appropriate information flow from heads of departments to other departmental officers.*

7. It is alleged that Council workers at times refuse to collect garbage in the areas designated for collection by the Council until the area residents bribe them.

*The Town Clerk should come up with a collection programme, with supervising officers, to ensure that garbage is collected in all areas. In addition, officers who demand for bribes in order to collect garbage should be disciplined and prosecuted.*

8. The Inspectorate section has five trained police officers. However, the superintendent who heads the section is not a trained police officer. In addition, majority of the 800 inspectorate staff members have no training in security matters. Most of these staff members are former campaigners for the Councillors during the last general elections.

*The Town Clerk should deploy a trained Police Officer to head the Inspectorate Section and ensure that officers working in the Section undergo continuous training in security matters.*

9. The Establishment Section does not have complete records on the number of employees of the Council and relies on records maintained by Salaries Section.

*The Town Clerk should compile a database of all Council employees, independent of the salaries section. This should be reconciled to the payroll on a monthly basis.*

10. Personnel files for officers in grades 16 to 18 are not maintained by the central registry but in the departmental registries in which the respective officers are attached. Similarly, personnel files for Chief Officers are maintained in the Town Clerk's office.

*The Town Clerk should centralise all the personnel records at the personnel registry regardless of officers' grades. This will assist the Council to deal with incidences of illegal entries in the payroll such as "Ghost" workers.*

11. The payroll is not regularly updated on time to reflect employee changes such as retirement, dismissal and transfers. For example 89 members of staff who retired in December 2004 were still in the March 2005 payroll.

*The Town Clerk should ensure that any changes on the payroll are communicated to the Salaries Section and effected immediately. The Town Clerk should also investigate how the retirees continued being paid and take disciplinary and recovery action against concerned officers.*

12. There are few instances where one personnel number is allocated to two or more officers.

*The Town Clerk should rationalise the allocation of personnel numbers to avoid a situation of multiple allocations. These numbers should be centrally allocated from the establishment office.*

13. It is alleged that at times when a member of staff dies and the council is not officially informed, a relative takes up the position of the deceased without reference to the Council.

*The Town Clerk should investigate this allegation and introduce a system where by each Departmental Head submits monthly returns on employees of the department. These returns should include information on officers on leave, those due for retirement and the deceased.*

14. It is alleged that some officers are placed on the ceiling of the salary scales without any form of progression or any justifiable reason. This leads to demoralisation of other officers in the same grade.

*The Town Clerk should effectively monitor salary progression of all employees and clearly stipulate the conditions under which an officer may be placed at the ceiling without following normal progression.*

15. When officers are transferred to the Council, there are no official documents forwarded to the Council in respect of the new officers. Opening a file for such an officer becomes difficult.

*The Town Clerk in conjunction with the Permanent Secretary Ministry of Local Government should liaise with the previous work stations of officers posted to the Council to requisition for copies of their personnel documents.*

16. The Town Clerk has taken up the duties of approving building plans due to lack of a registered Physical Planner. The Town Clerk does this therefore without the required technical input.

*The Town Clerk should liase with the Permanent Secretary Ministry of Local Government to source for a qualified registered Physical Planner for the Council.*

17. Majority of the departmental heads do not have qualified staff who can take over in case of transfer or retirement. Members of staff alleged that this is being done deliberately as a justification for extending the term of service of these officers upon retirement.

*The Town Clerk should come up with an appropriate succession plan to ensure that the Council has qualified staff to take over from any departmental head in case of transfer or natural attrition.*

18. Some non-professional staff members stagnate in one grade for a long period of time. Generally, promotions are not based on merit. Due to this, staff members are demoralised and could easily be involved in corrupt practices.

*The Town Clerk should set criteria for promotions and job progression. In addition those who merit promotions should be promoted without undue delays.*

19. Some Chief Officers do not adequately delegate duties in writing when proceeding on leave. This raises integrity concerns as regards such officers. Lack of express delegation undermines transparency and accountability, cause delays and perpetuates other inefficiencies.

*The Town Clerk should develop a system where all officers proceeding on leave fully hand over their duties in writing to those in office.*

20. Most officers work without written job descriptions and guidelines in the operations of the departmental work.

*The Town Clerk should work with all departmental heads to develop job descriptions for each Council employee and operational guidelines to assist the employees in the performance of their duties.*

### **3.5 QUALITY CONTROL AND ASSURANCE**

This section looks into the systems, policies, procedures, practices and guidelines by which the Council ascertains that the goods and services delivered to it and by it to its customers are satisfactory. The assessment discovered material weaknesses and opportunities for corruption in this area. The findings and recommendations are as follows.

1. The Council procures drugs and medical supplies for use in its clinics. However, it does not have any mechanism for attesting their quality. Furthermore, the Public Health Department is represented by the Council's Medical Officer of Health in the tender committee even when deliberating on procurement of drugs.

*The Town Clerk should device mechanisms whereby samples of drugs are sent to the Quality Control Laboratories for testing before being used and further ensure that the Chief Pharmacist is involved in the technical evaluation of tenders for supply of drugs.*

2.
  - a) The Public Health Inspectorate carries out inspection without a documented checklist of standards and guidelines. This gives Inspectors the discretion to determine compliance.
  - b) The Public Health Technicians have the discretion to determine the period for notification of closure of premises where they do not meet health

standards. In some instances these notifications are used as a tool for extortion as traders plead for a longer period of time to comply.

*The Town Clerk should develop a comprehensive checklist for carrying out public health inspections in accordance with the requirements of the Public Health Act. The guidelines should spell out the criteria for closure specifying the notification period for effecting closure of premises, which have not complied.*

3. In the year 2000, the Council spent substantial funds to construct the Likoni fire station, which has never been used. This is an indication of substandard works being done.

*The Town Clerk should investigate how the contractor was paid in spite of the alleged substandard works. In addition the Town Clerk should always satisfy himself that the Engineer In-charge has inspected all works and certified that it is done in accordance with the specifications before any payment is made. Where contractors fail to meet the required standards they should be blacklisted from doing business with the Council.*

4. It is alleged that sometimes the Engineers Department certifies road works for payment even when no work has been done or for work that does not meet the specifications. As a result, the Council loses through payment for substandard or non-existent work.

*The Town Clerk should investigate these allegations with a view to instituting appropriate disciplinary measures against all the officers involved.*

5. The Ministry of Education sometimes irregularly issues schools Registration Certificates before vetting by the Council. For example, Mombasa Mainland Academy, Sinbad Academy, Desliz Primary and Kisauni Mainland Academy (currently using an unregistered name of St. Michael's Kisauni Academy). These schools do not meet basic requirements such as classrooms, sanitary facilities, and teaching staff.

*The Permanent Secretary Ministry of Education should always as a requirement receive a report from the Council before issuing schools registration Certificate. The Town Clerk should always inform the Permanent Secretary Ministry of Education whenever a school is registered before approval by the Council.*

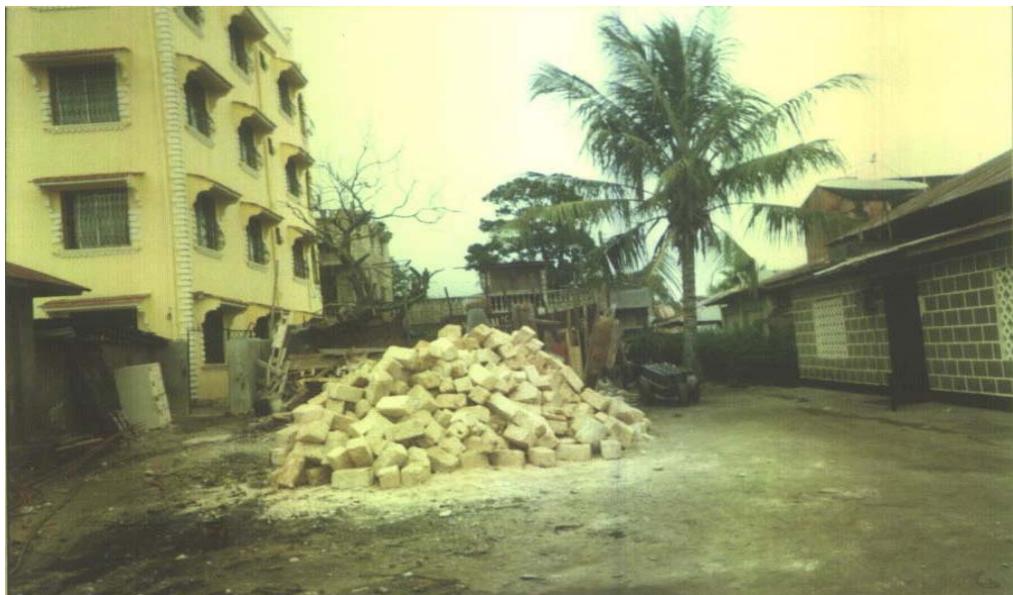
6. It is alleged that the Municipal Schools Inspectors are at times bribed to issue good reports of inspection. In addition it is alleged that some Councillors slip in names of schools at the Education Committee meetings for approval before inspection.

*The Town Clerk should investigate these allegations and take appropriate action. In addition the Chairman of the Education Committee should satisfy himself that appropriate inspection has*

*been undertaken before his committee approves any request for school registration. The committee should also carry out site inspections to verify inspection reports.*

7. Building Inspectors rarely furnish the Town Planning Committee on cases handled. In some cases the Building Inspectors do not stop construction where developers are using unapproved plans but instead they illegally assist them to draw up alternative plans, which they approve at a “fee”. For example in Majengo area, some building plans were approved irregularly for construction of buildings on plots carved out of open spaces and playing grounds, roads and road reserves. The Ministry of Lands carried out the subdivision of plots on which these plans were irregularly approved without reference to the Council.

*The Town Clerk should carry out further investigations into the illegal activities of the Building Inspectors with a view to instituting appropriate disciplinary measures. In addition, the Town Planning Committee should carry out continuous surveillance within the jurisdiction of the municipal Council to ensure that the committee has approved all building constructions. The Town Clerk should further implement a system of monthly reporting on the operations of the Building Inspectors. The Town Clerk should further liase with the Permanent Secretary, Ministry of Lands and Housing with a view to reconsidering the creation of plots on open spaces and playing grounds, roads and road reserves.*



*An on-going construction on a plot carved out of a road in Majengo area. This is a case of an irregularly approved building plan.*

### 3.6 RECORDS MANAGEMENT

The systems, policies, procedures, practices and guidelines of the Council in the area of Records Management were assessed and weaknesses identified. This section presents findings and recommendations to avert the weaknesses.

1. The Department of Housing does not maintain housing records in a central registry. Records are maintained in three separate offices located in Tudor, Changamwe and Buxton. The Council only maintains a list of houses, which does not reflect the conditions of the house, tenancy and outstanding rental arrears.

*The Town Clerk should facilitate the establishment of a central registry for all Council houses, with comprehensive data on each house. This should include among others, house condition, occupancy and rent arrears. This information should be regularly updated.*

2. The Council has not developed guidelines on record keeping guiding planning, creation, control, maintenance, use and disposal of records.

*The Town Clerk should engage the services of records management experts particularly from the National Archives to work with the staff in the records areas to develop an appropriate records management scheme.*

3. The Council has not designated adequate space for records storage. Personnel files are maintained in the same registry with other general and subject files.

*The Town Clerk should designate adequate space for all records and separate the personnel registry from the general registry.*

4. Majority of the Officers responsible for managing records do not have appropriate training in archives or records management.

*The Town Clerk should ensure that officers manning records areas are appropriately trained in records management and archival studies.*

5. The Council has not developed a records retention/disposal schedule that can be applied in the disposal of closed records. Old records are strewn in various departmental offices and stored together with active files in the same racks

*The Town Clerk should seek assistance from the Director of National Archives and Documentation Centre to prepare a records retention and disposal schedule in line with existing government regulations.*



*Old and closed records mixed with active files*

6. The existing filing system used by the Council is not backed by a clear filing index for ease of classification. Generally filing is done in a haphazard manner and some folios are missing from files while others are mixed up and do not follow in sequence.

*The Town Clerk should engage the services of records management experts particularly from the National Archives to work with the staff in the records areas to develop a reliable and sustainable filing system.*

7. All record areas are not installed with safety equipment such as smoke detectors and fire extinguishers for use during emergencies.

*The Town Clerk should as a matter of urgency install smoke detectors and fire extinguishers in all record areas and conduct regular drills with all records personnel.*

8. All incoming mail is not received at the central registry. Movement of documents and files is not accompanied by a movement register making it difficult to effectively track documents and files.

*The Town Clerk should ensure that all mail is received at the central registry and filed in the relevant subject file. In addition the Town Clerk should instil a mechanism that provides for the movement of documents and files in a register*

## 4. CONCLUSION

The Municipal Council of Mombasa is vested with the responsibility of providing essential services to the communities within its jurisdiction. Honest, transparent and effective management of local Authorities is essential to optimise the living conditions of the citizens and to foster trust in the way in which they are governed. The Council has not lived up to these expectations and members of the public have become disillusioned by the poor quality of services provided by the Council.

Council services, which include provision of basic infrastructure like roads, schools, health facilities, and garbage collection, are in dire need of attention. This sorry state of affairs can be attributed to various factors ranging from poor governance, low remuneration, lack of accountability, and political interference among others.

Kenyans are however increasingly demanding for quality services and accountability within the local Authorities. The Council must be accountable to the public from which it draws its revenue. The main challenge facing the council is how to consolidate and institutionalise changes for the better delivery of services.

The recommendations outlined in this report will greatly benefit the Council if implemented. The report has made recommendations on how to reduce corrupt practices in the management and delivery of services. Improvement in the management of the Council will of necessity require certain changes either structural or functional.

Corruption prevention is an effective mechanism for fighting corruption in both the public and private organizations. In Local Authorities, corruption prevention cannot be effective without the support and commitment of both the Executive and the Councillors. It will therefore be necessary for both the management and the civic leaders of the Municipal Council of Mombasa to spearhead the implementation of these recommendations to prevent corruption and mitigate on losses suffered by the Council over the years.

The impact of these recommendations will be felt if they are implemented simultaneously and in a systematic manner. To achieve this, the Council will have to prepare an implementation plan of the recommendations of this Report. The Kenya Anti-Corruption Commission will continue to monitor the Council to ensure that recommendations are implemented and that those who engage in corrupt practices are immediately punished.

## 5. GENERAL OBSERVATIONS

The situation described in this report is by no means isolated to Municipal Council of Mombasa. In the course of discussions with various officers the team learnt that there are a myriad of other factors which inhibit efficient management of local authorities and do often fuel corrupt practices. Among additional factors are: the lack of understanding of the intended relationship between the central government and local authorities; lack of adequate preparation of civic leaders; and unplanned implementation of policy reforms such as privatisation.

The relationship between central government and local authorities is defined mainly by the Local Government Act. In this relationship the central government has an upper hand which is enhanced by other statutes aimed at ensuring accountability in public institutions. There are also many other scenarios of shared responsibility between local authorities and other central government institutions such as the Ministry of Roads and Public Works and the Ministry of Health. The relationship is expected to be complementary but more often than not it is not. Instead it has resulted in unhealthy competition as each party tries to assert its authority. Furthermore shared responsibilities open up loopholes for corruption especially where activities and programmes are not properly articulated and harmonised. This problem is well illustrated by the finding on the road works programmes. (See Finding No 6 under general operations and management)

Civic leaders tend to confuse their roles with those of the executive mainly comprising of officers seconded to the Councils by the Central Government. The seconded officers, some of whom are expected to provide professional services, find it difficult to implement government policies until they popularise them with the civic leaders. This undermines the officers' objectivity and professionalism and is a constant source of strife between local authorities and central government. Regrettably it has negative consequences for the management of the councils.

Over time it has become very difficult to retain good officers in the Councils. Constant transfers at the instigation of the civic authorities tend to interfere with implementation of development projects and government policies. The disparity between the salaries of the seconded officers and those of officers employed by local authorities creates tension which does not augur well for the institutions. Sometimes pressure from the councillors causes officers to be compromised especially where they are threatened with transfers. This causes them to bend laws and approve unauthorised transactions.

Lack of induction for civic leaders leads to misunderstanding and abuse of the law. This is particularly the case as regards their statutory functions and the linkages between their powers and those of the Minister for Local Government and the Executive. Important functions of the Minister such as budgetary controls are taken for granted leading to mismanagement of council resources. Where Council committees are unaware of their functions they tend to rubber stamp decisions of more enlightened and influential members of the Council.

The public sector reforms introduced in the late 1990's were aimed at bringing about efficiency. However their implementation could be counterproductive if not

well planned. Some of the reforms had far reaching implications for local authorities. For example the policy on privatisation of services seemed attractive and a panacea for councils which had experienced perennial problems in the delivery of critical services such as provision of water and garbage collection. It would appear that modalities of privatization remain a grey area that needs to be addressed especially now that several major Councils (Nairobi and Mombasa) have entered into concrete arrangements for privatisation of water services. If not carefully harmonised with the initiatives under the Water Act, these arrangements could lead to negative consequences. This applies to other proposed areas of privatisation such as garbage collection.

The corruption risk assessment of the Municipal Council of Mombasa emphasises, the need for a holistic approach to problems of local authorities. In particular, it begs for a comprehensive review of the powers of local authorities vis a vis those conferred on the central government with the aim of rationalising shared responsibility to enhance accountability. There is also need for extensive training on good governance and various skills that would make councillors more informed and effective. Indeed all local authorities should be encouraged to make provisions in their budgets for training on management skills.

Arising directly from the assessment herein is the need to conduct governance training for the Municipal Council of Mombasa which should be extended to other local authorities after examination of their systems procedures policies and methods of work or under special arrangements. This and other interventions will assist in corruption prevention.

## APPENDIX 1

### List of Council members interviewed, Departments, Sections and other areas visited

1. The Mayor
2. Committee Chairmen
  - David Gaithuma – Finance and General Purpose Committee
  - Kushe Adan – Public Transport Committee
  - Kennedy Muthini – Town Planning Committee
  - Kombo Juma Mzee – Housing Development Committee
  - Said Mathias – Engineering and Works Committee
  - Abdulhakim – Environment Committee
  - Ali Salim Mwakunyapa – Housing and Social Services Committee
  - Juma Goshi – Public Health Committee
  - Wambua Kyaka – Inspectorate Committee
  - Mangi – Education
  - Pole Johnstone. – Water and Sewerage
3. The Town Clerk
  - Sections
    - Establishment
    - Computer
4. Deputy Town Clerk
5. Town Treasurer
  - Sections
    - Procurement
    - Audit
    - Payments
    - Accounts
    - Parking
6. Public Health
  - Sections
    - Public health inspectorate
    - Clinical services
    - Pharmacy
7. Education
8. Social services and Housing
  - Sections
    - Housing
    - Stadium and open grounds
    - Welfare
    - Markets
    - Administration
9. Engineering
  - Sections

- Planning
- Roads
- Architecture

10. Inspectorate

11. Environment

12. Other areas visited

- The Council yard
- Kisauni Mainland Academy/St. Michael
- Majengo estate
- Kizingo estate
- House No. MG 34
- The Central Stores