



EXAMINATION REPORT ON THE  
SYSTEMS, POLICIES, PROCEDURES AND PRACTICES  
OF THE  
CITY COUNCIL OF NAIROBI

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## **LIST OF ABBREVIATIONS**

ACPU	- Anti – Corruption Police Unit
AMREF	-African Medical Research Foundation
BQS	- Bills of Quantity
CBD	- Central Business District
CBO	- Community Based Organization
CDF	- Constituency Development Fund
CICECE	- City Centre for Early Childhood Education
CID	- Criminal Investigation Department
CPC	- Criminal Procedure Code
CRIS	- Cash Receipting Information System
DPM	- Directorate of Personnel Management
EDC	- Epidemiology Disease Control
EMCA	- Environmental Management and Coordination Act
EMU	- Efficiency Monitoring Unit
GIS	- Geographical Information System
GRN	-Goods received Note
GTZ	-German Technical Cooperation
HOD	- Head of Department
IAO	- Integrity Assurance Officer
IMIS	- Integrated Management Information System
IOU	- I Owe You
IT	- Information Technology
KACC	- Kenya Anti – Corruption Commission
KCPE	- Kenya Certificate of Primary Education
KCSE	- Kenya Certificate of Secondary Education
KEMSA	-Kenya Medical Supplies Agency
KNEC	- Kenya National Examination Council
KRA	- Kenya Revenue Authority
KRB	- Kenya Roads Board
KSPCA	- Kenya Society for the Protection and Care of Animals
KUTIP	-Kenya Urban Transport Infrastructure Project
LASDAP	- Local Authority Service Delivery Action Plan
LATF	- Local Authority Transfer Fund
LPOs	- Local Purchase Orders
LSOs	- Local Service Orders
MOH	-Medical Officer of Health
MMS	- Maintenance Management System
MOU	- Memorandum of Understanding
NGOs	- Non Governmental Organizations
OTC	- Overseas Trading Company
PDP	- Part Development Plan
PPA	- Physical Planning Act
PS	- Permanent Secretary
PSC	- Public Service Commission

PTA	- Parents Teachers Association
SDA	- Seventh Day Adventist
SIN	-Stores Issue Note
TAC	- Teachers Advisory Centre
ULV	- Ultra Low Volume
UNCHS	-United Nations Centre for Human Settlements
UNEP	-United Nations Environmental Program
WFP	- World Food Programme
YMCA	-Young Men's Christian Association

## **ABSTRACT**

This Report contains findings and recommendations arising from the examination into the systems, policies, procedures and practices in the operations and management of the City Council of Nairobi. The examination was carried out by a team of officers from the Kenya Anti-Corruption Commission, Directorate of Preventive Services (DPS). The purpose of the examination was to identify corruption loopholes in the operations of the Council and to make recommendations on how to seal the identified corruption loopholes. In order to achieve this objective, the Examination Team gathered information through formal and informal interviews with senior officers of the Council, Councilors, stakeholders and members of the public. Some members of the public voluntarily gave information on corrupt practices at the Council while others highlighted the frustrations they have suffered at the hands of Council staff when they needed office services provided by the Council. The views of all those interviewed have been taken into account in this Report.

The team also studied documents relating to all aspects of the Council and visited various Council sites and field stations. It also studied various Reports of inquiries that had previously been carried out at the Council and also reviewed critical issues in the working relationship between the civic leaders and the executive arm of the Council; as well as ethical issues affecting the entire Council staff. Other information was gathered from audit reports, minutes of various Council meetings and internal memos.

The Examination Team experienced several constraints during the assignment. These constraints have been mentioned in the Report to explain why the examination took longer than planned.

The Report documents the examination findings of various operational areas of the Council namely: General Management and Administration, Education Services, Public Health Services, Inspectorate and Investigations Services, Legal Services, Engineering Services, LASDAP Projects, Human Resource Management, Urban Planning and Development, Social Services and Housing, Environmental Management, Financial Management, Internal Audit, Procurement and Stores Management, Assets Management and Records Management.

Findings from the examination reveal that there exist loopholes for corrupt practices in all Departments of the Council. This is facilitated by weaknesses in the existing systems, attitude of Council workers and members of the public and lack of sound controls in the operations of the Council.

The Report also makes Recommendations on how to seal corruption loopholes in order to reduce the occurrence of corrupt practices. Some recommendations emphasize the need to review and amend the existing legislation governing local authorities including the City Council of Nairobi, enforcing existing

regulations and policies, while others propose the design of new guidelines and strategies. In addition there are recommendations for investigations and restitution of misappropriated funds and irregularly disposed assets of the Council. The Report takes cognizance of the recommendations brought to the attention of the Examination Team by various stakeholders and interested parties, who in one way or another are affected by services and the entire management of the Council. The Report covers broad areas of management, policy and legal issues, which should be addressed in order to enhance service delivery and better governance of the Council.

The Commission is mandated to advise and secure the revision of methods of work and procedures that in the opinion of the Commission may be conducive to corrupt practices. In view of this, the Commission expects management of the Council to immediately embark on the implementation of the recommendations. This will include preparation of an implementation schedule to be submitted to KACC one month after submission of the Report. Based on the implementation schedule KACC will carry out continuous assessment and monitoring of the agreed targets.

## 1.0 INTRODUCTION

The strategic importance of the City of Nairobi and by extension the City Council of Nairobi was a major consideration in the decision to conduct the examination into the operations of the Council.

The City of Nairobi is an important regional centre for commercial, industrial, financial, and educational activities. It houses all Government Ministry headquarters and other key offices such as the United Nations, Diplomatic Missions and other international companies among other important institutions. In order for the city of Nairobi to maintain its status as a regional hub, it is essential that the provision of essential urban services is optimized. Its local authority / Nairobi City Council should provide excellent services in accordance with the Local Government Act (Cap.265 of the Laws of Kenya) and serve as a role model to all other local authorities.

The City Council of Nairobi is the oldest and largest local authority in the country today, serving over three million residents. It was incorporated by the Royal Charter dated the 20<sup>th</sup> March, 1950 and remains the only Council with a Charter. In spite of the high status enjoyed by the Council among other local authorities, its performance has been poor due to rampant corruption.

In the past, many Committees and Task Forces have been appointed to look into problems ailing the Council and corruption has been identified as one of the key problems that require urgent attention. These Committees /Task Forces include Prof. S K Onger's Probe Committee of March 1983, S K Mbugua's Task Force, and the Efficiency Monitoring Unit Committee which produced a Report commonly known as the Rweria Report of July 2004. In 2002 the Anti Corruption Police Unit carried out an examination into the operations of the Council. To date, reports of rampant corruption at City Hall still continue to be received.

The Council generates revenue of approximately Kshs. 5 billion per year in order to achieve its mandate of service provision to its residents. This revenue is generated from various sources namely:

1. Inter governmental transfers and grants- LATF and Fuel Levy
2. Education facilities through the hire of school premises and grounds
3. City Inspectorate Department through training, impounding, etc.
4. Department of Environment through the hire of Parks and open spaces, hire of dustbins, films, boat hire, etc
5. Public Health Department through inoculations, mortuary and cemetery fee, vermin control fee, ambulance, maternity fee and cost sharing at clinics, etc.
6. Engineering Department through parking fee, construction site board fee, road works and storm water drainage fee, fire services and advertising on road reserves.



7. City Planning Department through survey fees, building plan fees, lease extension, advertising
8. Housing Development Department through quantity survey fee, eviction fee, building plans, rates and mortgage repayments.
9. Town Clerk's office through the hire of halls, rents from trading establishments and City Hall Annex.
10. Social Services and Housing Department through gate collections at stadiums, rents from housing, markets cess shops and halls.

Despite substantial revenue collections, the Council has been unable to provide adequate services. This has led to the current state of poor urban infrastructure and a deplorable state of services in the City of Nairobi.

The formation of Commissions and Task Forces has mainly been an attempt to address the problems faced by the Council in the discharge of its core functions. However, the Council has largely ignored most of the recommendations of these task forces. At the time of the Examination, the Council had initiated piecemeal implementation of the Rweria Report. Of notable importance in this regard is the establishment of a Human Resource Department, Procurement Department and Legal Department, Inauguration of the Nairobi Health Management Board, Purchase of the weigh bridge for the Dandora Dump site, constitution of the Land Repossession Committee among others. The Council had also handed over the management of its water and sewerage department to the Nairobi Water and Sewerage Company Limited as part of the on going Public Sector Reforms. However this falls short of expectations given the magnitude of the problems that have undermined effective service delivery by the Council.

The deplorable state of services provided by the City Council of Nairobi is a matter of grave concern given the important status of local authorities in national development.

The National Development Plan 2002-2008 recognizes that Local Authorities play an important role in the provision of goods and services critical to the citizens and the business sector. These goods and services include water, garbage collection, local road maintenance, street cleaning and lighting, health and education. Apart from goods and services, local authorities also provide an important channel of enhancing citizen participation for improved economic governance and accountability. (National Development Plan – Paragraph 7.2.1).

Local authorities facilitate the participation of grassroots communities in determining their development priorities thereby affording them an opportunity to participate in the formulation of government policies and the implementation of those policies. This makes local authorities an important link between the citizens and the government. They also serve as essential partners to various central government institutions. The relationship between the local authorities

and central government is articulated in detail in the Local Government Act (Cap 265 – Laws of Kenya).

The Poverty Reduction Strategy Paper (2002 – 2003) also notes the potential contribution of local government in the reduction of poverty and has outlined relevant strategies specifically pertaining to the role of local authorities.

However, in spite of the important role which they play local government administration system has been in a state of neglect and has suffered loss of integrity in the eyes of both the government and the general public because of gross mismanagement. (Development Plan -Para 7.2.1) A Corruption Perception Survey report released by the Commission in June 2006 ranked local authorities as the second most corrupt public institutions thereby confirming the urgency with which the Commission should address corruption in the City Council of Nairobi and also other local authorities

The quality of services offered by local authorities throughout the country has deteriorated to a level where central government has had to intervene in the provision of vital services. Several reasons are given for the deteriorating services. The reasons include the following:

1. The facilities in most local authorities were not planned to envisage population growth in municipalities. The high population growth rates are mainly the result of expansion in commerce and industrial development. (Local Government System- May 2006)
2. The local government's ability to provide services is hindered by insufficient resource base, mismanagement, weak technical and institutional capacity to increase service coverage
3. Disempowerment of local governments by the central government. (Development Plan- Paragraph 7.2.2).This disempowerment is sometimes attributed to the Local Government Act which provides for a far- reaching regulatory function of the Central Government. This regulatory function includes budgetary approvals; consents for a variety of activities and transactions; the power to institute investigations, and inquiries and to make rules for regulation of the Local Authorities. The Act also provides for secondment of personnel from central government to local authorities to perform various functions. However, decision making processes on vital issues and transactions have sometimes been compromised by conflicts between seconded officers and those employed by the Local Authorities.
4. Corruption and lack of accountability. Corruption reports, risk assessments by various inquiries and activities conducted by the

Commission and other government agencies indicate that corrupt practices in local authorities have been a major contributor to deterioration of services 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. This sharing of responsibilities can be traced to critical services such as health, education and management of land. The conflict alluded to is a pointer to the difficulty of finding solutions to integrity issues associated with local authorities.

Proposed solutions to improving service delivery by local authorities have been articulated in various government policies and initiatives. One of the proposals points towards greater autonomy and strengthening of their capacity to be able to provide good local governance and ensure effective delivery of services (Development Plan – Paragraph 7.2.4). This thinking has been in existence for a long time and has been echoed in various Government policy documents. Coupled with this thinking is the shift towards privatization, commercialization and stakeholder participation in service delivery in an attempt to respond to the failure of local authorities not being able to maintain and effectively manage existing services. (Development Plan -Paragraph 7.2.7 )

An ambitious decentralization process has been in existence since the 1990s. This process is embodied in the Local Government Reform Programme which has been in place since the mid 1990s with the support of the World Bank. The aim of the programme is to strengthen the local government system, to enable local authorities to deliver services and to increase local accountability. (The Local Government System in Kenya –Kenya Government 2006).

The reform process has of necessity focused on many aspects of local government administration including the legal framework, capacity building through training on corporate governance among other initiatives. However, relevant changes to the Local Government Act have not been effected. Thus local authorities continue to function within the existing local government legislation which defines their functions and powers as well as those of the central government. The powers include procurement of goods and services as well as acquisition and disposal of assets.

Furthermore in order to provide essential services various statutes, key among them the Local Government Act, the Rating Act, and the Valuation for Rating Act mandate local authorities 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) as well as road maintenance funds disbursed by the Kenya Roads Board (KRB). Given the immense resources at their disposal, it is imperative that local authorities be steered with integrity to ensure that the resources are used towards achieving the purposes for which they are intended.

In spite of the tremendous reliance placed on local authorities, as well as the reform process underway, poor governance continues to be a major source of concern and many local authorities have been the subject of investigation or inquiries which have revealed major weaknesses and corrupt practices that undermine service delivery. One of the most critical concerns is the lack of accountability which is manifested by corrupt practices in matters of procurement of goods and services, management of Council resources, provision of essential services, enforcement of various standards among others. The Nairobi City Council has not been spared these corrupt practices hence the Commission's decision to conduct an examination into its operations.

## **2.0 BACKGROUND**

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 mandate is derived from Section 7 (1) (d) (e) and (f) of the Kenya Anti-Corruption and Economic Crimes Act which empowers the Commission to:

1. Examine the practices and procedures of public bodies in order to facilitate the discovery of corrupt practices and to secure the revision of methods of work or procedures that, in the opinion of the Commission, may be conducive to corrupt practices.
2. 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.

This mandate provides the Commission with an opportunity to make a significant contribution in terms of dealing with corruption in local authorities and thereby accelerating the reform process underway.

### **2.1 PROBLEM STATEMENT**

The Examination of the City Council of Nairobi was triggered by persistent 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. They were also a reflection of poor governance systems in the most important local authority in the country.

*Accordingly, in order to enhance the accountability of the Council, KACC found it necessary to assess the degree of integrity and transparency in all 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.*

### **2.2 OBJECTIVES**

The objectives of this examination were two-fold, namely:

- To examine the systems, policies, practices and procedures used by the Council in its management and identify weaknesses, loopholes, avenues and opportunities for corruption.
- To make recommendations on how to overcome weaknesses, loopholes, avenues and opportunities for corruption, and promote good corporate governance and integrity in the Council management.

## **2.3 TERMS OF REFERENCE**

The Terms of Reference were:

- Examining the records and general management of the Council to establish the existence of and adherence to:
  - Systems, policies, practices and procedures for financial management
  - Policies, systems, practices and procedures for procurement of goods and services
  - Systems, policies, practices and procedures for human resources management
  - Systems, policies, practices and procedures for records management
  - Strategic plans and operational guidelines used by the Council in its management
- Assessing the appropriateness of existing systems, policies, practices and procedures in enhancing good corporate governance, integrity, transparency and accountability.
- Preparing a report of findings and making recommendations on how to overcome identified weaknesses, loopholes, avenues and opportunities for corruption.

## **2.4 SCOPE**

The examination covered all the departments of the Council and assessed the working relationship between the Council and the Nairobi City Water and Sewerage Company Limited as well as the Kenya Revenue Authority.

## **2.5 METHODOLOGY**

- Formal and informal interviews were carried out with the Mayor, Council Chairmen of Committees, Town Clerk, Deputy Town Clerk and heads of

departments and sections, other Council employees and members of the public.

- Observations of the working environment including physical facilities such as office space, plant and equipment. Observations were also made with regard to behaviour, communications and interaction between members of staff, service providers and clients.
- Content analysis of various documents and secondary data obtained from circulars, memos, copies of annual accounts and audit reports, road projects, minutes of various committees, and various internal and external communications.
- Oral and written submissions from Councilors, members of the public and staff.
- Information was also generated through spot checks at the markets, hospitals and clinics, site visit of road projects, among others.

## **2.6 CONSTRAINTS**

The examination of the Council commenced at the end of October 2005 and was concluded on 31<sup>st</sup> of January 2006. However, the examination team was compelled to visit the Council thereafter from time to time to seek clarification on various issues or to collect further information. This was necessitated by a number of constraints experienced during the examination. The constraints included:

1. Unavailability of Council officers even when appointments had been mutually agreed upon by the examination team and the Council officers.
2. Council officers turning up late for appointments thereby interfering with schedules of work.
3. General lack of cooperation as regards production of relevant documents. Documents were produced reluctantly after much prodding and after a long time. In some cases they were not produced at all.
4. Misleading information by some officers.
5. Transfer of officers from one office to another such that when the examination team visited some offices they found new officers who expressed ignorance about the required information. This also happened when the team returned to the Council to confirm issues or fill gaps of information. They found some former officers already transferred or on leave.
6. Arrests in the course of the examination assignment. The Examination Team came across gross irregularities that required immediate legal action. Arrests of culprits involved in the irregularities slowed down the examination process as the team was required to record statements and perform further duties in support of the investigation team called in to pursue the culprits.

### 3.0 FINDINGS AND RECOMMENDATIONS

#### 3.1 POLICY AND LEGAL ENVIRONMENT

The policy and legal environment of the City Council of Nairobi is determined by several statutes and various government policy documents including the National Development Plan and the Poverty Reduction Strategy Paper. Key among the statutes is the the Local Government Act which defines the mandate of the Council. This Act is undergoing reforms to bring it in line with developments in the local government administration. The Government has also undertaken many reforms in the policy environment which will ultimately have a bearing on the mandate and legislative framework of local authorities and the City Council of Nairobi in particular. Currently, the Council is reviewing its By-Laws which were made pursuant to the Act. This section highlights weaknesses that should be addressed in the reform process.

1. The City Council of Nairobi draws its mandate from the Local Government Act Cap 265 which empowers the Council to make By-Laws for the City. The Council By-Laws were last reviewed in 1978 and hence do not adequately address emerging issues within the City. For example, the current By-Laws in relation to parking meters are obsolete since the parking meters are no longer in use. The By-Laws do not provide for the current practice of clamping and towing of motor vehicles which is being implemented by the Council. The current fire fighting By-Laws are obsolete and difficult to implement having been passed in 1959 and have not been reviewed to date. The standard conditions for the infrastructure development contained in the By-Laws are obsolete having been last reviewed in 1978 and do not conform to the modern realities. The city has grown rapidly and requires adoptive standards in infrastructure development in areas that were previously zoned for non-adoptive standards.

*The Town Clerk should fast track the on going review of all Council By-Laws and come up with comprehensive By-Laws that would address the emerging challenges within the city. In the meantime the Town Clerk should ensure that a by-law is urgently put in place to address the towing and clamping of motor vehicles.*

2. The Local Government Act allows local authorities to enter into contracts for the purposes of providing urban services. However the Council has not developed specific policy to guide the operations of public/private partnerships. This has exposed the Council to unfair practices in entering into contractual arrangements. Such partnerships include the street lighting and advertising.



*The Town Clerk should liaise with Permanent Secretary, Ministry of Local Government and other stakeholders to come up with clear policy guidelines on public/private partnership arrangements with local authorities.*

3. Some policy and legal issues have hindered the Council from implementing certain actions to facilitate effective delivery of services. For example, the Council entered into an agreement with the Kenya Revenue Authority (KRA) for collection of rates. However, according to the Rating Act Cap 267 only Local Authorities have the power to collect rates. The agreement was frustrated when unwilling Council officials challenged the legal basis for allowing KRA to collect rates. They invoked the Rating Act in support of their arguments. As a result, KRA could not continue collecting rates on behalf of the Council.

*The Permanent Secretary, Ministry of Local Government should initiate discussions with the Permanent Secretary, Ministry of Finance to make a provision in the Finance Bill to empower KRA to collect rates in the same way KRA is collecting Land Rent on behalf of Ministry of Lands.*

### **3.2 GENERAL MANAGEMENT AND ADMINISTRATION**

In its quest to provide urban services, the City Council of Nairobi, has established 15 functional departments, which work together in the implementation of its core mandate of providing basic services to its residents. The departments are:

- The Town Clerk's Department
- The City Treasurer's Department
- Internal Audit Department
- The Legal Department
- The Human Resource Department
- The Procurement Department
- The City Engineers' Department
- City Planning Department
- Public Health Department
- City Inspectorate Department
- Investigations Department
- City Education Department
- The Environment Department
- Social Services and Housing Department
- Housing Development Department

These departments are headed by chief officers and are guided by 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 democratic processes in local authorities. In compliance with the Act, the Council has created the following committees: -

- General Purposes Committee
- Staff Committee
- Town Planning Committee
- Environmental Committee
- Education Committee
- Social Services and Housing Committee
- Public Health Committee
- Housing Development Committee
- Works Committee
- Finance Committee
- City Inspectorate Committee

The Council has also decentralized some of its functions to the Ward level with a view to taking services closer to the residents. At this level, there are Ward managers who report directly to the Town Clerk.

In order to carry out its core mandate, the Council works in liaison with its parent Ministry (the Ministry of Local Government) and other Ministries and agencies. The Ministries include Ministry of Lands, Ministry of Public Works, Ministry of Finance, Ministry of Water Development, Ministry of Environment, as well as Ministry of Education and Health which have delegated part of their responsibilities to the Council. The Council also works closely with Kenya Medical Supplies Agency (KEMSA), Kenya Roads Board (KRB) and National Environmental Management Authority (NEMA). It is also supported by international agencies such as United Nations Environment Programme (UNEP), United Nations Commission for Human Settlement (UNCHS-HABITAT), World Food Programme (WFP) for the School feeding program, Germany Technical Cooperation (GTZ), African Medical Research Foundation (AMREF) among others.

This section highlights corruption loopholes and avenues through which the integrity of the City Council of Nairobi is compromised with respect to its governance and general management. Some of the issues raised in this section impact negatively on the service delivery by the Council.

1. The City Council Departmental heads and other employees spend a lot of time in meetings. These meetings include weekly meetings at the Ministry of Local Government, Heads of Departments weekly meetings, among others.

The Chief Officers' meetings are inappropriately constituted for any meaningful management discussions, reporting and control. Whereas the Chief Officers' meetings are supposed to comprise of the Town Clerk, Deputy Town Clerk and Heads of Departments, other cadres of staff also attend. For example, the City Treasurer's Department is represented in that meeting by various officers including Deputy Treasurers, Assistant Treasurers, Chief Accountants, and Chief Revenue Officers. This is an indication of lack of control and systems for proper supervision of all these officers by the City Treasurer.

*The Permanent Secretary Ministry of Local Government in conjunction with the Town Clerk should minimize the number of meetings Heads of Departments attend so as to give them adequate time to attend to departmental matters. The Town Clerk should represent the Council in the Ministry's weekly meetings and use written submissions from the Departmental Heads to brief the Permanent Secretary.*

*The Town Clerk should streamline the weekly Chief Officers meetings to ensure appropriate representation and updated agenda to address only relevant issues. This will help in reducing the time taken and providing up-to-date information from each Department. The City Treasurer should take full charge of*

*the City Treasury and be well equipped to submit all requirements in the meetings.*

2. All of the Council's Departments involved in various operations, supervision, monitoring and evaluation activities lack adequate working materials and equipment, transport and communication facilities to enable them to carry out their duties effectively. Some of the departments and sections worst hit by this problem include Teachers Advisory Centre (TAC) tutors and divisional advisors in the Education Department, Human Resources Department, City Engineer Operations and the Structural Section. The Parking Section also lacks vehicles and other working tools like communication gadgets to deal with those who violate Council parking regulations.

The Council lacks facilities for transporting accused persons from the police stations to the City Court and to prisons. In most cases the Council uses Police vehicles. This contributes to delays in court proceedings as the Council has got no control over the transportation.

*The Town Clerk should ensure that adequate working materials and equipment, transport and communication facilities are availed to Departments involved in operations, supervision, monitoring and evaluation activities to enable them to carry out their duties effectively.*

3. The capacity and facilities in the Council cells are overstretched. The current capacity is for approximately 60 persons but they currently hold 100 persons or more per day. It is probable that not all arrested persons get to the cells.

*The Town Clerk should ensure that matters of minor nature are expedited within the day of arrest to avoid overcrowding in the cells. This would imply extending the hearing hours. In addition, the Town Clerk should explore the necessity for expanding the facilities to accommodate the increased numbers of offenders.*

4. The Council decentralized the functions of various Departments to the Ward level with a view to improving provision of services at the grassroots. The Decentralization process was done without clear structures and adequate facilities. The Ward Managers report directly to the Town Clerk while other staff report to their respective Heads of Departments. Supervision of staff at the ward level is non-existent in most wards hence cases of absenteeism are rampant.

In spite of the decentralization, most essential services provided by the Council are still not accessible at the ward level.

*The Town Clerk should come up with clear reporting structures and guidelines of the Wards operations to strengthen decentralization of the Council services.*

5. Some functions of the Council are located in wrong Departments. This leads to poor coordination and negatively impacts on provision of Council services. For example:

- At the time of carrying out this examination, the advertising function of the Council was placed under the City Planning Department. However, other departments such as the City Engineers, Education and Environment Departments were also performing this function. This results in loss of control and opens an avenue for misappropriation of advertising revenue.
- Waithaka Technical Training Institute is currently under the Housing and Social Services Department yet it carries out functions which are essentially under the Ministry of Education. This implies that the core mandate of the Institute and the Social Services Department are in conflict.

*The Town Clerk should formulate a clear structure for reporting, supervision and accountability of all the departments to ensure that they all contribute to attaining the objectives of the Council. Mandates of departments should be clear and logical. The Town Clerk should streamline the operations of Waithaka Technical Institute and place it under the Education Department that is relevant to its core function.*

*The Town Clerk should ensure that all advertisements in the Council are managed and coordinated by the City Planning Department for control purposes.*

6. The Council Revenue Clerks sometimes carry out evictions as Court Bailiffs contrary to the Legal Notice No 5 of 1996 which requires that Bailiffs and Auctioneers be licensed. They do not adhere to correct eviction procedures, as they do not know what it entails to be a bailiff. This exposes the Council to civil suits by third parties who may be aggrieved by the irregular actions of Revenue Clerks.

*The Town Clerk should immediately regularize the registration and licensing of the bailiffs in the section to be in accordance with the law and ensure that only those licensed to carry out the evictions are assigned such duties. This will preempt loss of revenue that may be occasioned by court proceedings.*

7. The Council does not have Service Charters for all the services it offers to city residents. This creates lack of awareness of the rights of the recipients of various services and the duration within which the services should be provided. This opens a loophole for exploitation of the service seekers by the City Council staff and other intermediaries.

*The Town Clerk should urgently develop a comprehensive Service Charter for the Council, detailing all the services provided and the duration within which service seekers should expect to be served.*

### 3.3 HUMAN RESOURCE MANAGEMENT

The Council recently created the Human Resource Department charged with the responsibility of managing the Council's personnel matters including discipline, transfers, training, recruitments, promotions and retirements. Initially, the human resource functions were carried out under the Town Clerk's Department.

1. Out of the Council's workforce of over 13,000 employees, only 711 are in the professional category, scales 1-9, thereby creating a bottom heavy unskilled work force. This has led to poor service delivery. For example, the Architectural Section has only 3 qualified Architects who supervise all projects in the City's 8 divisions. As a result, the section is forced to delegate most of the supervision work to draughtsmen. This has led to poor supervision of the on going projects.

The Examination Team noted that some unqualified workers in lower scales are acting in professional positions, yet they do not have the qualifications, experience and competence to carry out the functions of such offices. At the time of the Examination, the positions of the Deputy Director (scale 3) and Asst. Director (scale 4) of Architectural Section were held by officers who were substantively serving as Architects II scale 8. The Examination Team also observed that some officers have been serving in acting positions for inordinately long periods of time while not being paid any acting allowances.

The Department of planning has only 12 planners out of the establishment requirement of 60. These planning officers are unable to oversee and supervise development over the entire city as a result of which some vital functions of planning are not being carried out effectively. These functions include the enforcement, research, urban design, among others, which are meant to inform policy in urban planning. The current crisis of over development in some parts of the city illustrates the ineffectiveness of the Department of planning. Some of the notorious areas include Zone 3, 4 and 5 (Kileleshwa, Lavington and Westlands) as well as Eastlands including Kayole and Mathare North, where illegal and dangerous structures have sprouted unabated.

*The Town Clerk should undertake a staff needs assessment and rationalization to establish Council staffing requirements. Staff promoted through the ranks should undergo in-service training so as to equip them with relevant skills. The Permanent Secretary, Ministry of Local Government, in liaison with the Public Service Commission should deploy professionally qualified staff to the Council.*

*The Town Clerk, in conjunction with the Directorate of Personnel Management should carry out a staff establishment assessment to determine the quality and quantities of professional staff required and thereafter make the necessary recruitments.*

2. The Committee Clerk's Section is charged with the responsibility of preparing the Council minutes and the minute books. Due to shortage of lawyers the section is headed by a clerk and 8 secretaries who have not been trained in minute taking. This has led to situations where the minutes produced are not accurate. The section has been accused of manipulating entries in the Council minutes, thereby misrepresenting the facts by omitting some agenda raised at Council committee meetings and or altering the same. The Examination Team found that the minute books for the period of November 1998 to April 1999 were sent to the external printers (English Press) for printing and the same have not been returned to the Council to date due to non payment. This exposes the Council to a risk of losing crucial Council deliberations and resolutions.

*The Town Clerk should ensure that a lawyer is deployed in the section and that all the staff in the section are adequately trained and equipped to handle the responsibilities given to them. The Town Clerk should ensure that all agenda and proceedings of Council meetings are accurately recorded and kept and that the minutes for November 1998 to April 1999 be retrieved and produced for their records.*

3. Majority of the Council's workforce are idle and underutilized. The Examination Team observed staff sleeping in the offices, reading novels and walking aimlessly along corridors. There was also acute absenteeism in almost all the Departments particularly in the field offices. Furthermore, some sections in the Council do not maintain accurate staff attendance registers. For example, out of the total staff of 34 at the Sports Office at City Stadium, the leave register indicated that 20 members of staff were on off duty on 27<sup>th</sup> October 2005. On the same date, the register showed that 17 members were in attendance. Other sections that do not maintain proper personnel records include, Community Development and Welfare and Recreation Sections. It is therefore difficult to ascertain the actual number of staff in such stations. This is an indication of poor supervision and it is a loophole for absconding.

*The Town Clerk should institute requirements for maintaining proper records of attendance at each Department. The records should be subjected to regular supervisory checks by the supervising officers. The attendance records should be kept in a secure place managed by designated officers to prevent falsification of records. Supervisors at different levels should conduct surprise site checks on staff attendance against the register. These*



*checks should be documented and any irregularities reported for action. Daily or weekly work schedules should be drawn for each officer and each officer should prepare a monthly report on their achievements at the work place.*

4. Salaries of the Council employees at some levels are relatively lower than Civil Service salaries. The Council is therefore unable to retain professionals due to its poor terms of service. This contributes to officers in lower ranks being called upon to act in much higher positions than their current designations and above their qualifications as mentioned earlier.

In the past, there were cases of delays in payment of salaries. This was a motivating factor for officers charged with the responsibility of revenue collection failing to remit all revenue collected. However, salaries are currently being paid on time.

*In addition to undertaking a staff needs assessment and rationalization, the Town Clerk and the Permanent Secretary, Ministry of Local Government, in liaison with the Directorate of Personnel Management should review the salaries of Council employees along with the on-going harmonization of terms and conditions of service for public officers. Further the Town clerk should ensure that the current trend of paying salaries on time is maintained and where delays are anticipated, this should be communicated to all employees appropriately.*

5. The Council has not instituted proper and adequate handing over procedures when there are staff changes. In most cases, handing over contains a list of office furniture leaving out essential details such as status of office work, staff, and records among others. In-coming officers particularly Heads of Departments and Sections rely on junior officers and secretaries to induct them to the Department work and to know other details not handed over. This leads to lack of continuity and accountability. For example, at the time of the Examination, the former Section Head of Epidemiology and Disease Control (EDC) had not handed over to the new Head six months after the changes. This delay was partly attributed to a missing Ultra Low Volume (ULV) machine for fogging, which the outgoing section head was not willing to take responsibility for.

*The Town Clerk and Departmental Heads should ensure that once an officer is transferred he/she should prepare adequate handing over notes including the work in progress, staff and equipment attached to such office before clearance. In addition, the Town Clerk should investigate and surcharge the officer responsible for the missing ULV machine.*

6. Management and discipline of professional staff on secondment and staff in scales 10 to 18 is complex. This is because disciplinary matters against officers seconded to the Council from Central Government are usually

never completed. Such matters are initiated by the Council and forwarded to respective Ministries for action but no feedback is provided to the Council. Some Ministries recall the officers and deploy them to other areas. Disciplinary action on staff in scale 10 –18, is difficult due to patronage and political interference. This has led to retention/reinstatement of staff with cases of gross misconduct, embezzlement of funds, bribery, among others. Reinstatement of staff with such cases is recommended by the Staff Committee in total disregard of the Chief Officers' recommendations. In addition, discipline cases take too long to resolve. As a result, disciplinary action is delayed.

*The Town Clerk should liaise with the Permanent Secretaries of parent Ministries of the various employees seconded to the Council to hasten disciplinary cases in strict adherence to the laid down procedures for Public Officers. In addition, the Town Clerk should ensure that disciplinary cases for employees in scales 10 to 18 are handled expeditiously as per the Council's regulations and the recommendations implemented forthwith. Where the Staff Committee insists on reinstating staff with cases of gross misconduct among others, the Town Clerk should refer the cases to the Ministry of Local Government for interpretation and guidance. The Council should also set a time limit within which all cases should be deliberated and concluded.*

7. The City Council of Nairobi has 28 doctors seconded from the Ministry of Health. These doctors report to the Provincial Medical Officer of Health who sometimes transfers them without consulting the Council. Consequently, operations at the Council health facilities get adversely affected.

*The Town Clerk should liaise with the Permanent Secretary, Ministry of Health, with a view to ensuring that the Council is consulted before any transfers of seconded doctors are effected.*

8. Some employees of the Council have submitted fake professional certificates and have been promoted on the basis of those fake certificates. This has been brought to the attention of the Director of Human Resource and the Town Clerk. The Team's attention was drawn to certificates of a member of staff purported to have been issued by the Kenya National Examination Council (KNEC). The certificates were taken to KNEC for verification. KNEC replied indicating that the certificates were not authentic and had not been issued from its offices.

*The Town Clerk should carry out verification of qualifications of Council employees and take disciplinary action against those found to have deceived the Council.*

9. The turnover of Town Clerks and other Chief Officers in the Council, such as the Director of City Planning and the City Treasurer is very high. In the last 5 years there have been 4 Town Clerks, 7 City Treasurers and 6 Directors of City Planning Department. This has made it difficult to formulate and implement beneficial policies as each Chief Officer comes with a different approach in handling matters.

*The Permanent Secretary Ministry of Local Government in liaison with the Public Service Commission (PSC) should ensure that all Chief Officers are recruited competitively based on merit and subjected to contractual terms of service renewable upon satisfactory performance. The criteria for assessment of performance should be incorporated in the appointment letter and should be aligned with the performance contracting policy currently being implemented by the Government.*

10. Some Council retirees continue to occupy institutional staff houses long after retirement. This is contrary to the requirements that retirees should surrender Council assets. It also makes it difficult to house members of staff taking over from the retirees.

*The Town Clerk should ensure that staff vacates Council houses with immediate effect upon retirement.*

11. Most Council workers perform their duties without specific job descriptions. In some Departments, Job descriptions have been prepared up to section heads only. In most cases these are not adhered to. For example, in some situations Departmental Heads interfere with jobs prescribed to certain officers. This not only creates confusion but also creates room for corrupt practices.

In addition, there are no operational manuals for staff to guide them on their day to day work. Lack of job descriptions and operational guidelines makes supervision and evaluation of staff difficult and contributes to low productivity.

*The Town Clerk should ensure that job descriptions and operational guidelines for all levels of staff are prepared in house by the respective heads of departments in consultation with the Human Resource Department. In addition, the developed job description should be adhered to.*

12. The process of assigning duties to members of staff is usually not based on the officers designated positions or their competencies. For instance, in the Architectural Section, an officer designated as a field assistant is acting as a copy typist, whereas a draughtsman is assigned field related duties. In the City Treasurer's Department, an officer holding the Institute for the

Management of Information Systems (IMIS) diploma without any professional accounting qualification was designated as an Accountant III in the bank reconciliation section. This may lead to under or over utilization of officers and general inefficiencies in service delivery.

*The Town Clerk should urgently carry out a staff rationalization exercise to ensure that staff are assigned duties for which they are qualified.*

13. There are no clear laid down procedures for promotions at the Council. Most promotions at the Council, especially to acting positions are not done on merit. There are cases of junior officers being promoted over their seniors.

*The Town Clerk should develop a Human Resource Policy that will clearly stipulate among others, the promotion criteria. All staff members should be made aware of the promotion criteria. In addition, whenever there are vacancies, these should be announced to all officers informing them of the application processes in order to give them opportunity to apply and to be interviewed to fill such vacancies.*

14. The Examination Team was informed that junior officers in the Housing Development Department, Survey Section, masquerade as surveyors for the purposes of defrauding the public.

*The Town Clerk should ensure adequate supervision of the junior employees in the section. The Town Clerk should investigate and take disciplinary action against those officers posing as surveyors.*

15. The Council developed a Training and Development Policy in 1988. This policy has never been implemented and is now outdated. As a result the training scheme in place is haphazard and not based on Council needs.

*The Town Clerk should review the Training and Development Policy and ensure that it is strictly adhered to. The policy should provide clear criteria and guidelines for selecting courses and staff to be trained to match the needs of the Council.*

16. The Administration and Retirement Sections of the Human Resource Department lack accurate employee records. The available records lack some essential employee details like the date of birth which is necessary to effect retirements at the appropriate times. This may lead to retention of employees who are past their retirement dates.

*The Town Clerk should ensure that all members of staff furnish the Council with necessary information to facilitate required transition including promotion, deployment, transfer and also retirement. The information should include qualifications, age, date of employment and must be accompanied by appropriate documents. Furthermore, the Town Clerk should ensure that the personal data is computerized.*

17. At the time of the Examination, the City Inspectorate Department was assigning Watchmen enforcement duties. These Watchmen had not undergone any enforcement training which exposes them to making arbitrary decisions thus negatively affecting service delivery.

*The Town Clerk should ensure that deployment of staff to areas other than their core duties is based on competence. In particular those being assigned enforcement duties should be well trained in enforcement matters and city By-Laws.*

18. The Investigation Department currently has 40 employees. They are however not trained in matters of investigations apart from the Director who is an Assistant Commissioner of Police, on attachment to the Council. They also lack personnel in specialized professional areas, among them Audit, Information Technology, Engineering, and Documentation. The Examination Team was informed that for the department to be effective, it would need additional 5 to 10 criminal investigations officers from the police, to revamp the department.

*The Town Clerk, in conjunction with the Permanent Secretary Ministry of Local Government should liaise with the Commissioner of Police to facilitate the deployment of police officers to the department. Further, the Town Clerk should liaise with the Permanent Secretary Local Government to deploy the required specialists for the department.*

19. Each Department of the Council has a Chief Administration Officer (CAO) who perform administrative and personnel functions at the Departmental level. The CAO's are also supposed to supervise the use of vehicles and drivers assigned to their Departments. These officers report to the Town Clerk and also the Human Resources Departments. The Examination Team also noted that most Chief Administrative Officers are idle as the Departmental Heads continue to handle some of the duties assigned to these officers.

*The Town Clerk should develop clear operational structures, outlining duties of the Chief Administration Officers. This should entail Heads of Departments delegating personnel and other administrative duties to CAOs.*

20. Most of the Council employees who are supposed to be uniformed are not provided with uniform at work. This has created mischief among such employees, especially the City Inspectorate askaris and non employees who take that opportunity to masquerade as Council askaris.

Due to non provision of uniforms at work, employees are paid uniform allowance at the time of retirement or death, as part of the final dues. Employees with uniforms at the time of retirement or dismissal are not required to return them. The practice of allowing Council workers to keep their uniforms after dismissal or retirement is a loophole that can be exploited by dishonest individuals to continue performing Council duties and to defraud the public. The most affected area is the City inspectorate which interacts extensively with the public.

*The Town Clerk should provide uniforms and other equipment to staff as and when they are required. Staff should surrender their uniforms after retirement. The payment of uniform allowance at the time of retirement should cease as it is unnecessary.*

21. Some staff in various revenue areas are rarely transferred and in some cases when transfers are effected, they lobby informally for them to be revoked. There is interference by both the Chief Officers and politicians in the transfer of staff in the Revenue Section. For instance, some chief officers fail to transfer staff as recommended by immediate supervisors. As a result most officers in revenue areas end up overstaying in one section. For example, in the Rates section some staff have been there for a period of between 5 years and 18 years.

*The Town Clerk should enforce transfers and staff rotation to ensure that all general cadre staff such as clerks, messengers, secretaries and city askaris are regularly transferred within and between the Council Departments. As an immediate measure, those who have served for over three years in one revenue collection point should be immediately transferred.*

### 3.4 PROVISION OF SOCIAL SERVICES

#### 3.4.1 CITY EDUCATION SERVICES

The City Council of Nairobi oversees the management of public Early Childhood Education and Primary Education within its jurisdiction. Currently, it manages 197 Primary Schools and 21 Nursery Schools through its Department of City Education. The Council is faced with a number of challenges in its quest to manage city public education, including inadequate schools, school facilities being in a poor state of repair, among others. Corruption and integrity problems also hamper delivery of this vital service. During the examination, the Examination Team noted the following:-

1. The Council runs a school feeding program, funded by World food Programme (WFP), in slum areas. Some schools charge exorbitant levies intended for preparation of food and payment of cooks. Children who do not afford such levies are usually denied the otherwise "free" meals.

*The Town Clerk should set up an affordable fee structure for the school feeding program to enable all pupils access the program.*

2. Although there is free primary education, schools can impose levies for development projects provided approval for such projects is obtained in writing from the Ministry of Education, through the Director of City Education. Some schools impose levies without following the laid down procedures. In most cases, no receipts are issued to parents when such levies are paid.

*The Permanent Secretary Ministry of Education should enforce the laid down procedures in the Primary Education system and take measures to discipline those who are flouting the rules.*

*The Town Clerk should sensitize all parents and school heads on the right procedures to be followed to impose any levies for primary education. In addition, the Town Clerk should ensure that receipts for extra levies paid are issued without fail.*

3. With the advent of Free Primary Education, the admission process is meant to be an open door policy on a first come first served basis. However, the Examination Team was informed that some heads of schools preserve vacancies for pupils for their own personal gain. Further, there are no clear guidelines in inter schools transfers, which is left at the discretion of the head teacher. This creates an avenue for the head teachers to solicit money from parents.

*The Town Clerk in consultation with the Permanent Secretary, Ministry of Education, should develop guidelines for the admission and transfer of pupils. In addition, the Town Clerk should ensure that an appropriate committee is constituted to oversee these processes.*

4. A private proprietor working under the Autistic Society of Kenya runs a program for Autistic children at City Primary School. Each child enrolled in the program pays a total of Kshs. 28,000 per term to the proprietor. An Audit report Ref. AUD/ED/5/220 dated 14.12.2005, reveals that the Autism unit had collected at least Kshs. 5,040,000 for six terms. However, the proprietor does not pay rent and other utilities. Attempts by the Ministry of Education to have the children integrated into the normal learning system have not been successful. The Town Clerk and the Director of City Education have failed to act on the matter of integration of children into the normal school learning despite having received reminders from several quarters including the Ministry of Education. This casts aspersion on the integrity of Chief Officers who are required to act on this matter.

*The Town Clerk should take necessary steps for the Council to take over the management of the Autism unit. Thereafter, the Council should fast track the integration process as recommended by the Ministry of Education. In addition, the Town Clerk should ensure that the present proprietor of the unit pays the Council for the duration of occupation of Council premises and the use of utilities.*

5. The Council normally gives out trophies for various educational activities. Many well-wishers donate some of these trophies while the Council procures the surplus requirements. However, there are no records of the trophies, donors and recipients. This opens avenues for fictitious or unnecessary procurement, misuse and eventual disposal of such trophies.

*The Town Clerk should initiate the preparation of comprehensive records for all trophies procured, received, the donating agencies and the recipients. Rotational trophies should be well documented to ensure that their retrieval and maintenance is simple. Procurement of extra trophies should only be informed through the records which must be up-dated to ensure accuracy.*

6. Some of the Council primary schools run nursery schools which are managed by the Parents Teachers Associations (PTA) and supervised by the school Heads. Such schools have independent and unregulated fees structures and in certain instances follow different curricula than that prescribed by the Council.

*The Town Clerk in consultation with Permanent Secretary Ministry of Education should develop appropriate fee structures and curriculum guidelines for nursery schools run by the PTA. The Department of City Education should monitor the*



*school processes to ensure that they comply with all set standards and guidelines.*

7. Some of the nursery schools teachers particularly those working in Council run schools do not have adequate training in early childhood education. Some are transferred to nursery schools from City Hall having been employed to perform other duties in the Council. In addition, most of the nursery schools head teachers have not undergone in-service training to equip them with basic financial management skills to manage the PTA fund and necessary skills to handle children.

*The Town Clerk should ensure that nursery school teachers are appropriately trained to perform their duties effectively.*

8. Although the Council is expected to provide security in its schools this is not always done. In some schools even where Council security is present there are cases of theft of books and equipment. As such some of the schools have resulted to hiring private security imposing further cost on the school system which is intended to be provided for free.

*The Town Clerk should;*

- i. Ensure that security officers are posted to all Council schools.*
- ii. Ensure that there is strict supervision of all Council Askaris (security officers) guarding various Council properties.*
- iii. Investigate the theft cases and take administrative action against those found to be involved.*

9. Students of Waithaka Technical Training Institute pay their fees to the Council at City Hall. However the Council does not provide any financial support to the institute for its recurrent expenditure and this has greatly hampered its operations. The Principal levies additional fee, termed as production fee that is not provided for in the Council schedule of charges ranging between Kshs. 1,500 to Kshs. 3,000 depending on the course. No official Council receipts are issued for these additional fees.

*The Town Clerk should ensure that the budgetary allocations for the school are strictly met. Furthermore the Town Clerk should constitute a Board to oversee the day to day running of the Institute. In addition, the Town Clerk should ensure that the Institute opens and operates its independent bank account into which all its monies should be banked.*

### 3.4.2 PUBLIC HEALTH SERVICES

Public health services in the city are managed by the Public Health Department. Some of the services offered by this department include inoculations, epidemiology and disease control among others. The provision of these services is plagued by major irregularities such as issuance of fake medical certificates, bribery, extortion and harassment of the public as outlined below.

1. The Council always budgets for acquisition of land for an alternative burial site but at the time of the Examination, the Council had not purchased land for a cemetery. Current Council public burial grounds, such as, the Lang'ata cemetery is overstretched.

*The Town Clerk should hasten the process of acquiring land for an alternative burial site. The procurement of such land should be done in an open and transparent manner following the laid down procurement procedures.*

2. Public health officers sometime issue medical certificates to food handlers before the handlers are medically examined. They also issue certificates to hotels that have not complied with Premises Health and Sanitation Standards. This is done after the handlers or their employers pay bribes to the officers. Where the food handlers fail to bribe there is delay in the processing of medical certificates. These delays are used to solicit bribes by the Council officials. The medical certificates do not bear adequate security features thus making them prone to forgeries.

*The Town Clerk should institute appropriate mechanisms for supervision of Public Health Technicians. In addition, the Council should consider printing serialized 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.*

3. The Council undertakes inspection of premises to ensure compliance with the Public Health Act in cases of general nuisance, sanitation, food and hygiene and buildings. Where there is no compliance, Public Health Officers issue notices for compliance and use their discretion as to the period by which the premises must be compliant. Extension of such period is done at the discretion of the same public health officers. This leaves room for abuse, manipulation and collusion between the officers and the offenders.

The inspection work is done largely without any records indicating the premises that have complied, those that have been given the notices

and/or those that have failed to comply after the expiry of notices. There are many complaints of inefficiencies in the whole process. For example, the owner of LR No. 209/136/107 situated in Kilome Road was issued a notice for compliance on 8 August 2005. By the time of the examination, on 6<sup>th</sup> October 2005, no re-inspection had been carried out but the owner had received summons to appear at the City Court case No. 4590(A)/05 for failing to comply.

*The Town Clerk should develop comprehensive procedures, guidelines and checklists 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. Inspection and re-inspection should be done in the presence of the premise owner or his representative and the notice issued should be countersigned by the premise owner or his representative.*

*The Director of Public Health should ensure that the Public Health Inspectors document their work for easier supervision and making it possible for other officers to continue with the work commenced by others. This will assist in removing personalization of work.*

4. The Pumwani Maternity Hospital paid a total of Kshs 1.1 million to a contractor for installation of an incinerator at the hospital in 2002. At the time of the examination, the incinerator had not been installed. Materials purported to have been procured for the incinerator were strewn at the hospital compound. Some of the materials were already rusted.



*Materials for Incinerator at Pumwani Hospital*

The Hospital Superintendent informed the Examination Team that the Hospital hires a private transporter to transport clinical waste for disposal at the Lang'ata Cemetery where he said there was an incinerator. Following

this information from the Hospital Superintendent, the Examination Team visited the Cemetery. The visit revealed that there was no incinerator at the Lang'ata cemetery and the waste was being dumped in an open ground and is hazardous to the environment.



*Clinical waste disposal at Lang'ata Cemetery*

*The Town Clerk should ensure that an incinerator is installed at the hospital forthwith and stop dumping of Council medical waste at the Lang'ata cemetery. In addition, the Town Clerk should take legal action against the contractor for specific performance.*

5. The capacity at the City Mortuary is overstretched. At the time of the examination the facility had 603 bodies as opposed to its capacity of 160 bodies. This creates an opportunity for the attendants to solicit for bribes.

*The Town Clerk should put in place a plan for the expansion of the facility to accommodate the increasing demand. The Town Clerk should institute a mechanism for supervision of Mortuary attendants and those found to engage in any malpractice should be disciplined appropriately.*

6. The Ambulance Section has four ambulances of which, only one was working at the time the Examination Team visited the Section on 5<sup>th</sup> October 2005. It was observed that the working ambulance did not have oxygen facilities. The supplier of oxygen had stopped supplying because of an outstanding bill of Kshs. 24,777.80.

*The Town Clerk should repair all broken down ambulances and pay the gas supplier promptly, to facilitate supply of oxygen*

7. Most of the medical supplies for the Council are currently obtained from KEMSA or purchased and delivered directly to the medical facilities and very few supplies therefore go through the Central Medical Stores. As a result most of the staff in the Section are idle and have little or no work at all.

*The Town Clerk should restructure the Section in view of the prevailing circumstances.*

8. The Council carries out annual stock taking during which expired drugs are listed and removed from the central store to a different store. Drugs which expire during the year remain in the central store which is the issuing store. Thus it is possible for the Council to dispatch expired drugs to clinics.

*The Town Clerk should implement a system for periodic checks at the central stores to ensure that expired drugs are removed on expiry. These drugs should be immediately disposed off and not maintained in order to ensure that there is no room for unscrupulous officers to sell them off to unsuspecting clients*

### 3.4.3 SOCIAL SERVICES AND HOUSING

The Council provides a wide range of services through the Department of Social Services and Housing. Some of the services include the provision of low cost rental housing, sporting and recreation facilities, markets and libraries. The examination team observed that some of these services are in a deplorable state and are plagued by lack of clear policies and guidelines, gross inefficiencies, among others that open avenues for corruption.

1. The Council does not have clear policies and guidelines on transfers and allocation of Council houses. This lacuna may facilitate corrupt practices because of the rising demand for houses. The Examination Team was informed that Estate Officers carry out illegal transfers and subletting of Council houses. Some in-coming tenants pay goodwill ranging from Kshs 300,000 to Kshs 700,000 to outgoing tenants in collusion with the Estate Officers and other officers in the department of Housing who then facilitate the transfers. The amount of goodwill payable depends on the locality. For example, Kshs 350,000 is paid in Jericho/Lumumba estates while Kshs. 750,000 is paid in Mariakani/Joseph Kangethe estates. Once payment is made, an application for transfer is submitted to the Director of Housing and approved purporting that the incoming tenant is a close relative of the outgoing tenant.

*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. Furthermore, the Town Clerk should investigate and take disciplinary action against estate officers involved in the housing malpractices.*

2. One of the Council regulations on allocation of houses requires that individuals can only be allocated one house at a time. This has been flouted over the years as certain individuals are allocated several housing units which they let out at higher rates than the Council.

*The Town Clerk should carry out a census in order to identify the true allottees of Council houses. This exercise should be contracted to reputable firms to ensure that the results are not compromised. In addition, the Town Clerk should reconcile actual occupants of Council houses to the register records with a view to determining and flushing out those illegally occupying Council houses and also finding out those with more than one house. Furthermore, the Town Clerk should ensure that all Council houses are charged fair market rents.*

3. The Council has put up a gymnasium which is not fully equipped at the City Stadium. At the time of the Examination, the Chief Sports Officer had added some personal equipment without the approval of the Council Management. Users paid a fee of Kshs. 20 per session which is not receipted. The officer claimed that this fee would be used to purchase additional equipment. The officer therefore uses the Council facilities for his own personal gain thereby depriving the Council of necessary revenue.

*The Town Clerk should ensure that Council property is not used for personal benefit as this is an offence under the Anti-Corruption and Economic Crimes Act 2003. Disciplinary action should be taken against the officer who should be required to account for and pay the Council all the money he has collected from this facility.*

*The Town Clerk should take an inventory of all equipment in the gym with a view to ascertaining and separating Council equipment from personal equipment. All personal equipment should be removed from the Council gym.*

4. One of the functions of the Council is to develop and allocate low cost housing schemes (site and service schemes) and plots. Some of the schemes developed under this program include, Umoja I and II, Dandora, Kayole, Mathare North, Kahawa West. The Examination Team found several cases where one facility has been allocated to more than one person. This is an indication of corrupt practices in the allocation of these schemes. The Council has been sued by persons who have been affected by this malpractice.

Furthermore, the Examination Team found out that more than one office performs the duties of allocation of land and of houses. This has led to double allocation of land and houses. For plot No.47208 in Dandora was allocated to an individual on the 18<sup>th</sup> January 1994 by the Housing Department. Subsequently, the Town Clerk's office allocated the same plot to a Church on the 30<sup>th</sup> May 2001. This leads to disputes in land allocations. It also opens room for corrupt practices.

*The Town Clerk should ensure that proper plot allocation procedures and guidelines are strictly adhered to. Proper coordination between the allotting departments should be put in place. The Town Clerk should immediately ensure that the records are reconstructed, and the validity of leases issued verified. The information should be computerized and microfilmed for security purposes. The Town Clerk should further closely liaise with the Ministry of Lands to harmonize the allocations.*



### 3.5 ENVIRONMENTAL MANAGEMENT

The Council is charged with the responsibility of managing solid waste, garbage collection and street cleaning within the City. The management of the environment by the Council is largely ineffective as evidenced by the large mounds of uncollected waste that is littered all over the city.

1. The Council currently outsources garbage collection services at exorbitant rates, yet it has a workforce of approximately 2,500 employees in the Department of Environment who are largely under-utilized. The Council also has its own garbage collection trucks and equipment, most of which have broken down due to negligence. Some of the equipment and trucks have been lying in the Council garage since the year 2003 yet they require less than Kshs. 100,000 for repair.

In 1996, the Council procured 10 garbage collection vehicles. By 2000 only 6 of the vehicles were operational. At the time of the examination, only 3 were in use. This is attributed to gross mismanagement including misuse and theft of vehicle parts by Council staff.



*Grounded Garbage Collection vehicles*

*The Town Clerk should institute a comprehensive solid waste management system for the city of Nairobi. He should also undertake a Cost Benefit Analysis of using external contractors' vis-à-vis using the Council's own garbage collection trucks. Alternatively, the Council's garbage collection trucks which have minor problems should be repaired and brought back to use by the Council. Where out-sourcing is required, the Council should ensure that the process is thoroughly planned for effective implementation setting out clear policies and procedures for:*

- *Segregation of duties*
- *Avoidance of conflict of interest and*



- *Requirements for the provider to supervise its staff to ensure observance of ethical practices*

*The Town Clerk should also ensure that staff adheres to the provisions of the Public Officer Ethics Act, 2003 on the care and management of Council property entrusted to them. Furthermore, the Town Clerk should investigate cases of staff involved in mismanagement and theft of Council resources and take appropriate disciplinary action.*

2. The Council licenses private companies to collect garbage from certain areas within the City. The requirements for registration include:
  - Company registration certificate,
  - Letter of interest indicating the preferred area of operation
  - Acquisition of policy document on environment sold at Kshs. 1,000

These requirements do not assist the Council to analyze the capacity of the companies. After licensing the companies, the Council does not monitor the operations of these companies. Furthermore, the Council does not maintain an inventory of all licensed operators which can assist in monitoring whether the companies restrict themselves to the areas they are licensed to operate in. Some of the companies illegally dump waste in rivers, playgrounds, roadsides, and other non-designated areas.

*The Town Clerk, in consultation with the Permanent Secretary, Ministry of Environment and Natural Resources and the Director General, NEMA, should develop more encompassing criteria for licensing private companies to collect garbage. The criteria should include methods of assessing the capacity of the company and regular monitoring of the operations of the licensed companies. Furthermore, the Town Clerk should liaise with the Nairobi City Water and Sewerage Company to ensure that areas served by licensed private garbage collection companies are exempted from payments for garbage collection which is normally inbuilt in water bills.*

### 3.6 URBAN PLANNING AND DEVELOPMENT

The Council is charged with the responsibility of regulating urban planning and development of the city. This involves planning of the urban space, land and the built environment. The implementation of these activities is plagued by inefficiencies, irregularities and lack of enforcement among other ills as discussed below.

1. The Council is mandated to approve all Building and Development plans before construction is commenced. Change of user, extension of user, subdivisions and amalgamations are also subject to the Council's approval. However, the approval process is extremely slow. This encourages lobbying and unnecessary interaction between the clients and the Council officers. In addition, the slow process creates avenues for extortion and soliciting for bribes by the Council officials.

To address the problem of delays, the Director of City Planning vide a Ministerial circular, Legal Notice No. 83 of May 2000 from the Ministry of Local Government is mandated to approve all development plans before taking them to the Town Planning Committee for ratification. However lack of Town Planning Committee meetings being held monthly as required has slowed down the ratification process. For example, only two Town Planning Committee Meetings were held between January and December 2005.

The delays have further aggravated the problem of town planning with developers proceeding with developments without following the right procedure.

The procedures to be followed in applying for Change of User as spelt out in the Physical Planning Act of 1996 are not followed. For example, L.R. No. Nairobi/Block 91/162, sewerage plant for the 'Village Market' in the up market residential area of Gigiri, where the requirement that developers advertise on the plot indicating change of user was not done.

*The Town Clerk should ensure that all Town Planning Committee meetings are held as scheduled. In addition, the Town Clerk should develop a Service Charter for the Department which gives definite time lines for the plan approval process.*

*The Town Clerk should ensure that the law as set out in the Physical Planning Act is adhered to. The Department should also visit all properties presented for change of user prior to granting the request.*

2. At the time of the Examination the documents used for receiving and tracking building plans were out of stock. This made it difficult to track the

progress of a plan in the approval process. As such it is possible for plans to be approved without following the laid down procedures.

*The Town Clerk should computerize the building approval process and at the same time institute strict building plan movement controls that ensure plans go through all the relevant sections in the approval process.*

3. The Physical Planning Act requires that the Council communicates to the clients within 30 days after they submit building and development plans for approval. This is not followed and has created an opportunity for brokers who liaise with certain officers to fast track the process at a fee.

There are also cases whereby building plan approvals have been issued by the Ministry of Lands relying on forged letters purported to be from the Council. A case in point is L.R. No. 209/13284, South 'C', whereby the Council records show that only an application for subdivision was made, yet on the ground, the scheme is already fully developed and sold out to individuals. The Council only came to know about the issue when the residents made a complaint for the Council to carry out repairs of their infrastructure.

*The Town Clerk should;*

- i. *As recommended elsewhere in this report, prepare and strictly adhere to a Service Charter for the Council outlining the duration within which various services are to be provided. The Service Charter should be in conformity with the provisions of the Physical Planning Act.*
- ii. *Ensure that all buildings comply with the laid down Council By-Laws and regulations. In addition, he should ensure that officers adhere to professionalism and codes of ethics.*
- iii. *Liaise with the Commissioner of Lands to streamline the building plan approval process and guard against forgeries.*
- iv. *Produce building plan approval documents and letters that have adequate security features that safeguard against forgeries as recommended elsewhere in this Report.*

4. Due to poor controls in the plan approval process, some building plans are approved with wrong specifications. A case in point is Riverside Drive, L.R. 1870/3/534, where building plans were approved exceeding the allowable plot ratios and site coverage. It was also observed that the Development Control Section usurps the role of other sections, by making provisional approvals for infrastructure or other services that are the responsibility of other sections.

*The Town Clerk should set up a one stop plan approval section with the relevant technical officers from the various departments seconded to it. Meanwhile, the Town Clerk should develop and implement departmental operational manuals that spell out the roles of each department and how they relate with others in the plan approval process. Furthermore, the Town Clerk should computerize the building approval process and at the same time institute strict building plan movement controls that ensure plans go through all the relevant sections in the approval process. In addition, the Town Clerk should reconstitute the Engineering Panel for overseeing the approval of building plans as provided for under the building code.*

5. Approved plans only bear the official rubber stamp of the Council and a signature signed on behalf of the Town Clerk. The Physical Planning Act, PPA form 2, which is the prescribed form for approvals, is easy to forge, as they do not have any security features. The official rubber stamp is easy to forge. As a result, cases of forgeries have been noted with serious consequences. For example, plot No. 13041/1 and original number 13041-Kasarani, where the PPA form 2 was forged as well as a letter granting permission to subdivide.

*The Town Clerk should make it a requirement that approving officers endorses the stamp by printing their names and designation on the plan. In addition, the approved plans should be countersigned by a designated officer by use of a seal. The seal should be maintained in a secure place to counter any misuse. This will assist the Council to hold respective officers accountable for their actions.*

6. The Council does not carry out stage by stage inspections of buildings under construction. In many instances inspection is only done for the purpose of issuing occupation certificates after completion of construction. As a result, many contractors do not adhere to the building codes and regulations and end up being subject to extortion by Council officers in order to cover up and fraudulently issue them with occupation certificates. The Examination Team was informed that a large proportion of the developments in the city are condemnable structures as they do not meet standards.

*The Town Clerk should ensure that physical supervision of all developments in the city is carried out forthwith. In addition, The Town clerk should ensure that Council By-Laws and building code guidelines are adhered to strictly and stiffer penalties for offenders should be formulated. In addition, he should ensure that the law is applied uniformly without fear or favor.*

7. The Examination Team was informed that some City Inspectorate officers pose as planners and inspect buildings and building plans for the purpose of harassing and extorting money from the public

*The Town Clerk should investigate and take disciplinary action against officers found to be involved in the malpractice.*

8. The Council does not maintain a database of all its advertisers. In addition, physical verification of advertising boards is not carried out. In some instances, advertisers within the city give false information on the size of the advertisements in order to pay less. This denies the Council revenue.

*The Town Clerk should develop and computerize a database of advertisers in the city.*

### **3.7 CITY ENGINEERING AND WORKS SERVICES**

The City has a road network of approximately 1,500 Kilometers out of which the Council is responsible for the administration of a total of 750 kilometers. The Council provides Engineering and Works services through the City Engineer's Department. Most of the funds for road maintenance are provided by the Kenya Roads Board. The Kenya Roads Board has for the last three financial years disbursed over 150 Million Kenya Shillings annually to the Council. Proposed reforms in the roads sub-sector are expected to improve management of road projects currently undertaken by local authorities and other agencies.

The Ministry of Roads and Public Works has published sessional paper No.5 of 2006 on the development and management of the roads sub-sector. It aims at streamlining the management of the roads sub-sector, enhance economic growth, and create a conducive environment for increased investment, among others. The Ministry of Roads and Public Works will provide a regulatory framework for coordination, oversight and supervision of the reformed roads sub-sector. Three autonomous statutory authorities shall be established as implementing agencies. These are:

1. Kenya National Highways Authority. This will deal with development and management of major roads (class A, B and C).
2. Kenya Rural Roads Authority. This will deal with the development and management of rural and small town roads (class D, E, and others).
3. Kenya Urban Roads Authority. This will deal with the development and management of roads in cities and municipalities.

The above changes will have fundamental impact in the way roads are managed in the country. The role of local authorities and other players in the roads sub-sector will change. For instance, local authorities and District Roads Committees (DRCs) shall carry out prioritization and monitoring roles in road works. In the meantime, it will be necessary for the Council to take measures to address corruption loopholes in the management of roads within its current jurisdiction.

At the time of the Examination, there were several routine maintenance and extensive rehabilitation road works in progress. The Examination Team noted a number of integrity and corruption issues that emerge in the planning, implementation, monitoring and evaluation of road programmes.

1. The team observed that there is lack of proper planning for the road works. Contract Documents for the roads works are hurriedly prepared resulting in documents that are not comprehensive and representative of the proposed works. This has resulted in a number of anomalies such as:

- (i) Majority of the projects commencing without thorough site inspections, engineering surveys and construction drawings which are essential implementation tools. For example, Contract No. CE: 6/2004 Muhoho Avenue-Oleshapara Avenue-Mai Mahiu Project in which a section of the works (*link road to Mombasa Road*) was abandoned because it was discovered during construction that it lay on private property and, in Contract No.2/2004 Rehabilitation of 2nd Avenue-Eastleigh, undocumented underground services disrupted project progress.
- (ii) Most of the Bills of Quantities being poorly prepared. This leaves room for discretion by the Contractor and the Resident Engineer in execution of works. For example:
- The Bills of Quantities for the Huruma Road Rehabilitation Works omitted hand packed stones. The Resident Engineer had to reduce the scope of other works in order to allow for an item on handpacked stones.
  - In the Eastleigh Road Rehabilitation Project, asphalt concrete wearing course item 16.05, had no thickness specified, thus leaving the thickness of asphalt to be laid solely to the discretion of the Engineer and the Contractor;
  - In the extensive maintenance of Ridgeways, Garden Estate roads project, thickness for wearing course was specified as 35mm or 50mm leaving the actual thickness to be laid to the discretion of the Engineer and the Contractor.
- (iii) Some of the road construction projects have neither construction drawings nor special specifications indicating when and where items on asphalt regulating/leveling and binder courses will be applied. This creates avenues for abuse and inappropriate use of these items. A case in point is Contract CE: 6/2004 where the City Engineer decided to lay 40mm on Muhoho and 50mm on Mai - Mahiu Road without proper technical basis. Further, some of the project costs appear inflated because of items for bituminous works that had been described twice. For instance Contract Nos. CE 6/2004 for rehabilitation of Muhoho/Oleshapara Avenue, CE 7/2004 Rehabilitation of Macharia road Bill No. 16 for Bituminous Works items no. 16.02 and 16.03 on regulating/levelling course.
- (iv) All the items in the Preliminary / General Bills had unreasonable mark-ups in the form of attendance to items of works which were as high as 70% in some Contracts thereby increasing the Contract Sum. Ordinarily, an attendance rate of about 20% may be appropriate. The increase in the contract sum denies the Council value for money in their road works projects. Furthermore, it may stall decisions on road projects on the misconception that the costs will be prohibitive during project cost data analysis.

*The City Engineer should:*

- (i) *Allocate adequate time and resources for the planning phase of the projects.*
  - (ii) *Ensure that Engineers preparing and approving faulty tender documents which have gone to tender be held responsible and necessary disciplinary action taken.*
  - (iii) *Set up percentage limits for attendance to the Bills of Quantity items and only allow for attendance to items where the Contractors actually attend to other suppliers/ sub-contractors' works.*
  - (iv) *Formulate a system of improving management of Contracts with a view to coming up with water tight Tender Drawings, Specifications, Conditions of Contract and Bills of Quantities that are comprehensive and responsive to the proposed works*
2. The selected roads for maintenance activities have been prioritized without a comprehensive roads condition and traffic survey, which would have been the basis for planning, budgeting and programming of the works. This is likely to lead to misallocation of routine road maintenance funds disbursed by the Kenya Roads Board.

*The Town Clerk should ensure that a comprehensive Roads Condition and Traffic Survey is carried out before preparing future Annual Work Plans for Road repairs and maintenance works and that a Report of the survey is maintained and updated annually.*

3. At the time of the Examination the Council had a Schedule of Annual Work Plan of Routine Maintenance Works for FY2003/4/5/6 but these were not backed up with a Programme of Works with clearly defined time frames, resources requirements and a system of tracking physical progress. Currently, the road repair works are carried out on ad-hoc basis and are not in accordance with the Kenya Roads Board approved Annual Work Plans. The General Fund had at the time of this examination a standing transfer instruction of Kshs 500,000 per day into the roads account for road maintenance works without any Work Plans to support the allocation. This is likely to deny the Council value for money on road maintenance activities and creates loopholes for misappropriation of the funds, since there are no clear guidelines on how these funds are to be utilized.

The routine maintenance activities are carried out without a system of monitoring and evaluation on the individual roads, leading to inefficient and ineffective use of resources including personnel, equipments, tools and the Fuel Levy Funds.

*The Town Clerk should Formulate a road Maintenance Management System(MMS) with a view to improving the planning, scheduling, budgeting, quality control and tracking of planned works against physical progress for effective and efficient utilization of resources. Further he should ensure that the*



*KRB approved Routine Maintenance Schedule is planned through the same process and adhered to.*

*The Town Clerk should also ensure that the Council and Kenya Roads Board institutes a comprehensive independent technical, financial and performance audits of the routine maintenance projects for the last three financial years. And thereafter audits should be conducted at the end of every financial year, results of such audits properly documented for future reference and acted upon accordingly.*

4. At the time of the Examination, some of the capital road projects did not have project information signboards as specified in the Contract Documents. This undermines transparency on projects since there is no information on the source of funds used for construction such as Road Maintenance levy, Constituency Development Fund (CDF) or Local Authorities Transfer Fund (LATF). For instance, Contract No. 49B/2003 – Garden Estate and Ridgeways road had no project signboards.

*The City Engineer should ensure that all projects have comprehensive Project Information Sign Boards at both ends of the road project to enhance public awareness/participation, transparency and accountability.*

5. Implementation of some road works project commences before Contract Agreements are signed. This contravenes the requirements of Public Procurement Rules and Regulations and is an indication of underlying corrupt practices in the award of contracts.

*The Town Clerk should ensure that all Contract Agreements are signed in accordance with the provisions of the Public Procurement Act and Regulations before a Contractor takes possession of the site.*

6. The Examination Team observed that there is a big variance in the cost per kilometer of rehabilitation of the roads. Table 1 below shows a schedule of length of project road against Contract Sums. The mean cost of rehabilitating a road in Nairobi is Kshs 23 million per km. Therefore, the 655kms of paved roads translates to a road investment of Kshs15,065,000,000 (23million x 655kms). (See table below).

**Table 1: Cost Analysis of Council Capital Road Rehabilitation Projects**

Contract No	Contract Sum	Length (Kms)	Cost per Km
CE 2/2004	92,230,788.00	2.45	37,645,219.59
CE 3/2004	42,989,496.00	2	21,494,748.00
CE 4/2004	81,989,496.60	2.5	32,795,798.64
CE 5/2004	47,686,686.60	2.22	21,480,489.46
CE 6/2004	70,847,925.00	4.58	15,468,979.26
CE 7/2004	41,915,300.00	1.3	32,242,538.46
CE 8/2004	59,288,992.00	3.1	19,125,481.29
CE 12/2004	36,691,148.00	1.5	24,460,765.33
CE 47/2004	21,802,519.00	1.5	14,535,012.67
CE 49B/2003	32,373,451.00	3.57	9,068,193.56

*(The projects cost between Kshs 9 million to 37 million per Km; Average of 23 million per Km)*

A study of the Annual Work Plans revealed that there were inappropriate and irrelevant work descriptions and inconsistent and exaggerated rates for some work items. Examples include an item for grading on Muindi Mbingu Street and Moi Avenue, an allocation of Kshs 40,000 for culvert cleaning on Masinga Road and a budget of Kshs 2,033,690 and 1,356,420 for construction of speed bumps on Quarry and Kombo Roads respectively for FY2003/4. This inappropriate work description and exaggerated units prices denies the Council value for money and, is likely to create loophole for escalation of road rehabilitation costs and misappropriation of funds.

*The Town Clerk and the City Engineer should:-*

- i. Carry out a survey of unit prices to come up with Engineers estimates (reflecting market rates) which will act as a benchmark during tender evaluation of contracted Works in addition to forming a basis for standardizing the rates for all the Direct Labour work items. The unit prices should be annually updated.*
  - ii. Ensure that in the event the audits reveal professional negligence, malpractice, or abuse of office, disciplinary action be taken against the officers in charge of the construction process*
7. The Examination Team observed that there is no quality control in production of Asphalt at the Asphalt Plant in Nanyuki Road. In addition, the asphalt aggregate heating drum had no temperature gauge. This raises doubt on the quality of the mix utilized on the repaired sections of the roads.

The team observed that the frequency of road construction material tests is not in accordance with the Standard Specifications. On some of the roads no material quality control tests had been carried out.

According to tests carried on the contractor's loose materials and asphalt mix samples by the University of Nairobi Laboratory, the grading was generally found to be outside the specified envelope. The asphalt mix samples had high air voids, and Marshal stability below the minimum specified on the following projects:-

- CE 47/2004
- CE 4/2004
- CE 5/2004
- CE 6/2004
- CE 7/2004
- CE 8/2004

Despite this non compliance with the specifications, the Council Engineers went ahead to approve the laying of defective asphalt mix. This will subsequently adversely affect the performance of the completed road works.

Similarly, no temperature checks were carried out on the asphalt delivered on the roads and core samples were only obtained in a few of the roads to ascertain compliance with the standard specifications.



*Asphalt Plant on Nanyuki Road, Industrial Area*



*Asphalt Plant aggregate drum with no temperature gauge on Nanyuki Road, Industrial Area*

*The Town Clerk and the City Engineer should ensure that all the necessary road construction process quality control tests are carried out during the implementation of the Contracted road projects in accordance with Standard Specifications and that all the necessary quality control instruments in the Asphalt plant are installed. Further, disciplinary action should be taken against the Engineers responsible for the negligence.*

8. The Council sometimes approves variations in quantities for contracted works without the necessary Site Instructions or design changes to justify the increase or reduction of the scope of works. This casts aspersions on the integrity of the Resident Engineers and Council officers involved in the decision making process. Examples of such variations are the apparent increase in earthworks excavations and backfill on Donholm, Macharia and Digo-Meru-Lamu Road projects. Also, on Contract No. 49B/2003 Garden Estate road, there was a reduction in the scope of work where the section between Thika Road and junction with Kiambu Road was omitted yet it was provided for in the Contract. These leads to excessive claims for payment by the contractors.



*The Unfinished Section on Garden Estate Road*

*The Town Clerk should ensure that the Conditions of Contract are strictly adhered to especially with regard to altering the scope of work items in the Bills of Quantities and in issuance of Variation Orders. In addition, necessary site instructions and approvals should be prepared, documented and stored securely for future reference and accountability.*

9. The Examination Team observed that the Resident Engineers do not check the measurement sheets (estimates of amounts of work done) prepared by the site staff. This may lead to overstating quantities of work done thus excess payment to the contractors. It may also lead to approval of substandard works. For instance in Contract CE 2/2004 where at the time of the Examination, the contractor had been paid approximately 40% of the Contract Sum with very little in terms of physical progress of the works. For example:

In the Bills of Quantities, Item no. 16.02 Regulating layer of contract numbers CE 6/2004 and CE 7/2004(1.3km), 582 cubic meters and 295 cubic meters respectively had so far been certified for payment at the time of this examination.

Theoretically, this amount of material would have been laid over 2.9 Kilometers and 1.4kilometers stretches (6m wide and 0.035m thick) of these roads respectively. However, impromptu inspections during laying of asphalt and interview with the Contractors' Representative on site revealed that regulation was only on few potholed areas. In addition, Core Test samples recovered in the presence of the Examination Team revealed that only a single layer of 35-50mm of asphalt wearing course had been laid on Contract CE 6/2004 but the interim payment certificates indicated the contractors had been paid for a layer of binder and the wearing course. In

Contract CE 7/2004 the regulation layer certified for payment could cover 1.4kms of the road while the road is only 1.3km long.

*The Town Clerk should ensure that there is improved supervision of the implementation of road projects and that Interim Payment Certificate valuations are based on actual physical progress on site as per the provisions of the Contract before payments are certified.*

*The Town Clerk should initiate an independent financial and technical audit of all capital projects to verify incidences of excess payments. Further disciplinary action should be taken against those responsible.*

10.The Examination Team observed that as – built drawings (Drawings of the works done) had not been prepared for all the extensive road rehabilitation projects which had been completed. In addition final accounts documents for completed projects were not done. This implies that evaluation of the project is not done hence creating a loophole to pay for works not done.

*The Town Clerk and the City Engineer should ensure the following:*

- i. That As-built drawings (plan, profiles and road x-sections) detailing the nature of all rehabilitation works including all underground services along the road in question are prepared for evaluation and future reference.*
- ii. That all the Resident Engineers who had been in charge of all completed Capital Projects prepare Final Accounts detailing all expenditures in the project with corresponding back-up documents (Receipts, correspondences and site instructions). Further, the practice should be duplicated on all the capital projects once they come to an end.*
- iii. That a performance review is conducted and a report prepared at the end of the maintenance period of all capital projects for future reference. This will give the Council an opportunity to draw lessons from past experiences.*

11.The Examination Team observed that the Kenya Roads Board (KRB) guidelines were not being followed leading to low rate of success. Thus the success rate for these projects has been approximately 40% for the last three financial years (2003-2005).

*The Town Clerk and the City engineer should adhere to the KRB guidelines to achieve better success of the projects.*

12.The Roads Section has not verified and updated the existence and extent of road reserves. The records and maps of the roads in the city are therefore incomplete. This inadequacy encourages building of permanent structures on road reserves. Examples of such structures are, along Donholm and



Macharia roads whereby the encroachment interfered with the rehabilitation works.



*Encroachment on Donholm Road*



*Encroachment on Macharia Road*

*The City Engineer should verify and update the existence and extent of road reserves in the City and preserve them.*

*The City Engineer should liaise with the Ministry of Roads and Public Works to reconstruct road records and maps for the city road network.*

*The Town Clerk should ensure that the City Engineers Department is involved in the Building Plans Approval process to avoid encroachment of permanent structures on road reserves.*

### 3.8 LEGAL SERVICES

The Council's legal affairs are managed by the newly created Legal Department. The Department comprises of various sections namely the Courts, Registry, Committee Clerk, Litigation and Conveyancing. Prosecutions are yet to be fully incorporated in the Department. The Examination Team observed major irregularities in this area, which include the following.

1. The Council prosecutions processes are handled by the City Inspectorate and Public Health Departments. This makes coordination and monitoring of prosecution matters difficult. This has led to some suspects being charged with the wrong offences while others pay bribes to court orderlies and are released.

At the time of the Examination, the Public Health Department had only one prosecutor to handle the myriad cases brought to the Council. This has created a situation whereby when the prosecutor is indisposed, all cases have to be deferred or adjourned. Further, there is no supervision of the said prosecutor.

*The Town Clerk should fast track the merging of all these prosecution sections into one main prosecution section under the Legal Department and ensure that additional prosecutors are trained and gazetted in order to reduce backlogs and reliance on a single person.*

2. Although the Council has a pre-qualified panel of lawyers, there are no clear criteria of awarding briefs to the external lawyers. This opens an opportunity for lobbying and creates a loophole for corrupt practices.

*The Town Clerk should develop clear criteria of distributing work to all the pre-qualified lawyers giving an opportunity to each of them to offer their services. This will help the Council to make decisions on future pre-qualification and/or blacklisting of the lawyers.*

3. Some cases are dismissed for failure to include simple crucial information in the charge sheet such as the physical location of the facility, postal address, Land Reference Numbers and names of the offenders. For instance a public health officer issued three defective notices which the prosecutor was unable to act on.

*The Town Clerk should ensure that Public Health officers are well briefed on their duties and where defective notices are issued, appropriate disciplinary action is taken against the offending officer.*



4. The outstanding decretal sums (court awards) against the Council as at 9<sup>th</sup> of Dec 2005 stood at Kshs.588, 190,065.30. Some of these claims and court awards have been attributed to the negligence of the Council employees. A case in point is Nairobi HCC No. 1978 of 1999, between Abdul Raham Gabow Vs Nairobi City Council where the Council defence was struck out based on a written admission by the Chief Counsel Litigation to the plaintiff's advocates that the Council made a mistake by demolishing the plaintiff's shop and judgment entered in the sum of Kshs11, 420,000. As at July 2004 the principal sum together with interest had risen to Kshs18, 479,108.40 The Council is now forced to satisfy the decree by installments.

*The Town Clerk should investigate specific cases where there was negligence by Council officers and the said officers be surcharged. Further, the Director Legal Department should closely monitor all the cases in court and all matters that are likely to give rise to unnecessary suits and claims against the Council.*

5. There are several cases which have been withdrawn under section 87(a) of the Criminal Procedure Code (CPC) because the officers who investigated these cases have been suspended due to corruption related malpractices and as such it has been difficult to bond them to attend court to testify and conclude their cases. This leads to many offenders going scot-free since the cases are withdrawn due to difficulty in securing witness attendance.

*The Town Clerk should review all those cases pending where the investigating officers have been suspended or dismissed with a view to assigning new officers.*

6. Penalties imposed by the existing By- Laws are too lenient to deter criminal activities. Some penalties range from fines of Kshs.500 to Kshs.1, 000. In some instances the Council invokes the Environmental Management and Co-ordination Act (EMCA), No. 8 of 1999 that provides for stiffer penalties ranging from Kshs.200,000.00 to Kshs.2,000,000.00. The prosecutors use their discretion to determine which law to apply. This creates an avenue for extortion and other corrupt practices.

*The Town Clerk should expedite the review of all the By-Laws and enhance the penalties therein.*

7. The Council collects and keeps cash bail for all accused persons whose cases are pending in court. This is on the understanding that the cash bail would be refunded to the accused on conclusion of the case against them. However there is unnecessary delays in effecting these refunds and the depositors wait for long periods of time.

*The Town Clerk and the City Treasurer should open a separate bank account for all the cash bail deposits and the same be paid to the depositors immediately the cases are finalized.*

8. At the time of the Examination there were unpaid Court fines amounting to Kshs. 595,500 imposed by the courts during the period of August 2005 to September 2005. It was not clear from the court records whether the convicted persons who failed to pay the fines were serving their sentences in any of the prisons.

*The Town Clerk should ensure that there is proper supervision and monitoring by the Legal Department of all cases in the City Courts. Further the Town Clerk should investigate the issue of unpaid fines and the whereabouts of the convicts and take disciplinary and legal action against Council staff found to have released convicts against Court Orders.*

9. As of October 2005, 33 cases which had been initiated from August 2005 were pending due to failure of the accused persons to appear in Court. Most of these cases were in relation to offences on City Planning which attract very high fines.

*The Town Clerk should liaise with the Commissioner of Police in order to develop, in consultation with other law enforcement agencies a mechanism of ensuring that accused persons bonded to appear in court do so.*

10. The Council currently relies on external lawyers for all its litigation matters. A Clerk heading the litigation section is assigned duties such as offering opinions on the professional fees payable to the external lawyers for pending and finalized cases. This responsibility cannot be appropriately performed by a clerk. In some cases fees are processed in matters where court cases have been withdrawn and the lawyer ought to be paid professional fees on a lower scale. For example in Nairobi HCC.No315 of 2004 where a suit against the Council was withdrawn on 30th March 2005. However, from the Council records, there was no evidence of assessment of fee payable for services rendered pursuant to the Advocates (Remuneration) Order prior to processing the payment of the fee note raised of Ksh.2 million. This creates room for payment of excessive professional fees.

*The Town Clerk in liaison with the Permanent Secretary Ministry of Local Government should fast track the recruitment of lawyers for the Council. In addition, the Town Clerk should ensure that all legal services rendered are ascertained and the applicable Advocates Remuneration Order is adhered to in*

*ascertaining the professional fees payable. Furthermore the Town Clerk should ensure that all issues relating to fees assessment are handled by the Director Legal Department personally or are delegated to qualified officer.*

11. The emerging neighborhood associations such as Karengata have gone to court and stopped the Council from increasing or collecting rates on the basis of poor service delivery. This has impacted negatively on the Council revenue base. The case has not been finalized and the group therefore has been using the temporary injunction orders obtained. The joint account which was meant to be opened by the Council and Karengata as per the court orders has not been opened to date. This creates room for the group to utilize rates deposited by its members.

*The Town Clerk should vigorously pursue the pending cases and ensure that they are finalized to enable the Council collect rates and other revenues. Furthermore the Town Clerk should ensure that a joint suspense account for collection of rates from the residents of Karengata is opened.*

### 3.9 ENFORCEMENT AND INVESTIGATIONS

The Council carries out the enforcement of city by-laws through the Inspectorate Department. The investigations function has been separated from the Inspectorate Department and is now under the Investigations Department, which is in the formative stages. The Investigations Department is charged with the responsibility of spearheading the creation of the Metropolitan Police Force.

The Examination Team found out that the Inspectorate and Investigations function is largely ineffective and is riddled with indiscipline and rampant corruption, among other problems as discussed below.

1. There are complaints from members of the public and the staff that Council investigation officers extort money from them. Some of the officers are involved in illegal activities, which they are also meant to investigate. Officers implicated in these malpractices are transferred to other sections within the department instead of disciplinary measures being taken against them.

*The Town Clerk should review these complaints and take disciplinary action against the staff involved.*

2. Most of the current City By-Laws are obsolete and they do not effectively address the current realities within the city. In situations that are not provided for in the By-Laws, the enforcement officers resort to negotiations with clients thus opening room for corrupt practices.

*The Town Clerk should hasten the process of reviewing City By-Laws making them adaptable to the changing circumstances and addressing emerging issues within the city. This is in line with other recommendations in this Report.*

3. A number of Developers served with Notices for Non-Compliance with the Council By-Laws and Building Codes have not been prosecuted. This has created a backlog of cases, thus creating a conducive environment for continuation of construction of illegal structures as no action seems to be taken against offenders. Notices for non compliance with building by-laws are served to offenders and range from 24 hours to 30 days depending on the nature of the offence. The penalties for non compliance are neither deterrent nor are they enforced. In addition, lack of proper record keeping and follow up makes it difficult to track the notices causing some to expire without any action being taken. Some notices are raised and used for the purposes of extortion.

*The Town clerk should;*

- i. Ensure that Council by-laws and building code guidelines are adhered to strictly and stiffer penalties for offenders formulated.*
- ii. Ensure that the law is applied uniformly without fear or favour.*
- iii. Ensure that the Notices served for non-compliance are dealt with in a timely manner*
- iv. Implement a sound records management system and ensure that all court cases are pursued until they are concluded.*

4. City residents particularly traders and businessmen have complaints regarding harassment and extortion by City Inspectorate staff. The Council has not formulated a proper system of receiving and handling complaints from the public. As a result, most of the public complaints are not heard and attended to by the Council management.

*The Town Clerk should establish well publicized channels of handling complaints from the public. In addition, he should provide easy and confidential access to members of the public. These complaints should be handled effectively and fairly with prompt feedback and remedial actions which must be communicated to the complainants.*

5. The Examination Team was informed that the City Inspectorate work is hampered by interference from senior government officials and politicians. This is particularly so in the enforcement of eviction, demolition and arrest orders. For instance, the illegal encroachment and conversion of the old OTC bus stage on Racecourse road into market stalls has continued unabated though there are Instructions for the demolition of the structures. In such situations, those violating the law keep on paying bribes for protection and are targets for extortion.

*The Town Clerk should ensure that officers work in an environment free from interference. Lawful orders should be followed to the letter. The Council should further take stock of all illegal structures and issue notices for demolition and carry out the demolition in accordance with the law.*

6. Officers who carry out Inspectorate duties are issued with identification cards (power of entry cards) to allow access to search any premises. These cards are sometimes issued to unauthorized personnel. In addition, there is no system in place for surrendering these cards when an officer ceases to be a Council employee. This has created a loophole for extortion and engagement in other illegal activities with impunity.

In certain instances, Council officers insist on searching premises without fully identifying themselves, and when denied entry, they issue a notice of obstruction to owner of the premises. A case in point is one of Ajit Shah who informed the Examination Team that upon insisting that the officers sign his visitor's book as other Council inspectors have always done, they refused and issued a notice of obstruction and later on charges were preferred against him in the city court case no. 4597(A) / 05.

*The Town Clerk should ensure all identity cards are sourced from a reputable firm and provided with adequate security features. The issuance of these cards should be limited to those who are authorized to perform the entry and search duties. The cards should be surrendered to the Council when an officer has ceased to be an employee of the Council or has been transferred to perform other duties. The Town Clerk should ensure that officers fully identify themselves and cases of complaints against officers who have refused to identify themselves should be investigated and appropriate disciplinary action taken.*

7. The Council stores items impounded for various reasons such as non-payments of rates and hawking. The impounded items are kept at the Dagoretti pound store. The store is congested and there is no system of taking stock of the items in store. At the time of the Examination, there were sodas which had expired.

*The Town Clerk should ensure that impounded items are well recorded and cases are expedited in order to release the items to the owners upon being charged.*

### 3.10 PLANNING AND BUDGETING

The Council prepares a budget once a year in line with the Government budgetary cycle. The Budget is always accompanied by an annual work plan enumerating the priorities of the Council within the Year and is subject to approval by the Minister for Local Government. This is in addition to the Local Authority Service Delivery Action Plan (LASDAP) which is a community development program funded through Local Authority Transfer Fund (LATF).

However, the Examination Team noted that the Council's budgetary process is more of a formality in order to comply with the Local Government Act and Government requirements rather than as a management tool. The Council's budgetary system is constrained by an inappropriate budgeting premise and poor implementation. The Team found that:

1. The Council prepares an incremental budget every year based on the previous year's actual collection plus 10% mark up. Each Department is allocated a ceiling based on the previous year's budget. This system does not take into account the departmental requirements which change periodically. Some sections such as the City Centre for Early Childhood Education (CICECE) do not prepare budgets at all.
2. The Council has massive liabilities in form of creditors and bank overdrafts estimated at Kshs.10 billion. However, only a portion of the liabilities is reflected in the budget. This creates an underestimation of the true position of the Council's indebtedness. Furthermore, such a practice creates avenues for Council officers to solicit for bribes from suppliers and contractors so as to get paid, thus lowering the credit rating of the Council.
3. Budget implementation is haphazard and uncoordinated. Expenditure is not incurred strictly as per the budget. Some of the priorities outlined in the budget are ignored and others not previously budgeted for funded. This has led to some departments being unable to access funds to meet their operational requirements.

*The City Treasurer should adopt a zero based budgeting system taking into account all Council liabilities and other requirements. The City Treasurer should put in place adequate budgetary control measures. Furthermore, the City Treasurer should ensure strict adherence to the budget provisions.*

### 3.10.1 LOCAL AUTHORITY SERVICE DELIVERY ACTION PLAN (LASDAP)

The Council is also responsible for managing Local Authority Service Delivery Action Plan (LASDAP). This is a community development program funded through Local Authority Transfer Fund (LATF).

LASDAP was established in the year 2001 to oblige Local Authorities to enhance community development through local community participation. Towards this effort, the City Council of Nairobi established a LASDAP desk to coordinate LASDAP projects in the City. However, the programme success has been hindered by mismanagement of funds and poor implementation of projects. The planning and implementation of LASDAP has many weaknesses highlighted below.

1. The LASDAP planning process (identification and prioritization of projects) is riddled with major inefficiencies and guidelines are not adhered to. The process is influenced by Councilors and sometimes the needs of the community are not considered. Sometimes old projects are abandoned for new ones.

*The Town Clerk should ensure that LASDAP guidelines are adhered to. In addition, the Town Clerk should ensure the completion of stalled projects before new ones are initiated.*

2. Majority of the LASDAP projects do not have Project Information Sign Boards which are meant to raise community awareness and enhance their participation and promote accountability and transparency.

*The Town Clerk should ensure that each Project has an Information Sign Board on the site clearly illustrating project data.*

3. The Examination Team found out that LASDAP funds are not optimally utilized based on the approved budget. For instance, out of the cumulative approved budget of Kshs. 674,507,252.00 in the years 2002-2005, the Council only managed to spend Kshs. 122,157,042.10 on LASDAP projects according to CCN LASDAP 2006 – 2007 Report.

The Examination Team further observed that the success rate for the LASDAP projects is less than 20%. (See the Table below).



**Table 2: Cumulative LASDAP Resource Envelope for Years between 2003 to 2005 and Corresponding Expenditures.**

Constituency	Years submitted	Approved Budget	Expenditure to date	% Spent	Balance
Embakasi	2002-05	139,545,000.00	25,421,032.49	18.22%	114,123,967.51
Dagoretti	2002-05	79,600,000.00	21,469,385.10	26.97%	58,130,614.90
Kasarani	2002-05	89,050,000.00	18,050,941.30	20.27%	70,999,058.70
Makadara	2002-05	86,720,000.00	13,318,975.26	15.36%	73,401,024.74
Kamukunji	2002-05	74,554,000.00	12,115,332.35	16.25%	62,438,667.65
Starehe	2002-05	72,538,252.00	13,856,619.05	19.10%	58,681,632.95
Westlands	2002-05	71,000,000.00	7,558,191.40	10.65%	63,441,808.60
Langata	2002-5	61,500,000.00	10,366,565.15	16.86%	51,133,434.85
<b>Totals</b>		<b>674,507,252.00</b>	<b>122,157,042.10</b>	<b>18.11%</b>	<b>552,350,209.90</b>

*Source: CCN LASDAP 2006-2007 Report*

*The Town Clerk should ensure that the LATF funds are used in accordance with the stipulated guidelines by the Treasury.*

*The Permanent Secretary Ministry of Finance should consider imposing penalties on Local Authorities that do not adhere to guidelines on utilisation of LATF funds.*

*The Town Clerk should ensure that LASDAP projects are well supervised to ensure completion as planned.*

4. There are instances where contractors are paid for poor quality works. A case in point is the Proposed Classrooms at Viwandani and Ushirika primary school where payments were made for substandard works.

*The City Engineer should ensure that supervision and payment of works are done as per contract conditions and specifications.*

5. The Examination Team further noted that the LASDAP projects have no work programs except for a schedule of projects. The projects take too long to be implemented. For instance, projects submitted in 2002 and 2003 for various wards are still pending. Some of the delays are attributed to land disputes and lack of land for development, and delays in the procurement process.

*The Town Clerk should ensure that work programmes are developed and implemented with clearly defined time frames, resources and activities from inception to completion of the project. In addition, there should be a mechanism for proper checks and feedback with information on project outcomes comprehensively documented.*

6. Whereas there is an elaborate system and conditions for release of Funds with adequate control measures from community/ward level to Full Council meeting, however there are no requirements for filing monthly returns regarding use of the LASDAP funds during implementation. Technical Audit Committees are not able to competently audit LASDAP projects because its composition is inappropriate.

*The Town Clerk should put in place a system of filing and keeping returns on usage of the LASDAP funds with a provision for independent auditing and keeping of audit records of accounts. In addition, he should ensure that the Technical Audit Committees comprise of persons with appropriate skills and qualifications for the task.*

7. The monitoring of LATF funds and its management are the responsibility of the Council, with the Ministry of Local Government having oversight control. During the Examination, it was noted that there are no clear guidelines on implementation and monitoring of progress of the LASDAP projects within the Council. Currently, various officers initiate correspondences to monitor LASDAP projects. It is not clear which is the accountable or responsible office. For instance, a letter came from the Deputy Director Planning requesting a contractor to submit a performance bond and in another incident from an Integrity Assurance Officer (IAO) to the City Treasurer regarding interim payment approvals towards a project.

*The Town Clerk should ensure that a project performance brief outlining challenges/achievements/observations is prepared for completed and stalled projects. This will inform the Council in future planning and implementation of the programmes.*

*The Town Clerk should ensure that a system is put in place for monitoring the implementation of projects to ensure that they are delivered in a timely manner and in accordance with the contract specifications.*

8. There is poor records management of the LASDAP projects. Information on projects is scanty and stored in different files and some times in different offices making tracking of individual project activities difficult. This negatively impacts on proper monitoring and evaluation of projects.

*The Town Clerk should ensure that the LASDAP maintains comprehensive project records in easily retrievable forms that include General Correspondence,*

*Minutes of Meetings related to the projects, Tender Documents, Monthly Financial and Progress Reports, Final Project Accounts and As -built drawings of individual projects for all wards from inception to commissioning.*

### **3.11 PROCUREMENT, STORES AND CONTRACT ADMINISTRATION**

The Council like any other public body is bound by the Government Public Procurement Rules and Regulations as stipulated by the Public Procurement and Disposal Act, 2005 with regard to procurement of goods, works and services.

#### **3.11.1 Procurement Administration**

1. Although the Council has created a Department to handle procurement, this department does not enjoy necessary independence as it should be. It was noted that in some cases the issuance and authorization of quotations is undertaken by various departments without reference to the Procurement Department. This causes confusion and a loophole for corruption as the procurement regulations may not be followed.

*The Town Clerk should develop internal Procurement Guidelines in line with those stipulated in the Public Procurement and Disposal Regulations. The internal guidelines should endeavour to spell out clearly how the activities in the entire procurement cycle should be undertaken and by whom. The process should clearly delineate the action office in each aspect of the procurement.*

#### **3.11.2 Planning**

2. The Council carries out procurement of goods and services without a Procurement Plan contrary to the Public Procurement and Disposal Act 2005. In the absence of a procurement plan, procuring is on a reactionary basis. Some chief Officers have ignored to submit their Departmental Procurement Plans to the Director Procurement Department, despite several reminders. The Examination Team observed that a large portion of the purchases are categorized as urgent and are procured on a cash basis. This system has been grossly abused with cases of inflated prices, partial delivery and/or non-delivery even after payments have been made. For example, on 20<sup>th</sup> September 2005 the Council purchased motor vehicle fuel on imprest at highly exaggerated price whereby 82.7 litres of diesel were purchased for Kshs. 10,000/= which implies that a litre was bought at Kshs.120.92 instead of the prevailing retail market price of Kshs. 65.53. In addition the Council paid for furniture for the office of Deputy Town Clerk (Administration) which by the time of the examination had only been partially delivered.

*The Town Clerk should ensure that an Annual Procurement Plan is prepared timely and adhered to. He should proscribe the use of imprest to procure goods and services so that all purchases are done in accordance with the Public Procurement Regulations unless on clearly defined emergencies.*

*In addition, the Town Clerk should ensure that the Furniture which was bought for the Deputy Clerk's office is fully delivered, and surcharge officers misusing fuel imprest as cited above.*

### **3.11.3 Pre-qualification of Suppliers/Contractors**

3. At the time of the Examination, the Council was carrying out its procurement without a pre-qualified list of suppliers/contractors. The responsibility of sourcing for quotations for procurement of items below Kshs 5,000,000 is therefore left to the discretion of various individual officers. This exposes the Council to the risk of collusion between the Council officers and the suppliers to defeat competitiveness and therefore creates loopholes for corrupt practices.

*The Town Clerk should ensure that the Council undertakes the pre-qualification of suppliers annually. The listed suppliers should thereafter be invited on a fair share principle such as rotation. The Council should develop the criteria for selection and make this known to the suppliers. This will assist the Council to continually vet its suppliers and maintain data on performance of each supplier. The data will be used for subsequent pre-qualification processes, and continued requests for quotations based on suppliers' performance.*

### **3.11.4 Evaluation and Award of Tenders**

4. There are instances where some contractors are awarded new contracts before completion of previous contracts. This leads to delays in completion of such projects.

*The Town Clerk should ensure that no one firm is given more than one contract before completing an earlier one unless there is adequate proof that the contractor has the capacity to complete the two jobs within the expected time.*

5. The Council Tender Documents do not contain the evaluation criteria as per the Public Procurement Regulations. The omission of the evaluation criteria creates a major loophole for manipulation at the evaluation stage.

In some instances the Tender Committee awards tenders in total disregard of the recommendations of the Technical Evaluation Committee. For instance, the technical evaluation panel disqualified a construction company due to inconsistencies in documentation forwarded to the Council. However, the company was awarded the said tender amounting to Kshs. 16,846,540 for the construction of a health centre. The Examination Team also noted Tender No PAP/CE/08/2005 for a water supply attracted 5 quotations but the lowest bidder was disqualified without stating the reasons for disqualification. Whereas the Council is not bound to award the lowest bidder, reasons for disqualification of the lowest bidder are ordinarily explained in the Tender Committee minutes.

Further, there are no clear instructions to the bidders in regard to the mandatory licensing documents necessary to participate in a tender. This provides an opportunity for manipulation at the evaluation process. The consequence is that some bidders are disqualified on flimsy grounds in order to favour those preferred by the interested officers.

In other instances the tenders are advertised even before tender documents are ready for dispatch or even forwarded to the procurement department. Some of the Departments raise quotations and tenders without the involvement of the procurement office. These quotations and tenders are only passed to procurement for presentation in the Tender Committee. This malpractice is more prevalent in engineering and environment related tenders. The table below presents a random sample of such tenders/quotations.

**Table 3: Tenders prepared without involvement of Procurement Department**

No.	Department	Quotation Tender Ref.	Amount (Kshs.)	Subject
1	City Engineer	CE/96/2005	1,285,280.00	Supply and delivery of Sand
2	City Engineer	CE/97/2005	1,827,000.00	Supply and delivery of 3/8'' Aggregates
3	City Engineer	CE/98/2005	2,119,320.00	Supply and delivery of 1/2'' Aggregates
4	City Engineer	CE/101/2005	793,440.00	Supply and delivery of Cement and Cut stones
5	Director of Environmental	DOE/8/2005-6	630 per tonne	Solid Waste Collection, Transportation and Disposal- Kamukunji Zone.
6	Director of Environmental	DOE/5/2005-6	500 per tonne	Solid Waste Collection, Transportation and Disposal- westland Zone

*The Town Clerk should ensure that tenders/quotations are assessed in accordance with a criteria spelt out in the bid documents. Such criteria should be objective and quantifiable. It should include but not limited to the following:*

- *Compliance with specifications*
- *Lowest price offer*
- *After-sale service where required and*
- *Suppliers past performance*

*An evaluation report detailing the tender/quotation analysis and reconciliation should be submitted to the approving officer or the tender committee for a decision particularly where the lowest bidder is not recommended. Where technical performance is an input into the tender evaluation process, the bidder should be required to submit the technical /quality proposal when tendering.*

*The Town Clerk should ensure that preparation of the Tender documents is done jointly by the user department and procurement so as to come-up with documents with clear specifications and evaluation criteria.*

*The Town Clerk should ensure that advertisement for tenders are only made after the tender documents are ready.*

*The Town Clerk should further take disciplinary action against those involved in order splitting*

#### **3.11.5 Orders Aggregation**

6. The Tender Committee sometimes awards tenders for standard items based on aggregate orders for each supplier. This system ends up being more costly as compared to buying from the bidders who quote the least price per item. The table below demonstrates a sampled case of order aggregation and clearly shows how the Council lost Kshs. **54,999.00** as a result of negligence of its officers.

**Table 4: order aggregation**

No.	Item description	Quantity	Lowest Quoted price ( Kshs)		Award price (Kshs)		Difference (Kshs)
1	Shovel with wooden handles	100.00	222.00	22,200.00	250.00	25,000.00	2,800.00
2	Craw bars	15.00	432.00	6,480.00	550.00	8,250.00	1,770.00
3	Mason hammer	20.00	180.00	3,600.00	450.00	9,000.00	5,400.00
4	sledger hammer	10.00	60.00	600.00	650.00	6,500.00	5,900.00
5	Tape measure 30m	10.00	480.00	4,800.00	650.00	6,500.00	1,700.00
6	Tape measure 50m	15.00	155.00	2,325.00	250.00	3,750.00	1,425.00
7	Rakes Sample	100.00	216.00	21,600.00	250.00	25,000.00	3,400.00
8	Fork jembe with wooden handles	40.00	375.00	15,000.00	450.00	18,000.00	3,000.00
9	Drain Shovel	50.00	120.00	6,000.00	250.00	12,500.00	6,500.00
10	Bastard (flat) file 18"	10.00	180.00	1,800.00	250.00	2,500.00	700.00
11	Smooth (flat) file 18"	10.00	189.60	1,896.00	350.00	3,500.00	1,604.00
12	Smooth (triangler) file 18"	10.00	162.00	1,620.00	350.00	3,500.00	1,880.00
13	Wooden file (half round) file 18"	10.00	240.00	2,400.00	350.00	3,500.00	1,100.00
14	Sisal rope 100m (25mm)	1.00	200.00	200.00	18,000.00	18,000.00	17,800.00
15	Shovel( squared) with wooden handles	1.00	250.00	250.00	270.00	270.00	20.00
	TOTAL			<b>90,771.00</b>		<b>145,770.00</b>	<b>54,999.00</b>

*The Town Clerk should ensure that all standard items (items with known market prices and readily available) are evaluated individually on price basis for all bidders. Further the Town Clerk should carry out an analysis of similar irregularities and institute recovery procedures for the loss from the Director of Procurement.*

### **3.11.6 Order Splitting**

7. The Examination Team noted that there are several cases of order splitting for procurement of goods and services valued at over Kshs. 5,000,000 to avoid open tendering. This leads to corrupt practices in the process of procuring goods through single sourcing or quotations from the same supplier instead of open tendering. Quotation numbers DOP/CE/449/2005, DOP/CE/450/2005



and DOP/CE/451/2005 illustrate some incidences of order splitting. The order splitting is as demonstrated in the table below.

**Table 5: Examples of Split Tenders**

Item.	Quotation reference	Description	Contract Sum (Kshs)
1	DOP/CE/449/2005	Supply and delivery of floodlights at Uhuru Park	4,700,000.00
2	DOP/CE/449/2005	Supply and delivery of materials for floodlight at Uhuru Park	450,000.00
3	DOP/CE/450/2005	Supply and delivery of materials for floodlight at Uhuru Park	1,750,000.00
4	DOP/CE/451/2005	Supply and delivery of materials for floodlight at Uhuru Park (cables)	376,950.00
<b>Total</b>			<b>7,276,950.00</b>

All the above quotations relate to supply and delivery of floodlights and materials at Uhuru Park that should have been procured through open tendering.

Incidences of order splitting are also witnessed in procurement of goods and services below Kshs 500,000 (which is the threshold below which the Town Clerk has discretion to decide on how to procure and above which the Tender Committee has to approve) without reference to the Tender Committee. The malpractice is perpetuated in some cases by removing the VAT component on the quoted prices for goods and services valued above Kshs. 500,000. A case in point is LPO No.213903 whose initial amount including VAT was Kshs 582,000.00 but it was reduced on instructions from the Director of Procurement to Kshs 492,300.00 excluding VAT. Further, a contract for cleaning services valued at Kshs. 740,080.80 was split into three orders (LPOs No. 212675, 212676 and 212677) which were issued on 8<sup>th</sup> December 2004 for Kshs. 225,391.00, Kshs. 185,600.00 and Kshs. 329,089.80 respectively to one company for supply of cleaning detergents and cleaning of carpets in the Town Clerk's and Deputy Town Clerk's offices.

*The Town Clerk should develop precise guidelines on how purchases below the Tender Committee thresholds should be carried out.*

*He should further enforce the Public Procurement Regulations that prohibit order splitting. This will assist in avoiding risks of varying tender prices which amounts to*

*counter offer according to the law relating to contracts. Further disciplinary action should be taken against those involved in order splitting.*

*The Town Clerk should ensure that VAT component cost is included in all tender awards.*

### **3.11.7 Segregation of Duties**

8. It was observe that segregation of duties in the procurement process is not practiced. In several instances, the same officers are involved in inviting quotations; opening tenders, evaluating and recommending awards. This has created opportunities for abuse of the procurement process.

At the Pumwani Maternity Hospital, the Stores Clerk raises payment Vouchers, is also responsible for sourcing quotations, receiving and issuance of goods. This creates opportunities for raising fictitious payments, trading with the Hospital, colluding with suppliers and also inflating of prices. The Examination Team observed that the Hospital procures charge sheets at a cost of Kshs. 4 per piece yet these could easily be produced at the Hospital as they are ordinary computer print-outs without any security features.

*The Town clerk should ensure that there is a clear segregation of duties to enhance checks and balances in the procurement and tendering processes. As far as possible, different staff should be assigned to handle different duties with the guidance of the head of procurement department. The following functions should be handled by different staff:*

- *Sourcing of suppliers or contractors*
- *Raising and dispatch of quotations*
- *Issue of purchase orders*
- *Receipt and certification of goods, services or works*
- *Certification of payments*

### **3.11.8 Contracts**

9. At the time of the Examination, the Council had not renewed its Service Contracts for some of its vital equipments. These include:
- Standby generators at City Hall and City Hall Annex
  - City Hall lifts
  - Maintenance of the refrigerators at the City Mortuary

However the previous service providers continued to render the services. This creates bias and stifles competition in the tendering process. It also opens opportunities for lobbying for the extension of the service contracts.

*The Town Clerk should ensure sourcing for these services is carried out before the contracts expire and contracts entered into with the relevant contractors.*

10. The Council has a narrow rateable property base attributed to the inability by the Council to capture all rateable properties in its Valuation Roll. As a result, a large proportion of property owners in the city of Nairobi are not paying rates because their properties have not been rated. Hence the Council has contracted the services of GEOMAPS to prepare Geographic information System (GIS) for capturing all rate payers. This is intended to improve the efficiency in the rate collection. In contracting, the Council single sourced for the service without involving other potential providers. An analysis of the contract agreement reveals certain anomalies which have far reaching implications on the ability of the Council to perform its functions as follows:

Contract Anomalies:

- According to Clause 8.1 (a) the contract runs for a period of 10 years, within which the Council cannot grant or purport to grant to any person (other than GEOMAPS) the right within the city (whether or not on an exclusive basis) to provide the services similar to the services as prescribed in the contract.
- Clause 10.5: requires that the Council shall be required within 90 days from the termination date to purchase the equipment from the consultant.
- Clause 9.3: The Council shall have the right to use the Spatial database at the end of the term but Subject to clause 9.1 that states that the Services, the System, the Documentation and the Spatial Data Base are and shall remain at all times the property of the consultant and no right is granted to the Council in relation to the Equipment and/or intellectual rights in the Services, the System, the Documentation and the Spatial Data Base. The Spatial Database is defined in Clause 9.2 to include without limitation digital base maps, cadastral maps, and physical development plans in relation to the city.
- According to Appendix A, clause 1.3 (vii) implies that the development of other geo-relational products to the GIS installed by the Company shall be the sole discretion and business of GEOMAPS.

*The Town Clerk should review the GIS contract with GEOMAPS with a view to making it more responsive to the Council's interests. This should include providing for measurable output levels, financial reporting mechanisms such as annual statements, technical and operational reports and a reasonable contract period.*

### 3.11.9 STORES MANAGEMENT

The stores system collapsed several years ago. This breakdown has led to each Department carrying out procurement of departmental requirements on an imprests/cash system.

#### Stores Records

1. Departmental cash purchases are not recorded in the Goods Receipt Note upon delivery. In some cases even where purchases are through the LPO system, the supplies are not recorded in the stores records. This is an avenue for pilferage of stores supplies and increases chances of payments for goods that have not been delivered.

There is inadequate control of receiving and issuing of materials from stores in the Council. The documentations necessary to support stores activities and payments are not well recorded and maintained. In some cases different LPOs are recorded in the same Stores Receipt Statement (SRS). A copy of SRS is supposed to be used to support payment for a specific order. Therefore, where several LPOS are recorded on the same SRS, subsequent payments will be done using duplicate copies of SRS. This creates a loophole for double payments.

*The Town Clerk should ensure that an operational stores system is put in place that ensures proper documentation of all receipts. Spot checks, stock verification, audit checks and close supervision should be enhanced.*

#### Segregation of Duties

2. There is no segregation of duties in the City Engineers Department which purchases, receives and issues road construction materials without involving the store keepers. As a result stores records including bin cards and stock ledger cards have not been updated since 1997. The Examination Team noted serious departure from stores control procedures at the Asphalt Plant (Nanyuki Road Stores). This is the store meant for stocking bitumen, aggregates and pre-cast concrete kerbs, culverts and other materials purchased by the City Engineers Department. Stocks are issued from the plant without Stores Issue Vouchers. Materials, especially asphalt, are issued from the plant on the strength of Memos directly from the Engineers and sometimes through radio call instructions. The store keeper at the Asphalt plant is not involved in the receiving, recording and issuing materials at the Plant.

*The Town Clerk should ensure that different staff are assigned different duties such as receipt and issue of goods, supervision of stores and stock verification. The duties of the store keeper should be clearly defined. Generally the store keeper should:*

- *Check, count and take charge of the goods received*
- *Post stores transactions in the stock cards*

- *Label and store items in proper locations*
- *Update and maintain stock cards*
- *Check and verify approval authorities before issue of stores*
- *Ensure the security of stores*
- *Conduct periodical stock verification and report any discrepancy and damaged/obsolete goods*

*As such, the requisitioning officer must always use the prescribed form for requisitioning goods from the store.*

*Receiving of goods should be done by at least two members of staff who should check the quantity and quality before goods are receipted and taken on charge.*

*Serialized Goods Received Vouchers (GRV) or Goods Received Notes (GRN) should be used to record all goods received, with copies attached to the delivery notes and shared with the accounting department for records.*

### **Motor vehicle parts replacement**

3. Used parts for motor vehicles are not surrendered to the stores on collection of new ones. The old parts are instead retained at the user sections. No records are maintained for the used and replaced parts. This creates a loophole where old parts can be recycled and the new ones pilfered.

*The Town Clerk should ensure that used motor vehicle parts are retained and accurate records are maintained. The requisitioning officer fills in an approved form of requisition and once new parts are issued the old part should be surrendered and received in the stores using an appropriate form. The disposal of such items should follow the procedures prescribed elsewhere in this Report.*

### **Audit and verification of Stores**

4. The Internal Audit section does not check the operations of the Asphalt Plant. It relies on the information provided by the Plant Superintendent to process payments. This may lead to payment for goods or services not delivered, partial delivery, or goods of poor quality. A case in point is the supply of bitumen whereby the delivery by Chartered Oil Company Limited, delivery note No. 2491 was witnessed by the Plant Superintendent only.

*The Town Clerk should ensure that no payment is made until all the goods are received in full and the supporting documents are filled, signed and countersigned by the designated officers.*

*In addition, the Town Clerk should ensure that the Internal Audit Section prepares a schedule for carrying out checks in the operations of the stores. This will be a means to ensure that the laid down stores policies and procedures are followed thus deterring any corruption and other malpractices.*

5. The Examination Team noted that active stocks were being kept together with unserviceable items. At the same time the Council's motor vehicle workshop stores still holds spare parts of vehicles which are no longer in the Council's fleet. Further a general verification report indicated that various stores had obsolete stock amounting to Kshs. 9,430,950.16.

*The Town Clerk should put in place a disposal policy and procedures in accordance with the Public Procurement Act and Regulations. This should include among others constitution of a Board of Survey Committee to examine and recommend the obsolete, Unserviceable, damaged and surplus stores for disposal.*



Council Motor Vehicle Workshop: Active stores being kept with unserviceable items

### **3.12 FINANCIAL MANAGEMENT**

The Council's finances are managed and controlled by the City Treasurer's Department. The Examination Team noted several weaknesses which impede efficiency, transparency and accountability. These weaknesses are mainly due to failure by the Council to institute basic internal controls for management of finances and other assets. In addition some systems, policies and procedures developed many years ago have been ignored in carrying out daily financial transactions. For example, there is a Financial Procedures Manual that was developed in 1948 and has never been revised and put into use. This has led to lack of uniformity in the accounting treatment of similar transactions and lack of direction on the type of accounting records to be maintained in each section/department.

The findings and recommendations made in this section are divided into the following sections:

- Revenue collection and accounting,
- Payments and expenditure control,
- Issue and surrender of imprest,
- Payroll management,
- Final accounts,
- Management of accountable documents,
- Computer services.

#### **3.12.1 REVENUE COLLECTION AND ACCOUNTING**

The Council collects an average of Kshs. 4 billion per year and also receives approximately Kshs 1 billion in LATF, Road Maintenance levy and Poverty Reduction Grant. The Examination Team identified several weaknesses in the process of revenue collection and accounting by the Council. These have led to failure to collect all the revenue due to the Council and loss of already collected revenue.

##### **General Management of Revenue Collection**

1. The Council has several cash collection points which include City Hall, markets, City Mortuary, Makadara, Dandora, Pumwani Maternity Hospital, Landies Road, among others. All daily cash collections from these points are collected by the Council security van and remitted to the City Hall main cash office, which is also a cash collection point. The Cash collections are receipted through the cash office computer system and banked the following day. However there are cases whereby the amounts receipted and the records at the field stations differ. For example, the total collections for Wakulima Market for the period between January and August 2005 (excluding February) were Kshs. 48,976,675.00 as per the Market Superintendent records as opposed to Kshs. 48,004,900.00 recorded by the

City Treasurer. There was thus, a variance of Kshs. 971,775 as summarized in the table below. This indicates that not all collections from outside revenue stations are delivered or receipted at the City Hall Main cash office after being collected by the security van.

***Table 6: Cash Collections at Wakulima Market between January and August 2005 as per Market Superintendent's and City Hall Main Cash Office's Records.***

Month	Collections as per Market Superintendent's records (Kshs)	Collections as per City Hall main cash office records (Kshs.)	Variance (Kshs.)
January 2005	5,989,030.00	5,757,965.00	231,065.00
March 2005	7,118,780.00	7,103,315.00	15,465.00
April 2005	6,420,850.00	6,241,900.00	178,950.00
May 2005	6,526,965.00	6,499,400.00	27,565.00
June 2005	7,399,225.00	7,217,025.00	182,200.00
July 2005	8,048,885.00	7,763,440.00	285,445.00
August 2005	7,472,940.00	7,421,855.00	51,085.00
<b>Total</b>	<b>48,976,675.00</b>	<b>48,004,900.00</b>	<b>971,775.00</b>

*Source: Compiled by the Examination Team.*

The City Treasurer should ensure that various cash collection points' records are reconciled to City Hall Cash Office records on a daily basis.

*The City Treasurer should reconcile the revenue collections from Wakulima Market and recover the unaccounted for funds from concerned staff. The Town Clerk should take disciplinary action against the culprits.*

*The Town Clerk should enhance supervision of all cash collection points and institute a framework for appropriate spot checks on the cash collection records. Each of the records must be signed and countersigned for by the officers in-charge. The officers in-charge of the collection points must be given a copy of cash receipt by the Chief Cashier to ensure that it reflects the actual amounts collected from their offices. The City Treasurer should use these records to verify collections and banking data at least once a week.*

2. The Cash Receipting Information System used in the cash office has got several weaknesses. For instance, the system omits some receipted amounts from its totals as per the Senior Revenue Officer's memo Ref SRO/CO/SA/87/05 dated 10<sup>th</sup> November 2005 to the Computer Manager. Further, the totals as per the cash and cheques (pay type) do not tally with the total collections from the various revenue sources (fund type). For example on 09.11.2005, the Pay Type totals for Cashier No. 005 were Ksh.



96,449,346.50 while the Fund Type totals were Ksh. 105,449,346.50. Similarly the actual total collection for the day was Ksh. 430,879,864.70 but the totals indicated in the Pay Type were Ksh. 415,091,942.50 and Ksh. 424,091,942.50 in the Fund Type totals. These differences are sometimes reconciled manually by the Senior Revenue Officer. This clearly indicates that the computer system can easily be manipulated to understate daily collections.

*The Town Clerk should ensure that the Council immediately acquires a proper and reliable financial management information system to be used in the Cash Office.*

### **Banking**

3. There are several cases of under banking from the Daily Cash Audit Report prepared by the Internal Audit. A comparison between the actual cash counted and the bank pay in slips showed underbankings which were not accounted for. Between January 2005 and December 2005, the Chief Cashier could not account for at least Ksh. 1,655,706.35, as summarized in the table below.

**Table 7: Daily Cash Collections not banked or accounted for**

<b>Date</b>	<b>Actual Cash Counted as Per The Audit Certificate</b>	<b>Total Amount Banked By The Chief Cashier as Per The Bank Pay In Slips</b>	<b>Amount Not Banked or Accounted For By The Chief Cashier.</b>
20.01.05	5,934,200.00	5,878,624.60	55,575.40
28.01.05	8,577,540.00	8,571,991.20	5,548.80
02.02.05	9,353,708.00	9,346,383.30	7,325.00
08.02.05	8,324,700.00	8,290,542.80	34,157.20
18.02.05	6,449,041.00	6,433,641.50	15,399.50
28.02.05	15,555,485.00	15,543,733.70	11,751.30
14.03.05	8,634,862.00	8,621,582.60	13,279.50
12.04.05	5,742,075.00	5,615,372.55	126,702.45
06.05.05	5,915,563.50	5,908,956.45	6,607.05
13.05.05	5,477,794.00	5,449,662.75	28,131.25
16.05.05	6,730,685.00	6,725,125.15	5,559.85
18.05.05	5,861,370.00	5,855,830.40	5,539.60
13.06.05	6,831,218.00	6,781,216.60	50,000.00
07.07.05	5,246,164.00	5,234,781.00	10,383.00
08.07.05	5,478,630.00	5,475,170.80	3,460.00
11.07.05	7,172,608.00	7,170,139.00	2,469.00
21.07.05	3,705,702.00	3,703,142.80	2,559.20
12.08.05	5,126,418.00	5,104,425.85	21,992.15
09.09.05	4,496,354.00	4,462,622.50	33,731.50
17.10.05	707,263.10	702,200.00	5,063.10
14.11.05	6,472,503.00	6,272,459.10	200,043.90
17.11.05	6,341,610.50	5,871,103.40	470,507.10
23.11.05	9,323,311.30	9,316,411.50	6,899.80
24.11.05	10,136,902.10	9,636,903.90	499,998.20
01.12.05	8,615,446.00	8,598,809.50	16,636.50
02.12.05	7,148,552.00	7,143,950.60	4,601.40
05.12.05	1,168,615.00	1,163,515.00	5,100.00
15.12.05	5,592,277.60	5,588,142.40	4,135.20
19.12.05	8,512,160.40	8,509,611.00	2,549.40
<b>TOTAL</b>			<b>1,655,706.35</b>

*Source: Compiled by the Examination Team from daily audit certificates and bank pay in slips.*

*The Town Clerk should recover the cash not accounted for from the Chief Cashier. Further, the City Treasurer should institute proper controls in cash collection and banking.*

4. The daily cash collections at the City Hall averages between 4 million and 14 million excluding cheques. All this money is always kept overnight in the Council's Main cash office and banked the following working day. This has created an avenue for abuse due to large amounts of cash money at the disposal of the Chief Cashier and other Council officers. This is illustrated by the shortages and surpluses reported on the Chief Cashier despite the fact that the individual cashiers have not reflected such variances in their handing over forms. It also creates a risk of failure to receipt collections from field offices into the main computer system which may be contributing to the variances as reflected by the unexplained cash surpluses.

*The Council should enter into an agreement with its bankers and open collection accounts for rates, rents, permits, seasonal parking tickets, bill board and plans approval where the customers will be advised to deposit their payments. Collections from markets, Pumwani Maternity and City Mortuary should be collected by the Council security van and taken to the bank directly.*

#### **Supervision**

5. The daily reports on revenue collections are taken directly to the City Treasurer by the Senior Revenue Officer without passing through the Chief Revenue Officer. The summaries on collections are received by the Chief Revenue Officer after two days. It was also noted that the Chief Revenue Officer under whom the Cash Office falls is not furnished with the daily cash audit reports. This results in poor supervision over revenue collection and accounting by the Chief Revenue Officer.

*The City Treasurer should ensure appropriate reporting procedures are followed to enhance supervision in daily revenue collection. The Senior Revenue Officer should report to the City Treasurer through the Chief Revenue officer on daily cash collection matters.*

6. The Council uses daily revenue collection to make various payments. This is through issuance of IOU's to staff instead of processing imprests. As at 22<sup>nd</sup> June 2005 outstanding IOU's amounted to Ksh. 4,971,834. Some are held by staff that have since been suspended. This is contrary to Treasury directives and sound financial management practices. This practice is found in City Hall, Pumwani Maternity Hospital, City Centre for Early Childhood Education and City Mortuary cash offices. The Examination Team observed that at the City Centre for Early Childhood Education, IOU's are issued to staff for personal reasons and use. There was no evidence of refunds or recovery of the IOU's issued. This makes it difficult to track revenue collected and its accountability. In addition to IOU's, there are instances where third party

payments are made through issuance of cheques to Council staff who in turn encash the cheques and remit the cash to the contractors.

*The City Treasurer should immediately stop the use of daily revenue collection to make any payments. All revenue collected should be banked intact on a daily basis. Further, all encashment of cheques must stop with immediate effect. This includes those cashed by staff on behalf of contractors. Payments to contractors should be made through cheques written in their favour.*

### **Rental Income**

7. The Rental Collection section at City Hall is responsible for all rental houses other than Eastland's houses and those taken over by National Housing Corporation. However, the section does not have an inventory of all these rental houses. Further, tenant accounts are also updated manually. Posting of receipts at the Eastland's Revenue Office into the tenant ledger accounts is done manually. The receipts are very many and this may lead to inaccurate records. A sample analysis of 18 estates and shops in Eastlands for the month of September 2005 had a variance of 13,989,802.45 between the postings and the cash received. In another instance, a tenant who had paid his rent up to date was wrongfully evicted.

*The City Treasurer should ensure that the Section maintain an inventory of all the rental houses. Further, the Town Clerk should computerize the revenue collection system for rental housing. In addition, the City Treasurer should carry out a reconciliation for all the postings for the year 2005 and subsequently ensure monthly reconciliations are carried out.*

8. The revenue office in Eastlands (Makadara) receives rents, updates the tenants' ledgers, generates arrears schedules, prepares and serves the rent demand and eviction notices. The same office carries out the actual evictions. This creates an opportunity for the manipulation of accounting records, notices and the eviction process.

*The Town Clerk should ensure that there is separation of duties between the Revenue Office and Housing Department. The Estates Officers should serve the demand notices and carry out evictions while rent collection should be done by the City Treasurer's revenue section.*

9. Cashiers in the Eastlands (Makadara) office use several receipt books at the same time thus creating a lot of confusion in accounting and monitoring the use of receipt books. Some of the anomalies committed by some of the Cashiers so as to steal cash include issuance of postdated receipts and skipping some receipt leaves. This was confirmed during the Examination Team's visit to the office on 6<sup>th</sup> January 2006 whereby Kshs.21, 275 had been misappropriated by one of the Cashiers.

*The Council should enter into an agreement with its bankers to open a rent collection account where all payers would deposit the rent due and hence stop collection of rent from Council offices. Meanwhile, the City Treasurer should streamline the issuance and use of receipt books, which must be issued one at a time and used serially, through adequate supervision of the staff in the Eastlands Office and other revenue collection centres. In addition, the Town Clerk should take disciplinary action against the Cashiers involved in misappropriation of Council funds.*

10. Defaulting tenants are served with demand or eviction notices. However, the Council does not maintain copies of the demand and eviction notices issued. In some cases, notices are slipped under doors of the houses of defaulting tenants and no feedback mechanism is instituted to ensure that the tenants receive such notices. This makes it difficult to follow-up the tenants in case of prolonged non payments.

Notices to repossess plots for non payment are not properly served. Evidence for service of notices is not kept. In some cases, the notices are slipped through doors without ascertaining receipt of the notice by the plot owner. This has led to some plots being repossessed and re-allocated without the previous owners' knowledge.

*The Town Clerk should ensure that records for demand and eviction notices are maintained. In addition, the Town Clerk should ensure that all Council houses should be clearly marked for easy identification.*

*The Town Clerk should ensure that clear guidelines for issuance of notices, repossessions and re-allocations are formulated and adhered to.*

### **Rates**

11. The Council accepts both personal and company cheques for payment of rates. In some cases such cheques are not honoured by banks. All returned cheques are forwarded to accounts section from where they are forwarded to the rates section for reversal. All Council receipts including rates collections are banked in the General Receipts Account. Since the Council does not prepare bank reconciliation statements as disclosed elsewhere in this report, it is difficult to verify that all rejected cheques relating to rates are reversed in the individual rates payers' accounts. This creates an avenue for falsification of rates records leading to revenue loss to the Council.

*The City Treasurer should ensure that all payments to the Council are by banker's cheque or cash. The Council should also operate a separate receiving bank*

*account for rates collection and maintain appropriate and accurate records including cash books and bank reconciliations.*

12. The computer system used in rates collection is inadequate. This is demonstrated by the following cases:

- i. The Council offered interest waiver for rate payers who could pay their outstanding principal amount between 26<sup>th</sup> October and 26<sup>th</sup> November 2005. However, the interest for the rate payers who paid within this period had not been reversed as at 30<sup>th</sup> December 2005. The Examination Team was informed that the Council was waiting for the Computer Consultant to prepare a programme to reverse the interest as the current system is unable to do the reversal. This may create an avenue for possible fraudulent reversal of interest outside the waiver period.
- ii. The system of posting payments to the rates accounts uses only the account numbers on the receipts. When a wrong account number is indicated on the receipt, the amount is automatically posted to the suspense account. Subsequently when the correct account is determined, the amount is manually posted to the relevant rate payer's account but it is not reversed in the suspense account unless it is manually deleted. By 16<sup>th</sup> December 2005, the suspense account balance was Ksh. 581,060,482.99. However, the suspense account contained several entries which had already been posted to the respective accounts but had not been reversed in the suspense account. This has created a big loophole for falsifying of the rates accounts using the suspense account.
- iii. There are two independent systems involved in updating the rates accounts, the Cash Receipting Information System which captures the receipts and the Rates System under which the individual rate payers' accounts are maintained. Since the two systems are not integrated, posting of the rates payments to individual accounts is not fully integrated such that there is a manual interface which can be used to manipulate the records. Further, the cash receipting system does not have an allowance for the rate payers' names. This has hampered the verification process where wrong accounts are assigned to rate payers.

*The Town Clerk should stop the reliance on the Computer Consultant for operational issues. Further, the City Treasurer should ensure that interest for payments within the waiver period is reversed immediately the payments are made during the waiver period. The City Treasurer should acquire an integrated Computer system for management of rates. The system should be able to reverse an entry in the Suspense Account upon posting to the correct rates account. The City Treasurer should also reconcile the suspense account with the existing rates accounts to establish entries which have not been reversed.*

### **Markets Income**

13. The Council issues invoices for commodities whose cess value is more than Ksh. 100 for all commodities sold at the Council markets. Cess collection on commodities whose cess value is less than Ksh. 100 is done using receipts known as 'Human Carrier receipts'. At the end of the day an invoice equivalent to the total collections by Human Carrier receipts is raised. A spot check by the Examination Team revealed that most small scale retail traders are not issued with the Human Carrier receipts. It is the responsibility of revenue officers to value, invoice and collect the cess. Some of the revenue officers collude with market traders and under-charge or fail to charge cess on farm produce. This causes revenue loss to the Council. The Council also loses revenue from cess charges for red meat which is not provided for in the Council's fees and charges manual, yet it is actively traded in markets such as Burma.

*The City Treasurer should ensure strict supervision and enforcement of procedures at the markets. In addition, the City Treasurer should ensure that there is separation of duties in cess collection such that one officer should do the valuation and invoicing and a different officer collects the cash. The City Treasurer should also ensure that charges for all commodities traded in markets, including red meat are gazetted to enhance Council sources of revenue.*

### **City Mortuary Income**

14. The Cashier at the City Mortuary hands over daily collections to the mobile Cashier for remittance to City Hall main cash office where an electronic receipt is issued. The Mobile Cashier issues a manual receipt to the Mortuary Cashier on collection of the money. However, after remitting the money to City Hall, the mobile cashier does not avail a copy of the electronic receipt to the Mortuary Cashier. This may lead to losses of revenue if the Mobile Cashier fails to handover the money to City Hall cash office for electronic receipting.

*The City Treasurer should as recommended elsewhere in this Report, ensure that all revenue collections from the City Mortuary is banked intact directly into the designated bank account. The banking slips should be used for receipting the money in the main cash office at City Hall and a copy availed to the Cashier at the City Mortuary. The City Treasurer should carry out a reconciliation of cash handed over to the mobile cashier and that electronically receipted with a view to establishing any revenue losses for recovery.*

15. The system of waiving charges at the City Mortuary is abused. There is a waivers committee whose decision is final. The committee decision is implemented on the spot, and then forwarded to the Medical Officer of Health (MOH) for onward transmission to the Public Health Committee for ratification. The waivers committee operates without any documented criteria to base its decisions. Councilors and other politicians apply and

lobby for waivers on behalf of beneficiaries. No minutes are maintained such that it is difficult to verify who was granted a waiver and how the decisions were reached. This leads to favoritism and lowers the Council revenue.

*The Town Clerk should develop criteria/guidelines against which the waivers committee should base its decisions. The Town Clerk should ensure that the waivers committee maintains minutes of all its meetings which should always be forwarded to the Medical Officer of Health for tabling before the Public Health Committee.*

### **Parking Income**

16. Bus companies with booking offices along River Road and adjacent streets do not pay parking fees. The Companies do not pay the Council for use of the adjacent areas as loading zones for passengers. There are also handcarts which are parked free of charge in areas designated for vehicle parking. This denies the Council a lot of revenue.

*The Town Clerk should ensure that all the bus companies operating along City streets pay the Council appropriate fees. The Town Clerk should also designate areas for parking of handcarts and develop and enforce guidelines on the parking and movement of handcarts within the City.*

17. Matatus and buses operating from the designated stages are expected to pay for seasonal tickets either monthly or quarterly. However, the Council does not maintain a data base for all matatus operating on the various routes in the city. This makes it difficult to forecast the expected revenue from the seasonal tickets. It also creates avenues for falsification of revenue collected. The register for recording the seasonal tickets received from the Chief Accountant does not have the details of serial numbers for the seasonal tickets. This makes it impossible for the office to monitor the use of the seasonal tickets creating avenues for malpractices.

*The Town Clerk should liaise with Transport Licensing Board (TLB) to obtain a data base of all matatus licensed to operate on various routes in the City. In addition the Council staff manning the stages should provide daily returns detailing vehicle registration numbers operating from the stages. Further, the City Treasurer should ensure that a comprehensive register for recording seasonal tickets with all relevant details is maintained.*

18. When a motorist fails to pay the parking fee of Ksh. 70, the vehicle is clamped and a Caution (notification to the motorist to pay a fine of Kshs.1,070) issued and left on the vehicle's windscreen. Once the motorist gets the caution, he is expected to pay the fine of Ksh 1,070 at City Hall main cash office before the vehicle is unclamped. Failure by the motorist to pay within two hours or by 3 pm will result in the vehicle being



impounded and towed to the Council yard. However, there are several cases where the vehicles are released without paying the fine after intervention by Council officers and Councillors. Moreover, no reconciliation is carried out between the Cautions issued and the fines paid. Table 9 gives examples of such irregular releases.

**Table 8: Cases of irregular releases of clamped vehicles.**

DATE	VEHICLE NO.	AMOUNT PAYABLE
Not indicated	KAK 396C	1,070.00
23.11.05	KAQ 519J	1,070.00
24.10.05	KAN 296L	6,670.00
30.08.05	KAL 369N	1,070.00
26.08.05	KAL 027F	1,070.00
07.03.05	KAD 367F	6,670.00
07.03.05	Not indicated	1,070.00
23.03.05	Not indicated	1,070.00
Not indicated	Not indicated	1,070.00
21.07.05	KAC 365W	1,070.00
	KAM 904E	1,070.00
06.07.05	KAB 733Z	1,070.00
07.07.05	Not indicated	1,070.00
Not shown	KAB 517H	1,070.00
28.06.05	KAR 523A	1,070.00
24.06.05	Not indicated	1,070.00
23.06.05	Not indicated	1,070.00
21.06.05	KAJ 815V, KAN 116L, KAR 528X	3,210.00
15.02.05	KAG 688U	1,070.00
06.06.05	KAJ 556W	2,100.00
26.07.05	KAC 387R	1,070.00
12.10.05	KAT 466U	1,070.00
14.10.05	KAD 254F	1,070.00
03.11.05	KAD 876C	1,070.00
<b>TOTAL</b>		<b>40,050.00</b>

*Source: Compiled by the Examination Team from information obtained from parking.*

*The Town Clerk should stop any further irregular release of clamped vehicles without payment of the relevant fees. He should also recover the lost revenue from the concerned Council staff and Councillors. In addition, the City Treasurer should reconcile all Cautions issued to the Clampers with the amount received to ensure that all are accounted for. Any unaccounted for money should be recovered from the concerned staff.*

### **Debt Collection**

19. The Council has got two debt collection sections, the Debt Collection Unit and Sundry Debtors Section. The Council's Debt Collection Unit (DCU) is mandated to collect all outstanding debt owed to the Council while the Sundry Debtors Section collects miscellaneous revenue such as rent from institutional houses, ground rent, City Hall Annex, Pumwani Hospital, among

others. To do this the sections require adequate information relating to all outstanding debts from all Departments. However, at the time of the Examination, the Sections only had very few records particularly those relating to rates and single business permits. In addition, other Departments continue to collect debts related to their work. For example, Social Services and Housing Department collect debts arising from rent arrears. The resistance to pass information on debtors indicates that the information is used for extortion in order to ensure protection of debtors.

*The Town Clerk should:*

- i. Merge all the debt collection functions to avoid duplication of effort and strengthen the unit in order to perform its duties effectively.*
- ii. Institute an appropriate mechanism for reporting from the Departments to ensure that there is adequate flow of information from all the relevant sections to Debt Collection Unit.*
- iii. Take disciplinary action against all officers found to be withholding information from Debt Collection Unit.*

20. The Department of Social Services and Housing enforces recovery of rent arrears. As at the time of this Examination, rent defaulters with rent arrears of two months were supposed to be given forty eight hours to pay up or be evicted. However, many tenants have accumulated arrears running to several months and have not been evicted. In the process, some tenants have absconded and left huge arrears of up to Ksh. 500,000 while others rush to court and obtain court orders to stop the Council from evicting them. Furthermore, there is interference by some politicians and Council officers in eviction of rent defaulters. As a result the Council loses revenue.

*The Town Clerk should come up with clear guidelines on evictions consistent with the existing laws and ensure enforcement of the same.*

### **Licensing**

21. On application for business permits, applicants complete the prescribed forms on which they attach the original receipt and deposit in a carton box provided. The forms are not registered immediately in the presence of the applicant. However the Council only takes responsibility for what has been recorded. The Council takes on average one week to process business permits (licenses), after application and payment for renewal has been made. This delay creates an avenue that may be exploited by Council staff to extort businessmen.

*The City Treasurer should create an office for receiving application forms for business permits in which they should be registered immediately upon being received in the presence of applicants. The Town Clerk should ensure that there is proper coordination between the Licensing Section and all units checking on licenses to avoid extortion of businessmen waiting for the processing of licenses.*

22. The Assistant Chief Licensing Officer is the custodian of blank Single Business Permit Books and also maintains their register at the Licensing Office. The Assistant Chief Licensing Officer is also a signatory to the business permits and though there is provision for at least two signatories on the business permits, at the time of the examination, one signatory was considered sufficient. This is a big loophole which may be exploited for personal gain by an unscrupulous licensing officer acting alone. The security of these permits is not guaranteed as they are kept in cabinets that are easily accessible.

*The Town Clerk should ensure that the blank Single Business Permits are maintained by a designated officer who only issues to the action officer(s) and is not involved in the licensing process. In addition, the license should be signed and countersigned by a senior officer. The Town Clerk should provide an appropriate safe to enhance the security of the blank single business permits.*

23. Single business permits must be displayed at the business premises. However, some traders collect the permits at the end of the year to facilitate the renewal process for the following year. There are many uncollected/undispatched permits in the dispatch room. This clearly indicates weak enforcement and is a loophole that may be used by the Council officials to protect businesses that have not secured such permits.

*The Town Clerk should ensure that all fully processed business permits are collected or dispatched to the applicants. In addition, the Town Clerk should strengthen the enforcement on business permits by ensuring that the permits once obtained are displayed at the business premises. The Council should sensitize the traders on the requirement. In addition, the Council should offer a grace period within which all traders should display the permits or the receipts.*

24. The Council does not maintain a data base of all businesses operating within its jurisdiction. This has made it difficult for the Council to collect all license fees for businesses. It has also opened an avenue for the Council staff to extort bribes from business operators without licenses in exchange for 'protection' fee.

*The Town Clerk should ensure that the Council maintains an updated data base of all businesses operating within the City. This will enable the Council to easily identify businesses that have not been licensed and to enforce the licensing requirements. It will also enable the Council to cross check subsequent renewals and payments.*

25. Many business operators do not have information on the fees chargeable on the various categories of business they are engaged in. They rely on Council officials to inform them on the chargeable rates. This has created

an avenue for soliciting for bribes by Council staff from the business community.

*The City Treasurer should publicize the license charges and place them on notice boards of the payment areas to inform the licensees. In addition a schedule of license charges may be included in the application forms for informing the applicant.*

26. There are several cases whereby businesses are undercharged for business permits. This arises out of provision of misleading information by businessmen and negligence on the part of the Council employees who fail to verify the information as required before processing the licenses. For instance, there is one company which had been charged Ksh. 8,000 since the year 2003 instead of Ksh. 50,000 per annum. The Examination Team was informed that undercharging also arises as a result of collusion between Council staff and the business people in assessing the license fee.

*The Town Clerk should ensure that the nature of business is well defined in the Permit. This will assist those involved in the enforcement process to ascertain that the amount paid reflects the business activity. All cases of undercharging due to negligence and collusion should be investigated and disciplinary action taken against the staff involved.*

#### **Pumwani Maternity Hospital**

27. Billing for in-patients in Pumwani Maternity Hospital on being discharged is prepared by nurses using unserialised Charge Sheet which is then dispatched to Accounts Clearance in one copy only. Blank Charge Sheets are also found in the Accounts Clearance section making it possible for substitution of those prepared by the nurses. The Charge Sheet is finally kept in the patient's file, leaving Accounts Office without a copy for reference. The Accounts Clearance section staff are not properly supervised by the Hospital Accountant and Internal Audit staff. As a result simple arithmetic errors and irregularities in the computation of patients' bills are committed.

*The Town Clerk should ensure that serialized charge sheets are issued to the Chief Nursing officer as per the bed occupancy. The Charge Sheet should be raised in duplicate and one copy retained in the Accounts Section. All blank copies of the charge sheets should be maintained by the Nursing section and not the Accounts Clearance Section.*

*The Town Clerk should ensure that the Accounts Clearance section staff are properly supervised and that the arithmetic accuracy of patient's bills is checked and reviewed regularly by the Accountant and Internal Auditors.*

### **Miscellaneous Income**

28. Persons hiring Uhuru Park for their functions are required to pay a refundable deposit of Kshs. 14,000. This sum is refunded once the function is complete and confirmation is made that no damage was caused. However, it is very difficult for non-regular users to be reimbursed their deposits. For instance, a non-regular group used the park on 3 February 2004 and as at the time of carrying out this examination they were still pursuing the refund.

*The Town Clerk should ensure that deposit paid by hirers of Council facilities is refunded as soon as it is confirmed the Council did not suffer any losses. Any damages caused should be promptly communicated to the hirers.*

29. Revenue from miscellaneous sources is not closely monitored to ensure prompt banking and minimise misappropriation. For instance, library fees is normally collected by library staff. However, it takes a long time for the collected money to be deposited with the Chief Cashier at City Hall main cash office. For example, collections made between 16.7.03 and 10.9.03 via receipt numbers 206701 to 206750 of Kshs.11,375 and collections made between 17.12.04 and 18.3.05 via receipt numbers 532301 to 532350 of Kshs.8,510 was deposited on 29.10.04 and 2.11.05 respectively.

*The City Treasurer should ensure close supervision of revenue collection and prompt banking of daily collections.*

30. Members registering to use the libraries are issued with borrowing cards which normally serve as a receipt. No receipt is provided to support this transaction. These cards can easily be forged. This can lead to loss of revenue and even library materials.

*The City Treasurer should ensure that a proper receipting system is put in place in the library and that the borrowing cards are printed with security features just like other accountable documents.*

31. After the decentralization of the Council services some Council revenue is collected by the Ward Managers who are under the Town Clerk's Department. However, some of the Ward Managers do not hand over all the revenue collected. For example, the Sarangombe ward officer did not hand over all the revenue collected to the security van as per the Chief Revenue Officer's memo Ref. CRO/CASH/MWK/931/05 in which Ksh. 7,550.00 was held back. This has resulted in loss of Council funds. Similarly, at City Park, money is collected for sale of seedlings and kept by a clerical officer and only collected once a month for banking. The station uses plain un-serialized receipts not issued by the Council for cash collections. This creates an avenue for misappropriation.

*The City Treasurer should ensure that all revenue collection points are issued with the designated collection documents and that cash collections are remitted to City Hall regularly.*

### **City Centre for Early Childhood Education**

32. The Council runs the City Centre for Early Childhood Education (CICECE) which trains early childhood teachers. On average the centre admits 300 students who pay Kshs.9,800 each for a two year course. The payments are mostly made in cash to the Centre. The Centre does not have a safe for the custody of cash collected, leaving the Program Officer with the task of ensuring safety of the cash. Further the Program Officer does not bank cash collected regularly. This creates a loophole for misusing fees collected from the students.

*The Town Clerk should ensure that the centre is provided with a safe immediately and that all monies collected are banked intact and promptly.*

33. The City Centre for Early Childhood Education charges a fee of Kshs. 200 per student for the assessment of exams. This money is paid to the Teachers Advisory Centre (TAC) Tutors who carry out the assessment. The assessment fee collected from students in private colleges is not receipted and properly accounted for. It was observed that Kshs. 83,600 had been collected by the Program Officer towards the assessment fee for private colleges' students between 7<sup>th</sup> and 27<sup>th</sup> September 2005 but no proper records on its expenditure are maintained.

*The Town Clerk should ensure that all monies collected are receipted and proper accounting procedures instituted at the centre. Further, the Program Officer should be made to account for all the money collected at the centre.*

34. The Program Officer at the City Centre for Early Childhood Education is responsible for collecting all fees due to the Centre, updating students' fees records, making payments, among others. However the Centre does not maintain books of accounts such as cash books, bank reconciliation statements, among others. This leaves the process open to abuse and manipulations as there are no independent checks. At the time of the examination the Program Officer had engaged the services of a private accountant to write the books of accounts which were not available at the time of concluding this examination. However, the accountant had already been paid Ksh. 10,000 for the job. Further, the Program Officer paid Ksh. 10,000 for a student in Milimani Secondary School from the Centre collections. This is outright misappropriation of funds and abuse of office.

An analysis of receipt books records indicated that, Kshs. 1,187,940 was collected for the period 2<sup>nd</sup> January to 31<sup>st</sup> Dec 2004. Only Kshs. 704,182 had been accounted for. The balance of Kshs. 483,758 had not been accounted

for. Similarly, a sum of Kshs. 986,700 was collected for the period 1<sup>st</sup> January to 24<sup>th</sup> October 2005. Only Kshs. 674,247.20 was accounted for. Kshs. 312,452.80 had not been accounted for, thus bringing the total amount of money unaccounted for to Kshs. 796,210.80

*The Town Clerk should ensure that the revenue from the Centre is banked and accounted for following the appropriate accounting procedures. This will involve having an accounts clerk at the centre to maintain proper books of accounts and carrying out regular auditing. Further, the Town Clerk should take appropriate measures to recover money not accounted for and irregular payments from the Program Officer.*

35. At the time of the Examination, the City Centre for Early Childhood Education (CICECE) programme was operating a savings account at Barclays Bank of Kenya, Market Branch - Account Number 030823927150. Of the three signatories to the account, two had retired. For any withdrawals, two signatures are required. Thus at any withdrawal, any of the retired officers is always recalled and asked to sign. The Examination Team established that the Town Clerk and City Treasurer were not aware that such an account had been opened by the Department of City Education.

*The Town Clerk and City Treasurer should immediately take over the operation of the CICECE bank account and delete the names of retirees from the operations of the account. The Town Clerk and City Treasurer should always be involved in the opening of any bank account on behalf of the Council.*

### **3.12.2 PAYMENTS AND EXPENDITURE CONTROL**

The Examination Team identified serious weaknesses in the payments and expenditure control systems, policies, procedures and practices. The Examination Team outlines recommendations to address the weaknesses identified in the existing system in addition to formulation of new policies.

#### **Payment Vouchers**

1. The Payment Vouchers in use do not have pre-printed serial numbers. The originating department allocates serial numbers to payment vouchers. In the Internal Audit Section, the vouchers are allocated a different serial number which does not take into account the number allocated by the originating departments. The payment voucher does not have provision for inclusion of details of persons responsible for the preparation, checking and approval of payments. As a result when a payment voucher is completely processed it has a total of six stamps making the voucher illegible. In addition tracking of the movement of vouchers is difficult.

*The City Treasurer should ensure that payment vouchers have pre-printed serial numbers and specific provisions for details of the persons preparing the voucher, checking, approving, authorizing, among others. These should be arranged in the same order as the physical movement of the voucher.*

2. Payment vouchers are raised by any member of staff of the originating Department and not necessarily the Departmental Accountants. This creates avenues for forgery and raises questions on the capability of some staff in raising payment vouchers. At the Pumwani Maternity Hospital, Payment Vouchers for suppliers of goods and services are raised by the Stores Clerk. The Stores Clerk is also responsible for seeking quotations, receiving and issue of goods. This lack of segregation of duties creates loopholes for fictitious payments and inflating of prices. A case in point is the procurement of charge sheets at Ksh. 4 per piece and yet they could easily be produced at the Hospital as it is an ordinary computer print out on photocopy paper without any security feature.

*The City Treasurer should ensure that payment vouchers are raised only by the departmental accountants.*

3. In some instances, some payment vouchers are not properly examined to ensure that they are properly supported and authorized. This makes it possible to make payments against vouchers which lack important supporting documents such as Local Purchases Orders (LPOs) and Goods Received Notes (GRNs). In some cases even where delivery notes are attached, they are not always endorsed by any Council employee to confirm receipt of goods.

*The City Treasurer should ensure that no payment is made against payment vouchers unless they are accompanied by appropriate supporting documents, authorized and examined by the relevant sub-section. For purchase of goods and services, there should be adequate evidence that these have been received by the Council, for instance by way of properly endorsed GRN, delivery notes and certificates of work done.*

4. Some Payment Vouchers are raised and committed by the Departmental Accountants, forwarded to the expenditure section, but are not subsequently paid. However there is no feedback to the Departmental Accountants to reverse the Payment Vouchers in the Vote Books. This means that the vote books maintained by the departmental accountants are misleading.

*The City Treasurer should ensure that any payment voucher that is not paid is reversed. Further, the City Treasurer should ensure that there is adequate information as to the availability of funds before payment vouchers are raised.*



*There should be adequate supervision at all levels to ensure that information captured in the vote books is accurate and reliable.*

5. All the payment vouchers are centrally filed (in room 500) after being received from the cheque dispatch office. The room provided for the storage of the payment vouchers is tiny and dusty. The filing is done according to the date indicated on the voucher and not matched with the account charged or the payment cheque number. The Section in-charge of filing vouchers does not also maintain a register for recording the vouchers received for filing from the Cheque Dispatch Section. Due to the mix up in the filing and lack of registers, tracing and retrieval of payment vouchers is difficult. The staff in charge of filing of the payment vouchers do not have the required qualifications and training in records management.

*The City Treasurer should ensure that the voucher filing section maintains a register for receiving vouchers from the Cheque Dispatch Section. The filing of the payment vouchers should be consistent with the posting of the cash book and according to bank accounts and cheque numbers. Adequate office space should be provided for filing the payment vouchers while the officers working in this area should be trained on the basics of documents management.*

#### **Withholding Tax**

6. The Council does not always withhold VAT when making payments to suppliers of Vat able goods and services. There are no separate Payment Vouchers raised for VAT withheld from payments to suppliers. Instead only the tax cheque is raised and attached to the suppliers Payment Voucher. Sometimes the tax cheque is raised and attached to the suppliers Payment Voucher only to be cancelled later. In one case the Council wrote a cheque in favour of KRA, (Cheque number 5244 for Kshs.44,138.00) and another in favour of Sunrise Marketing Ltd (Cheque No. 5243 for Kshs. 275,862). These cheques were later cancelled and one cheque No. 5254 for Kshs. 320,000 in favour of Sunrise Marketing Limited was issued. This amounts to abetting tax evasion which is a criminal offence.

*The City Treasurer should ensure that the Council prepares separate payment vouchers for VAT withheld and that the suppliers are paid net of VAT. The Council should remit the withheld VAT to KRA on a weekly basis as per the existing regulations.*

#### **Payment Procedure**

7. There is no laid down criteria for processing and making payments to suppliers. Further there is no centralized system for receiving invoices and statements from creditors as they are currently received by the various user departments. This has made the management of creditors difficult as the payments section is not able to compile records of all outstanding invoices, age the creditors and budget for their payment. Payments to the creditors

are at the discretion of the City Treasurer. Only those who get access to the City Treasurer get paid. This creates an avenue for abuse by dishonest employees in the City Treasurer's department.

*The City Treasurer should develop a Creditors Payment Policy and adhere to it. All invoices should be delivered at a central point in the City Treasurer's office by the suppliers where they should be registered and signed for by the receiving staff. Any invoice received outside the City Treasurer's office should not be processed and any staff contravening this should face disciplinary action.*

8. There are many raised unsigned cheques in Room 500 of the Payments Section. This is because the section has to wait for the Treasurer's authority after confirmation of availability of funds to complete the processing of the cheques. Although all fully signed cheques are meant to be forwarded to the dispatch office for collection by payees, most of them are held there for long periods of time without being released for similar reasons. However, some cheques do not reach the dispatch office as they are released to the payees by unscrupulous Council staff. There is no particular day set aside for paying creditors and no system of communicating to the payees to collect cheques once ready. Consequently, there are many cancelled and stale cheques. This creates loopholes for double payment and increases the operational costs for the Council.

*The City Treasurer should ensure that cheques are only raised when there are sufficient funds to meet the payment. In addition the City Treasurer should take an inventory of all cheques held in the Council for reconciliation purposes.*

*The City Treasurer should set particular days for paying various creditors and communicate to the creditors to collect ready cheques by putting their list on the Notice Board at City Hall. The City Treasurer should ensure all cheques are released from the designated office.*

### **Petty Cash**

9. The petty cash accounting system in place is weak. There is no limit on the amount of money to be spent on petty cash purchases. In addition, no proper petty cash books are maintained to reflect authorised petty cash float, payments, reimbursements, among other details. The authorised petty cash float is at times exceeded without being authorised. For example, the Payments Cashier at City Hall maintains an authorized float of Ksh. 1,500,000. As at 3<sup>rd</sup> January 2006 he had exhausted his entire float and applied for reimbursement. However he had other cash sale receipts amounting to Ksh. 132,300 which he purported to be part of the float. The cashier attributed this to direct borrowing but no evidence was provided to that effect. After reimbursements the supporting documents are not stamped "paid" and are retained by the Payment Cashier. This creates an avenue for recycling the supporting documents in processing fictitious reimbursements which is

evidenced by the excess observed above. The float is supposed to be for making petty payments not exceeding Ksh. 10,000. However the float is currently used to pay staff, suppliers and other payments without any limit.

*The City Treasurer should ensure a petty cash book is maintained and all payment vouchers and supporting documents for reimbursements should be stamped "paid" and retained in room 500 after every reimbursement. In addition the City Treasurer should ensure that the float limit is adhered to. Further, the payments cashier should explain the source of the extra receipts amounting to Ksh. 132,300.*

### **Allowances**

- 10.The Council has been paying a daily lunch allowance to the car park attendants and supervisors, city askaris, accountants and internal auditors at various rates since 1999, without approval of the full Council.

*The Town Clerk should immediately stop making these allowances to the staff involved in revenue collection or mobilization until Council approvals are obtained.*

### **Costing**

- 11.The Costing Unit in the Chief Accountant's Section is expected to produce costing reports covering all Council expenditure including fuel, road maintenance, medical, stationery and staff costs among others. The unit has one employee, is dormant and no longer produces monthly reports except the annual reports which are incomplete and inaccurate. This has led to a breakdown in the control of costs.

*The City Treasurer should restructure the section and ensure that it is adequately staffed and facilitated to carry out its duties.*

### **City Centre for Early Childhood Education**

- 12.Some payments at the City Centre for Early Childhood Education are made without the required supporting documents. For instance, Kshs.14,000 was paid to Milimani Secondary School for repairs. The Principal neither issued an official school receipt for the money received nor did he enter it in the school's records. The Examination Team also noted that blank receipts were in some cases attached to payment vouchers. This may be attributed to an intention to defraud the Centre.

*The City Treasurer should ensure that the payments are only made using relevant supporting documents. Further, the Town Clerk should ensure that the Principal Milimani Secondary refunds the Centre the money not accounted for and take further disciplinary action against any officer who may have defrauded the Council.*

### **Supervision**

13. The Payment Cashier is supposed to be under the Payments section of the City Treasurer's department. However the cashier reports to the Revenue section which in fact does not supervise his work. This has made supervision of payments difficult by the Payment accountant.

*The City Treasurer should ensure that the Payment Cashier is properly supervised and should report directly to the Payment section and not to the revenue section.*

14. The Internal Audit section carries out pre-auditing of payment vouchers before any payment is made. However there are cases where the auditors have passed payment vouchers without either carrying out the required audit checks or verifying that the goods and services for which payment is required have been delivered. This creates avenues for payment of fictitious supplies leading to loss of revenue to the Council.

*The City Treasurer should ensure that the Internal Audit Section carries out all necessary audit checks before passing any payment vouchers. Further, disciplinary action should be taken against the auditors found to be negligent and/or colluding with payees to pass fraudulent payments.*

### **3.12.3 ISSUE AND SURRENDER OF IMPRESTS**

The Examination Team assessed the systems, policies and procedures regarding the issuance and surrenders of imprest at the Council and identified several weaknesses. These weaknesses have resulted in gross abuse of the imprest system by employees. Some of the weaknesses noted and recommendations suggested are as outlined below.

1. The Council issues Imprest Warrants which are not serialized. As a result, it is difficult to keep track of issued imprest warrants. This may lead to forgeries and failure to surrender imprest particularly when it is not entered in the manual imprest register.

*The City Treasurer should ensure that the Council prints serialized imprest warrants to enhance control and accountability. These warrants should be in the custody of a designated officer.*

2. An applicant for imprest fills an imprest warrant, which is then recommended by both the section and departmental heads before being forwarded to the payroll accountant to confirm that the applicant is still in the payroll. The imprest warrant is then forwarded to the Treasurer for approval, after which it is forwarded to the Payments Cashier to confirm that the applicant does not have any other outstanding imprest. However

the payments cashier does not maintain any register for imprest holders and therefore cannot determine any unsurrendered imprest. This has resulted into many staff un-procedurally having more than one unsurrendered imprest. Currently the only available imprest register is maintained by the Internal Audit section.

The imprest usage regulations stipulate that imprest be accounted for within 48 hours of return or completion of official duty otherwise the amount is supposed to be recovered from the imprest holder's salary. However, this regulation is not followed at all. Whereas payments of imprest are made by either cash or cheque, there is no set limit for cash payments. This has led to payment of huge amounts through cash.

*The City Treasurer should ensure an imprest register is maintained by the imprest payment section. In addition, the City Treasurer should set limits of the imprest amounts payable in cash and by cheque. The City Treasurer should review the imprest application and payment system as follows:*

- *The applicants of imprest should collect the imprest warrants from the Imprest payment unit in the payments section which should ascertain that the applicant has no other outstanding imprest before filling the applicant's details and recording them in the register.*
- *The applicant should then present the imprest warrant to the section and departmental heads for recommendation before being forwarded to departmental accountant for commitment and registration.*
- *The imprest warrant should then be forwarded to the payroll accountant to confirm that the employee is still in the payroll.*
- *The imprest warrant should then be forwarded to the Chief Accountant for approval before being taken to the payments section for raising of the cheque. The cheque together with the imprest warrant should be taken to the City Treasurer, Internal Audit and Town Clerk respectively.*
- *Finally, the imprest warrant together with the cheque should be forwarded to the dispatch section for the release of the cheque and distribution of the imprest warrant copies.*

*For imprest payable by cash, from the Chief Accountant;*

- *The imprest warrant should be forwarded to the City Treasurer for approval of the cash payment before being forwarded to the Internal Audit for pre-auditing and recording.*
- *Finally the imprest warrant should be forwarded to the payments section (petty cashier) for payment and distribution of the imprest warrant copies.*

*The application for imprest should be made in quadruplicates. The copies should be distributed as follows;*

- *the original should be retained in the payments section (imprest) to monitor surrendering,*
- *the duplicate should be taken by the applicant to be used to surrender,*
- *triplicate to the Internal Audit for monitoring imprest, and*

- a book copy to the accounts section for posting

3. The Internal Audit section is involved in processing the issuance and surrendering of imprest. The surrendering process is mainly carried out by Internal Audit excluding the accounts section. There is no coordination between the payments cashier and the Internal Audit section when clearing outstanding imprest. The Examination Team established that one audit staff can exclusively clear outstanding imprest. This creates an avenue for collusion between the Internal Audit staff and imprest holders to fraudulently clear outstanding imprest. The Examination Team noted instances where outstanding imprests were cleared as surrendered without being fully supported by expenditure documents such as receipts. Examples include:

**Table 9: Imprest surrendered without supporting documents**

PAYROLL NUMBER	DATE	IMPREST AMOUNT IN KSH.	PURPOSE	AMOUNT SUPPORTED IN KSH.	AMOUNT NOT SUPPORTED IN KSH.	REMARKS
BO - 14545	11.8.05	200,000.00	Fuel Cell phone	42,460.00	157,540.00	No copies of work tickets.
A08 - 19240	16.6.05	200,000.00	Fuel	77,720.00	122,280.00	No copies of work tickets.
L02 - 08331	4.10.05	100,000.00	Fuel	86,813.60	13,386.40	Includes invoice of Ksh. 2,241.38
N01 - 72326	6.10.05	156,000.00	Fuel	147,886.00	8,114.00	
NO1 - 13752	26.10.04	200,000.00	Africities Conference	Nil	200,000.00	No supplier's receipts attached.
O62 - 18609	17.06.05	111,000.00	KCPE Trophy awards	Nil	111,000.00	Unsigned list of students
TOTAL					612,320.30	

There is no system of acknowledging imprest surrender documents in the Internal Audit section by way of payees signing. In certain instances, the amount of imprest advanced and surrendered is not indicated in the imprest register. This opens avenues for possible collusion and manipulation of the amount of imprest taken by staff.

*The City Treasurer should ensure that surrendering of imprest is moved from the Internal Audit section to Accounts Section with proper coordination between the two sections in clearing of the imprest.*

*The City Treasurer should ensure that the Accounts Section maintain comprehensive imprest records. The Internal Audit Section should continue to maintain imprest records for internal check purposes*

*The City Treasurer should ensure that all imprest surrendered is fully supported. The City Treasurer should commence recovery of the unsupported amounts from the imprest holders.*

4. As at 30<sup>th</sup> January 2006, Council officers had an outstanding imprest of Kshs. 33,635,365.60. This amount takes into account only two years 2004 and 2005 and therefore does not reflect the total amount owed to the Council. When the Examination Team enquired on the delay in surrender of imprest, some imprest holders submitted receipts to Internal Audit amounting to Ksh. 13,214,762. This amount is not included in the above outstanding balance. However, some surrender documents were suspect. The schedule provided also excluded some Council staff that were still having outstanding imprest.

*The City Treasurer should compile a comprehensive list of outstanding imprest for all the years and ensure that they are accounted for and institute recoveries where holders fail to account. Further, the City Treasurer should also enforce the regulations on management of imprest including the period by which it should be surrendered and cease issuing more than one imprest to any officer of the Council.*

5. The Examination Team noted several cases whereby imprest is paid fraudulently to persons other than the applicants. This creates a loophole for unscrupulous staff to take imprest in other employee's names which they fail to account for. For example, an officer in the Education Department applied for imprest of Kshs. 347,040. The money was paid to the Chief Administration Officer yet the officer was asked to account for it. His salary was subsequently attached for recovery of the imprest which he never took. This has made it possible for Council staff to have more than one outstanding imprest by using other employee's names to apply for the imprest.

*The City Treasurer should enforce regulations restricting the issuance of imprest only to the applicant and not third parties. Any officer flouting these regulations should face disciplinary action.*

6. After surrender of imprest, the imprest warrant, payment voucher and the supporting documents are not stamped "paid" to indicate that they have been used to surrender a particular imprest. The documents are retained

and filed in the Internal Audit Section in charge of clearing imprest. This is subject to abuse by the internal audit staff that may collude with other staff and use the same documents to clear other unrelated outstanding imprest.

Some imprest is surrendered using photocopies of imprest warrants. This coupled with poor record maintenance can lead to alteration of the original imprest amount and misappropriation of the difference.

*The City Treasurer should ensure that all imprest surrender supporting documents are stamped "paid" and dated. Further, the City Treasurer should ensure that all surrenders are made using the original copy of the imprest warrants. Further, in cases of loss of originals the City Treasurer should certify the copies of the imprest warrants before they are used.*

7. There are cases of abuse of imprest by some officers. In certain instances, the imprest is not used for what it had been applied for. For example, an Accountant in the City Planning Department applied for an imprest of Kshs. 262,000 out of which, Kshs. 122,000 was for hire of vehicles and Kshs. 144,000 was for payment of staff participating in a revenue mobilization exercise on 29.08.05. However the members of staff were never paid the allowance and instead all the money was purported to have been used to hire vehicles. However, the documents used to surrender the imprest did not indicate the registration numbers of the hired vehicles. The payment schedules indicated only two payees and their ID numbers. This casts doubt on whether there was any hire of vehicles using money for staff allowances.

*The City Treasurer should ensure that imprest is only used for the intended purposes through provision of the appropriate documentation failure to which the holder should be surcharged and the money recovered from their salaries. In addition, further investigation on the above case should be carried out and those involved in any irregularity be disciplined.*

8. The Council spends up to Kshs 1 million per week on purchase of fuel through imprest. Some employees have taken advantage of this weak system to defraud the Council of huge sums of money.

In most cases items procured through imprest are not reflected in the stores records and there is no evidence of the usage in the respective user Departments. A case in point is the Engineering Department where a huge sum of money from the Road Maintenance Levy Fund was spent for cash purchases but there was no evidence that the items were received by the Department.



The register maintained for office purchases does not contain all items purported to have been purchased through cash imprest. Such a loophole may be exploited to fraudulently pay for goods which have not been delivered. A case in point is the purchase of furniture for the Deputy Town Clerk (A) where two pieces of visitors executive chairs valued at Kshs. 26,000 were not delivered but full payment was made.

*The Town Clerk should stop the procurement of items through imprest by respective Departments. All purchases should be made through the Procurement Department. The Town Clerk may consider adopting use of fuel cards for fueling the Council vehicles. Further, the Town Clerk should investigate the case of partial delivery and surcharge the staff involved in addition to other disciplinary action.*

### **3.12.4 PAYROLL MANAGEMENT**

The Council has a work force of over 13,000 employees. The payroll costs make the bulk of the Council's budget. The Examination Team noted that there is a very weak system of managing and monitoring employee payments, with other payments being made outside the payroll. The Examination Team identified various weaknesses and outlines recommendations to address them.

1. There are several welfare groups in the Council whose members make monthly contributions and loans repayments through the payroll. Some welfare associations are not registered and deductions made are forwarded to joint bank accounts maintained by some of their members. This creates a loophole for payments to be made to non existent welfare associations to defraud employees.

*The Town Clerk should ensure that deductions are only made on behalf of registered groups. All deductions should be payable to the official account of the registered associations and not individual joint accounts.*

2. The payroll section maintains employees' salary cards which indicate the basic salary for each employee and the subsequent increments. In certain instances, the cards are not updated and as a result some employees end up being paid wrong salaries.

*The Town Clerk should strengthen the Human Resource Department and ensure that it provides updated information on each employee whenever there are changes. The Town Clerk should ensure that all the salary cards are updated and reconciled to the payroll.*

3. There are cases of some employees getting negative pay. This is as a result of employees over committing their salaries thereby compelling the

Council to meet their liabilities on their behalf and initiate recovery internally in subsequent months. In the year 2005 a total of Ksh. 1,788,541.35 was in form of negative salaries. Whereas the negative pays are expected to be recovered in full the subsequent month, this is not always the case. For example, a total of Ksh. 1,585,861.60 was to be recovered within 2005 but only Ksh. 1,378,353.75 had been recovered leaving a balance of Ksh. 207,507.85. This is due to failure to raise a negative pay recovery advice by respective payroll accountants/clerks. The Council may end up losing money in this manner.

*The Town Clerk should immediately stop the practice of financing employees' private liabilities over and above their emoluments. Further, the City Treasurer should ensure that no employee commits his/her salary beyond the regulatory requirement of 2/3.*

*The Town Clerk should remind Council employees of the requirements of the Public Officer Ethics Act Section 20 (3) which require that a public officer should not neglect his financial obligations or neglect to settle them. Thus all monies paid on such obligations should be immediately recovered.*

4. The City Treasurer's Department does not carry out any payroll reconciliations. The Internal Audit Section also does not carry out proper payroll audit, including variations to the payroll contents. As a result any irregularities in the payroll will end up going unnoticed.

*The City Treasurer should make it a priority to reconcile and audit the payroll regularly and to maintain an updated payroll at all times.*

5. Payment of overtime is supposed to be made to staff between job group 10 and 18. Staff in scales 1 to 9 are supposed to be paid honoraria to a maximum of 10 hours per month at a rate of Ksh.2, 500 and not overtime payment. However the Examination Team noted overtime is paid to all staff regardless of their scales including the City Engineer, and the Chief Internal Auditor.

The attendance registers which are used as the basis of raising overtime claims are poorly maintained and are not frequently checked. In addition, Heads of Departments do not sign overtime forms on a daily basis. There are cases where some staff members claim overtime of up to 21 hours per day as per the Chief Internal Auditor's memo Ref. AUD/TC/1/178 dated 9<sup>th</sup> August 2005. From the Examination Team's analysis, the total overtime paid from the General Account from January to December 2005 amounts to Kshs.24,971,430.90. The City Engineer's Department separately paid out Kshs. 36,798,336 between January and November 2005 from the Road Maintenance Levy Account. This overtime was paid to several employees some of whom are not directly involved in road construction including the Chief Internal Auditor and the Deputy Chief Internal Auditor. The use of the

Road Maintenance Levy Fund for payment of overtime has been queried by the Kenya National Audit Office vide a letter ref. RMLF 2003/2004, dated 29<sup>th</sup> April 2005, to the Permanent Secretary Ministry of Local Government. In this letter the auditors found that the Council had paid overtime of Kshs. 17,101,845.00 during the period July 2003 to May 2004 contrary to the regulations of Road Maintenance Levy Fund. The auditor recommended that the whole overtime amount be recovered from the employees as it was paid to them irregularly. However the Council has continued to pay overtime from the fund and disregarded the auditor's recommendation.

There are very weak controls in tracking overtime payment to each staff which is made in cash outside the payroll. The Examination Team noted that overtime payment from the Roads Levy Account was not always paid to the actual employees whose names appear in the register. For example an amount of Ksh. 132,300 relating to employees of Highway Section was signed for and taken by one person ID No. 6633243. At the same time the money for Internal Audit staff amounting to Ksh. 25,800 was taken and signed for by one person ID No. 12864765. This is prone to abuse as some employees can draw money on other employees or fictitious names for their own benefit.

*The Town Clerk should implement recommendations by the Kenya National Audit Office requiring him to recover from employees the whole overtime amount paid from the Road Maintenance Levy Fund. In addition, the Town Clerk should surcharge all employees paid overtime irregularly from the Roads Fund and take disciplinary action against the senior officers being paid overtime instead of the approved honoraria.*

*The Town Clerk should address the issue of overtime payments with immediate effect through the following measures:*

*Each departmental Head should set benchmarks establishing outputs for particular functions and prepare an assessment indicating the need for overtime work. The Departmental Heads should Control overtime work by:*

- Preparing detailed requirements and justifications for overtime work including time required in advance.*
- Approving overtime work on a daily basis to eliminate situations where officers are paid even during the normal working hours.*
- Regularly monitoring and reviewing operational requirements for overtime work.*
- Maintaining proper records of overtime work carried out by each staff and compile reports for the management*

*The Town Clerk should consider use of days off as compensation for overtime work and stop using cash compensation.*

*The City Treasurer should ensure that all overtime payments are processed through the payroll. The City Treasurer should also ensure that the money paid to the wrong payees should be refunded by the recipients otherwise it should be recovered from their salaries.*

6. In some instances, the Council has been paying some of the Councilors allowances in advance without maintaining accurate records on such payments. Available records only reflect monthly recoveries and not the total amount advanced and the balances. This is a loophole that may be used for corrupt practices leading to loss of revenue to the Council. Although the Town Clerk authorizes the period by which the advances must be recovered there are cases where this is not adhered to. As at 31<sup>st</sup> December 2005, the outstanding Councilors advances amounted to Kshs. 1,032,500.

*The Town Clerk should ensure that payment of advances are made in line with the existing regulations, which entitle the official equivalent of one month salary that must be recovered within the year of issue. In addition, no subsequent advance should be paid until the previous one has been recovered in full. Furthermore, all outstanding advances should be recovered in full.*

7. The Council pays Councilors' allowances without deducting the required taxes. This is contrary to the Income Tax Act. The Mayor and the Deputy Mayor are paid airtime allowance in cash of Kshs. 15,000 and Kshs. 7,000 respectively without being taxed.

*The Town Clerk should ensure compliance with the Income Tax Act and effect all tax deductions and subsequently remit the same to the Kenya Revenue Authority.*

### **3.12.5 PREPARATION OF FINAL ACCOUNTS**

The Examination Team noted that the City Treasurer is not keen in the maintaining proper books of accounts that will facilitate preparation of final accounts. For instance, the Council does not maintain Cash Books, Journal books, Creditors' and Debtors' ledgers, Nominal Ledgers, Fixed Assets Registers, among other vital books of accounts. The final accounts produced by the Council are therefore based on estimates and guesswork.

1. In 2003, Pinnacle Consultants were contracted by the then Oversight Board to prepare final accounts for 6 years from 1996 to 2002. At the end of the exercise, the consultants did not submit supporting schedules, books of accounts and ledgers which raise doubt on the work done. Further, the accuracy of the Council's accounts for the subsequent year can not be

guaranteed as the Council lacks a starting point upon which to update the current accounts.

At the time of this Examination, the Council had not produced final accounts for the year 2004/2005, thereby failing to meet the statutory deadline. No application had been made by the Council to the Minister for extension of time as required by the relevant Act.

*The Town Clerk should liaise with Pinnacle Consultants to obtain the schedules supporting the accounts prepared. The City Treasurer should open and update proper books of accounts with immediate effect. The Permanent Secretary should ensure that deadlines for submission of final accounts, as per the Local Government Act and the Public Audit Act 2003, are always adhered to.*

2. There is no creditors' ledger and other records for the Council's liabilities, estimated at about Ksh.10 billion. This creates a loophole for double payments to creditors. Furthermore, the information contained in the financial statements can not be verified. Compilation of outstanding creditors is based on unpaid vouchers and invoices such that at the end of the financial year the figure of creditors is an estimate.

*The City Treasurer should compile a comprehensive list of all pending bills to ascertain the actual position of the creditors and there after open up relevant ledgers and other records and ensure that they are regularly updated. Further, a creditor's policy should be put in place.*

3. There is no debtors' ledger and other records for the Council's debtors. This creates a loophole whereby the Council is unable to identify the debtors and initiate recovery. Further the information contained in the financial statements can not be verified.

*The City Treasurer should compile a comprehensive list of all Council debtors and there after open up relevant ledgers and other records and ensure that they are regularly up dated. Furthermore a debtors' policy should be put in place.*

4. The Council operates 20 bank accounts. No cash book is maintained for any of these accounts. Consequently no bank reconciliations are produced. This is despite the fact that the Council has more than 22 qualified accountants with the bank reconciliation sub-unit having two qualified accountants. The Examination Team noted that the City Treasurer and the responsible Chief Accountant have deliberately avoided maintaining the cash books and preparing the bank reconciliation statements. Cashbooks and bank reconciliations are the main control tools in receipts and payments. In the absence of the two one can not verify the receipts and payments of the Council. This has created a major loophole for misappropriation of Council funds.

The Department of Education operates 3 separate bank accounts that are not controlled by the City Treasurer. These include Nairobi City Council Primary Schools Activities funds Account No. 030821162629 at Barclays Bank, Haille Sellasie Avenue; Nairobi City Council Primary Schools Funds Account No. 2248768 at Barclays Bank Queensway; and a fixed deposit account. All the three bank signatories are from the Department. The Town Clerk and the City Treasurer are not signatories. There are no cash books and bank reconciliation statements for the three bank accounts. This can lead to loss/misuse of Council funds, as there are no proper checks and controls in the operations of these accounts. The Examination Team observed that the City Treasurer was not aware of some of these accounts.

*The City Treasurer should ensure that cash books are maintained and monthly bank reconciliation statements prepared for all of the Council's bank accounts. The Town Clerk and the City Treasurer should immediately take part in the management of all the accounts operated by the Education Department and ensure that all funds in the accounts are properly accounted for.*

5. At the time of this Examination, Council accounts had not been audited since 2000/2001 financial year. For all the years that the Council accounts have been audited the Auditor General has been qualifying his reports due to material weaknesses in the accounts. Successive Town Clerks and City Treasurers have not taken measures to address concerns raised by the Auditor General. As a result there has been continued deterioration in financial management of the Council.

*The Permanent Secretary, Ministry of Local Government should:*

- i. Institute follow-up action on all the previous audit reports raised by the Controller and Auditor General and ensure that all recommendations are implemented in full.*
- ii. Follow up and ensure that the financial management systems at the Council are overhauled and improved*

### **3.12.6 MANAGEMENT OF ACCOUNTABLE DOCUMENTS**

The Council handles various important accountable documents used in the discharge of its duties. Some of these documents include cash receipts books, cheque books, single business permit books, car parking tickets, and public health certificates. Proper management of these documents is critical in the control of the activities of the Council. However, the Examination Team discovered weaknesses in the management of accountable documents, among them being lack of security features, poor printing, recording, storage, requisitioning and loopholes in general accountability.

1. The process of issuance of accountable documents such as receipt books and Local Purchase Orders (LPOs) is not properly documented and controlled. Applicants for various accountable documents are required to state serial numbers of completed accountable documents in the requisition form before being issued with new ones, but this is not adhered to. The accountable documents officer does not verify the used documents before issuing new ones and only relies on Internal Audit staff who equally do not always verify them. This leads to issuing of multiple accountable documents that can be used to occasion revenue loss to the Council.

There is no senior officer who supervises the control and issuance of accountable documents. Some accountable documents are issued to a section without the involvement and approval of the section head. For example, revenue collection documents are requisitioned by the various revenue collection centres without the involvement of the Chief Revenue Officer. At times due to delay in availing the required receipt books for particular revenue collection centres, the centres are compelled to use receipts for other different revenue collection centres. This has weakened the control system that requires each receipt book to be used in a designated revenue centre.

There is no central point for issuance of accountable documents. For example, the Examination Team noted that the Department of Education also issues Council receipts books at a cost of Kshs. 100.00/= to Schools to use in charging extra levies. No records of such receipts are kept and the Department does not maintain a list of the Schools issued with such books nor the numbers issued. There is no independent review by the Internal Audit Section on the usage of the issued receipts by the Schools. This may result in the schools misusing Council receipts for collecting funds without accounting for them. In addition, the City Education Department may raise funds from the schools in collusion with Head teachers and School Boards.

*The Town Clerk and the City Treasurer should;*

- i) *Formulate and implement a policy on accountable documents and deploy a qualified senior officer to be in charge of the documents.*
- ii) *Ensure that all accountable documents are issued from one central point.*
- iii) *Ensure that all requisitions are approved by the Head of Department or the assignee upon returning the used documents.*
- iv) *Compile an inventory of all the existing accountable documents and reconcile them to the existing registers and mop up any that are in circulation but not in the registers.*
- v) *Investigate the City Education Department with a view to streamlining the operations of the Department and to invoking appropriate*

*disciplinary measures where unethical activities and misappropriation have occurred.*

2. The Chief Licensing Officer does not have the inventory and control over printing and custody of unused business permit books kept at the City Hall. This creates a loophole whereby permits could be issued directly from City Hall without the involvement and knowledge of the Chief Licensing Officer. The Examination Team was informed that there are cases of forged permits and some business permits plucked off the books. There is limited control on genuine Single Business Permits which is based on the Chief Licensing Officer's signature and stamp only. This can create avenues for forgeries of both the signature and the stamp.

*The City Treasurer should ensure that the Chief Licensing Officer is involved in the procurement process, witness the receiving of new permit books and receive monthly reports on the permit books in the store. The City Treasurer should also ensure that the current use of a rubber stamp is replaced by a Council seal that should be maintained by a designated officer with limited access. Further cases of plucked, forged and parallel permits should be investigated and disciplinary action taken against staff involved.*

3. The receipts used in the collection of daily parking fees are printed in different colours for use on different days. This is intended to make it easy to identify defaulters or motorists recycling receipts. However, these books are issued to the parking attendants at the same time thereby defeating the intended purpose. The Internal Audit Section is expected to check and stamp all tickets before they are issued to the attendants as a security measure to avoid use of unauthorized or forged receipts. However some tickets are issued without the stamp. It was further observed that some had been plucked from the receipt books before or after issuance to the attendants. It was also noted that when car park attendants are surrendering the receipt books at the end of the day the accountants only check and record the used tickets and retain the unused books to be issued the following day. This creates a loophole as one may not be able to determine the point at which some tickets are plucked off.

*The Town Clerk and the City Treasurer should ensure that only receipts of the same colour are issued to the attendants each day. These books should be surrendered at the end of the day and a different colour issued the next day. The City Treasurer should ensure that accountants verify and record both the used and unused tickets and both parties should sign. Unfilled books should be maintained and recycled at the appropriate time. . Further, the City Treasurer should ensure that stamping of the tickets is replaced with a seal since the stamp can be easily forged.*



4. Receipt books used at the City Mortuary do not have adequate security features and can be easily forged. Two sets of receipt books are used; a general receipt in respect of payment for general mortuary charges and a grave receipt in respect of payment for grave site. However, no receipt book register is maintained. At the time of carrying out this examination, there were many used receipt books that were not kept in any order making it difficult to track revenue collected.

*The City Treasurer should ensure that:*

- i. *A single, serialized and secure receipt is produced for use at the city mortuary.*
  - ii. *A receipt books register is maintained and used receipt books properly stored.*
  - iii. *An audit of all receipt books issued to the City Mortuary is carried out and all receipts are accounted for.*
5. At the time of the Examination, various documents such as the Notice Requiring Abatement of Nuisance and the Inspection, Fees and Charge Forms were out of stock. As a result, the Public Health Department was photocopying such forms though they are serialized. Photocopying results in duplication of the same serial numbers thus opening them up to abuse.

It was further noted that 10 accountable books for the Notice Requiring Abatement of Nuisance and the Inspection, Fees and Charge Forms from serial number 901 to 1350 had not been accounted for by a former officer in charge of the Epidemiology and Disease Control section, raising suspicion of abuse.

*The Town Clerk should ensure that adequate accountable documents are available at all times for use in all departments. In addition, the former officer in charge of the Epidemiology and Disease Control section should account for the 10 missing books besides any appropriate disciplinary action that may be preferred against him.*

### **3.12.7 COMPUTER SERVICES**

1. The Council has partially computerized its cash collection, licensing and rates systems. This has been done without an IT policy or a comprehensive computerization programme. This has led to haphazard management of IT functions. For example, at the time of carrying out this examination, plans were underway to acquire Pastel Accounting software at a cost of Ks. 250,000. No feasibility studies had been carried out to establish the viability of the software in relation to the operations of the Council. This is in total disregard of the standard procedures of system development/acquisition and the Council is likely to acquire a system that is not useful to it.

*The Town Clerk should put in place an IT policy and initiate a comprehensive computerization program for the Council. The Town Clerk should stop the acquisition of the Pastel Accounting Software and initiate a feasibility study to determine the best system for the Council that will take into account all its operations.*

2. The Council does not have adequate computer hardware and the current softwares in use are outdated. This results in regular hardware/system breakdowns. For instance, the computer system in use in the cash office at City Hall, the Cash Receipting Information System (CRIS) has several weaknesses and frequently breaks down. Furthermore, the current softwares in use are not integrated and require manual interfaces such as in posting customer payments to respective individual accounts. In addition saving of information on daily collections in the Cash Office into the server is carried out manually by the internal auditors per work station/terminal at the closure of operations. This has exposed the Council to the risk of data manipulation during the manual interfaces.

*The Town Clerk should ensure that adequate computer hardware is provided for all the departments. In addition the Council IT System should be upgraded to incorporate all basic system controls and integration to minimize the human interfaces. The Council should consider operating on an Enterprise Resource Planning (ERP) platform such as Systems Applications Product (SAP).*

3. Back up of computer data is carried out weekly on data tapes and stored in the server room. There are no adequate safety/security measures as the data tapes are easily accessible. This creates a risk of loss of information in case of a catastrophe in the computer room.

*The Town Clerk should ensure that all back ups are kept outside the computer room. Backups should be done daily, weekly and monthly. The daily and weekly backups should be overwritten whereas the monthly ones should be archived for at least three years.*

4. User-passwords are not changed frequently raising the risk of unauthorized access. At the same time there have been reports of the computer system getting hacked by unscrupulous Council programmers. For example, in the rates system there had been alteration of records which resulted in loss of revenue. The computer system does not maintain a systems log of the persons accessing the system and the changes made to the system.

*The Town Clerk should ensure that the Computer Manager installs adequate physical and system controls in the computer system.*

5. In 1997 the Council contracted a company to migrate computer data from an old system, ME 29 system, to a new system under COBOL. This was

done in piecemeal and was not integrated as the previous system. In the process, Cash Receipting Information System (CRIS), payroll, rates, water, cheque writing and stores systems were created independently. The consultant left in 2003 without proper handing over of the system to the Council. A new consultant was later hired to maintain the system but no formal contract was entered into. No Council staff has been trained in the system and the Council fully relies on the consultant on the operations of the system including generation of some essential reports. Payment to the consultant is based on the invoices raised by the consultant with no agreed rates and the payment is effected through imprest taken by the Computer Manager.

The new Consultants developed a system for the licensing section. The system of updating the license payments by traders is integrated with the cash receipting system that ensures real time updating of the individual accounts. However, the system has never been handed over to the Council. Consequently, the Council relies on the consultant for any changes to the system.

The Licensing office does not have any power backup and reverts to manual receipts in cases of power failure with posting being done later after power resumes. This exposes the Council to the risk of manipulation of receipting revenue and updating of individual trader accounts.

*The Town Clerk should stop engaging service contractors without formal contracts. There should always be proper handing over of systems including training of Council IT staff on the system. Furthermore, the Council should obtain IT services from reputable companies. All contracts should include a training component for staff for proper handing over.*

### 3.13 ASSETS MANAGEMENT AND CONTROL

The Council holds massive resources in the form of movable and immovable assets. These include land and buildings, plant and equipment, vehicles, fixtures and fittings and office equipment such as computers and telephones, among others. The tests conducted by the Examination Team revealed material irregularities in all the key processes of assets management including acquisition, assets inventory and recording, control over documents of title, maintenance and repairs procedures, control over revenue from the assets and disposals procedures. Details of these discrepancies are as discussed below.

1. The Council does not maintain a comprehensive inventory of all its moveable and immovable assets. As a result it cannot be established with certainty all assets owned by the Council. This creates a loophole for loss of Council assets without detection. In addition, it makes it difficult for the Council to plan for repairs and maintenance, replacement of assets and leads to poor capital expenditure planning. Further, the information contained in the financial statements can not be verified. This has been reported in several external audit reports but to date no comprehensive register has been prepared.

Failure to maintain records of assets implies that insurance premiums paid by the Council have no relationship with the value of its assets. This may lead to losses especially where assets are undervalued and therefore under covered or to loss of revenue where there is overvaluation and therefore over covered. Furthermore, the Council does not pay insurance premiums on time. This can lead to the insurance companies not honouring the insurance contracts.

*The Town Clerk should immediately identify and compile an up-to-date comprehensive fixed assets register for movable and immovable assets clearly indicating their condition, value and depreciation rates, where applicable.*

*The Town Clerk should ensure that an inventory of all insurable assets is compiled. These assets should be properly valued. Furthermore, there should be prompt payment of all insurance premiums due.*

2. Some of the Council's immovable assets have not been surveyed, for purposes of issuance of title deeds. This has led to hiving off some portions of land from schools, health facilities, cemeteries, social halls, parks and open grounds and allocating it to various persons irregularly. Some of the irregularly allocated land include:
  - 9 acres from Millimani Primary School
  - Un-established portions from Kayole Primary School, Lady Northey Nursery School

- Other Land set aside for City Council schemes such as Kayole and Umoja and some plots at Kawangware meant for a stadium

*The Town Clerk should ensure that all Council land is surveyed and title deeds obtained. The Town Clerk should institute investigations into all the irregular land allocations and/or annexed Council land and take appropriate measures to repossess them.*

3. Some of the City Council schools are in a pathetic state of disrepair and maintenance. As a result, the Assistant Director in charge of Schools Development Section was charged in court by the Public Health Department. There is a budgetary allocation for school maintenance but the Department does not access the funds. Although the Ministry of Education gave the Council Kshs. 3,000,000 for re-painting of 80 schools, this had not been done by December 2005.

*The Town Clerk should ensure that the annual budgetary allocation for school maintenance is utilized to renovate Council schools in order to improve the learning environment and stop the deterioration of the schools.*

4. The facilities at the city stadium are in a deplorable state. Currently, the maintenance of some of the essential facilities such as the washrooms is done by some event organizers. The external gates and the boundary wall have been vandalized to create openings. The interior fence for the field is dilapidated. This leads to loss of revenue from illegal entries and loss of opportunities for international fixtures.

*The Town Clerk should ensure that funds are availed to meet the maintenance of the facilities at the stadium to appropriate standards. The Council should alternatively explore the possibilities of handing over the management of the stadium to the Stadium Management Board at an appropriate fee.*

5. The Revenue Officers at times receive new rent deposits without written authority from the Director of Housing as per standing instructions such that rental houses keep changing hands without necessary approvals. At the time of the Examination, the Council was preparing to undertake an inventory of all its houses.

*The Town Clerk should ensure that information on rent accounts is shared between the departments. The officers involved in the malpractices should be investigated and appropriate action taken. The Town Clerk should ensure that the Social Services and Housing department carries out a comprehensive audit of all the rental houses, markets stalls, shops and kiosks to ascertain their occupants and the status of their rent payments*

6. Some Council houses were illegally sold off in various estates including Woodley, Kariobangi, and Dagoretti corner. In addition, Council rental shops at Outering Road, Riruta Shopping Centre, Embakasi and Kariobangi were irregularly allocated to individuals. This denies the Council revenue from revenue generating assets.

*The Town Clerk should hasten the process of repossession of all Council property irregularly acquired. The Land Repossession Committee already formed for the Council should expedite its work. The Council should also liaise with the relevant arms of the Government to hasten the process.*

7. There is a disused materials testing laboratory at the Asphalt plant previously used for the testing of road construction materials under the Kenya Urban Transport Infrastructure Project(KUTIP). The laboratory was meant to revert to the Council but this has not been done. This would be useful in controlling the quality of asphalt at the Nanyuki road plant and reduce the cost of outsourcing testing of materials.



*Disused Laboratory*

*The Town Clerk should ensure that the Council immediately takes possession of the laboratory and puts it to productive use.*

8. Council libraries receive books and other related reading inventory from various donors including private individuals. However, there is no inventory of books and other related reading materials for the donations. It is therefore difficult to ascertain whether these materials have been captured in the Accession Register. This provides an opportunity for loss of donated books.

*The Town Clerk should ensure that an inventory of all books and reading materials received from various donors is maintained. The Director of City Education should account for all donations to the Libraries and indicate the availability of such books.*

9. The Council libraries do not take stock of books in their custody. The last time a stock taking was done was in the 1990s, which revealed that there were 400,000 books. Without stock taking, the libraries cannot keep track of the exact number of books in their custody and it is difficult to detect any losses.

*The Town Clerk should ensure that there is annual stock taking of books in all libraries.*

### 3.14 INTERNAL AUDIT

The functions of internal auditing are performed by the Internal Audit Section. The Section is expected to provide independent and objective assurance and consulting services to improve the operations of the Council. The Internal Audit Section is under the City Treasurer but there are steps to make it an independent department.

1. The Internal Audit Section is involved in the operational activities of the Council instead of carrying out the oversight functions over the Council operations. For instance, the Section is involved in processing of imprest, reconciliation of daily cash collections and issuing of accountable documents. The Section is responsible for closing and opening of the computer Cash Receipting Information System used in the cash office. The Section is also responsible for carrying out reversal of entries in the system in case of errors by the Receipting Cashiers. By so doing the Section has compromised its objectivity in reviewing the cash office system and other operational procedures of the Council. This also creates a loophole for collusion with other cash office staff to cover up any malpractices that may be discovered by the Internal Auditors.

*The City Treasurer should ensure segregation of duties between functional staff and the Internal Audit Section in order to enhance its independence in the performance of its duties. The Internal Audit Section should continuously review and appraise systems, and ensure compliance by the users.*

2. The Internal Audit Section's audit programs do not cover all operational areas of the Council. Their activities are mainly concentrated on revenue and expenditure vouching, leaving out the crucial role of systems review. This has exposed the Council to the risk of operating with the weak control systems resulting in inefficiencies and loss of resources. Some of the areas not regularly audited include:
  - i. The Asphalt plant
  - ii. Fuelling of Council vehicles
  - iii. Bank accounts maintained by the Department of Education
  - iv. The Housing Development Department
  - v. Garbage collection where there are no reliable records. This can lead to payment for fictitious garbage collection as the system lacks proper controls.
  - vi. Payroll. This creates a loophole for possible fraud and errors occurring in the payroll system without detection.
  - vii. Accountable documents
  - viii. Waithaka Training Institute
  - ix. Pumwani Maternity Hospital.



*The Town Clerk should:*

- i. Ensure that the Chief Internal Auditor prepares and implements audit programs that cover all operations of the Council.*
  - ii. That the annual audit programs should be reviewed by the Audit Committee regularly to ensure that the Internal Audit section is covering all Council operational areas and is operating as per the approved program.*
  - iii. Ensure that the Internal Audit performs its duties in such a manner that all activities of the Council are covered.*
  - iv. Further the Internal Audit section should increase its scope to include systems reviews.*
3. The Internal Audit Section is supposed to send its reports to the Audit Committee as well as to the Finance Committee as provided by the Local Government Act CAP 265 and Treasury circulars. The Audit Committee is supposed to review the audit reports and make recommendations. However, the Audit Committee has never met during the 2005/2006 financial year. This has created an avenue for the Council Chief Officers ignoring the Internal Audit recommendations without being questioned by an independent committee. This has been attributed to failure by the Town Clerk to convene the Audit Committee meetings.

*The Town Clerk should convene Internal Audit Committee meetings regularly to review the operations of the Council and to respond to the Internal Audit queries in compliance with the requirements of the Ministry of Finance. Furthermore, the Town Clerk should ensure that Chief Officers respond to audit queries promptly.*

### 3.15 RECORDS MANAGEMENT

The need for proper records systems and trained personnel to manage records at the City Council of Nairobi cannot be overemphasized. The Council handles various vital records such as title deeds, contract documents, development plans and drawings, engineering drawings, human resource and general administration records. The records are crucial in supporting business transactions and in providing evidence of action that has been made on certain aspects in relation to the mandate of which the Council has been established. However, the state of records at the Council is poor since most of the documents are in a deplorable state. The following findings indicate that there is need to profile records management at the Council as the basis of fighting corruption and protecting the rights of their clients.

#### **Records Policy.**

1. The City Council does not have a records management policy that guides in the management of its records. It was observed that every department creates its own records, maintains and disposes without any guidelines. This is a serious loophole because important transactions may not be captured in the system. Lack of a clear policy on management of vital documents has contributed to loss of Council assets and endless disputes because of lack of documented evidence.

*The Town Clerk should come up with a records management policy that ensures the implementation of sound records management program and guarantee a continuum of care in all the document life cycle from creation, access, maintenance and disposal.*

#### **Lack of skilled staff**

2. There is no structure in place for the staff working in all the registries in terms of qualifications and numbers. As a result staff with no relevant training in records management have been deployed to work in records areas, with no clear instructions on what is expected of them. The Development control section for example, is the custodian of thousands of building development plans of permanent value. Its registry is manned by one member of staff who is not qualified in records management. This member of staff is not even aware of the approximate number of plans he is responsible for and is overwhelmed by the ever increasing drawing plans he should be managing and the frequent retrievals.

*The Town Clerk should review the organization structure of the Council with a view to include the Records Management function within the structure. The positions for Records Managers should be highly profiled so as to influence and ensure best records management practices at the Council. Further the Town Clerk in conjunction with DPM and Public Service Commission should ensure that*

*staff of appropriate qualifications in records management are deployed to the Council so as to effectively run this important asset.*

*The Town clerk should ensure that a Records Management training program for all the staff working in the records area is developed and implemented. Action officers and other supportive staff who are dealing with records should be taken through an in-house training in basic records management.*

### **Classification system**

3. Records classification and indexing systems are lacking in most of the department registries making it difficult to know the records held in specific registries. This also makes retrieval difficult. In some of the registries, retrieval is based on the memory and familiarity of the registry staff.

In certain areas, officers maintain personal files in their respective sections with no corresponding reference file in the registry. In this case it is not possible to audit such officer's activities.

*The Town Clerk should ensure that all departments develop central registries where all the functional files within the departments are controlled and maintained. Further the Town Clerk in consultation with the Director, Kenya National Archives and Documentation Services should develop file classification and indexing systems that will assist in identifying all the documents in its custody.*

### **Tracking of records**

4. The Council lacks sound records tracking systems and in certain instances files removed from the registries cannot be traced. For example, some files removed from the Pumwani maternity registry and the Housing Development Department had not been returned for over two years as at the time of the examination.

*The Town Clerk should ensure that all Departments develop and maintain a document control system for easy tracking of documents in order to safeguard against loss of information thereby protecting its client's rights and properties. The Town Clerk should further ensure that the admission, delivery and discharge registers at the Pumwani Maternity Hospital are all harmonized to enable the Hospital maintain accurate records.*

5. The Education Department invited the National Archives to appraise its records in view of separating those of permanent preservation and those that are deemed valueless. However authority to destroy the valueless ones has not been sought from the Kenya National Archives and documentation service. All the appraised records including valuable ones have been damped in dilapidated stores thereby exposing them to possible loss.

*The Town Clerk should ensure that a proper system is put in place for the retention and disposal of files as required by the Public Archives Act, Cap 19 in order to control wanton destruction of records. Further the Council should provide appropriate storage facilities for records selected for permanent value and seek authority to destroy those that do not warrant further keeping from the Director of the Kenya National Archives and Documentation Services.*

6. The Council stores section does not maintain proper records such as an inventory of stores items. This opens room for corrupt practices such as pilferage as it is difficult to keep track of store items

*The Town Clerk should ensure that appropriate inventories for all stores and equipment are put in place.*

#### **Lack of records on exhibits**

7. The Investigations Department collects items as exhibits for prosecution. However the department lacks a way of managing these exhibits such that they are dumped in a dingy basement room. Perishable items like farm products have not been separated from the rest of the exhibits. The room is in such a deplorable condition that it is not possible to locate items easily. The Council has not put in place a comprehensive way of disposing the exhibits which exposes them to possible loss.

*The Town Clerk should institute a proper records control system for receiving, storing and disposal of exhibits.*

#### **Records storage space**

8. The Council has not provided appropriate storage for its records. The personnel registry for example is severely congested, making retrieval of files a difficult exercise. This section handles approximately 13,000 files, but lacks adequate storage facilities such as shelves, cabinets and filing facilities. Retrieval of a file is nightmare thus creating room for preferential treatment and delayed action. The Team also observed that the open shelves in the registry of Public Health department are full to capacity. Other files are tied in bundles and strewn on tables.



State of Records at the Council

The Conveyance registry where all properties files within Nairobi are kept is full to capacity. Files are squeezed in pigeon holes and some strewn all over the tables thereby exposing the property files to theft and damage. Others are stored in rooms at the basement which are not conducive to proper record keeping. Some files in the basement have actually been destroyed by water. Others are deteriorating slowly since the basements are damp.

In the Engineering Department, drawings of permanent preservation are stacked in room corners or piled on officers' desks. Such drawings start deteriorating at quite an early stage yet it is expected that they should last indefinitely.



*Engineering Drawings strewn on tables*

*The Town Clerk should provide appropriate accommodation for all the records of the Council and ensure that growth of the records is catered for to avoid such congestion. Professional Lockable Mobile shelves should be installed with a view to saving space and securing documents from uncontrolled access. Further, the Town Clerk should ensure that officers working in the registries carry out their duties in conducive work environments.*

### **Business Continuity Plan**

9. In 2001, the Engineering Department at the city hall was gutted by fire destroying numerous vital documents and related facilities. Even with this experience, the Council has not put in place a back up system for its records. Further, the Council has not developed a Business Continuity Plan for its vital documents in case of any form of disaster.

Most registries are not protected from unauthorized access. A case in point is the motor vehicle registry at the Council's Central Garage which is accessible to anyone.

It was also observed that persons who collect and return the registers of Births and Deaths are not identified and their particulars recorded. As a result, it is possible for these documents to be picked by unauthorized persons and used to fill in wrong information. This is a serious loophole as one could forge documents and make false parentage and death claims.

*The Town Clerk should develop a comprehensive Business continuity plan that should include but not limited to Safety Archival Microfilming for all their vital documents, and store them in offsite storage from the Council. Appropriate environmental conditions for back up system and preservation of microfilms*

*should be respected. In addition all registries should be restricted from unauthorized access. Counter barrier for serving members of the public should be put as a way of blocking unauthorized entry, where clients have to obtain documents especially plans, birth and death certificates and other security documents from the registries.*

*The Town Clerk should also ensure that representatives of various health facilities are authorized and fully identified to collect births and death notifications.*

### **Computerization**

10. Despite the large number of documents in its custody and its wide clientele, the Council has not embraced the benefits of computerization. The Public Health Department for example maintains manual registers which are cumbersome to use. This occasions delays especially when making returns on Deaths and Births to the Department of Civil Registration. The delays provide avenues for soliciting for bribes in order to hasten the process.

*The Town Clerk should assess the service areas in which documents can be controlled and accessed through an electronic document management system with a view to offloading some of the tasks that are carried out manually.*

## 4.0 CONCLUSION

The City Council of Nairobi is vested with the enormous task of providing essential services to the residents of Nairobi. However, the Council has not lived up to the expectations of the residents who have become disillusioned by the poor quality of services provided by the Council.

The Council services are in a deplorable state. This state of affairs is attributed to poor governance, manifested in lack of accountability, poor resource management, sheer disregard of the laws, regulations and guidelines, political interference among other things.

Task forces and Commissions set up in the past to address problems facing the City Council of Nairobi have revealed serious irregularities in areas of Financial Management, Human Resource Management, Assets Management, Records Management, Procurement and General Administration. Recommendations on how to deal with the irregularities have been made but have been largely ignored. This has been attributed to reluctance by the Chief Executives and Chief Officers to put in place proper structures for implementing the recommendations. On-going reforms initiated by the Government and touching on various aspects of the Council's mandate will address weaknesses in local government administration and also revamp local authorities including the City Council of Nairobi, for a more meaningful role in realizing good governance and poverty alleviation. It will also be necessary to ensure that the reform process takes cognizance of the corruption issues raised in this Report.

The Report has demonstrated that various interventions are necessary to augment Government efforts to ensure that the Council fulfils its mandate of delivering quality services to the residents of Nairobi. Recommendations made include fast tracking of the review of Council By-Laws to address emerging challenges within the city; development of policy guidelines on Public Private Arrangements; development of sound financial and records management systems; as well as restoration of integrity in all the operations of the Council. Many recommendations have been made on how the Council can seal identified corruption loopholes and thereby prevent corruption in the overall management and delivery of services. Some of the proposed interventions do not require substantial budgetary provisions and can be embarked upon immediately

It will be necessary for the Council and various stakeholders to spearhead the implementation of the Commission's recommendations to prevent corruption and gradually reduce losses suffered by the Council over the years. The Council should make deliberate steps to enlist the support of the public who are supposed to be the major beneficiaries of the Council's improved services. This support will be achieved meaningfully through, among other things,



development of a Service Charter and establishment of clear and effective channels of complaint and feedback particularly on the corrupt conduct. A good starting point for effective channels of complaint would be to revamp the Council's corruption prevention committee and ensure a meaningful role for all the Integrity Assurance Officers within the Council.

Effective implementation of the Commission's recommendations will require the support of the Minister and Permanent Secretary, Ministry of Local Government, civic leaders and chief officers and staff of the Council. The Commission will require the Town Clerk to prepare an implementation plan on the recommendations of this Report and will monitor implementation of the planned activities.

## **APPENDIX I: TEST CASES**

During the examination exercise the Examination Team carried out tests on some of the Council procedures to confirm adherence or otherwise. This involved carrying out surprise cash counts in various revenue centers and conducting other integrity tests with a view to ascertaining the cash control systems in place and the integrity of such systems. The Examination Team witnessed two cases of theft of Council revenue and forgery of documents to account for imprest. This clearly points at the extent of such cases of outright theft of public funds by the Council staff.

### **TEST CASE ONE – CASH COUNT AT THE COUNCIL’S MAIN CASH OFFICE**

On Friday 30<sup>th</sup> December 2005, an impromptu cash count was carried out at the Council’s main cash office in City Hall by the Examination Team.

The cash count was witnessed by the City Treasurer, Deputy City Treasurer, Chief Internal Auditor, Chief Revenue Officer and Director of investigations. The Nairobi City Water and Sewerage Company, which also keeps its daily cash collections in the Council’s main cash office strong room was represented by the Chief Cashier and two other Cashiers.

The Examination Team was informed by the Auditor in Charge of the cash office, that as per the Council’s procedures and practices, the Internal Auditors count and prepare an analysis (coinage) of the actual daily cash collections receipted and handed over to the Chief Cashier for safe custody in the strong room. During the cash count, the Auditors prepare a daily cash audit report as evidence of the physical cash actually counted. The report is signed by the Internal Auditor and the Chief Cashier. The Auditor further informed the Examination Team that all the day’s collection must be locked up in the strong room immediately after the cash count. After getting this explanation, the strong room was opened in the presence of all witnesses and a cash count taken.

The exercise revealed massive cash shortages in the collections of the day for both the Council and the Water Company. A total of Ksh.3, 213, 464.70 was missing out of which Ksh.2, 863, 382.00 was from the Council’s collections while Ksh.350, 082.70 was from the Water Company. In the course of the exercise, the Examination Team recovered wads of bank notes amounting to Ksh.866, 000 which was in the Chief Cashier’s pockets.

Further inquiries by the Examination Team revealed that there was a racket at City Hall involving certain cashiers, internal auditors, employees of Nairobi Water Company Ltd and some senior management officials at the Council which had been colluding to defraud the Council of millions of shillings on a daily basis. The shortages were concealed by the Council cashiers ‘borrowing’ money from the

Water Company cashiers and vice versa. This is a fraud of teeming and lading. During the cash count, one of the Water Company cashiers confirmed that the previous evening he had removed Kshs.350,000 from the cash box and handed over to the Council Chief Cashier. This transaction was neither documented nor authorized by the management of the Council and the Water Company.

### ***Recommendations***

*The Town Clerk should review the management and internal controls of Cash office instituting periodic cash counts and spot checks. This is in addition to other recommendations elsewhere in this Report particularly on collecting revenues for banking at least twice a day to reduce the amount of cash held at the strong room.*

*In addition the Nairobi Water Company should develop independent systems for cash management and control and enhance supervision of its revenue collection and management.*

## **TEST CASE TWO – CASH VERIFICATION AT MAKADARA RENT COLLECTION OFFICE**

On Friday 6th January 2006, the KACC Examination Team carried out a cash verification exercise at the Makadara rent collection office.

The exercise revealed a shortage of Ksh.21, 275.00 perpetrated by one cashier. He perpetrated the fraud by maintaining and issuing receipts from several receipt books. This opened an avenue for him not to account for all collections in a day. In other instances, he was post-dating receipts so as not to account for cash on the day it is collected.

### ***Recommendations***

*The Town clerk should institute appropriate investigation processes to ensure that the Council recovers any revenue lost and that officers involved in these criminal activities are punished. Further recommendations on control of accountable documents have been made elsewhere in this report.*

## **TEST CASE THREE – IMPREST FOR FUEL**

The vehicles of the Council were at the time of carrying out this Examination being fuelled using cash imprest which could be taken by any member of staff.

The examination team analysed the accountability of the cash imprest taken by four Council employees to fuel vehicles. Kshs.1,310,400 had been advanced to these employees on various dates and should have been accounted for by

then. The Examination Team discovered that some employees had formed a cartel in complicity with certain petrol station attendants to misappropriate cash from the Council on the pretext that Council vehicles had been fueled. During the last two weeks of December 2005 alone a sum of Ksh.338, 341.25 was misappropriated. Council employees simply obtained blank receipts from unscrupulous employees from the petrol stations through which they forged various amounts of money and surrendered. A reconciliation of these receipts to the Council's vehicle work-ticket confirmed that they were false documents.

### **Recommendations**

*The Town Clerk should with immediate effect stop the use of imprest for procuring fuel and instead explore other methods such as fueling cards with certain limitations and control and also entering into contract with fuel providers.*

*In addition, the Town Clerk should institute a system of entering all fuel procured in the work tickets in order to monitor mileage and consumption. This monitoring should be done frequently through spot checks and at any time there is renewal of work tickets. Also control of vehicle authorization should be limited to departmental heads and/or their deputies to ensure accountability.*

### **TEST CASE FOUR- FRAUDULENT ACCOUNTING OF IMPREST**

A Deputy Town Clerk was given an IOU of Kshs. 200,000. The documents attached to the payment voucher on accounting for it were Kshs. 157,615.00 and Kshs. 42,385.00 was not accounted for but Accounts and Audit sections went ahead to process the Payment Voucher as if the IOU was fully accounted for. Attached to the Payment Voucher were photocopies of receipts together with their originals in an attempt to clear the IOU. Accounts section did not object to this anomaly but raised the Payment Voucher. Internal Audit also did not raise the issue but only advised the holder to endorse on the receipts which she did before the voucher was passed. Also attached to the payment voucher were foreign currency exchange receipts and the Visa payment receipts from the Department of Immigration in foreign currency. This amounts to duplication of receipts.

### **Recommendations**

*The Town Clerk should stop issuance of IOU and ensure that only original supporting documents are used in surrender of any payments to the officers.*

## APPENDIX 2: LIST OF PERSONS INTERVIEWED AND PLACES VISITED DURING THE EXAMINATION

### 1. The Mayor

### 2. Committee Chairpersons.

- |                          |                                       |
|--------------------------|---------------------------------------|
| • Cllr. Margaret Safari  | - Staff committee                     |
| • Cllr. Ndonye Waweru    | - Works committee                     |
| • Cllr. Mwangi Gakuya    | - Water & Sewerage committee          |
| • Cllr. Samwel Ndungu    | - Environment Committee               |
| • Cllr. Paul Mutunga     | - Finance committee                   |
| • Cllr. Naftali Ogola    | - Housing Development committee       |
| • Cllr. Hellen Katangi   | - Social Services & Housing committee |
| • Cllr. Maurice Dindi    | - Education committee                 |
| • Cllr. Mutinda Urbanus  | - Licensing Committee                 |
| • Cllr. David Kariuki    | - Public Health Committee             |
| • Cllr. Kullow Abdi Haji | - Joint Staff Committee               |

### 3. The Town Clerk

### 4. The Deputy Town Clerk

#### Sections

- Administration
- Valuation
- Decentralization
- Printing
- Registry

### 5 The City Treasurer Sections

- Payments
- Revenue
- Licensing
- Rates
- Final Accounts
- Computer

### 6. Public Health Department Sections

- Epidemiology and Disease Control
- City Mortuary
- Cemeteries
- Birth Registry
- Medical Stores
- Inoculation
- Pumwani Hospital
- Public Health Prosecutor

### 7. Education Department Sections

- School Administration
- Advisor to Schools
- School Development Section
- Quality Assurance and Standards Section
- Early Childhood Education
- City Centre for Early Childhood Education

#### 8. Social Services & Housing Department Sections

- Community Development and Welfare
- Vocational Training
- Children and Youth
- Housing
- Markets
- Sports and Recreation

#### 9. Engineering Department Sections

- Estates Development Control
- Quantity Survey
- Electrical
- Architectural
- Operations and Services
- Roads
- Structural
- LASDAP
- Fire STATION
- Ambulances
- Mechanical
- Transport
- Design

#### 10. Inspectorate Department Sections

- Training College
- Parking Section
- Animal Pound
- Traffic unit

#### 11. Investigations Department

#### 12. Environment Department Sections

- Cleansing
- Research
- Parks

#### 13. City Planning Sections

- Development Control
- Forward Planning

- Urban Design
- Policy Implementation
- Land Management
- Survey
- Research
- Enforcement

#### 14. Human Resource Sections

- Appointments and Recruitment
- Paymaster
- Retirement
- Establishment
- Transfer
- Discipline
- Retirements

#### 15. Legal Affairs Department Sections

- Litigation
- Conveyancing
- Committee Clerk
- Prosecution
- Courts and Registry

#### 16. Procurement Department

#### 17. Housing Development Department Sections

- Survey Section
- Community Development
- Accounts

#### 18. Stakeholders

- Kenya Revenue Authority.
- Nairobi City Water and Sewerage Company Ltd.
- Nairobi Central Business District.
- Kenya Association of Manufacturers.
- Institution of Surveyors of Kenya.
- Architectural Association of Kenya.
- Kenya institute of Planners.
- Kenya Roads Board.
- Institute of Quantity Surveyors of Kenya.
- Kenya Taxi Cab Association.
- Association of Local Government Officers.
- We Can Do It.
- Nairobi Informal Sector Forum.

#### 19. Other Areas Visited

- Pumwani Maternity hospital.
- City Mortuary.
- City Inspectorate Training School
- The Dog Pound
- The Central Stores
- Langata Cemetery
- Animal Pound
- Lady Northey Nursery School
- Waithaka Technical Institute
- Waithaka Social Hall
- City Stadium
- Traffic Unit
- Highway Unit
- Asphalt Plant
- Parklands Nursery
- Central Nursery
- Nairobi Primary/ Milimani Secondary-CICECE
- Macmillan library
- Eastland Revenue Office
- Housing Development Department (Dandora)
- Wakulima Market
- City Park
- City Primary
- Fire Station
- Transport Yard
- Central Garage
- Roads-Eastleigh, Kawangware, South C, Lavington, CBD and Ridgeways
- Embakasi Social Hall
- Umoja I and II Estates
- Kayole Estate



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