

# **Planning and Managing Urbanization in Kenya following the New Constitutional Dispensation Promulgated in August 2010**

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**Key words:** Devolution 1, Decentralization 2, Good Urban Governance 3, Planning Standards 4, Services Delivery 5, Constitutionalism 6,

## **SUMMARY**

Urbanization is a phenomenon that has brought opportunities as well as challenges to Kenya's economy. Its historical context has never quite been explained. All that is known is that more and more people are moving into towns and cities. The infrastructure was not designed to cater for these numbers. This exodus and the increased demand for services, calls for sober planning, and even more focused implementation of the plans. Since August 27<sup>th</sup>, 2010, Kenya has gone through a fundamental constitutional change, after twenty years of searching and scratching and various false starts, a referendum was conducted and Kenyans voted, overwhelmingly, for a new Constitution. With this democratic change came great expectations amongst Kenyans. One of the most significant of these changes was the creation of Counties, a decentralization of power and functions, American style. Going by the reaction of some of the political leaders, some offering to be Senators or Governors, without necessarily understanding the implications, it is necessary to conduct deep and broad civic education. By the time of Constitutional change there were 175 local authorities in Kenya. Of these local Governments, 2/3rds are not in a position to meet their financial and service delivery obligations for a variety of reasons and excuses. The Central Government has admitted as much, but even where Government intervened by, say, suspending the elected councils and replacing them with commissions, there was no change in quality of services delivery, merely change in who is putting their hands in the till. This scenario is what is obtaining to date, but, right now everyone in Kenya is busy preparing for the changes that the new Constitution envisaged. There is a Constitutional Implementation Commission, answerable to Parliament. No reason to doubt Kenya's governance system is on the verge of a complete transformation.

Kenyan urban authorities have not always given much thought to strategic plans until 2009. After years of haphazard operations, last year local authorities announced publicly their budgets for the first time. These have yet to be translated into real action on the ground, but it is a step forward. On the other hand population has grown fourfold. How do we plan and then how do we implement? How do we control and assure continuous improvement of performance in delivery of basic public services, like water, electric power, garbage collection, education, healthcare, transport and good urban governance? That is the subject of this paper.

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## 1. INTRODUCTION

**Urbanization** refers to a process in which an increasing proportion of an entire population lives in cities and the suburbs of cities. Historically, it has been closely connected with industrialization. When more and more inanimate sources of energy were used to enhance human productivity (industrialization), surpluses increased in both agriculture and industry. Larger and larger proportions of a population could live in cities. Economic forces were such that cities became the ideal places to locate factories and their workers. This scenario is not necessarily applicable to Kenya. Small scale agriculture thrives.

Traditionally, cities are where human civilization began; where the world's great universities, libraries, cathedrals, and museums are found. They have been the center of scientific discovery and technological innovation, of commerce and literacy. However, even in ancient times, cities were also congested? Metropolitan Rome and Carthage each had nearly one million inhabitants.

Ideally, a "**city**" refers to a place of relatively dense settlement -- dense enough so that city residents cannot grow their own food. A city population, therefore, is always dependent upon its "**hinterlands**" to provide it with food, and the hinterlands are dependent on the city for their income and processed supplies. Urbanization is also defined by the United Nations as movement of people from rural to urban areas with population growth equating to urban migration. The United Nations projected that half of the world's population would live in urban areas at the end of 2008 (en.wikipedia.org).

Urbanization is closely linked to modernization, industrialization, and the sociological process of rationalization. Urbanization can describe a specific condition at a set time, i.e. the proportion of total population or area in cities or towns, or the term can describe the increase of this proportion over time. So the term urbanization can represent the level of urban relative to overall population, or it can represent the rate at which the urban proportion is increasing.

Taking Nairobi, the largest local authority in Kenya, its size has grown to more than 3.5 million people in less than 50 years. 60% of these live on less than 1/6<sup>th</sup> of the total land surface of the city.



## What are the Problems Associated with Rapid Urban Growth?

The urbanization process refers to much more than simple population growth; it involves changes in the economic, social and political structures of a region. Rapid urban growth is responsible for many environmental and social changes in the urban environment and its effects are strongly related to global change issues. The rapid growth of cities strains their capacity to provide services such as energy, education, health care, transportation, sanitation and physical security. This state of affairs gave rise to lobby groups like NCBDA (Nairobi

Central Business District Association). This is an association of professionals and business people, who operate downtown, and who felt threatened by the deterioration in services delivery and the severe loss of governance processes. The net result was that because governments have less revenue to spend on the basic upkeep of cities and the provision of services, cities have become areas of massive sprawl, serious environmental problems, and widespread poverty.



Developed and less developed countries of the world differ not only in the percent living in cities, but also in the way in which urbanization is occurring. In Mexico City (950 square miles), as in many other megacities in the developing world, urban sprawl exists as nearly 40% of city dwellers live in the urban periphery in poverty and environmental degradation. These high density

settlements are often highly polluted owing to the lack of urban services, including running water, trash pickup, electricity or paved roads. Nevertheless, cities provide poor people with more opportunities and greater access to resources to transform their situation than rural areas. The same can be said of Nairobi, Mombasa, Kisumu, Nakuru and Eldoret, Kenya's five largest cities.

In several African countries, the combined rural urban migration and the natural increase in population is producing unprecedented rate of population growth in major cities. Caught unprepared and lacking both financial and technical resources, urban authorities are witnessing a gigantic stream of migrants, who, given the shortages of accommodations meeting minimum legal requirements, resort to living in slums and squatter settlements, both within the city and its periphery, often in extremely hazardous health and sanitation conditions. In Kenya it was estimated that we needed to build 300,000 units of various types

in order to meet the housing demand and housing need. Of these only about 15,000 are erected annually, and the majority are in the upper income bracket.



Initial responses were control-oriented and centred at preserving healthful environment for those already within the city. These took the form of denying services to squatter and slum areas, enforcing expensive building codes, and occasionally demolishing the squatter structures that contravened these established high standards and therefore high cost building codes. In a few instances repatriation of slum residents back to the rural areas was attempted. And agricultural programmes were revitalized with the sole aim of keeping people out of the cities.



Despite such measures, however, squatter settlements have not only remained but have greatly expanded in size. A recent survey by the UN Economic Commission for Africa estimates that such settlements have more than 40% of the entire urban population on the continent. In Nairobi it is 60%. These settlements once viewed as temporary have become a permanent feature of the urban scenario.

“Urban Policy and Low Income Settlement in Nairobi Kenya”, by Joe Wamala Muwonge



There are a group of small businesses, which many people would not call businesses at all, but which are nevertheless in most countries a far more important source of employment and incomes, for far more people, than large or small formal businesses. These are enterprises belonging to what is sometimes known loosely as the informal sector or micro-enterprises. That is the vast majority of very small-scale income-generating activities

through which millions of people attempt to make their living and survive, particularly in the developing countries.

Everyone is aware of these micro-enterprises. They are crowded along the pavements and in the slums of big cities, as well as in the official and unofficial marketplaces. They are a major source of income in the rural areas, where many people own no land at all and those who do own land have little to gain by spending more hours of labour on their tiny holdings. They include vendors, tailors, snack-food processors, roadside cycle and car mechanics, blacksmiths, cobblers and almost everything else. Although they are often perceived as a nuisance by those who can afford to purchase what they need from more formal and sophisticated sources, these micro-entrepreneurs provide essential goods and services at a place, time and price that are convenient not only for other poor people like themselves but also for customers from other social groups and larger businesses.

ILO – “Management Consulting: Consulting for the Informal Sector” Milan Kubr Pp 575

## **2. A REVIEW OF INFORMAL SECTOR ACTIVITIES IN NAIROBI**

The Informal Sector has been a feature of Nairobi since the 60s and has since been growing astronomically. According to a study carried out in 2004 by the Nairobi Central Business District Association (NCBDA 2004), 45% of the working population in Nairobi belongs to the Informal Sector. The sector is very varied and heterogeneous and provides services that

now strongly compete with formal business. The prices are fair, the distribution is even and the products are so diverse. The sector is very active and offers ready absorption for people dropping out of school, the retrenched and the unemployed. It is the place of refuge for the hardworking victims of economic forces.

Being a source of employment for many of Nairobi dwellers, the informal sector has taken on many forms. Many have no permanent places of trade. Mainly, activities are carried out on the roadside and open spaces. Also known as Jua Kali, the trade has resisted concerted government efforts to put them far away from mainstream economic activities. 85% per cent of the informal sector activities in Nairobi operate side by side with formal business, giving competition and sometimes introducing new products. Sometimes, the sector has been used as a conduit for offloading counterfeit goods into the market. The trade however cannot be taken for granted; its management needs to be given priority by the City's planning process because; **a. It is here to Stay; b. It is growing whilst the formal business has been declining**

Categorization of Informal Sector activities in Kenya is still poor. Even the modalities that dictate the various categories have not been harmonized, as would be the case in other Cities. However an attempt can be made to identify an obvious trend of activities as shown in the table below:

No.	Category	Area of operation	Percentage Involvement
1.	Street Trading	Central Business District; Street in Neighborhood Areas	35%
2.	Kiosks Food, Bars, Groceries items)	CBD Environs, all Residential Areas.	25%
3.	Jua Kali Artisans	CBD Environs and the Estates	18%
4.	Motor Vehicle Repairers	In most open spaces near busy shopping centres	15%
5.	Transport Operators (Taxis/Tuk Tuks)	Central Business District	4%
6.	Others		3%

Source: NCC

Apart from street Trading and Roadside Kiosks, many other informal sector activities have had less controversy. This is because their activities are more discreet and mainly conducted away from the roadsides. Interventions are therefore mainly needed toward street trade and which also accommodate the largest number of people in Nairobi. This section will therefore mainly review street trading as an informal sector activity that is most volatile in Nairobi.

Street traders conduct business in various commodities such as transport (taxis), shoe polishing, clothing, electronics, watch repair, groceries, newspapers, household gadgets, toys, stationery, magazines and foodstuffs. According to the Nairobi City Council, the current spread of street trading was not initially catered for in Nairobi's planning and was for a long time perceived as a temporary intrusion that could be addressed through forceful evictions. But the trade has resisted eviction, persisted and continued growing whereas the reluctance to accept it remains.

In response to this street trader controversy, authorities have introduced a difficult-to-enforce ban on street trading within the Central Business District of Nairobi. The eviction process is based on the notion that it would reduce congestion, reduce insecurity, clean up the City and eliminate unfair competition against the formal sector. These business persons were never part of the planning process, yet they constitute about 50% by 2010 figures of the number doing business in the city.

### 3. PLANNING



Urbanization can be planned urbanization or organic. Planned urbanization, i.e.: planned community or the garden city movement, is based on an advance plan, which can be prepared for military, aesthetic, economic or urban design reasons. Examples can be seen in many ancient cities; although with exploration came the collision of nations, which meant that many invaded cities took on the desired planned characteristics of their occupiers.

Many ancient organic cities experienced redevelopment for military and economic purposes, new roads carved through the cities, and new parcels of land were cordoned off serving various planned purposes giving cities distinctive geometric designs. Nairobi was planned thus in 1948, when its population was segregated on strict racial lines. Since a lot has changed. Now the city is divided into the have and the have not, those who have make policies and laws for the others.

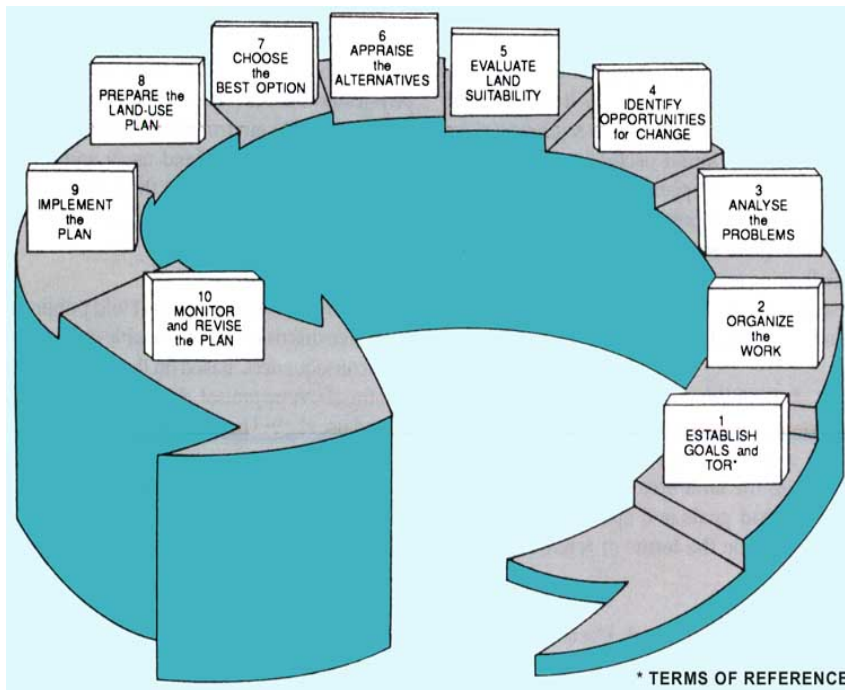
UN agencies prefer to see urban infrastructure installed before urbanization occurs. Urban, city, and town planning integrates land use planning and transportation planning to improve the built, economic and social environments of communities. Urban planning can include urban renewal, by adapting urban planning methods to existing cities suffering from decay and lack of investment ([en.wikipedia.org](http://en.wikipedia.org)). For a long time this was only for the planned neighbourhoods of the towns and cities in Kenya.

Generally, planning involves determining objectives and selecting a course of action to achieve them. It implies looking ahead and deciding in advance what is to be done, when, and where it is to be done, how and by whom it is to be done. In a nutshell, planning can

therefore be viewed as a rational process of preparing a set of decisions for future action directed at achieving objectives already set.

Namaswa and Mutua (1992) have defined planning, in all its forms, is the application of a rational and systematic analysis to the process of development with a view of maximizing effectiveness and efficiency. The USA President Barack Obama has said as much, based on his own experiences in Chicago City where he worked and saw first hand, the challenges and opportunities that the urban set up generates.

“We need to do more than help our cities weather the economic storm. We need to rebuild



them on a newer, firmer stronger foundation for our future. That requires a new strategy for our cities and metropolitan areas that focus on advancing opportunity through competitive, sustainable and inclusive growth. **Pres. Barack Obama**, 46th President of the USA when he signed an Executive Order establishing “**White House Office of Urban Affairs**”. This is a bold move and an apt one, a model that Kenya should emulate, at least in principle, recognizing that the urban areas contribute significantly, to the exchequer and the GDP as a whole. The

model shown is adopted from land use planning. It follows from police powers in development control and embraces the principles of zoning to assure harmonized land utilization. Many of our towns are organic in nature and were therefore not planned as such. At its most basic level, land use planning is likely to involve zoning and transport infrastructure planning. In most developed countries, land use planning is an important part of social policy, ensuring that land is used efficiently for the benefit of the wider economy and population as well as to protect the environment. In Kenya land has been used in a most fluid manner. Forests have been annexed and sold off as residential, even when clearly they were not zoned for that.

### 3.1 Governance Challenges

A report by the National Tax Association (NTA) notes widespread misuse of CDF (Constituency Development Fund) and Local Authority Transfer Fund (LATF) leading to stalled projects – *Please see the National Tax Payers Association summary below* . Local



authorities in Western Province and other provinces, have faced criticism over the implementation of the Local Authority Transfer Fund as claims emerge of mega corruption in awarding of tenders. Whistleblowers claim that Chief Officers and Councillors have turned the fund, meant to improve services, into a cash cow, as they arm-twist contractors to bribe them before winning tenders. This against a backdrop of a brand new constitution, which is meant to give the Local Authorities much more powers and latitudes. This aspect of our constitution comes into force after the next elections, due to be held on August 5<sup>th</sup>, 2012. So we just have over a year to have things in place. The CDF is managed by the respective Members of Parliament. These two are attempts at devolution to the grassroots, but their management is very suspect and incapacitated.

**Devolution** is the statutory granting of powers from the central government of a sovereign state to government at a sub-national level, such as a regional, local, or state level. It differs from federalism in that the powers devolved may be temporary and ultimately reside in central government, thus the state remains, *de jure*, unitary. The devolution can be mainly financial, e.g. giving areas a budget which was formerly administered by central government. However, the power to make legislation relevant to the area may also be granted, as envisaged in Kenya's new Constitution, as long as they are complementary to and not contrary to national legislation. This is what was expected in the following article 184.

### **3.2 The Constitution of Kenya 2010 at Article 184**

(1) National legislation shall provide for the governance and management of urban areas and cities and shall, in particular –

- (a) Establish criteria for classifying areas as urban areas and cities
- (b) Establish the principles of governance and management of urban areas and cities
- (c) Provide for participation by residents in the governance of urban areas and cities

(2) National legislation contemplated in clause (1) may include mechanisms for identifying different categories of urban areas and cities and for their governance.

My interpretation of the foregoing is that the Constitution of Kenya 2010, left matters relating to local government vague and undefined. Government has set up a Task Force to review and interpret the intended meaning of the Constitution.

#### **A PIECE FROM STANDARD NEWSPAPERS, Kenya's oldest paper follows**

''One of the most exciting things about the new Constitution is Chapter 11 on devolved government which introduces 47 county governments. Initially, calls for devolution were based on the political and perceived economic marginalisation of certain regions. Thereafter, there was broad political agreement that devolution was important but with differing viewpoints on the level intended and the extent of fiscal power-sharing between the national and devolved governments.

The Task Force on Devolution has prepared thorough guidelines they are using to discuss matters of governance, public service and financial management in all counties. I trust that as the taskforce conducts its public hearings, it will simplify the guidelines for the citizens to comprehend. Following the promulgation of the Constitution, county forums bringing together multiple stakeholders to discuss development and governance issues have emerged.

Most of these forums have websites or Facebook pages. They have held consultative meetings, launched strategic plans and even set up shadow county assemblies. Business people, professionals, religious leaders and public service employees are some of the people brought together to contribute to these forums. However, in the majority of instances, urban-based elites have firmly taken charge of the consultative process. The early involvement of rural-based citizens will result in powerful citizens' engagement.

Could this be the onset of issue-based politics where voters can set the agenda and political candidates are evaluated against this agenda? A few counties, possibly due to the nature of the politics their respective regions have experienced, have begun grappling with key matters such as the "sharing" of county positions amongst different constituencies and clans to "protect minorities".

The location of headquarters for each county will be straightforward for some and a tussle for others. Indeed, these discussions are best done early enough and dispensed with before the General Election. It will be interesting to study whether the past political expression of the counties' respective constituencies will influence the ability of these forums to convene freely to discuss their county matters and eventually, the management of county affairs. Government in its wisdom or lack of it, has announced the construction of 47 (forty seven) new headquarters for each County, even before the people choose where they want to have theirs. This is a form of interference in the county affairs, and may not augur well for anybody.

Would regions that have elected civic and parliamentary candidates with little regard to their political parties discuss their issues more freely than regions that have had a homogenous approach in their elections? Conversely, would the politically homogenous regions experience fewer wrangles on county management than their heterogeneous counterparts?

Several counties have key national public investments, and discussions on those they will control should be held early enough to avert any conflict between national and county governments. The Constitution provides for a phased transfer of functions from national to county governments within three years after the elections depending on the capacity the counties have. If prior investments will be critical in determining the capacity levels of the counties, will the skewed development among counties result in a backlash against the central government when

disbursements are made to those with capacity? Can the county forums take the cue and carry out capacity building strategy?

# NATIONAL TAXPAYERS ASSOCIATION (NTA)

## LAUNCH OF NTA CITIZENS' AUDIT OF CDF AND LATF FUNDS

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Promoting good governance in Kenya

### ABOUT THE SOCIAL AUDIT

The social audit falls under NTA's building citizen demand programme. Under this programme NTA is compiling and disseminating Citizen's Report Cards (CRCs) on the provision of services at the district level and the management of devolved funds in constituencies and local authorities.

### ABOUT THE PHASE III AUDIT

NTA has completed the third round of audits of Constituency Development Fund (CDF) in 28 constituencies and Local Authority Transfer Funds (LATF) in 5 local authorities.

### FINANCIAL YEAR COVERED & PERIOD OF RESEARCH

The audit covered one government Financial Year 2007/08. The monitoring exercise was conducted between January 2010 and January 2011. It is important to note that the Financial Year 07/08 was simply used for CDF project identification, but financial reporting takes into consideration accumulated allocations to the monitored projects over the years.

### ABOUT NTA

The National Taxpayers Association (NTA) is an independent, non-partisan organization focused on promoting good governance in Kenya through citizen empowerment, enhancing public service delivery and partnership building. The NTA was established in April 2006 by a coalition of leaders from civil society, faith based, private and public sector organizations. Since then NTA has implemented programmes focused on building citizen demand and strengthening delivery of public services. It has achieved this through the development of social accountability tools, Citizen Report Cards (CRCs), civic awareness and building the capacity of citizens and initiating partnerships with government agencies and non-state actors.

### Vision

We envision an accountable, citizen-responsive government delivering quality services.

### Mission

To promote accountable, effective and efficient collection and utilization of public resources through citizen empowerment, enhancing public service delivery and partnership building.

### MAIN FINDINGS

Out of the funds investigated in 28 constituencies and 5 local authorities, over **KShs 444,002,327 Million** of taxpayer's money was found to have been badly used, wasted or unaccounted for.

### PHASE III CONSTITUENCY DEVELOPMENT FUND (CDF) RANKING - FY 2007/2008

Performance Rank 1=best, 28=Worst	Constituency Name	Total CDF Funds Awarded	Total CDF Funds Badly Used	Total CDF Funds Wasted	Total CDF Funds Unaccounted for	Total CDF Funds Badly Used, Wasted & Unaccounted for	%
		July 1st 07 - June 30th 08	FY 07-08 (KShs.)	FY 07-08 (KShs.)	FY 07-08 (KShs.)	FY 07-08 (KShs.)	
1	Tinderet	86,760,000	2,580,000	-	-	2,580,000	3
2	Matuga	19,108,163	731,370	-	-	731,370	4
3	Kileleshwa	49,328,375	2,353,237	50,000	-	2,403,237	5
4	Bura	34,265,323	800,000	-	1,800,000	2,600,000	8
5	Makueni	41,112,204	3,876,208	180,000	-	4,056,208	10
6	Starehe	38,239,633	3,325,096	-	1,113,459	4,438,555	12
7	Kajiado North	71,249,064	7,055,914	1,300,667	166,000	8,522,581	12
8	Kasarani	56,512,775	5,930,000	-	2,733,932	8,663,932	15
9	Lurambi	131,620,143	20,420,000	600,000	320,000	21,340,000	16
10	Garsen	43,381,240	5,097,987	-	2,412,782	7,510,769	17
11	Keiyo South	28,330,000	4,510,000	-	500,000	5,010,000	18
12	Mwea	36,345,621	5,950,000	600,000	-	6,550,000	18
13	Gichugu	74,916,027	4,098,226	600,000	8,966,255	13,664,481	18
14	Nyando	60,310,291	10,635,000	300,000	1,600,000	12,535,000	21
15	Muhoroni	89,033,850	14,251,363	3,067,420	1,605,000	18,923,783	21
16	Mbeoni	76,329,808	4,849,560	750,000	10,643,850	16,243,410	21
17	Kirinyaga Central	53,867,728	9,620,000	-	2,080,719	11,700,719	22
18	Nyakach	72,078,163	13,768,333	-	2,162,000	15,930,333	22
19	Sirisia	93,194,775	21,697,725	-	-	21,697,725	23
20	Kinango	71,580,130	3,320,000	200,000	16,650,000	20,170,000	28
21	Ndia	91,206,751	20,479,465	-	9,192,481	29,671,946	33
22	Malindi	81,508,672	26,581,212	-	1,830,000	28,411,212	35
23	Lamu West	35,000,000	6,775,000	375,000	5,250,000	12,400,000	35
24	Lamu East	41,919,907	15,400,000	-	-	15,400,000	37
25	Msamwani	56,230,736	18,898,356	-	2,213,286	21,111,642	38
26	Kanduyi	120,146,434	30,588,859	-	22,079,051	52,667,910	44
27	Bumula	96,970,246	45,279,846	-	4,000,000	49,279,846	51
28	Ugenya	20,703,543	5,102,210	-	5,780,000	10,882,210	53
TOTAL		1,771,249,601	313,974,967	8,023,087	103,098,815	425,096,869	24

### PHASE III LOCAL AUTHORITY TRANSFER FUND (LATF) RANKING - FY 2007/2008

Performance Rank 1=best, 5=Worst	County Council Name	Total LATF Funds Awarded	Total LATF Funds Badly Used	Total LATF Funds Wasted	Total LATF Funds Unaccounted for	Total LATF Funds Badly Used, Wasted & Unaccounted for	%
		July 1st 07 - June 30th 08	FY 07-08 (KShs.)	FY 07-08 (KShs.)	FY 07-08 (KShs.)	FY 07-08 (KShs.)	
1	Makueni County Council	12,550,000	-	1,600,000	-	1,600,000	13
2	Town Council of Wote	1,854,525	491,020	-	-	491,020	26
3	Lamu County Council	17,673,044	1,649,047	635,151	2,648,007	4,932,205	28
4	Kilifi County Council	17,006,264	6,604,050	-	1,528,183	8,132,233	48
5	Tana River County Council	7,650,000	1,250,000	-	2,500,000	3,750,000	49
TOTAL		56,733,833	9,994,117	2,235,151	6,676,190	18,905,458	33

The Kenya Investment Authority (KIA) has provided technical assistance to regional forums such as the Nyanza Economic Forum, the Coast Province Investment Conference and the recently launched South Eastern Investment Conference. Osendo, March 11, 2011.’’

### **3.3 Democratic Space**

Currently the urban areas and cities are governed under the Local Government Act, Cap 265 of the laws of Kenya. In this Act although wards elect their own representatives to sit in Council and make policy decisions, and review their implementations, they are under the mercy and microscope of the Central Government, specifically the Hon. Minister for Local Government, who has executive powers over all local governments. S/he can nominate any number of members to the local authority, and in fact can dissolve them. S/he can overrule, at will, any decisions reached by the councilors at full Council meetings, even though s/he was elected just as much as the Councillors.

What has been guiding us thus far? It is the grace and Mercy of the Maker. Kenya has not had a National Urban Development Policy (NUDP). A Committee has been formed to come up with one, but already we have cities and towns. Taking Nairobi as the principal city, its approved master plan dates to 1948, the other, 1973 was never approved. It will be interesting to see what that Commission comes up with as Policy to inform the laws to enhance livability and invest ability

### **3.4 Service Delivery**

Government in exercising its power over local authorities dissolved the Nairobi City Council and Mombasa City Council many times, in the 1980’s. The argument being that there was less than desirable quality and quantity of services delivery. Ironically these changes did not in any way improve nor increase the service delivery.

Other policies reinforce the above scenario. In this case, in order to boost the production of cheaper goods, governments have maintained artificially low food prices in urban areas. The strategy here is to maintain urban food prices below market levels to reduce the cost of urban labour and urban life. This policy has resulted in inadequate compensation of rural producers for the costs they incur to produce food products and thus have aggravated rural poverty. On the other hand, these policies have also made city life more attractive and pulled them from rural areas. In Kenya the latest national population census indicated that the urban population was at 35%, the rest of the people still live and work in the countryside on farms or other agricultural related activities. This is an increase of about 30% in a very short time and even by the time we publish this article the numbers will have changed drastically.

### **3.5 Observations**

1. Government, right from the start did not intend to grant any form of meaningful autonomy to the local authorities in Kenya despite the fact that they were elected and constituted in similar manner to Parliament.

2. Many local governments have not had any form of management strategy or budget for development and have relied solely on handouts from central government to pay their workers. This is so rampant that when money intended for development is disbursed, it goes to pay salary arrears, running into months, as happened in Kisumu City.
3. The Constitution is a chance for a fresh start and a break from the past, but it must be implemented in the most transparent manner possible and meet set standards of performance as measured by the citizens who consume the services.
4. The Constitution is only a start, Parliament needs to pass laws to give guidance and direction to the imminent formation of Counties before they are constituted, especially the ways and means in which they will be able to generate funding for the various programmes and projects, which have been outstanding for a long time.
5. The Constitution allows Parliament to craft laws that will be used for governance and management of urban areas and cities.
6. It would be very interesting to assess how much of the ten Principles of Intelligent Urbanism (PIU) are practised in any of the local authorities.

#### **4. CONCLUSION**

There are now 23 "megacities" which each have populations over 10 million. Many are located in developing countries which do not have adequate infrastructures in place to meet even the basic needs of rapidly growing populations. Kenya does not have a mega city but we have five major cities. We also have numerous mini urban settlements, which have been christened town councils. In many of these, the air quality, sanitation, and access to clean water are serious concerns. Therefore, there has been increased attention and study of these urban ecosystems belatedly.

Third World urbanization will be a beneficial social trend only if enough good jobs can be found for the rapidly growing population of Third World cities.

#### **5. RECOMMENDATIONS**

1. A concerted effort must be applied in civic education in order to prepare the populace to be able to engage with their leaderships and chart their own destinies, not based on ignorance, as in the past, but solid knowledge and awareness of their rights, duties and obligations.
2. The Task Force on Devolution should be funded and facilitated to fast track its deliberations and complete its mission in order to give credence to the new constitutional dispensation in letter and spirit, especially in article 184 where it relates to and provides for governance and management of cities and urban areas.
3. The Task Force on National Urban Development Policy (NUDP) should be similarly enabled and facilitated to complete its work on target, by November 2011. This should

then be submitted as a matter of urgency to Parliament for debate and approval and passage into law. That way it will lay the foundation required to set rules and regulations for the planning and management of Urbanization, which in many cases will be retrospective, since cities and urban areas already exist with mixed fortunes.

4. There should be legislation enacted specifically to cater for the development of micro enterprises and their needs to foster recognition and a level playing field and also so that they can be included in the tax brackets, otherwise at now they do not benefit much but they do not pay any taxes either, so it is a lose-lose arrangement.
5. In the UN Habitat document *Building Bridges Through Participatory Planning*, Fred Fisher, president of the International Development Institute for Organization and Management, identifies **Participatory Reflection And Action (PRA)** as the leading school of participatory planning. He identifies Paulo Freire and Kurt Lewin as key pioneers, as well as claiming planning fathers Patrick Geddes and Lewis Mumford as participatory planners. Freire's belief that poor and exploited people can, and should be, enabled to analyze their own reality was a fundamental inspiration for the participatory planning movement. Lewin's relevance lay in his integration of democratic leadership, group dynamics, experiential learning, action research, and open systems theory, and his efforts to overcome racial and ethnic injustices. Robert Chambers, whom Fisher considered a leading icon of the movement, defines PRA according to the following principles:
  - a. Handing over the stick (or pen or chalk): Facilitating investigation, analysis, presentation and learning by local people themselves, so they generate and own the outcomes and also learn.
  - b. Self-critical awareness: Facilitators continuously and critically examine their own behavior.
  - c. Personal responsibility: Taking responsibility for what is done, rather than, for instance, relying on the authority of manuals or on rigid rules.
  - d. Sharing: Involves the wide range of techniques now available, from chatting across the fence to photocopies and e-mail.

Faced with these challenges, I would look to what others have done when dealing with urbanization...the Principles of Intelligent Urbanism. Prof.Christopher Charles Bessinger has crafted and I adopt the Ten Principles of Intelligent Uirbanism....

## 7. PRINCIPLES OF INTELLIGENT URBANISM

I want to imagine that the experts who crafted the Constitution of Kenya must have had the ten Principles of Intelligent Urbanism (PIU), perhaps without realizing it, but then they say great minds think alike. PIU is a theory of urban planning composed of a set of ten axioms intended to guide the formulation of city plans and urban designs. They are intended to

reconcile and integrate diverse urban planning and management concerns. These axioms include environmental sustainability, heritage conservation, appropriate technology, infrastructure efficiency and effectiveness, place-making, social access, transit oriented development, regional integration, human scale, and institutional integrity. The term was coined by Prof. Christopher Charles Benninger. It is against these that we can score how well or otherwise a city or other urban settlement is performing and meeting citizens' expectations.

### **7.1 Principle one: a balance with nature**

According to proponents of Intelligent Urbanism, balance with nature emphasizes the distinction between utilizing resources and exploiting them. It focuses on the thresholds beyond which deforestation, soil erosion, aquifer depletion, siltation and flooding reinforce one another in urban development, saving or destroying life support systems. The principle promotes environmental assessments to identify fragile zones, threatened ecosystems and habitats that can be enhanced through conservation, density control, land use planning and open spaces design (McCarg: 1975). This principle promotes life cycle building, energy consumption and pollutant emission analysis. This principle states there is a level of human habitation intensity wherein the resources that are consumed will be replaced through the replenishing natural cycles of the seasons, creating an environmental equilibrium.

### **7.2 Principle two: a balance with tradition – Vernacular Architecture!!**

Balance with Tradition is intended to integrate plan interventions with existing cultural assets, respecting traditional practices and precedents of style (Spreiregen: 1965). This urban planning principle demands respect for the cultural heritage of a place. It seeks out traditional wisdom in the layout of human settlements, in the order of building plans, in the precedents of style, in the symbols and signs that transfer meanings through decoration and motifs. This principle respects the order engendered into building systems through years of adaptation to climate, to social circumstances, to available materials and to technology. It promotes architectural styles and motifs designed to communicate cultural values.

This principle calls for orienting attention toward historic monuments and heritage structures, leaving space at the ends of visual axis to “frame” existing views and vistas. Natural views and vistas demand respect, assuring that buildings do not block major sight lines toward visual assets.

### **7.3 Principle three: appropriate technology and Infrastructure systems**

Appropriate technology emphasizes the employment of building materials, construction techniques, infrastructural systems and project management which are consistent with local contexts. People's capacities, geo-climatic conditions, locally available resources, and suitable capital investments, all temper technology. Where there are abundant craftspeople, labour intensive methods are appropriate. Where there is surplus savings, capital intensive methods are appropriate. For every problem there is a range of potential technologies, which can be applied, and an appropriate fit between technology and other resources must be established.

### **7.4 Principle four: conviviality**



The fourth principle sponsors social interaction through public domains, in a hierarchy of places, devised for personal solace, companionship, romance, domesticity, "neighborliness," community and civic life (Jacobs:1993). According to proponents of Intelligent Urbanism, vibrant societies are interactive, socially engaging and offer their members numerous opportunities for gathering and meeting one another. <sup>1</sup>The PIU maintain that this can be achieved through design and that society operates within hierarchies of social relations which are space specific. The hierarchies can be conceptualized as a system of social tiers, with each tier having a corresponding physical place in the settlement structure. **A place for the individual; A place for friendship; A place for householders; A place for the neighbourhood; A place for communities**

**A place for the city domain** - The Principles of Intelligent Urbanism call for city level domains. These can be plazas, parks, stadia, transport hubs, promenades, "passages" or gallerias. These are social spaces where everyone can go. In many cities one has to pay an entrance fee to access "public spaces" like malls and museums. Unlike the lower tiers of the social hierarchy, this tier is not defined by any biological, familiar, face-to-face or exclusive characteristic. One may find people from all continents, from nearby districts and provinces and from all parts of the city in such places. By nature these are accessible and open spaces, with no physical, social or economic barriers.

### **7.5 Principle five: efficiency and effectiveness**

The principle of efficiency promotes a balance between the consumption of resources such as energy, time and fiscal resources, with planned achievements in comfort, safety, security, access, tenure, productivity and hygiene. It encourages optimum sharing of public land, roads, facilities, services and infrastructural networks, reducing per household costs, while increasing affordability, productivity, access and civic viability.

Intelligent Urbanism promotes a balance between performance and consumption. Intelligent urbanism promotes efficiency in carrying out functions in a cost effective manner. It assesses the performance of various systems required by the public and the consumption of energy, funds, administrative time and the maintenance efforts required to perform these functions.

A major concern of this principle is transport. While recognizing the convenience of personal vehicles, it attempts to place costs (such as energy consumption, large paved areas, parking, accidents, negative balance of trade, pollution and related morbidity) on the users of private vehicles.

Good city planning practice promotes alternative modes of transport, as opposed to a dependence on personal vehicles. It promotes affordable public transport. It promotes medium to high-density residential development along with complementary social amenities, convenience shopping, recreation and public services, in compact, walkable mixed-use settlements. These compact communities have shorter pipe lengths, wire lengths, cable lengths and road lengths per capita. More people share gardens, shops and transit stops.

## **7.6 Principle six: human scale**

Intelligent Urbanism encourages ground level, pedestrian oriented urban patterns, based on anthropometric dimensions. Walkable, mixed use urban villages are encouraged over single-function blocks, linked by motor ways, and surrounded by parking lots.

An abiding axiom of urban planning, urban design and city planning has been the promotion of people friendly places, pedestrian walkways and public domains where people can meet freely. These can be parks, gardens, glass-covered gallerias, arcades, courtyards, street side cafes, river- and hill-side stroll ways, and a variety of semi-covered spaces.

Intelligent urbanism promotes the scale of the pedestrian moving on the pathway, as opposed to the scale of the automobile on the expressway. Intelligent urbanism promotes the ground plan of imaginable precincts, as opposed to the imagery of façades and the monumentality of the section. It promotes the personal visibility of places moving on foot at eye level.

Intelligent urbanism advocates removing artificial barrier and promotes face-to-face contact. Proponents argue that the automobile, single use zoning and the construction of public structures in isolated compounds, all deteriorate the human condition and the human scale of the city

## **7.7 Principle seven: opportunity matrix**

The PIU envisions the city as a vehicle for personal, social, and economic development, through access to a range of organizations, services, facilities and information providing *a variety of opportunities* for enhanced employment, economic engagement, education, and recreation. This principle aims to increase access to shelter, health care and human resources development. It aims to increase safety and hygienic conditions. The city is an engine of economic growth. This is generally said with regard to urban annual net product, enriched urban economic base, sustained employment generation and urban balance of trade. More significantly this is true for the individuals who settle in cities. Moreover, cities are places where individuals can increase their knowledge, skills and sensitivities. Cities provide access to healthcare and preventive medicine. They provide a great umbrella of services under which the individual can leave aside the struggle for survival, and get on with the finer things of life.

## **7.8 Principle eight: regional integration**

Intelligent Urbanism envisions the city as an organic part of a larger environmental, socio-economic and cultural-geographic system, essential for its sustainability. This zone of influence is the region. Likewise, it sees the region as integrally connected to the city. Intelligent Urbanism sees the planning of the city and its hinterland as a single holistic process. Proponents argue if one does not recognize growth as a regional phenomenon, then development will play a hop-scotch game of moving just a bit further along an arterial road,

further up valleys above the municipal jurisdiction, staying beyond the path of the city boundary, development regulations and of the urban tax regime.

The region may be defined as the catchment area, from which employees and students commute into the city on a daily basis. It is the catchment area from which people choose to visit one city, as opposed to another, for retail shopping and entertainment. Economically the city region may include the hinterland that depends on its wholesale markets, banking facilities, transport hubs and information exchanges. The region needing integration may be seen as the zone from which perishable foods, firewood and building materials supply the city. The economic region can also be defined as the area managed by exchanges in the city. Telephone calls to the region go through the city's telecom exchange; post goes through the city's general post office; money transfers go through the city's financial institutions and internet data passes electronically through the city's servers. The area over which "city exchanges" disperse matter can well be called the city's economic hinterland or region. Usually the region includes dormitory communities, airports, water reservoirs, perishable food farms, hydro facilities, out-of-doors recreation and other infrastructure that serves the city. Intelligent urbanism sees the integrated planning of these services and facilities as part of the city planning process.

### **7.9 Principle nine: balanced movement**

Intelligent Urbanism advocates integrated transport systems comprising walkways, cycle paths, bus lanes, light rail corridors, under-ground metros and automobile channels. A balance between appropriate modes of movement is proposed. More capital intensive transport systems should move between high density nodes and hubs, which interchange with lower technology movement options. These modal split nodes become the public domains around which cluster high density, pedestrian, mixed-use urban villages (Taniguchi:2001).

### **7.10 Principle ten: institutional integrity**

Intelligent Urbanism holds that good practices inherent in considered principles can only be realized through accountable, transparent, competent and participatory local governance, founded on appropriate data bases, due entitlements, civic responsibilities and duties. The PIU promotes a range of facilitative and promotive urban development management tools to achieve appropriate urban practices, systems and forms (Islam:2000).

None of the principles or practices the PIU promotes can be implemented unless there is a strong and rational institutional framework to define, channel and legalize urban development, in all of its aspects. Intelligent Urbanism envisions the institutional framework as being very clear about the rules and regulations it sponsors and that those using discretion in implementing these measures must do so in a totally open, recorded and transparent manner. Intelligent Urbanism facilitates the public in carrying out their honest objectives. It does not regulate and control the public. It attempts to reduce the requirements, steps and documentation required for citizens to process their proposals.

Intelligent Urbanism is also promotive in furthering the interests of the public in their genuine utilization of opportunities. It promotes site and services schemes for households who can construct their own houses. It promotes up-gradation of settlements with inadequate basic services. It promotes innovative financing to a range of actors who can contribute to the city's development. Intelligent urbanism promotes a limited role for government.

Intelligent Urbanism does not consider itself naïve. It recognizes that there are developers and promoters who have no long term commitment to their own constructions, and their only concern is to hand over a dwelling, gain their profit and move on. For these players it is essential to have Development Control Regulations, which assure the public that the products they invest in are safe, hygienic, orderly, durable and efficient. For the discerning citizen, such rules also lay out the civil understanding by which a complex society agrees to live together.

***The PIU contends that there must be a cadastral System wherein all of the land in the jurisdiction of cities is demarcated, surveyed, characterized and archived, registering its legal owner, its legal uses, and the tax defaults against it.***

The institutional framework can only operate where there is a Structure Plan, or other document that defines how the land will be used, serviced, and accessed. The Structure Plan tells landowners and promoters what the parameters of development are, which assures that their immediate investments are secure, and that the returns and use of such efforts are predictable. A Structure Plan is intended to provide owners and investors with predictable future scenarios. Cities require efficient patterns for their main infrastructure systems and utilities. According to PIU proponents, land needs to be used in a judicious manner, organizing complementary functions and activities into compact, mixed use precincts and separating out non-compatible uses into their own precincts. In a similar manner, proponents argue it is only through a plan that heritage sites and the environment can be legally protected. Public assets in the form of nature, religious places, heritage sites and open space systems must be designated in a legal plan.

Intelligent Urbanism proposes that the city and its surrounding region be regulated by a Structure Plan, or equivalent mechanism, which acts as a legal instrument to guide the growth, development and enhancement of the city.

According to proponents, there must be a system of participation by the "Stake Holders" in the preparation of plans. Public meetings, hearings of objections and transparent processes of addressing objections, must be institutionalized. Intelligent urbanism promotes Public Participation. Local Area Plans must be prepared which address local issues and take into account local views and sentiments regarding plan objectives, configurations, standards and patterns. Such plans lay out the sites of plots showing the roads, public open spaces, amenities areas and conservation sites. Land Pooling assures the beneficiaries from provision of public infrastructure and amenities proportionally contribute and that a few individuals do not suffer from reservations in the plan.

According to proponents, there must be a system of Floor Area Ratios to assure that the land and the services are not over pressured. No single plot owner should have more than the determined "fair share" of utilization of the access roads, amenities and utilities that service all of the sites. Floor Area Ratios temper this relationship as regulated the manner in which public services are consumed.

Intelligent Urbanism insists on safety, hygiene, durability and utility in the design and construction of buildings. Where large numbers of people gather in schools, hospitals, and other public facilities that may become Emergency Shelters in disasters, special care must be exercised. A suitable Planning and Building Code is the proposed instrument to achieve these aims.

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