

**KISII COUNTY GOVERNMENT**



**COUNTY ASSEMBLY**

**SECOND ASSEMBLY – FIFTH SESSION**

**LANDS, PHYSICAL PLANNING & URBAN DEVELOPMENT COMMITTEE**

**REPORT ON THE OGEMBO MUNICIPAL CHARTER**

**DECEMBER, 2021**

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## **Executive Summary**

Ogembo town is one of the oldest and among the most important towns in Kisii County. Currently, the town serves as the administrative headquarters of Bomachoge Chache Sub County and it is also a major commercial hub serving a number of surrounding populations within the county including Nyamarambe, Nyamache, Kenyenyia, and Kilgoris which is outside the county.

The proposal to have Ogembo town elevated into a municipality in accordance to Section 9 of the Urban Areas and Cities Act, 2011 was received in the county Assembly and tabled on 19<sup>th</sup> October, 2021. The Lands, Physical Planning and Urban Development Committee undertook Public Participation on the document pursuant to Article 196(1) (b) of the Constitution of Kenya, 2010 on 2<sup>nd</sup> December, 2021 in which the Ogembo Municipal Charter was adopted.

The Committee recommends that the Kisii County Government expeditiously confers the Municipality status on Ogembo town to unlock its growth potential and benefit the residents with the development associated with municipality status.

## **Committee Mandate**

The committee on Lands, Physical Planning & Urban Development is one of the Sectoral committees of the Assembly established under standing order no 191 whose mandate is to:

- (a) investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the Lands, Physical Planning & Urban Development department;
- (b) study the programme and policy objectives of the Lands, Physical Planning & Urban Development department and the effectiveness of the implementation;
- (c) study and review all county legislation referred to it;
- (d) study, assess and analyze the relative success of the Lands, Physical Planning & Urban Development department as measured by the results obtained as compared with their stated objectives;
- (e) investigate and inquire into all matters relating to the Lands, Physical Planning & Urban Development department as it may deem necessary, and as may be referred to them by the County Assembly;
- (f) to vet and report on all appointments where the Constitution or any law requires the County Assembly to approve, except those under Standing Order 185 (Committee on Appointments); and
- (g) make reports and recommendations to the County Assembly as often as possible, including recommendation of proposed legislation.

### **Committee Membership**

The committee of Lands, Physical Planning and Urban Development comprises of the following Honorable Members:-

|                                |               |
|--------------------------------|---------------|
| 1. Hon. Ibrahim Ongubo Mose    | Chairperson   |
| 2. Hon. James Anyona Anunda    | V/chairperson |
| 3. Hon. Grace Ogonda           | Member        |
| 4. Hon. Vincent Onyando Gitene | Member        |
| 5. Hon. Caroline Mokobi Otachi | Member        |
| 6. Hon. Duke Samwel Nyarang'o  | Member        |
| 7. Hon. Samson Mogusu Abuga    | Member        |

### **Committee Secretariat**

The committee is served by;

|                       |                  |
|-----------------------|------------------|
| 1. Mr. Stephen Moindi | Committee Clerk  |
| 2. Mr. Vincent Okemwa | Hansard reporter |
| 3. Mr. Erick Obaga    | Sergeant At Arm  |

## **Acknowledgement**

The Committee is grateful to the Offices of the Speaker and the Clerk of the County Assembly for the support received as it discharged its mandate of coming up with this report.

**Mr. Speaker Sir,**

I wish to thank the Members of committee on Lands, Physical Planning and Urban Development for their effort in coming up with this report on the proposed Ogembo Municipal Charter.

**Mr. Speaker Sir,**

It is therefore my pleasant duty and privilege, on behalf of the Committee to table this report for consideration and adoption.

Sign.....Date.....

**HON. IBRAHIM ONGUBO MOSE**

**CHAIRMAN, COMMITTEE ON LANDS, PHYSICAL PLANNING AND URBAN  
DEVELOPMENT**

## **Background**

Following the tabling of a proposal to have Ogembo Town to be elevated to a Municipality in the assembly on Tuesday 19<sup>th</sup> October, 2021, pursuant to the Urban Areas and Cities Act, the County Government Act and the Constitution of Kenya.

The Speaker, in his ruling, committed the document to the Lands, Physical Planning and Urban Development Committee and directed Public Participation to be conducted pursuant to Article 196(1) (b) of the Constitution of Kenya, 2010.

The committee on Lands, Physical Planning and Urban Development invited the general public to give their submissions and views at the Ogembo County Hall on 2<sup>nd</sup> December, 2021. The deliberations of the public participation form the basis of this report.

## **PROCEEDINGS OF THE PUBLIC PARTICIPATION**

### **Address by the Committee Chairman**

The Chairman of the Kisii County Assembly Committee on Land, Physical Planning and Urban Development set the agenda of the public/stakeholder participation meeting by addressing the participants. He informed the stakeholders that pursuant to the Urban Areas and Cities Act, The County Government Act and the Constitution of Kenya, the Kisii County Government was in the process of conferring Ogembo Town status of a Municipality.

The process was based on the provisions of the Urban Areas and Cities Act, an Act of parliament that gives effect to Article 184 of the Constitution; to provide for the classification, governance and management of urban areas and cities in Kenya. The Act provides criteria for establishment of urban areas, principle of governance and participation of residents in the affairs of urban areas.

Ogembo was a town under the previous system of government. This status perished with the enacting of the Urban Areas and Cities Act which introduced higher and thorough procedures of classifying urban areas.

The urban area has already been classified as a Town in accordance to the criteria provided for in the Urban Areas and Cities Act. This consultative meeting with the residents marks a step forward towards classifying the area as a Municipality under the Urban Areas and Cities Act.

The area of the Municipality was extended to 39.4 square kilometers in 2021 when the Ogembo Town Integrated Strategic Urban Development Plan was prepared. The plan is one of the principal requirements for classifying an urban area.

The chairman said that the outer boundary of the area under consideration for conferring Status of Municipality covers an approximate radius of 3.6 kilometers running from Gucha Bridge, Egetuki, Sameta and Tendere area.

The town was the administrative headquarters of former Gucha District and is important as a commercial hub and vital gateway to the neighboring Trans-Mara region. Consequently, the County Government has made significant strides in creating an enabling environment to attract investors and maintain the competitive edge in the region.

Since 2015, the County Government had invested substantial resources in improving the town both in terms of infrastructure and social services. These improvements included the preparation of Local Physical and Land Use Plan.

The investment that the County Government has made to improve Ogembo Town was part of the processes of preparing the area for upgrading its status to a municipality.

Section 9 of the Urban Areas and Cities Act empowered the County Governor, on the resolution of the County Assembly, to confer on a qualifying town, the status of a Municipality by grant of a Charter.

The Chairman further informed the stakeholders that the County Government considered and deliberated on the draft Municipal Charter prepared by the Department of Land, Physical Planning and Urban development to give effect to section 9 of the Urban Areas and Cities Act and considered it ready to be subjected to the larger views of members of the public about the intentions to upgrade the urban area.

The stakeholders were informed that Ogembo Municipality will be managed by a Municipal Board, which shall be an agency of the County Government of Kisii exercising delegated responsibility to deliver services. The Board will be headed by a chairperson and composed of 9 members.

The Municipal Manager shall be recruited competitively by the County Public Service Board, and shall provide the administrative functions, implement the

decisions of the Board and manage staff of the municipality on behalf of the Board.

The Chairman added that the process of upgrading the town is being carried out under the guidance of the National Ministry of Transport, Infrastructure, Housing & Urban Development (MTIHUD).

On behalf of the Kisii County Assembly, the Chairman opened the forum for discussions on the draft Ogembo Municipal Charter and urged the stakeholder to provide feedback that will contribute towards improving it and management practices of the areas.

### **Contributions by Members of the Public**

The residents were thankful to the Kisii County Assembly for considering it necessary to seek their views on the proposed plans to upgrade Ogembo Town to a Municipality and more so to seek their comments on the draft Ogembo Municipal Charter.

The following are among the members of the public/residents of Ogembo submitted as outlined below:

#### **Hon. Samson Abuga**

After Hon. Abuga went through the proposed charter, he was of the view that the boundaries of Ogembo Municipality should be extended to include Mogonga Market center.

#### **Hon. Ibrahim Ombuya**

Hon. Ombuya felt that because of its proximity and significance Sengeru Market center should also be included in Ogembo Municipality.

### **Astariko Atika**

He noted that the Municipality will come with many positive contributions to the area and a few sacrifices will need to be made to achieve the benefits. He urged the residents to support the municipality.

### **Lenard Obwoye**

He proposed that once the charter is effected clear boundaries be drawn between the roles the County Government does from those that will be executed by the board under this charter such duplication of functions and roles is witnessed. This will stem conflict of interests.

### **George Onyinkwa**

He was concerned that the clause on removal of a member of the board by the governor should be reviewed so that the governor can only remove a member of the board in consultation with other organs.

### **Joel Otete**

He proposed that members who will be nominated to the Board to be done professionally to ensure inclusivity and fairness. Further, he raised the need to ensure that the youth are well represented both in the board as well as in employment in the municipality and relative lack of experience should not lock qualified youth out of employment opportunities.

### **Truphenah Isaac**

She noted that the municipality will open a range of opportunities especially for the unemployed women who will grow their small businesses. They will also benefit from better roads to access the market and also water availability.

### **James Oigara**

He suggested that the municipality should also collaborate with both private and government organizations so that services are brought closer to the people. Some

organizations named included Huduma center, Safaricom center, trade office, among others

**Peter Konana**

He raised concern that there is need to educate the local residents about how they will benefit from the municipality so that they are the first beneficiaries from the municipality. They should also be taken through the physical plan so that their developments are guided by the plan.

**Beatrice Mwango**

She supported that the elevation of Ogembo is long overdue and suggested that the land required for expansion should be secured because Ogembo has little remaining public land.

**Vincent Manoti**

He sought more information on how the board will be selected. He also needed to know its level of independence and how it will interact with the county government and the county citizens.

## Committee Observations

The committee delved into a number of issues raised by the participants including the municipal boundaries; effects of the new status on residents; relationship between the Ogembo Town Administration and the incoming Municipal Board; powers of the Governor in removal of board members; fairness in employment; private public partnerships; educating local residents on implications of a municipality; and land availability for required infrastructure.

The committee noted that the County Government's proposals are informed by the following grounds which Ogembo town has met for classification as Municipality:

- a) has a population of over 50,000 people thus meeting the entrance criteria
- b) has an Integrated Strategic Urban Development plan extending the area to 39.4 square kilometer.
- c) has demonstrable revenue collection potential
- d) has demonstrable capacity to generate sufficient revenue to sustain its operations
- e) has the capacity to effectively and efficiently deliver essential services to its residents such as Health facilities, administrative seat, among other several services. Further, there is room for building other facilities that are required to serve the residents better.
- f) has institutionalized active participation by its residents in preparation of the critical County instruments such as budget preparation, Finance Act, preparation of Integrated County development Plan
- g) has infrastructural facilities , including but not limited to Integrated Street Lighting, markets, and set aside land for a fire station
- h) is the headquarters of Bomachoge Chache constituency
- i) The County Government further recognized the challenges Ogembo Town is facing of acquiring a waste disposal site but commended the significant

progress that has been made to maintain the area clean with prospects of acquiring a site.

- j) The County Government recognized the challenge of adequate space for expansion but appreciated the flexibility of the residents in the neighbourhood to sell land to investors around Ogembo town thus enabling expansion of the area.

The committee explained that the residents of Ogembo Municipality will benefit from the broad functions of the Ogembo Municipal Board as outlined in the Urban Areas and Cities Act Section 20. The Municipality status will not only increase the resources for the area from the National Government, grants and donors but also attract investors who will contribute to the economy in the area. Roads and other infrastructure in the area will also be developed as the value of land also appreciates. In addition, there will be strengthened delivery of services such as cleaning of the Municipality, waste collection, fire extinguishing services, integrated street lighting, infrastructure development, citizen fora to assess performance of the Municipal Board, management of development control.

The committee addressed the issue of the municipality boundaries by clarifying that the boundaries as contained in the draft charter for the Municipality is just a proposal and can be expanded if the citizens so wish. The chairman of the Lands Committee explained that the extent of the area to be included in the Municipality was determined when the Ogembo Town Integrated Strategic Urban Development Plan was developed. This was determined through elaborate public participation that was conducted with the residents and the County government adopted the boundaries.

Some participants felt that it could be difficult to draw out clear boundaries between the roles the County Government does from those executed by the Municipal board but, in response, the committee informed the meeting that the Urban Areas and Cities Act spells out the management of a Municipality and a

Town. The town administration functions will be done by the Board that is given a higher level than that of the Town Administration by the Act and will ensure service delivery.

The committee informed the meeting that the nomination of the Board Members is well spelt out in section 14 of the Urban Areas and Cities Act and it ensures that all groups are represented. The meeting was further informed that the board will be responsible to the Citizen Fora as outlined in Section 22 of the Act.

The committee informed the meeting that land required for expansion will be available regardless of the pressure on land. The available land, that belongs to the government but is currently not being utilized by the County or National Government, will be utilized to put up the required facilities for the municipality. Further, it informed that the community in the area covered is likely to support the Municipality by selling land to it when required. The Committee informed the participants that the Municipal Board had mandates for purchasing land for use as will be driven by its needs.

The committee informed the meeting that the criteria for conferring the status of a municipality to an urban area are provided for in section 9 of the Urban Areas and Cities Act. The Chairman encouraged participants to read the section and understand the procedures followed.

## **Resolution of the Public Participation**

The Chairman assured the participants that the issues which they had raised will be given serious consideration, and that the Urban Areas and Cities Act, the County Government Act and the Constitution of Kenya recognized public participation as a measure of involving members of the public in addressing issues. Moreover, the Urban Areas and Cities Act provided for citizen fora where the residents will regularly meet the Municipal Board to discuss diverse issues in the Ogembo Municipality.

The participants of the Public/stakeholder participation meeting approved the Ogembo Municipal Charter for onward presentation to the County Assembly for debate and final approval.

## Recommendations

From the submissions made by the participants during the exercise, interactions with experts and the departmental officers and committee deliberations, the committee made the following recommendations:

1. The County Government should expedite the process of conferring Ogembo a municipality status immediately the municipal charter is approved by the County Assembly.
2. The Ogembo Municipality once status conferred, should charge levies based on the County Finance Act.
3. Comprehensive orientation should be designed for the Ogembo Municipal Staff and the Directors of other county departments to clearly differentiate their functions in order to avoid duplications.
4. The Department of Land, Physical Planning and Urban development should launch public awareness campaigns to educate the residents on how the Municipality will operate and how it will impact on their activities.
5. The appointment of the Municipality Board should be subjected to vetting by the County Assembly as specified in Section 13 of the Act (Urban areas and Cities Act) to ensure that the process is fair and above board.
6. The department of Lands, Physical Planning and Urban Development along with the relevant bodies should should take measures to secure land that can be availed for municipal facilities such bus parks, open market, Jua Kali artisans, fire station, among others.
7. The County Government should set aside funds in the next budget for upgrading of Mogonga and Kegogi into Urban Centers.

### **Recommendation for Approval of the Municipal Charter**

The County Assembly Committee on Lands, Physical Planning and Urban Development hereby recommends to the Kisii County Assembly do adopt this report and pass a resolution approving the Ogembo Municipal Charter to confer the Status of a Municipality to Ogembo Town.

## Members Ownership of the Report

We members of County Assembly Committee on Lands, Physical Planning and Urban Development do append our signatures confirming that we as a committee sat and undertook the agenda therein.

| NAME                           | DESIGNATION   | SIGNATURE |
|--------------------------------|---------------|-----------|
| 1. Hon. Ibrahim Ongubo Mose    | Chairperson   | .....     |
| 2. Hon. James Anyona Anunda    | V/chairperson | .....     |
| 3. Hon. Grace Ogonda           | Member        | .....     |
| 4. Hon. Vincent Onyando Gitene | Member        | .....     |
| 5. Hon. Caroline Mokobi Otachi | Member        | .....     |
| 6. Hon. Duke Samwel Nyarang'o  | Member        | .....     |
| 7. Hon. Samson Mogusu Abuga    | Member        | .....     |