FACTORS INFLUENCING ADMINISTRATION OF PUBLIC PRIVATE PARTNERSHIPS: THE PERCEPTION OF STAFF OF MUNICIPAL COUNCIL OF NYERI, CENTRAL PROVINCE, KENYA.

BY

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2010
DECLARATION

I declare that this research report is my original work and has not been presented in any other university for the award of a degree.

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DEDICATION

This study is dedicated to my family especially my understanding siblings Paul Kabiru, Grace Nyakio and Faith Wambui for their patience and support, my mother for her support and encouragement and above all to my late father D.E. Mbogo for his support.
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ABBREVIATIONS AND ACRONYMS

CCPPP: Canadian Council for Public-Private Partnerships
CLFG: Commonwealth Local Government Forum
MCN: Municipal Council of Nyeri
MDGS: Millennium Development Goals
MEDFCA: Ministry of Economic Development, Financial Services and Corporate Affairs-Mauritius
NYE WASCO: Nyeri Water and Sewerage Company
PPP: Private Public Partnerships
PSSP: Public Sector Stakeholders Partnership
SADC: Southern Africa Development Cooperation
UNDP: United Nations Development Programme
ABSTRACT

Local authorities are straining to effectively and efficiently provide basic public infrastructure and public service due to financial and budgetary constrains. More pressure is put on them because they are crucial in the country meeting the Millennium Development Goals (MDGs) and also Vision 2030. Public Private Partnerships (PPPs) are seen as the main strategy in assisting local governments as a means of meeting the public infrastructure and service demands. There are limited studies on the factors affecting administration of Public Private Partnership (PPP) at the local government level and especially from their view as a partner drawn into a PPP by a common goal while at the same time pursuing their own individual interests. The aim of the study was to provide management recommendations which can be use to enhance the administration of PPP. A sample size of 100 respondents was used. Questionnaires, observations and interview methods were used to collect data. The data was analyzed using Microsoft Excel and the Statistical Package for Social Sciences (SPSS), from which frequency Tables and percentages were generated. The main findings of the study are lack of understanding of the Public Private Partnership concept among council staff, some PPP projects lack well drawn contracts and there lacks a specific section or Department to handle Public Private Partnerships considering their unique nature. The study concludes that the Municipal council of Nyeri’s current institutional framework is suiting it in the administration of the current PPP projects but there is need to restructure it; the council needs to partner with institutions that will enable it to develop capacity to plan, negotiate, implement and monitor PPP projects successfully; there is need to develop a clearly defined criteria for engaging the private sector and the council needs to review the contracts of all PPP projects initiated before the enactment of the Public Procurement and Disposal Act (Public Private Partnership) regulations 2009. The study recommends that the council should create a unit to handle Public Private Partnerships; it undertakes staff training to enhance capacity to undertake Public Private Partnerships and reviews all Public Private Partnership agreements and a line them with the requirements of the Public Procurement and Disposal Act (Public Private Partnership) regulations 2009. The information obtained in the study will benefit the local governments to enhance by pin pointing areas that affect the administration of PPP.
CHAPTER ONE

INTRODUCTION

1.1: Background of Study.

This section looks into the background of the study, the statement of problem, purpose, objectives, research questions, significance, scope, limitations, and assumption of study.

Over the years there has been an increasing demand for provision public infrastructure and service in Kenyan local authorities by residents. Due to budgetary constrains, local authorities have failed to meet their mandates and consumer expectations.

Additionally the challenge of meeting the Millennium Development Goals (MDGs) is placing increasing on local authorities as delivery agent of key basic services such as water, sanitation, primary health care, housing, economic and community development (CLGF, 2005)

The traditional way of procuring public infrastructure and service through fiscal budgets is increasingly becoming unviable in view of the endemic budget deficits (Ndandiko, 2006). This has necessitated the consideration of Public Private Partnerships (PPP) which studies show constitute a viable option and may even dominate infrastructure and service delivery in developing countries in years to come (Rwelamila, 2004).

Private Public Partnerships are approaches to public service and infrastructure provision that local governments are increasingly using to respond to these growing demands because they provide a feasible option for developing country governments to cope with the increasing demand for basic public services and infrastructure despite tight financial and budgetary constrains (Fernholz & Morales, 2006).

This transfer of responsibilities from public to private agencies fits well with trends in public administration towards decentralization of decision-making to the beneficiaries, or to those nearer the grass roots and accountable to them such as local authorities, for
greater private voice in policy making, and more transparency in the exercise of government power (Bennett, 1998).

The Municipal Council of Nyeri (MCN) was established in 1971 and today covers 200sq.Km, its boundaries coincide with the Nyeri Town constituency boundaries. The Municipality can be defined as a rural/urban municipality, as about 50% of its present area, is rural in nature (MCN Strategic Plan 2006-2010).

The MCN strategic plan (2006-2010) states the council’s mandate as ‘to provide and manage basic social and physical infrastructure and services to the residents of Nyeri Municipality. In the past two years Public Private Partnership (PPP) projects have come up such as the street lighting project and beautification project. The use of Public Private Partnerships however is limited in use though there are various areas of the MCN’s mandate where it can be applied.

It is therefore important to identify factors influencing the administration Public Private Partnerships and give management recommendations to overcome them.

1.2: Statement of the Problem

There has been a marked increase in the use of Public Private Partnerships by local government in the country. Public Private Partnerships are complex in nature because the process includes agreements or contracting, sharing of responsibilities, risks and rewards by the partners, to achieve a common goal while the players pursue their own interests (Argentino, 2008).

There are limited studies on the factors affecting administration of Public Private Partnerships at the local government level and especially from the view of the local governments as individual partners drawn into Public Private Partnerships by a common goal while at the same time pursuing their individual interests.
These individual interests cause the partners to see the factors influencing administration of Public Private Partnerships differently despite being drawn by a common goal. This study tried to understand this problem from the perspective of the staff of the Municipal Council of Nyeri.

1.3: Purpose of the Study

This study was aimed at identifying the factors affecting administration of Public Private Partnerships in the Municipal Council of Nyeri from the perspective of the council as a partner drawn by a common goal but also pursuing individual interests in the Public Private Partnership and give management recommendations which the council can use to enhance the administration of Public Private Partnerships.

1.4: Objectives of Study

The study was aimed at achieving the following objectives:

1. To identify the institutional framework for the administration of Public Private Partnerships in the Municipal Council of Nyeri.

2. To determine the extent to which the council employees understand the concept of Public Private Partnerships.

3. To identify the motivators to Public Private Partnerships in the Municipal Council of Nyeri.

4. To determine the barriers to Public Private Partnerships in the Municipal Council of Nyeri.

1.5: Research Questions

The research questions were:

1. How does the Municipal Council of Nyeri institutional framework affect the administration of Public Private Partnerships?
2. To what extent do the employees of the Municipal Council of Nyeri understand Public Private Partnership concept?

3. What are the motivators to Public Private Partnerships in the Municipal Council of Nyeri?

4. What are the barriers to Public Private Partnerships in the Municipal Council of Nyeri?

1.6: Significance of Study

The findings will help Municipal Council of Nyeri management to understand the status of the existing managerial line and improve appropriately by identifying the factors influencing Public Private Partnerships and provide management recommendations in the administration and implementation of Public Private Partnerships in the Municipal Council of Nyeri.

1.7: Scope of Study

The study was carried out in the Municipal council of Nyeri. Respondents were drawn from the council employees. The study was carried out from the month of May to June 2010. It identified the factors affecting Public Private Partnerships form the context of the local government in this case the Municipal Council of Nyeri.

1.8: Limitation of Study.

In this study, several limitations were envisaged. Public Private Partnerships is a broad subject that could not be dealt adequately in this study due to time and budget constrains; some respondents might not have co-operated while others probably gave incorrect information. Some of the areas under research were sensitive and might have tempted respondents to withhold some information. Some information requested was classified and not accessible.
1.9: Delimitations of Study

In order to reduce the anticipated limitations, the study focused and was limited to a single idea making it easier for the response rate to be high. The researcher explained clearly to the respondents why the research was being carried out in order to enhance cooperation and avoid vagueness. The use of questionnaire administered method and face to face interviews was used to make respondents feel at easy hence freely participating in the study.

1.10: Assumptions of Study

The study assumed that the researcher would to receive full support from all the respondents and the municipal council. It was also assumed that the scope of the study would fully cover within the given time limit.
1.12: Definition of Significant Terms

The definition of significant terms is given below:

**Barriers:** these are the impediments or challenges or issues the Municipal Council of Nyeri encounters in the administration of Public Private Partnerships.

**Institutional framework:** is the administrative form that the Municipal Council of Nyeri has adopted for it to function as a unit to meet its mandate. This also covers the organization structure adopted by the council for it to implement and administer Public Private Partnerships.

**Legal and regulatory framework:** are laws and regulations that directly and indirectly affect PPP in the Municipal Council of Nyeri. They are either drawn from the Central Government or the Council’s by-laws.

**Motivators:** these are the drivers or reasons for the Municipal Council of Nyeri to engage in Public Private Partnerships.

**Public Private Partnership administration:** these are the activities done in order to plan, organize and run Public Private Partnerships.

**Public Private Partnership knowledge:** this is the information, understanding and skills possessed by both the council and its staff in relation to Public Private Partnerships.

**Public Private Partnership:** is a sustained collaborative effort between a public sector entity and a private sector entity to achieve a common goal while both pursue their own individual interest. This collaborative effort has a defined time period and shared responsibilities, risks and benefits.
CHAPTER TWO
LITERATURE REVIEW

2.1: Introduction.

There is rapid growth of urban centers putting strain on existing urban infrastructure and services. As such local government entrusted with the provision of public infrastructure and services are unable to perform and as a result are forced to looking for alternatives that will enable them meet the demands of a growing population. The challenge of meeting the Millennium Development Goals is also placing an increasing pressure on local governments as delivery channels for key basic services such as water, sanitation, primary health care, housing, economics and community development (Commonwealth Local Government Forum, 2005).

Public Private Partnerships (PPP) have been established as key mechanism of public policy across the world (Osborne, 2000), increasingly becoming the preferred method of procuring public goods and services (Grimsey, 2002). Local governments, as well as national governments are now turning to Public Private Partnerships as approaches to public service provision and as a means of responding to the increasing demands.

2.2: Definition of Public Private Partnership.

PPP generally refer to contractual relationships between public and private entities involving time, investment, risk and rewards, responsibilities and the use of public and private resources for the provision of basic services (Fernholz & Morales, 2006).

The South Africa National Treasury defines PPP as a contract between a public sector institution and a private party, in which the private party assumes substantial financial, technical and operational risk in the design, financing, building and operation of a project. PPP is alternatively defined as an enforceable binding contract between a public administration (such as a line ministry, local authority or public enterprise) and a private
operator who becomes responsible for delivering service that were traditionally been provided by the public institution (Public Sector Stakeholders Partnership, 2006).

There is no straight forward definition of Public Private Partnerships and many forms of Public Private Partnership arrangements exist and numerous definitions are available to describe Public Private Partnerships (Bult-Spiertng and Dewulf, 2006). Appendix 6 shows some types of Public Private Partnerships, there features, local government application, advantages and disadvantages.

The Table 1.1 shows the differences between public procurement, privatization and Public Private Partnerships (PPP).

Table 1.1: Difference between PPP and other procurement modes

<table>
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<th>PPP</th>
<th>Full privatization</th>
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<td>Definition</td>
<td>• Supply by the private sector of works, goods or service as defined by the public authority.</td>
<td>• PPPs introduce private sector efficiencies into public service by means of a long-term contractual arrangement. They secure all or part of the public service, call upon private funding and private sector know-how.</td>
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| **Main features** | **Contracting authority** establishes clearly what is to be built, how and by what means. |
| **• Invitations to tenders** are accompanied by very detailed technical specifications regarding the type of work being procured. |
| **• Price quote is the single most important criterion in the evaluation of bids.** |
| **• The procurement process is short-term in nature and does not involve long-term occupancy of infrastructure assets, and thus does not lay emphasis on the operational phase of the project.** |
| **Privatization** authority prepares the divestment plan. |
| **• Involves transfer of ownership to the private sector.** |
| **• Is generally a complex transaction with carefully designed contracts and a multi-stage competitive tender process.** |
| **• Generally, the public sector withdraws from management of the entity on privatization.** |
| **• Almost all risks are borne by the private sector.** |

Source: SADC Banking Association
2.3: Common Characteristics.

PPP include contracting between the public and private sectors for infrastructure development and management where risks are shared between parties (Maslyukivska, 2006). PPP schemes are built on the expertise of each partner that best meets previously defined public needs through the appropriate allocation of resources, risks and rewards (Canadian Council for Public Private Partnerships, 2004).

According to Argentino (2008) in a PPP each partner shares in the design, contributes a fraction of financial, management and technical resources needed to execute, and sometimes operate the project in accordance with each partner’s comparative advantage, and partially takes on risks associated with the project and obtain the benefits, expected by each partner, which the project creates.

Risks are allocated to the party that is best able to manage and therefore minimize the cost of these risks. There is need to utilize private sector management skills and experience not only the private sector’s ability to raise finance but also in the efficient management of public service and infrastructure (Maslyukivska, 2006).

According to the Ministry of Municipal affairs’ guide (1999); Public Private Partnerships are arrangements between governmental and private sector entities for the purpose of providing public infrastructure, community facilities and related services. Such partnerships are characterized by the sharing of investment, risk, responsibility and reward between the partners. The reasons for establishing such partnerships vary but generally involve the financing, design, construction, operation and maintenance of public infrastructure and service.

PPP potentially brings the efficiency of business to public service delivery and avoid the politically contentious aspects of full privatization. PPP occurs in various options that
transfer risks at different degrees. Local governments need to well understand the various risks involved and the best way to handle them well in advance. The table in appendix 4 illustrates the various risks that are involved in PPP key responsibilities for public and private sector under the various types of PPP agreements. Appendix 5 shows various contracts entered in public private partnerships.

2.4: Public Private Partnership Preconditions.

Conditions that will ensure success in the use of public private partnerships usually include strong political support, particularly in creating and managing suitable structures for policy development and procurement. (Maslyukivska, 2006) Additionally, key preconditions in the policy framework for PPP are affordability, legislative environment, institutional arrangement and capacity building (Kuttner, 1997).

In his view, Harris (2003) states that it is hard to find standard solutions for PPP projects, but some preconditions have to be considered for potential PPP projects to be successful. These are: The project has to be comparatively large, services and assets involved in the project need to be evaluated on long term basis, risk analysis and management performed at the preparation for the project, define a standard as well as the desired result for service involved in the project, private sector in the project must provide free access to the market and fair competition, private sector in project must have experience in given sector, technological development is table in the planned project sector, project should provide public benefits and maximize the acquired benefits.

There are four areas that local government should address before becoming involved in Public Private Partnerships. These are: Identifying who in the organization is responsible for Public Private Partnerships and who has authority for the ultimate decision; Developing or accessing the expertise necessary to evaluate, negotiate and implement Public Private Partnerships; Establishing policies to guide decisions on public private
partnerships; Establishing procedures that enable effective evaluation and delivery of services through Public Private Partnerships (Ministry of Municipal Affairs, 1999)

2.5: Benefits and Motivation for PPP.

PPP offers both strategic and operational choices to local governments. Strategically, the use of PPP fasters economic growth by developing new commercial opportunities and increasing competition in the provision of public service, also allowing governments to set policy and strategy. Operationally, it provides opportunity for efficiency gains, better asset utilization, clearer customer focus and accelerated delivery of projects and public private policy statement. (MFDFCA, 2003)

Browen (2003) summaries the benefits and motivation of PPP as: Efficiency-making better use of resources through operational efficiency, market related incentives and competition, integration- effective partnerships are a way of integrating the public and private sector and often bring the benefit of private sector experience to areas under traditional public sector management and accountability-the ability to explicitly design PPPs to be accountable for the delivery they attain. Through the process of regulatory oversight, pre-identified monitoring and evaluation mechanisms and use of incentives and disincentives.

While benefits and advantages of PPP are significant they are not automatic. Positive outcomes can only be achieved through, well-designed projects, due diligence and competitive and transparent procurement (Ministry of Economic Development, Financial Services and Corporate Affairs, 2003)
2.6: Barriers and Issues in PPP

According to Farlam (2005) the private sector is not always more efficient as compared to the public sector, big contracts are complex and demanding and prone to abuse by unscrupulous individuals, firms or politicians unless controlled by disciplined, highly transparent procedures.

Bennett (1998) lists some of the issues and problems in PPP such as delays due to less participative styles of management, problems of representation, legal barriers, lack or inadequate information and education, problems of accountability, issues of competition and coordination, mistrust of public sector by private sector, government mistrust of private sector and mutual accommodation.

2.7: Autonomy of Local Governments

According to the Commonwealth Local Government Forum (CLGF) for local governments to meet their mandate the following needs to be done: Central government needs to commit meaningful decentralization, including the financial and political empowerment of local governments and Local governments increase their competence, accountability and ability to work in partnership with other organizations, to deliver innovation and sustainable solutions to basic services.

From this then local governments need to have a degree of freedom to enable them to localize the central government policies and laws to suit their local environment while at the same time they build competence to handle PPP in line with their by-laws and the regulations set by the central government. Effective decentralization is a precondition for PPP development at the local government level (Brown, Sharp & Ashley, 2005).

Local Authorities must take the resources and taxation authority and the ability to formulate, negotiate, award, implement, supervise and monitor Public Private Partnerships. There must be clear regulations on when and how local governments need
consultation with existing regulatory authorities at national level and how to decide over other contractual matters such as praising and dispute resolution (Fernholz & Morales, 2006).

There needs to be an understanding on the nature of relationship that establishes and maintains Public Private Partnerships. Local governments will need to ensure a political, legal and administrative framework that permits and facilitates private sector development and the PPP, the availability of necessary economic, financial technical institutional and negotiation expertise and mechanisms for interdisciplinary interagency cooperation and dispute resolution. (Fernholz & Morales, 2006)

2.8: Legal and Regulation Framework.

Consistent framework of laws and regulations is important as a reference point for any party in a partnership. South Africa has a national framework of laws, regulations and administrative processes guiding local governments on the use of PPP (PPP Manual, 2004).


The above legislations and other policies set out by the central government have significant influences on the operations Local governments. Local governments need to localize these Acts in there by-laws and standing orders.
Public Private Partnerships are guided by the Public Procurement and Disposal Act (No 3 of 2005) gazetted in the Kenya Gazette Supplement No 17 of March 2009. This Act acts as a national legal framework from which local governments can use to establish public private partnerships projects in their jurisdiction.

Existence of a functioning legal and regulatory framework reduces opportunistic tendencies (Kuttner, 1997)

2.9: Institution Framework.

The institutional framework is crucial if the public sector is to change its roles from that of a single provider of services to fulfilling the duties of an independent regulator and manager (Maslyukivska, 2006). Local governments need to take into account context specific features in their jurisdiction to form tailor made management structure and institutional structures for PPP projects (Neville, 2006).

Institutional design has a substantial impact on the success of a project, but the structure itself does not guarantee success or failure. The interplay of social, political and economic factors within an institutional structure determines the outcome of a Public Private Partnership project (Neville, 2006). Institutional structure should aim at both facilitating PPP development and providing clear boundaries to protect interests of all stakeholders (PPP Working Group, 2002).

2.10: Political Support.

PPP projects need political will both at local and national level. Champions are needed to challenge the status quo, to fight vested interest, and to provide encouragement when problems are encountered (Asmal, 2002). Political support is needed for specific tasks including allocation and directing, funding, sustaining organizational change and promoting awareness and empowerment (Brown et al, 2005).
Political will is needed to change entrenched systems within local governments. It is critical to take steps to ensure political decision making is transparent and open, in order to minimize corruption and increase trust in the public sector (Castalia Advisory Group, 2004). Governance, integrity and stability influence the success of PPP projects, especially in terms of service quality (Castalia Advisory Group, 2004), additionally aligning the interests of partners and providing a buffer against political interference from government bodies thus giving the private partners confidence (Pongsiri, 2002).

2.11: Capacity

The capacity of local governments to manage Public Private Partnership is a key factor in successful local level ventures. The local governments need to develop their capacity to plan, negotiate, implement and monitor successful PPP projects (Farlam, 2005). Public Private Partnerships are relatively new means of procuring goods and services in most countries, public sector officials seldom have experience of implementing such projects and there is generally a poor understanding of Public Private Partnerships (Price Waterhouse Coopers, 2004). Local level strategies can improve credibility and business environment in a local government (Neville, 2006).

2.12: Strategic Plan

The Municipal Council of Nyeri strategic plan is envisioned as a guide for the council’s wholesome development agenda for five years between 2006 and 2010. The plan defines the mandate of the council as ‘To provide and manage basic social and physical infrastructure and services to the residents of Nyeri’. It also states the vision of the council as ‘to become the leading municipality in the East Africa region in the provision of quality and sustainable service to all’ and the mission as ‘to provide efficient, effective and sustainable service through the use of competent human resource, good governance, appropriate technology, mobilization of resources and stakeholders’ participation’.
The council derives its core functions from its mandate and the government priorities. The priorities are contained in various policy and planning documents. The strategic plan also outlines the governance structure and administrative structure (Strategic plan, 2006-2010)

2.13: Conceptual framework.

Independent Variables

PPP knowledge

Institutional Framework

Motivators for PPP

Barriers to PPP

Moderating variables

Central government policy and regulations

Dependent Variable

Administration of PPP

Internal and external politics

Extraneous variable

Figure 1: Conceptual Framework.

Explanation

Public Private Partnership knowledge refers to the Information and understanding the staff of the Municipal Council of Nyeri has on the concept of Public Private Partnership, this covers the expertise, and skills in the area of Public Private Partnership possessed by the staff of the council. This variable directly influences the administration of PPP during planning, negotiating and implementing PPP.

Institutional framework is the organizational structure which the municipal council has adopted to support the administration of Public Private Partnerships. This has a direct
influence on the administration of PPP by allocating responsibilities for the administration of PPP.

Motivators are the factors that drive the Municipal Council of Nyeri to engage in Public Private Partnerships and these influence administration of Public Private Partnerships by providing reasons for engaging in PPP by local governments.

Barriers are the challenges or impediments to Public Private Partnerships. These influence the administration of Public Private Partnerships by hindering the administration of PPP.

Legal and regulatory environment influences administration of Public Private Partnerships by giving the limits to which the public sector can engage the private sector in the provision of public services and infrastructure.

Internal and external politics are the tactful or diplomatic negotiations for or against a Public Private Partnership project that emanate both internally from the council and externally from other stakeholders. This may either hinder or enhance the administration of Public Private Partnership project within the council.

2.14: Summary

The literature was reviewed to identify the gaps in the knowledge towards factors affecting administration of Public Private Partnerships at local government level, in terms of institutional framework, Public Private Partnership knowledge, Motivators and barriers. The research gaps showed that though many studies have been done on Public Private Partnerships, the findings do not adequately tackle the factors affecting administration of Public Private Partnerships at the local government level. Also the findings do not capture the perspective of the local government in a Public Private Partnership arrangement.
CHAPTER THREE
RESEARCH METHODOLOGY

3.1 Introduction
This chapter presents research methodology of the study and captures the research design, target population, sample and sampling procedures, instrumentation, data collection procedures and data analysis.

3.2 Research Design
The study adopted a descriptive research design aimed at explaining the relationship between the research questions and the various independent variables. A descriptive study uses questionnaires and interview schedules to collect data to determine the status of the independent variable on the dependent variables. According to Gay (1990) descriptive research involves collecting data in order to test hypothesis or to answer questions concerning the current status of the subject of study. Kothari (2008) also recommends descriptive design as it allows the researcher to describe, record, analyze and report conditions that exist or existed.

3.3 Target Population
Kombo and Tromp (2006) define a population as a group of individuals, objects or items from which samples are taken for measurement. The target population of the study will consist of employees of the Municipal council of Nyeri. These individuals hold different positions in their field of work. The approximate size of the target population is 340 individuals. The sample size was determined using the formula below. According to Mugenda and Mugenda (1999), the following formula can be used to determine the sample size if a target population is less than 10,000.
Equation

\[ n = \frac{Z^2pq}{d^2} \]

Where:

- \( n \) = the desired sample size (if the target population is greater than 10,000).
- \( z \) = the standard normal deviate at the required confidence level.
- \( p \) = the proportion in the target population estimated to have the characteristics being measured.
- \( q \) = 1 - \( p \)
- \( d \) = the level of statistical significance set.

To determine the sample size the above formula was used with the following parameters.

Confidence level was 95% and a confidence interval 8.25.

3.4 Sampling Procedure.

The research adopted a simple random sampling design. In this case, the researcher used the entire sample size to come up with data. This design was chosen because the samples used would yield research data that can be generalized to the entire population (Mugenda and Mugenda, 1999). This method also allows for the application of inferential statistics to data while at the same time providing for equal opportunity for selection of each element of the population.

3.5 Data Collection Instruments.

The study employed the use of questionnaires and face to face interview for collection of data. Each questionnaire had two parts. Part one consisted of personal information of the respondents while part two consisted of questions relating to the factors influencing administration of PPP in the Municipal Council of Nyeri. The questionnaires included both open-ended and close-ended questions. Face to Face interviews were carried out to supplement the questionnaires administered to the respondents who are employees of the
Municipal Council of Nyeri. This was to ensure that a wider range of respondents' unbiased perception is captured. Observations were made during data collection.

3.6: Validity

Mugenda and Mugenda (1999) define validity as the accuracy and meaningfulness of inference which are based on the research results: it's the degree to which results obtained from analysis of the data actually represent the phenomena under study. To improve validity the researcher ensured that the research instruments were accurate by making necessary adjustments after conducting a pilot study and ensuring that questions were getting the right response to measure what was needed.

Information gathered was also crosschecked with other sources to ensure authenticity and accuracy. To this end, the researcher used triangulation, which is use of different data collection methods to gather the same information. In this case the researcher used questionnaires, interviews as well as interviews to fill the information gaps.

3.7: Reliability

Reliability is the consistency of measure given by a research. Reliability can also be said to be a measure of the degree to which a research instrument yields consistent results or data after repeated trials (Mugenda and Mugenda, 1999). Reliability is important because it enables the researcher to identify misunderstandings, ambiguity, and inadequate items in the research instruments and make the necessary adjustments so that data collected can have more reliability.

This was achieved by the researcher conducting a pilot study and making the necessary changes in the research instruments by reframing the questions in order to make them more understood, giving the necessary instructions and simplifying the language in order to ensure that the correct interpretations were made.
3.8: Data Analysis Method

The data was analyzed using descriptive and qualitative statistics. After collection the data was pre-processed to eliminate unwanted and unusable data which could have been contradictory or ambiguous. Data was organized ensuring that the raw data had been edited to free it from inconsistencies and incompleteness. This involved scrutiny of the completed instruments in order to detect and reduce as much as possible errors, incompleteness, misclassification and gaps in the information obtained from respondents. The data then was coded to establish how possible answers would be treated by assigning to them numerical values.

Qualitative data generated from questions were organized into themes, categories and patterns pertaining to the study. This helped identify information that was relevant to the research questions and objectives. Data was tabulated and classified into sub-samples for common characteristics with the responses being coded to facilitate basic characteristics. Microsoft Excel and Statistical Package for Social Sciences were used to analyze the data which was presented using frequency Tables and percentages.
### 3.9: Operationalization

#### Table 3.1: Operational definition of variables

<table>
<thead>
<tr>
<th>Objective</th>
<th>Type of variable</th>
<th>Indicator</th>
<th>Measurement</th>
<th>Level of scale</th>
<th>Type of analysis</th>
<th>Tools of analysis</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. To identify the institutional framework for the administration of Public Private Partnerships in the Municipal Council of Nyeri</td>
<td>Dependent: Public Private Partnerships</td>
<td>Public Partnership implementation</td>
<td>Number of projects</td>
<td>Nominal</td>
<td>Descriptive</td>
<td>Mean</td>
</tr>
<tr>
<td>To establish the extent to which the council employees understand the concept of PPP</td>
<td>Independent:</td>
<td>Employee trained</td>
<td>Number of trainings</td>
<td>Interval</td>
<td>Descriptive</td>
<td>Mean</td>
</tr>
</tbody>
</table>
To identify the motivators to Public Private Partnerships in the Municipal Council of Nyeri

<table>
<thead>
<tr>
<th>Independent: Motivators to Public Private Partnerships</th>
<th>Public Partnership projects</th>
<th>Private Partnership projects</th>
<th>Number of Public Private Partnership projects</th>
</tr>
</thead>
</table>

To determine the barriers to Public Private Partnerships in the Municipal Council of Nyeri.

<table>
<thead>
<tr>
<th>Independent: Barriers to Public Private Partnerships</th>
<th>Public Partnership projects</th>
<th>Private Partnership projects</th>
<th>Number of PPP projects</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Ordinal</th>
<th>Descriptive</th>
<th>Mean</th>
</tr>
</thead>
</table>

| Ordinal | Descriptive | Mean |
4.1: Introduction

This chapter presents the findings of the data collected from the sampled staff of the Municipal Council of Nyeri, in Nyeri Central district, Central province, Kenya on the factors influencing Public Private Partnerships. The section also presents results and discussion of the findings and data analysis of the study. The discussion is linked to the research questions of the study and research objectives to determine the factors affecting administration of Public Private Partnerships in the Municipal Council of Nyeri. The discussion of the outcomes is based on the outputs from Microsoft Excel and the Statistical Packages for Social Science (SPSS).

4.2: Background Information of the Respondents

The study sought to find the background of the staff so as to form a basis of the expected response. There genders, age, level of education were requested for.

4.2.1 Response Rate.

The response rate is given in Table 4.1.

<table>
<thead>
<tr>
<th>Number of questionnaires</th>
<th>Percentage response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Received</td>
<td>78</td>
</tr>
<tr>
<td>Not received</td>
<td>22</td>
</tr>
<tr>
<td>Total</td>
<td>100</td>
</tr>
</tbody>
</table>

There were 100 respondents with an equal representation of the various Departments in the council. The respondents were from the senior staff to the junior staff across the whole organization.
Interviews were conducted on 30 respondents who had answered the questionnaires representing 38.5% of the respondents. The interviews were a secondary means of gathering information that was not captured in the questionnaires and clarifying what was captured in the questionnaires.

4.2.2: Gender Composition

Table 4.2 shows the gender composition of respondents.

**Table 4.2: Gender composition**

<table>
<thead>
<tr>
<th>Gender</th>
<th>Frequency</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Male</td>
<td>50</td>
<td>64.1</td>
</tr>
<tr>
<td>Female</td>
<td>28</td>
<td>35.9</td>
</tr>
<tr>
<td>Total</td>
<td>78</td>
<td>100</td>
</tr>
</tbody>
</table>

The study revealed that majority of the respondents were male. The study also revealed that there are more male staff in the council than female staff.

4.2.3: Age of Respondents

The age of the respondents is given by Table 4.3.

**Table: 4.3. Age of respondents**

<table>
<thead>
<tr>
<th>Age (years)</th>
<th>Frequency</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>20-29</td>
<td>8</td>
<td>10.3</td>
</tr>
<tr>
<td>30-39</td>
<td>50</td>
<td>64.1</td>
</tr>
<tr>
<td>40-49</td>
<td>15</td>
<td>19.2</td>
</tr>
<tr>
<td>50-59</td>
<td>5</td>
<td>6.4</td>
</tr>
<tr>
<td>Total</td>
<td>78</td>
<td>100</td>
</tr>
</tbody>
</table>
The study sought to know the age of the respondents. The age of the respondent may determine their ability to understand the operations of a local government. I am of the opinion that if a council staff is too young, then they are limited in the experience required to hold senior positions in the council. Also young council staff will have little experience in the operations of the council and will have worked for the council for a short time.

Majority of the council staff are in the age bracket of between 30-39 years with a mean age of 34.5 years.

4.2.4: Level of Education

The level of education of the respondents is given in Table 4.4.

Table 4.4: Education level of council staff

<table>
<thead>
<tr>
<th>Education Level</th>
<th>Frequency</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Primary</td>
<td>5</td>
<td>6.4</td>
</tr>
<tr>
<td>Secondary</td>
<td>20</td>
<td>25.6</td>
</tr>
<tr>
<td>Diploma</td>
<td>33</td>
<td>42.4</td>
</tr>
<tr>
<td>Graduate</td>
<td>20</td>
<td>25.6</td>
</tr>
<tr>
<td>Total</td>
<td>78</td>
<td>100</td>
</tr>
</tbody>
</table>

The level of education of the staff may explain how easy or hard it may be to comprehend the concept of Public Private Partnership. It is also a determinant regarding where one fits in the staff organization. The level of education will also determine the skill available to be used in the administration of Public Private Partnership. The table below shows the findings of the level of education of the council staff.

The study showed that 42.4% of the council staff are educated up to tertiary level, with 6.4% to primary level, 25.6% to secondary level and 25.6% to graduate level. The staff
have adequate level of education, which could be useful in creating awareness of public private partnerships. Also the council has the educational potential to capacity build on the skills needed in the administration of Public Private Partnerships

4.2.5: Duration of Employment at the Municipal Council of Nyeri

The study sought to know how long respondents had worked at the Municipal Council of Nyeri. This was important because staff who had worked for a longer duration in the council had a better history of the administration of Public Private Partnerships than those who had worked for a short duration in the council. Of the 78 respondents only 5 had worked for the Municipal Council of Nyeri for less than one year representing 6.4%.

4.3: Administration of Public Private Partnerships

The study looked at how administration of public private partnerships was carried out.

4.3.1: Organization of the Municipal Council of Nyeri

The council is divided into four Departments which are: the Town Clerk’s Department (administration and legal matters); Municipal Treasurer’s Department (Finance and Accountancy); Municipal Engineer’s Department (physical planning, maintenance of infrastructure and planning control) and the Social Services Department (social welfare). There are many sections under the Departments. The Town Clerk is the chief executive of the council and oversees the day-to-day management and administration of the council. The overall decision-making organ is composed of elected and nominated councilors. The council operates through a committee system with six committees: Works and Town Planning, Housing, Education and Social Services, Public Health and environment, Finance, Staff and General Purpose, Water and Sewerage, and HIV/AIDS special programme. Other committees include Tenders, Joint Staff, Audit, Occupational Health and Safety, and Disaster Preparedness and Management.
All respondents agreed that the administration of Public Private Partnerships is the responsibility of the Town Clerk’s Department. It was observed that the Department works in conjunction with other Departments or sections that are deemed to be competent in the theme area of the project by delegating the day-to-day activities to them. For example, in the street lighting project, the Town Clerk’s Department works with the Municipal Engineer’s Department; the Public Health section is active in the beautification project and public toilets.

The lack of a section or unit specifically charged with the day-to-day affairs of Public Private Partnerships make it hard for effective administration of the Public Private Partnership projects because such projects are regarded as normal council activities ignoring the unique and complex nature of Public Private Partnership projects different from other council activities. This also presented a challenge during data collection where by the researcher had to visit several offices to gather data on a particular Public Private Partnership project.

4.4: Definition and Understanding of the Public Private Partnership Concept

Table 4.5 shows the response from the respondents when asked to define PPP in their own understanding.

<table>
<thead>
<tr>
<th>Nature response</th>
<th>Numbers response</th>
<th>Percentage response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Correct definition</td>
<td>15</td>
<td>19.2</td>
</tr>
<tr>
<td>Partial definition</td>
<td>43</td>
<td>55.1</td>
</tr>
<tr>
<td>Wrong definition</td>
<td>20</td>
<td>25.6</td>
</tr>
</tbody>
</table>

Respondents were asked to define Public Private Partnership per their own understanding and the results were as shown in Table above. 25.6% of respondents defined Public.
Private Partnership incorrectly and viewed Public Private Partnership as just the working together between the council and the private sector. 55.1% of the respondents partially defined public private partnership as a working agreement between the public sector and private sector while 19.2% defined correctly as a working agreement between the public sector and private sector leading to mutual benefits for both parties. This is attributed to the fact that none of the respondents had any training in Public Private Partnerships and it is also a new concept of public procurement in the council.

It was observed in general that the staff had little understanding of the concept of Public Private Partnerships. Senior officers had a better understanding of Public Private Partnerships than junior officers even in Departments that were directly involved in the Public Private Partnership projects. This is attributed to lack of training of the staff in the area of Public Private Partnership, there is no communication on Public Private Partnerships within the council and only senior officers attended Public Private Partnership meetings.

Public Private Partnership was confused with Nyeri Public Private Partnership (NPPP) which is more or less a stakeholders forum through which the council and the business community in Nyeri town come together to better the town. The forum is loosely structured with no formal agreement with the council. It is through this that the litter bin project and beautification project are implemented.

Apart from the misconception of public private partnerships as NPPP, other misconceptions included viewing public private partnerships as privatization, and council staff viewed Public Private Partnerships as a threat to their jobs.

Lack of awareness on the concept can be directly attributed to the poor agreements in the litter bin project, beautification and public toilets.
4.5: Motives of Engaging in Public Private Partnerships

Table 4.6 shows the motivators for PPP in the Municipal Council of Nyeri

Table 4.6: Motivators for PPP in the Municipal Council of Nyeri

<table>
<thead>
<tr>
<th>Motivator</th>
<th>Response score (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Improve quality of public service and infrastructure</td>
<td>76.9</td>
</tr>
<tr>
<td>Increase revenue</td>
<td>64.1</td>
</tr>
<tr>
<td>Ease budget constrains</td>
<td>57.7</td>
</tr>
<tr>
<td>Cost saving</td>
<td>51.3</td>
</tr>
<tr>
<td>Better accountability</td>
<td>38.5</td>
</tr>
<tr>
<td>Access to technology</td>
<td>25.6</td>
</tr>
<tr>
<td>Access to new technology</td>
<td>7.7</td>
</tr>
<tr>
<td>Access to market skills/enterprise</td>
<td>7.7</td>
</tr>
</tbody>
</table>

Respondents were asked to rank the motivators from the most important to the least important. Respondents ranked “improved quality of public service and infrastructure” as the main motivator to Public Private Partnership. Respondents interviewed indicated for example that public toilets managed by the private partners were cleaner than those under the council’s management. Though improved quality of public infrastructure and service was ranked as the main motivator, the council has not set up any quality standard benchmarks to be use in measuring quality of service or infrastructure under Public Private Partnerships.

“Increase of revenue” was ranked second while “ease of budget constrain” was third. Respondents indicated that by increasing revenue, the council was able to ease its budget constrains thus the reason they ranked closely. Projects that were to earn revenue for the
council were the public toilet and street lighting projects. Though Public Private Partnership was seen as a means of saving revenue, in the beautification projects the council had to forgo the advertisement revenue from private partners advertising in the flower gardens or public parks allocated to them.

Public Private Partnerships are indicated as important mechanisms of cost saving. For example the council had cut costs on maintenance of flower gardens and parks by placing that responsibility to the private partner. For the public toilets, the private partner was charged the responsibility of maintaining the toilet facility.

Respondents observed that Public Private Partnerships enhanced its accountability to the residents of Nyeri in provision to public infrastructure and services.

4.6: Barriers To Administration of Private Public Partnerships

Respondents were required to give what they though were barriers to Public Private Partnerships in the Punicipal Council of Nyeri. Table 4.7 shows the response

Table 4.7: Barriers to Public Private Partnerships.

<table>
<thead>
<tr>
<th>Barriers</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lack of understanding of public private partnerships</td>
<td>32</td>
</tr>
<tr>
<td>Political interference</td>
<td>12.8</td>
</tr>
<tr>
<td>Unacceptable levels of accountability</td>
<td>6.4</td>
</tr>
<tr>
<td>Insufficient data for planning</td>
<td>6.4</td>
</tr>
<tr>
<td>Lack of appropriate legal and regulatory framework</td>
<td>23.2</td>
</tr>
<tr>
<td>Loss of control by local governments</td>
<td>19.2</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>100</strong></td>
</tr>
</tbody>
</table>

Respondents ranked the lack of understanding of the PPP concept by the council staff and private partners as the major barrier with a score of 25.6%. This is consistent with
what was observed when respondents were asked to define Public Private Partnership. It was observed the council staff did not understand the complex nature of PPP.

Lack of an appropriate legal and regulatory framework had a 23.2% score from the responses received. This was also consistent with projects such as litter bin, beautification and public toilets all of which were initiated before the Public Procurement and Disposal Act (Public Private Partnership) regulations, 2009 came into effect. These are the same projects initiated under the Nyeri Public Private Partnership (NPPP)

Loss of control by the council was ranked third with a score of 19.2%. Respondents cited by the council going into Public Private Partnerships the council lost its control in the provision of public infrastructure and services leading to loss of jobs for its current staff. This hindered the council to venture into more Public Private Partnerships.

Political interference was cited as a barrier to Public Private Partnership. For example politicians feeling threatened that they would lose control where the Public Private Partnerships were engaged. Some politicians saw some of the projects as a means to gain political mileage. This also contradicted evidence that there is political support to Public Private Partnerships in the council.

4.7: Criteria for Public Private Partnership

It was observed that the council lacks a criteria for use as a guide to Public Private Partnerships. This has lead to Public Private partnerships having unclear agreements and staff not knowing how to undertake Public Private Partnerships. This is also a contributor to the slow pace in utilizing Public Private Partnership arrangement as a method of public procurement by the council.

The need for Public Private Partnership was mainly triggered by the private sector. Apart from the street lighting project, the rest were triggered by unsolicited proposals from private sector and did not follow an open tendering system. This is attributed partly to
that they were initiated before the enactment of the Public Procurement and Disposal act (Public Private Partnerships) regulations 2009 and lack of PPP understanding.

It was also observed that the council engaged in Public Private Partnership on a as need arises basis. Lack of clear written criteria leads to political interference, for example the Iko toilet project that failed to take off.

There was evidence of political support for Public Private Partnerships despite the lack of criteria for PPP. This is from the fact that the overall decision-making organ is composed of elected and nominated councilors.

4.8: PPP Projects in the Municipal Council of Nyeri

Table 4.6 gives the current PPP projects, type of contracts entered and number of private partners in the Municipal Council of Nyeri.

Table 4.6: Number of PPP projects, private partners and type of contracts

<table>
<thead>
<tr>
<th>Type of PPP project</th>
<th>Private partners number</th>
<th>Type of contract</th>
<th>Contract duration</th>
</tr>
</thead>
<tbody>
<tr>
<td>Street lighting</td>
<td>3</td>
<td>Build Operate</td>
<td>3-5 Years</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Transfer (BOT)</td>
<td></td>
</tr>
<tr>
<td>Litter bin</td>
<td>4</td>
<td>Service contract</td>
<td>Not clear</td>
</tr>
<tr>
<td>Public Toilets</td>
<td>2</td>
<td>Management contract</td>
<td>Not clear</td>
</tr>
<tr>
<td>Beautification</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>i. Flower gardens</td>
<td>22</td>
<td>Management contract</td>
<td>Not clear</td>
</tr>
<tr>
<td>ii. Public Parks</td>
<td>1</td>
<td>Management contract</td>
<td>Not clear</td>
</tr>
</tbody>
</table>

Respondents were required to give the example of Public Private Partnership projects currently being undertaken. It was observed that the street lighting, beautification and
litter bin were easily recognized. This is because the beautification and litter bin projects were the oldest while the street lighting project had received publicity within the council. For the public toilets, it was observed that it was not clear on what basis they had entered into Public Private Partnership and possibly through corruption. Contract duration ranges between three years and five years for street lighting, for the other projects the contract duration was not clearly specified and there was no annual renewal or extension of contracts. Private sector participation is also varied and involves simple outsourcing, management contracts and/or complex contracts that involve lease, build, operate and transfer (BOT) arrangements.

The council deliberately allowed multiple private partners into any area it desired to engage in public private partnership to give them competitive bids as compared to a single private partner. Only one private partner had shown interest for the beautification of public parks.

The beautification, litter bin and public toilets project agreements lacked clarity in the aspect of duration of contract and there was no evidence in the renewal and/or extension of agreements. These projects had been initiated before the enactment of the Public Procurement and Disposal (Public Private Partnerships) Regulations, 2009.
CHAPTER FIVE
SUMMARY OF THE FINDINGS, DISCUSSION, CONCLUSIONS AND RECOMMENDATIONS

5.1: Introduction

This chapter gives summary of the findings, conclusions reached and recommendations as per the responses from the respondents. This is in relation to the factors influencing Public Private Partnerships in the Municipal Council of Nyeri.

5.2: Summary of Findings

Table 5.1 gives a summary of main findings.

Table 5.1: Summary of main findings

<table>
<thead>
<tr>
<th>Research objectives</th>
<th>Method of analysis</th>
<th>Main findings</th>
</tr>
</thead>
</table>
| To identify the institutional framework for the administration of Public Private Partnerships in the Municipal Council of Nyeri | Mean | • There is no one Department or section charged with PPP
• The Town Clerk’s Department undertakes administration of PPPs in conjunction with other Departments or sections seen to have competence in the thematic area of the PPP project.
• The council lacks a clear written criteria of engaging in PPP |
| To establish the extent to which the council employees understand the concept of PPP | Mean | • There is a lack of understanding of the Public Private Partnership concept
• None of the respondents has ever had any training in Public Private Partnerships |
| To identify the motivators to Public Private Partnerships in the Municipal Council of Nyeri. | Mean | • Main motivator for Public Private Partnerships is to improve quality of public infrastructure and services
• Increase of revenue was the second motivator that lead to ease of budget constrains
• Motivators are consistent with the councils strategic plan of 2006-2010 |
| To determine the barriers to Public Private Partnerships in the Municipal Council of Nyeri. | Mean | • Lack of understanding of Public Private Partnerships was the primary barrier to Public Private Partnerships
• Lack of appropriate legal and regulatory framework was the second barrier
• There was a contradiction on accountability. |

5.3: Background Information of the Council Staff

The findings of the study reveled that there were more males than females. The male accounted for 64.1% and the females 35.9 % of staff. Majority of the respondents were
aged between 30-39 years with a mean of 34.5 years. The study also found out that most of the staff, who accounted for 68%, had attained tertiary level of education with 6.4% and 25.6% attaining primary and secondary level of education respectively. This means that the staff are capable of getting training on Public Private Partnership for the council to capacity build on skills necessary for Public Private Partnerships.

5.4: Discussion

5.4.1: Administration of Public Private Partnerships

The Town Clerk’s Department is charged with the responsibility of administration of Public Private Partnership in the council. The Department has placed various projects in other Departments which are competent to handle the specific thematic areas of the individual projects. This may seem to work well currently because there are few Public Private Partnership projects in the council, the council needs to centralize there projects to a dedicate section or Department due to the complex nature of Public Private Partnerships.

The study agrees with Ndandiko (2006) that the initiation of Public Private Partnership is done with no factual basis due to lack of clearly stipulated criteria of using Public Private Partnerships. The lack of criteria is a cause of unclear arrangements between the council and the private sector entities especially in the beautification, litter bin and public toilets projects. The lack of clear criteria on Public Private Partnerships can also be attributed to the poor understanding of the Public Private Partnership concept because Public Private Partnership information is not disseminated within the council regularly leading to junior staff lacking or having little information on PPP in the council.

The needs for areas to utilize Public Private Partnerships have mainly been triggered by the private sector entities through unsolicited bids. The MEDFCA policy report (2003), states that use of unsolicited bids leads to corruption. The study agrees to this, it is unclear
in what circumstances the public toilets project was initiated. More so the agreement terms are also unclear.

The use of multiple private sector entities in same projects was observed to give the council an advantage by creating completion and thus getting cheaper terms than from a single private entity, this was observed in the street lighting project.

5.4.2: Employee Understanding of Public Private Partnership Concept.

The council staff are not well versed with the Public Private Partnership concept. Although the term Public Private Partnership (PPP) is commonly used it mostly interpreted as NPPP and not in its broader sense. There is misconception on Public Private Partnerships which is consistent with those given in the Ministry of Municipal Affairs guide (1999).

One is inclined to place the reason on lack of PPP understanding as the main cause in the misconception.

The council needs to enhance its capacity to handle Public Private Partnership responsibilities, assess costs and needs, monitor and enforce contracts. Building the councils competence and effectiveness is a vital pre-requisite for the successful public private partnerships (Kettle, 1993).

It was found out that senior staff are more aware of the Public Private Partnership initiatives in the council than the junior officers. This can be attributed to the fact that there is no communication in relation to Public Private Partnerships and the lack of any awareness creation by the council.

5.4.3: Motivators of Public Private Partnerships.

Motivation for engaging in public private partnerships is indicate as improvement of public infrastructure and services. These findings do disagree with Domberger and Fernandez (1999); their study is based on mature Public Private Partnership environment.
Also it is in line with the council's vision to provide quality and sustainable services to all. Though this can be achieved quality standard benchmarks are lacking to measure the quality of services provided by the various private partners in the PPP initiatives. Increased revenue generation and saving costs were cited as other important motivators. Such are prone to abuse leading to political interference. Public Private Partnership needs to establish a principal-agency relationship thus enhancing control and accountability (Ndandiko, 2006), majority of the Public Private Partnerships were initiated before the gazettement of the Public Procurement and Disposal (Public Private Partnership) regulations 2009, leading to the effects of political interference and corruption have not been inevitable.

There is a contradiction in that Public Private Partnerships enhance the council's accountability while presenting unacceptable levels of accountability. This can be attributed to lack of awareness and inappropriate legal and regulatory.

5.4.4: Barriers to Public Private Partnerships

The barriers to Public Private Partnerships highlight issues that are significant to performance (Ndandiko, 2006). Though there are regulations governing Public Private Partnerships, those initiated under the NPPP are under no legal agreement or regulatory framework. Lack of an appropriate legal and regulatory framework is a barrier. Public Private Partnerships initiated before the gazettement of the Public Procurement and Disposal (Public Private Partnership) regulations 2009, lack properly structured legal agreements. This results to both parties in the project exploiting each other. Functioning legal and regulatory framework reduces opportunistic tendencies (Kuttner, 1997).

It was observed that council staff had a poor understanding in agreement with the Price Waterhouse Coppers' report 2004. The council needs to enhance its capacity to undertake Public Private Partnerships by training and awareness creation among the staff. This will
enable it enhance its capacity to plan, negotiate, implement and monitor PPP projects successfully (Farlam, 2005).

5.5: Conclusions

The conclusions based on the findings of the study presented in the precedent chapter are given below.

1. Opportunities for collaboration between the council and private sector entities will continue to grow in the future and the council needs to prepare itself. The current administration of Public Private Partnerships is working for the council, but it needs to restructure and centralize Public Private Partnership administration to be undertaken by a section or Department. This is taking into the account the unique nature of Public Private Partnerships.

2. Public Private Partnerships are complex ventures that require knowledge. Only local governments with ‘competent professional staff’ would fully be able to develop, negotiate, manage, monitor and enforce competent contracts (Kettle, 1993). The council needs to partner with institutions that will enable it to develop capacity to plan, negotiate, implement, and monitor Public Private Partnership projects successfully. It is also important that the council improves communication within it in regard to Public Private Partnership and the projects at hand as a way of improving staff awareness.

3. There is the need to develop clearly stipulated criteria on the use of Public Private Partnerships to ensure that they are initiated from a point of facts. Public Private Partnership needs to be viewed from a perception of creating a principal-agent and not a public administration view. The council needs to take into account the context specific features make management and institutional structures specific to its jurisdiction (Neville, 2006)
4. The council needs to review all Public Private Partnerships initiate before the gazettement of the Public Procurement and Disposal (Public Private Partnership) regulations, 2009 and update their agreements to meet the regulations.

5.6: Recommendations.

The following recommendations were made from the findings of the study.

1. The study recommends harmonization of the administration of Public Private Partnership by creating a single section or Department assigned with the responsibility of the administration of Public Private Partnerships in the council. The council should consider the unique nature of Public Private Partnerships while doing this and the nature of the council itself so as to develop a tailor made structure that suits the Municipal Council of Nyeri.

2. There is need to avoid unsolicited proposals and bids as it has happened before. The council needs to earmark areas it needs to engage private participation and set out goals for engagement considering that the private sector's main goal is profits.

3. The council needs to review existing agreement with the litter bin, public toilets and beautification projects so as to have a time frame for the contracts and quality standards to be met.

4. The council needs to undertake staff training and awareness creation within its staff. This can be achieved by liaising with institutions that will aid it build capacity to handle Public Private Partnership responsibilities, assess costs and needs, monitor and enforce contracts.

5.7: Areas of further study

There is need to undertake a comparison study to find out whether Public Private Partnership in various local governments across the country are influenced by the same factors. In addition, a cost-benefit analysis study on Public Private Partnerships needs to
be carried out in order to establish whether Public Private Partnerships give value for money to the local governments.

Finally, a study should be undertaken to form the perspective of the residents who are the recipients of the public infrastructure and services provided through Public Private Partnerships.
REFERENCES


Neville K, (2006). *Beyond Ideology “Public or Private” is not the question: Recommendations for policy makers for choosing institutional arrangements for improving Urban Water Provision*. Master’s of Environmental Science Candidate Yale University School of Forestry and Environmental Studies (FES)


**PPP working group, (2002).** *Review of PPPs for Northern Ireland*. Office of the First Minister and Deputy First Minister.


Appendix 1: Introduction Letter

Elijah D. Waichanguru,
P.O.Box 1093-10100,
Nyeri.
Mobile: 0720 431 714
Email: harrierdew@gmail.com

REF: FILLING OF QUESTIONNAIRE.

I am a student from the University of Nairobi pursuing a Masters Degree. I am currently undertaking a research on the administration of Public Private Partnerships with a focus on PPP knowledge, institutional framework, motivators for PPP and barriers to PPP. The questionnaire attached herewith is meant for gathering information for the study.

Kindly complete the questionnaire as honestly as possible. All information you give will be held with utmost confidentiality and will not be used for any other purpose other than this research.

Your positive response will be highly appreciated.

Yours Sincerely,

Elijah D. Waichanguru
Appendix 2: Questionnaire for Council Staff

This questionnaire is designed to gather information on Public Private Partnerships (PPP) in the municipal council of Nyeri.

Your response will be handled with all confidence. Do not write your name on the questionnaire. Please indicate the correct option as honestly as possible by filling the spaces provided. Instructions for specific questions are given in italics. Kindly do respond to all items.

Date __/__/__

**BACK GROUND INFORMATION**

<table>
<thead>
<tr>
<th>1. SEX:</th>
<th>MALE [ ]</th>
<th>FEMALE [ ]</th>
</tr>
</thead>
<tbody>
<tr>
<td>2. AGE:</td>
<td>20-29 years [ ]</td>
<td>30-39 years [ ]</td>
</tr>
<tr>
<td></td>
<td>40-49 years [ ]</td>
<td>50-59 years [ ]</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>3. LEVEL OF EDUCATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>i. Primary [ ]</td>
</tr>
<tr>
<td>ii. Secondary [ ]</td>
</tr>
<tr>
<td>iii. Diploma [ ]</td>
</tr>
<tr>
<td>iv. Graduate [ ]</td>
</tr>
<tr>
<td>v. Post graduate [ ]</td>
</tr>
</tbody>
</table>

| 4. DEPARTMENT/ SECTION: |

<table>
<thead>
<tr>
<th>5. How long have you been working for the municipal council of Nyeri? <em>(Tick the right answer in the box provided)</em></th>
</tr>
</thead>
<tbody>
<tr>
<td>i. 5 years and below [___]</td>
</tr>
<tr>
<td>ii. 5 to 10 years [___]</td>
</tr>
<tr>
<td>iii. Above 10 years [___]</td>
</tr>
</tbody>
</table>
6. (a) Have you attended any training in relation to public private partnership? *(Tick the appropriate answer in the box provided.)*

Yes [___]

No [___]

(b) If your answer is yes in question six (6) above, how many training have you attended?

7. In your own words please define Public Private Partnerships as you understand it?

8. Which are the public private partnership projects the municipal council of Nyeri is currently engaged in?

i. 

ii. 

iii. 

iv. 

9. What are the legal and regulatory measures put in place by the council to govern public private partnerships within the municipal council of Nyeri?

10. What criteria does the council use to identify where to use public private partnerships to meet its mandate?

11. From the reasons given below, in your own opinion what is the order of importance for the municipal council of Nyeri to enter into Public private partnerships? *(In the boxes provided please indicate by writing the numbers 1(one) to 7 (seven) in the spaces provided where by 1(one) indicates the most important reason while 7(seven) the least important reason.)*
i. Access to market skills/enterprise
ii. Improved quality of public services and infrastructure
iii. Cost saving
iv. Manage demand fluctuations
v. Access to technology
vi. Better accountability
vii. Increase revenue
viii. Other

12. In which department do the administration of public private partnership fall under? (Please tick your answer in the box provided)

i. Social services department
ii. Town clerk’s department
iii. Municipal engineer’s department
iv. Municipal’s treasurer’s department
v. Other

13. In your own opinion, what are the challenges encountered when utilizing private participation in public private partnerships?

i.
ii.
iii.
iv.
14. From the list provided below please indicate the mode of private sector participation commonly used. *(In the boxes provided please indicate by writing numbers one (1) to six (6), where one (1) indicates the most common used method while six (6) indicates the least used method)*

<table>
<thead>
<tr>
<th></th>
<th>Mode of Participation</th>
<th>Box</th>
</tr>
</thead>
<tbody>
<tr>
<td>i.</td>
<td>Service contracts</td>
<td>[ ]</td>
</tr>
<tr>
<td>ii.</td>
<td>Management contracts</td>
<td>[ ]</td>
</tr>
<tr>
<td>iii.</td>
<td>Lease</td>
<td>[ ]</td>
</tr>
<tr>
<td>iv.</td>
<td>Concession</td>
<td>[ ]</td>
</tr>
<tr>
<td>v.</td>
<td>Build Operate Transfer</td>
<td>[ ]</td>
</tr>
<tr>
<td>vi.</td>
<td>Divesture</td>
<td>[ ]</td>
</tr>
</tbody>
</table>

15. Would you say that there is there political will in the adoption of Public Private Partnerships? *(Tick the appropriate answer and give reason for answer)*

Yes [ ] Reason:

No [ ] Reason:
Appendix 3: Interview Questions for Council Staff

1. In your own understanding define what you understand by Public Private Partnerships?
2. What are the main characteristics of Public Private Partnerships?
3. What are the current PPP projects the council is engaged in currently?
4. What are the motivators for the council to engage in Public Private Partnerships?
5. What are the barriers faced by the council in the implementation of Public Private Partnerships?
6. What criteria does the council use to identify area to engage in Public Private Partnerships?
Appendix 4: Types of Risks in Public-Private Partnerships.

<table>
<thead>
<tr>
<th>Risk</th>
<th>Explanation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Completion risk</td>
<td>The possibility that a project’s construction or installation will be delayed, with additional cost or other implications.</td>
</tr>
<tr>
<td>Cost overrun risk</td>
<td>The possibility that during the design and construction phase, the actual project costs will exceed projected costs.</td>
</tr>
<tr>
<td>Design risk</td>
<td>The possibility that the private party's design may not achieve the required specifications.</td>
</tr>
<tr>
<td>Exchange rate/forex risk</td>
<td>The possibility that exchange rate fluctuations will impact on the costs of imported inputs or the project's debt or equity.</td>
</tr>
<tr>
<td>Force majeure risk</td>
<td>The occurrence of certain unexpected events that are beyond the control of the parties, whether natural or man-made, that affects the project.</td>
</tr>
<tr>
<td>Interest rate</td>
<td>Fluctuations in the rate at which the project borrows money.</td>
</tr>
<tr>
<td>Market/demand risk</td>
<td>The demand for the services generated may be less than projected.</td>
</tr>
<tr>
<td>Operating risk</td>
<td>Factors other than Force Majeure such as projected operating expenditure, skills requirements, labour disputes, and employee fraud.</td>
</tr>
<tr>
<td>Political risk</td>
<td>Unforeseeable conduct by a government institution that materially and adversely affects the expected return on equity, debt service or costs of the project. This includes expropriation and nationalisation.</td>
</tr>
<tr>
<td>Regulatory risk</td>
<td>Consents required from government authorities or an independent regulatory agency are not obtained or result in additional costs</td>
</tr>
<tr>
<td>Utilities risk</td>
<td>The utilities (water, electricity, gas) for the project are not available.</td>
</tr>
</tbody>
</table>

Appendix 5: Responsibility of Partners on Different Forms of Partnerships.

<table>
<thead>
<tr>
<th>Option*</th>
<th>Asset ownership</th>
<th>Operations &amp; maintenance</th>
<th>Capital investment</th>
<th>Commercial risk</th>
<th>Typical duration</th>
</tr>
</thead>
<tbody>
<tr>
<td>Service contract</td>
<td>Public</td>
<td>Public and private</td>
<td>Public</td>
<td>Public</td>
<td>1-2 years</td>
</tr>
<tr>
<td>Management contract</td>
<td>Public</td>
<td>Private</td>
<td>Public</td>
<td>Public</td>
<td>3-5 years</td>
</tr>
<tr>
<td>Lease</td>
<td>Public</td>
<td>Private</td>
<td>Public</td>
<td>Shared</td>
<td>8-15 years</td>
</tr>
<tr>
<td>Concession</td>
<td>Public</td>
<td>Private</td>
<td>Private</td>
<td>Private</td>
<td>25-30 years</td>
</tr>
<tr>
<td>Build Operate Transfer</td>
<td>Public and private</td>
<td>Private</td>
<td>Private</td>
<td>Private</td>
<td>20-30 years</td>
</tr>
<tr>
<td>Divestiture</td>
<td>Private or Public and private</td>
<td>Private</td>
<td>Private</td>
<td>Private</td>
<td>Indefinite (may be limited by license)</td>
</tr>
</tbody>
</table>

* Under a service contract, a private firm is appointed by government to provide various services and both parties take responsibility for operations and maintenance. Under a management contract, the private operator provides managerial services and bears operational responsibility. A lease contract allows the private operator to use government property for a specified period of time and rent. Under a concession agreement, the government specifies the rules under which the company can operate locally.

### Appendix 6: Types of Public Private Partnerships

<table>
<thead>
<tr>
<th>TYPE OF PPP</th>
<th>FEATURES</th>
<th>LOCAL GOVERNMENT APPLICATIONS</th>
<th>ADVANTAGES</th>
<th>DISADVANTAGES</th>
</tr>
</thead>
</table>
| 1 Operations and Maintenance | The local government contracts with a private partner to operate and maintain a publicly owned facility. | A broad range of municipal services including water and Wastewater treatment plants, solid waste removal, road maintenance, parks maintenance/landscape maintenance, arenas and other recreation facilities, parking facilities, sewer and storm sewer systems. | • Potential service quality and efficiency improvements  
• Cost savings  
• Flexibility in structuring contracts  
• Ownership vests with local government | • Collective agreements may not permit contracting out  
• Costs to re-enter service if contractor defaults  
• Reduced owner control and ability to respond to changing public demands |
| 2 Design-Build    | The local government contracts with a private partner to and building projects, including roads, highways, | Most public infrastructure and building projects, including roads, highways, | • Access to private sector experience  
• Opportunities for innovation and cost savings | • Reduced owner control  
• Increased cost to |
| Turnkey Operation | The local government provides the financing for the project but the public sector controls facility operations. | This form of public private partnership is applicable where the public sector still retains control over facility operations. | - Places construction risk on the private partner
- Proposal call can control design
- Reduced local government control

|   | The local government provides the financing for the project but the public sector controls facility operations. | This form of public private partnership is applicable where the public sector still retains control over facility operations. | - Places construction risk on the private partner
- Proposal call can control design
- Reduced local government control

|   | - Flexibility in procurement
- Opportunities for increased efficiency in construction
- Reduction in construction time
- Increased risk placed on private sector
- Single point accountability for the owner
- Fewer construction claims
- Incorporate desirable design features or change contract in other ways once it has been ratified
- More complex award procedure
- Lower capital costs may be offset by higher operating and maintenance costs if life-cycle approach not taken | - Flexibility in procurement
- Opportunities for increased efficiency in construction
- Reduction in construction time
- Increased risk placed on private sector
- Single point accountability for the owner
- Fewer construction claims
- Incorporate desirable design features or change contract in other ways once it has been ratified
- More complex award procedure
- Lower capital costs may be offset by higher operating and maintenance costs if life-cycle approach not taken |
<table>
<thead>
<tr>
<th>4 Wrap Around Addition</th>
<th>A private partner finances and constructs</th>
<th>Most infrastructure and other public facilities,</th>
<th>• Public sector does not have to provide capital funding for the upgrades not included</th>
<th>• Future facility</th>
</tr>
</thead>
<tbody>
<tr>
<td>engages a private partner to design, construct and operate the facility for a specified period of time. Performance objectives are established by the public sector and the public partner maintains ownership of the facility.</td>
<td>maintains a strong interest in ownership but seeks to benefit from private construction and operation of a facility. This would include most infrastructure facilities, including water and wastewater treatment plants, arenas, swimming pools, golf courses and local government buildings.</td>
<td>and location requirements as well as operational objectives • Transfer of operating obligations can enhance construction quality • Potential public sector benefits from increased efficiency in private sector construction • Potential public sector benefits from increased efficiency in private sector operation of the facility • Construction can occur faster through fast-track construction techniques such as design-build</td>
<td>• More complex award procedure • Increased cost to incorporate changes in design and operations once contract is completed • Depending on the type of infrastructure, financing risk may be incurred by the local government</td>
<td></td>
</tr>
<tr>
<td>5 Lease-Purchase</td>
<td>The local government contracts with the public partner, can be used for capital assets such as buildings, roads, and recreation facilities such as ice arenas and swimming pools.</td>
<td>Can be used for capital assets such as buildings, roads, and recreation facilities such as ice arenas and swimming pools.</td>
<td>- Improved efficiency in construction, opportunity for innovation</td>
<td>- Reductions in control over service or management and maintenance of existing public facilities.</td>
</tr>
<tr>
<td>Private partner to design, finance and build a facility to provide a public service. The private partner then leases the facility to the local government for a specified period after which ownership vests with the local government. This approach can be taken where local government requires a new facility or service but may not be in a position to</td>
<td>Vehicle fleets, water and wastewater treatment plants, solid waste facilities and computer equipment.</td>
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<tr>
<td>• Lease payments may be less than debt service costs</td>
<td>• Assignment of operational risks to private sector developer</td>
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<tr>
<td>• Improve services available to residents at a reduced cost</td>
<td>• Potential to develop a “pay for performance” lease</td>
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<td><strong>6 Temporary Privatization</strong></td>
<td>Ownership of an existing public facility is transferred to a private partner who improves and/or expands the facility. The facility is then owned and operated by the private partner for a period specified in a contract or until the partner has recovered the investment plus a reasonable return.</td>
<td>This model can be used for most infrastructure and other public facilities, including roads, water systems, sewer systems, water and wastewater treatment plants, parking facilities, local government buildings, airports, and recreation facilities such as arenas and swimming pools.</td>
<td>• If a contract is well structured with the private partner, the municipality can retain some control over standards and performance without incurring the costs of ownership and operation. • The transfer of an asset can result in a reduced cost of operations for the local government. • Private sector can potentially provide increased efficiency in construction and operation of the facility. • Access to private sector capital for construction and operations.</td>
<td>• Perceived or actual loss of control. • Initial contract must be written well enough to address all future eventualities. • Private sector may be able to determine the level of user fees, which they may set higher than when under local government control. • Difficulty replacing private partner in the</td>
</tr>
<tr>
<td>7 Lease-Develop</td>
<td>The private partner leases or buys a facility</td>
<td>Most infrastructure and other public facilities,</td>
<td>- If the private partner is purchasing a facility, a significant loss of control of...</td>
<td>- Perceived or actual loss of control of...</td>
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</table>

- Operational risks rest with the private partner
- Event of a bankruptcy or performance default
- Potential for local government to reemerge as the provider of a service or facility in the future
- Displacement of local government employees
- Labour issues in transfer of local government employees to the private partner
| Operate or Buy- | from the local government, expands or modernizes it, then operates the facility under a contract with the local government. The private partner is expected to invest in facility expansion or improvement and is given a specified period of time in which to recover the investment and realize a return. | including roads, water systems, sewer systems, water and wastewater treatment plants, parking facilities, local government buildings, airports, and recreation facilities such as arenas and swimming pools. | cash infusion can occur for the local government  
- Public sector does not have to provide capital for upgrading  
- Financing risk can rest with the private partner  
- Opportunities exist for increased revenue generation for both partners  
- Upgrades to facilities or infrastructure may result in service quality improvement for users  
- Public partner benefits from the private partner’s experience in construction  
- Opportunity for fast-tracked construction using techniques such as  
- Future upgrades to the facility or infrastructure  
- Difficulty valuing assets for sale or lease  
- Issue of selling or leasing capital assets that have received grant funding  
- If a facility is sold to a private partner, failure risk exists if failure occurs, the local government may need to reemerge as a provider  
- Opportunity for accelerated construction using techniques such as |
<table>
<thead>
<tr>
<th>8 Build-Transfer-Operate</th>
<th>The local government contracts with a private partner to finance and build a facility. Once completed, the private partner transfers ownership of the facility to the local government. The local government as design-build:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>• Flexibility for procurement</td>
</tr>
<tr>
<td></td>
<td>• Opportunities for increased efficiency in construction</td>
</tr>
<tr>
<td></td>
<td>• Time reduction in project implementation</td>
</tr>
<tr>
<td></td>
<td>Most infrastructure and other public facilities, including roads, water systems, sewer systems, water and wastewater treatment plants, parking facilities, local government buildings, airports, and recreation facilities such as arenas and swimming pools.</td>
</tr>
<tr>
<td></td>
<td>• Public sector obtains the benefit of private sector construction expertise</td>
</tr>
<tr>
<td></td>
<td>• Public sector obtains the potential benefits and cost savings of private sector operations</td>
</tr>
<tr>
<td></td>
<td>• Public sector maintains ownership of the asset</td>
</tr>
<tr>
<td></td>
<td>• Public sector ownership and contracting out of operations limits any provincial and federal tax</td>
</tr>
<tr>
<td></td>
<td>• Possible difficulty in replacing private sector entity or terminating agreements in event of bankruptcy or performance default</td>
</tr>
</tbody>
</table>
then leases the facility back to the private partner under a long-term lease during which the private partner has an opportunity to recover its investment and a reasonable rate of return.

- Public sector maintains authority over the levels of service(s) and fees charged
- Compared to a Build-Operate-Transfer model, avoids legal, regulatory and tort liability issues
- Government control of operational performance, service standards and maintenance
- Ability to terminate agreements if service levels or performance standards not met, although facility would continue to permit repayment of capital contributions and loans and introduction of new private requirements
| 9 Build-Own-Operate-Transfer | The private developer obtains exclusive franchise to finance, build, operate, maintain, manage and collect user fees for a fixed period to amortize investment. At the end of the franchise, title reverts to a public authority. | Most public infrastructure services and facilities, including water and wastewater systems, recreation facilities, airports, local government administration and operations buildings, parking facilities and solid waste management facilities. | - Partner
  - Construction, design and architectural savings, and likely long-term operational savings
- Maximizes private sector financial resources, including capital cost allowance
- Ensures the most efficient and effective facility is constructed, based on life-cycle costs
- Allows for a private sector operator for a predetermined period of time
- The community is provided with a facility, without large up-front capital outlay and/or incurring of long-term debt
- Facility may transfer back to the public sector at a period when the facility is “work” and operating costs are increasing
- Public sector loses control over the capital construction and initial mode of operations
- Initial contract must be written sufficiently
| All “start-up” problems are well to address all future eventualities addressed by the private sector operator |
|---|---|
| Access to private sector experience, management, equipment, innovation and labour relationships may result in cost savings |
| Risk shared with private sector |
| The private sector can determine the level(s) of user fees (unless the public sector subsidizes use) |
| Less public control compared to Build-Operate structure |
| Transfer-Operate structure |
| Possible difficulty in replacing private sector partner or determining agreements |
| if
<p>| 10 Build-Own-Operate | The local government either transfers ownership and responsibility for an existing facility or contracts with a private partner to build, own and operate a new facility in perpetuity. The private partner generally provides the financing. | Most public infrastructure and facilities, including water and wastewater systems, parking facilities, recreation facilities, airports, local government administration and operations buildings. |</p>
<table>
<thead>
<tr>
<th>No public sector involvement in either providing or operating the facility</th>
<th>The private sector may not operate/construct the building and/or service “in the public good”</th>
</tr>
</thead>
<tbody>
<tr>
<td>Public sector can “regulate” the private sector’s delivery of a “regulated/monopolistic” service area</td>
<td>The public sector has no mechanism to regulate the “price” of the service, unless it is a specifically regulated commodity</td>
</tr>
<tr>
<td>Private sector operates the service in the most efficient manner, both short-term and long-term</td>
<td>The good/service being delivered is subject to all federal,</td>
</tr>
<tr>
<td>No public sector financing is required</td>
<td></td>
</tr>
<tr>
<td>Income tax and property tax revenues are generated on private</td>
<td></td>
</tr>
</tbody>
</table>
facilities, delivering a "public good"

- Long-term entitlement to operate facility is incentive for developer to invest significant capital

| Provincial and municipal tax regulations | No competition, therefore necessary to make rules and regulations for operations and to control pricing |