

**PUBLIC-PRIVATE PARTNERSHIP STRATEGIC
IMPLEMENTATION INITIATIVES AT THE MUNICIPAL
COUNCIL OF MOMBASA**

MWAENGO LINET MOSA

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DECLARATION

This project is my original work and has not been presented for a degree in any other university.

Mwaengo Linet Mosa

D61/75475/2009

Signature----- Date-----

This project has been submitted with the approval of the following university supervisor

Dr. Jackson Maalu

Lecturer

School of Business studies, University of Nairobi.

Signature----- Date-----

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Lastly I greatly appreciate my beloved family and friends for all their patience and encouragement they accorded me. May the Almighty God bless you all.

DEDICATION

This project is dedicated to my dear husband Charles and to my beloved children, Anthony, Careen and Alfred. Thank you for always being there for me. I love you.

ABSTRACT

Public private partnership strategy is a contractual collaborative arrangement between the public sector and private entity in pursuit of a common objective for a stated period of time. This study examines the implementation process of public private partnership strategy as well as the challenges of implementation in the Municipal Council of Mombasa.

The study used case study design since the unit of analysis was a single organization. Primary data was collected using an interview guide while secondary data was collected through desk research. Directors of departments whose functions used the PPP strategy were interviewed. The study also went through the contract agreements, minutes of council resolutions and quarterly reports to get secondary data. Content analysis was used to analyze the data collected.

The study revealed that Mombasa Municipal Council has chosen Public private partnerships as a strategy of service delivery of four of its key mandates. These are parking services, street lighting, beautification of roundabouts and parks and provision of toilet facilities. The partnerships are long term as well as short term. It was clear that the short term partnerships delivered better outcomes as compared to long term agreements. The study revealed that although the PPP strategy had improved service delivery, the implementation faced many challenges. These are lack of expertise, lack of policy, poorly designed contracts, corruption, political interference, unexpected eventualities, conflicts between partners and poor outcomes.

The study recommends that for successful implementation there is need to involve expertise, have policy guidelines and regulations, openness and honesty from partners, careful scrutiny and precaution before signing the contracts and involve stakeholder in the process. The study also recommends that further studies be carried out in other public entities to compare the results.

TABLE OF CONTENTS

DECLARATION	ii
ACKNOWLEDGEMENT	iii
DEDICATION	iv
ABSTRACT	v
LIST OF TABLES	ix
LIST OF FIGURES	x
LIST OF ABBREVIATIONS	xi
CHAPTER ONE: INTRODUCTION.....	1
1.1 Background of the Study	1
1.1.1 The Concept of Strategy Implementation.....	1
1.1.2 Public-Private Partnerships concept.....	3
1.1.3 Local Authorities in Kenya.....	4
1.1.4 The Municipal Council of Mombasa	5
1.2 Research Problem	6
1.3 Research Objectives	9
1.4 Value of the Study	9
CHAPTER TWO: LITERATURE REVIEW.....	10
2.1 Introduction	10
2.2 Strategy Implementation	10
2.3 Public-private partnerships	13
2.4 The Rationale for Public Private Partnerships	16
2.5 The Process of Public Private Partnerships.....	19
2.6 The Challenges of Implementing Public Private Partnerships.....	23
CHAPTER THREE: RESEARCH METHODOLOGY.....	26
3.1 Introduction	26
3.2 Research Design	26
3.3 Data Collection Method	26
3.4 Data analysis and Interpretation	27

CHAPTER FOUR.....	28
4.1 Introduction.....	28
4.2 Profile of the Municipal Council of Mombasa.....	28
4.3 Public Private Partnership practices at the Municipal Council of Mombasa	30
4.3.1 Initiation of public private partnerships at Municipal Council of Mombasa	31
4.3.2 Documentation and legal processes of PPP	33
4.3.3 Stakeholder involvement.....	39
4.3.4 The Effects of PPP process	40
4.4 The challenges of public-private partnership implementation	42
4.4.1 Lessons learnt.....	45
4.5 Discussions	46
CHAPTER FIVE: SUMMARY OF FINDINGS, CONCLUSION AND RECOMMENDATIONS.....	50
5.1 Introduction.....	50
5.2 Summary of findings.....	50
5.3 Conclusion.....	52
5.2 Recommendations	52
References	54
Appendix 1: Interview guide	60
Appendix 2: Part of Contract Document for PPP.....	60

LIST OF TABLES

Table 1: Functions, PPP Partners and the Length of Time of the PPP Contract

Table 2: Revenue to the MCM from KAPS-Municipal from FY 2006-2011

LIST OF FIGURES

Diagram 1: Organogram of the Municipal Council of Mombasa

LIST OF ABBREVIATIONS

BOT	Build Operate Transfer
CAP	Chapter
DBOT	Design/Build Operate Transfer
D/TC	Deputy Town Clerk
CHKL	City Hall of Kuala Lumpur
FY	Financial Year
KAPS	Kenya Airport Parking Services
MCG	Mandaluyong City Government
MCM	Municipal Council of Mombasa
PFI	Private Finance Initiative
PPP	Public-Private Partnership
SPV	Special Purpose Vehicle
TC	Town Clerk
UNECE	United Nations Economic Commission for Europe
UN ESCAP	United Nations Economic and Social Commission for Asia and the Pacific

CHAPTER ONE: INTRODUCTION

1.1 Background of the study

Organizations around the world are seeking for more strategies to cope with the highly turbulent environment surrounding them. They are looking for strategies that call for cost reduction both in the short and long run. The public sector is also seeking for new ways to deliver better services at lower costs as society expectations and demands are becoming higher than before. As the demand for and access to resources become limited, the public sector is increasingly looking to the private sector to provide financial resources, innovation and technical expertise. Thus the past few years have seen increasing interest in the notion of partnership in the delivery of public sector services (Johnson and Scholes, 2001).

The appeal for new strategies in the context of developing countries is also growing. In Kenya, the changing government direction in managing the public affairs emphasizes performance, result based management and improved service delivery. This emphasis has put pressure on the public organizations to optimize and utilize resources to attain high levels of performance which has led to a search for strategies that will optimally allow government organizations to attain their targets (MCM, 2009).

1.1.1 The Concept of Strategy Implementation

The word strategy refers to the direction and scope of an organization over a long period of time which achieves advantage in the changing environment through its configuration of resources and competencies with the aim of fulfilling stakeholder expectations (Johnson et al, 2008). According to Thompson et al. (2007), strategy is the management plan for

running business and conducting its operations. In his five P's model Mintzberg (Mintzberg & Quinn, 1991) defines strategy as a plan, a ploy, a pattern, a position, and a perspective. Plan is defined as a consciously intended course of action or a guideline to deal with a situation. Ploy means a specific "maneuver" intended to outwit an opponent or competitor. While plan and ploy refer to intended strategies, that is, looking forward, pattern is a stream of actions or consistency in behavior over time. Strategy as a position looks outside an organization, seeking to locate the organization in its environment, whereas strategy as a perspective looks inside the organization and inside its members' heads, referring to a shared way of perceiving the world.

Strategy implementation is the process of allocating resources to support the chosen strategies. Once the managers have decided on a strategy, converting it into action and getting the organization to execute it calls for different sets of managerial skills. The implementation of any strategy is a process which covers the entire managerial activities including motivation, compensation, management appraisal and control systems. It entails allocation of resources to support the chosen strategy and ultimately achievement of organisational goals (Mintzberg, 1994). To Pierce and Robinson (2005) in order to effectively direct and control the firm's resources mechanisms such as organizational structure, information systems, leadership styles, assignment of key managers, budgeting, rewards, and control systems are essential strategy implementation ingredients.

Mintzberg, (1994) claims that some organizations begin implementing strategies before they clearly articulate mission, goals or objectives. In this case strategy implementation

actually precedes strategy formulation. Mintzberg (1994) calls strategies that unfold in this way emergent strategies. Implementation of emergent strategies involves the allocation of resources even though an organization has not explicitly chosen its strategies. Most organizations make use of both deliberate and emergent strategies. Whether deliberate or emergent, a strategy has little effect on an organization's performance until it is implemented.

In the opinion of Thompson et al (2007), putting strategy in place and getting the organization to execute it well calls for different sets of managerial skills. Accordingly, implementation of strategy is an operations driven activity revolving around the management of people and business processes. Successful implementation depends on building and strengthening competitive capabilities, motivating and rewarding people in strategy supportive manner and the discipline of getting things done. It is action oriented.

1.1.2 Public-Private Partnerships Concept

Public sector organizations have since the 1980's been encouraged to become more entrepreneurial and to take on board business ideas. It is not surprising that public sector organizations eager to be seen as being more like businesses embraced collaborative strategies to enhance performance. The search for new methods of production and delivery of public services has led to new concepts such as "public-private partnerships" (PPPs/ P3s). Public-private partnerships are agreements between the public and private sectors for the provision of assets and/or services such as power, water, transportation, education and health. The concept of PPP therefore entails contractual collaborative

arrangements between the public sector and private entity in pursuit of a common objective for a stated period of time. This collaboration is specifically important where the public sector lacks the competence or financial ability to efficiently perform (Private Policy Sector briefs, 2008).

PPP is founded on the assumptions of interdependence and individual excellence using complementary assets and skills. Partnership relationships tend to focus on delivery of services and products where the partners maintain their own managerial independence and complimenting the other outputs (Jamali, 2004). The benefits accrued include lower production costs, improved quality of products and services and quick delivery of outputs. PPPs allocate risks between the partners and create efficiency incentives for the service provider by linking payments to specific performance. As a result, PPPs are attractive because they can achieve through collaboration of the public and private sector what each acting alone cannot (Sharpe, 2002).

1.1.3 Local Authorities in Kenya

Local Authorities are a system of government whereby the state allows the establishment of local units of government with powers and authority to make local decisions on matters that affect the local communities and to mobilize local resources for execution of the decisions made (Omamo, 1995). Wanjohi N.G., (2003) considers Local Government as an institution whose operations addresses the needs and aspiration of the citizenry and also extends the administrative and political control to the community. These definitions emphasize the concepts of decentralization and citizen participation and therefore Local Authorities are strategic institutions for the provision of

basic socio-economic and environment services. Their mandates include provision of water and sanitation, health, education, general infrastructure, security, and employment and other economic activities. To undertake these mandates Local Authorities were empowered by the Local Government Act Cap.265 of the Laws of Kenya (Mboga, 2009) although the study was undertaken during the transition phase to the implementation of the new constitution 2010.

The Local Government system in Kenya is presently divided into four categories. These are: city, municipalities, county and town councils. The system has 175 Local Authorities composed of one city council (Nairobi), forty five municipal councils, sixty seven county councils and sixty two town councils (Mboga, 2009). Nevertheless, in the new Urban and Cities Act (2011) the Municipalities of Mombasa and Kisumu have been deemed to be cities (Section 60). The new Constitution of Kenya, 2010, is overhauling the face of local Authorities. Chapter eleven of the new constitution of Kenya 2010 describes these local authorities as County Governments each consisting of a County Assembly and a County Executive. Further, the functions of these counties have been clearly stipulated in Schedule four of the constitution to include, inter alia, Agriculture, transport, and environmental conservation which have been devolved from the national government (Constitution of Kenya, 2010).

1.1.4 The Municipal Council of Mombasa

The Municipal Council of Mombasa (MCM) was established in 1928 as a board by the Local Government Amendment Ordinance. The board took over a number of responsibilities such as town planning, management of schools, solid waste management,

health, social services and housing that were initially under the District Commissioner. The board was elevated to Municipal status by the year 1959 and was referred to as a Municipality. On 4th July, 1963 the Municipal Council of Mombasa was constituted under the Local Government order. Currently the Council covers an area of 347 kilometer square having a human population of about one million. In the recent years the Kenya government has introduced results based management with the aim of delivering efficient and effective services. Vision 2030 development plan has been put in place to guide institutions including local authorities, on strategic management (MCM, 2009).

The MCM like other municipalities in Kenya provide a wide spectrum of services to the public that directly impact on good governance and service delivery at the local level. These services include infrastructure, education, health services, clean environment and other socio-economic developments whilst ensuring implementation of the Millennium Development Goals (MDG), and Kenya Vision 2030. Public-Private Partnerships strategy is therefore becoming increasingly important in the delivery of the range its' services and projects (MCM, 2009).

1.2 Research Problem

Strategy implementation consists of the issues involved in putting the formulated strategy to work. No strategy, no matter how brilliantly formulated, will succeed if it cannot be implemented. In Mintzbergs' (1994) view, the implementation of organization strategy involves the application of the management process to obtain the desired results. Particularly, strategy implementation includes designing the organization's structure,

allocating resources, developing information and decision process, and managing human resources, including such areas as the reward system, approaches to leadership, and staffing. Problems of successful implementation centre around how well or badly the existing organization responds and how adequate its reporting proves to be. Therefore, once the course of strategy has been charted the managerial priorities swing to converting the strategic plan into actions and good results. Public-private partnership is a strategy that has been successfully used to offer services in different parts of the world. By expanding the private sector role through PPP, public agencies are able to tap private sector technical, management and financial resources in new ways to achieve certain public agency objectives. On the other hand the private partner can expand its business opportunities in return for assuming the new or expanded responsibilities and risks. Hence using PPPs strategy to deliver services are perceived to bring benefits that include expedited completion, project cost savings, improved quality and system performance and access to new sources of private capital (Ong'lo, 2006).

The Government of Kenya is increasingly seeking to develop financing mechanisms, which bring together the public and private sectors, not only to control budgetary expenditure but also to pool these two sectors' specific know-how (Ong'lo, 2006). Local Authorities have been faced with various challenges which include inadequate revenues to finance their expenditures. In order to provide the services required adequately and effectively, strategies such as public-private partnerships and stakeholder involvement have been encouraged (Mboga, 2009). Further the the County Governments Financial Management Act, 2011(Section 134) allows the counties to enter into a public-private

partnership agreement. The Municipal Council of Mombasa (MCM) has also put in place strategies inter alia, PPP to counter these challenges. Their areas of partnerships include parking services, beautification of roundabouts and parks, provision of health and sanitation services and street lighting (MCM, 2009).

In the Pacific Island, research carried out to determine whether PPPs were suitable for Pacific Island economies revealed that PPP on service contracts for road maintenance resulted in a 400% increase in productivity. Further, service contracts for shipping services in the Fiji Islands had generated significant benefits to the local economy, at a cost lower than would have been possible through government ownership and operation of the vessels. However, successful PPP may be a challenge to achieve. In the United Kingdom (UK) for example, the failure of the Metronet PPP for the operation of 9 of Londons' 12 underground lines suggested that PPPs require careful risk allocation and a strong enabling environment. (Private Policy Sector briefs, 2008). The general euphoria around policy encouragement for PPPs ignores a range of concerns about PPPs based on public interest considerations. In fact, in Kenya questions have been raised on the capabilities of partnerships to turnaround services delivered by government (Lubembe et al, 2009). The logistics and policy requirements for successful PPP implementation have not yet been systematically explored. Although studies done in Malaysia by Aziz, et al (2007) and the Pacific Islands (Private Policy Sector briefs, 2008) reveal the importance of PPP as a strategy of enhancing services at the public sector, little research has been done in Africa and particularly Kenya on PPP. Jonhson and Scholes (2001), admit that the subject of PPP seem not to have fully entered the agenda of academic researchers in

management. It is in this light that this study sought to contribute to the debate on PPP by addressing this question: how is the PPP strategy implemented in MCM and what challenges are being faced in the process of implementing it?

1.3 Research Objectives

This study had two objectives:

- i) To establish how public-private partnership strategy is implemented in the Municipal Council of Mombasa.
- ii) To determine the challenges experienced by the Municipal Council of Mombasa in applying the public-private partnership strategy.

1.4 Value of the Study

This study is important to the Municipal Council of Mombasa because the analysis of the implementation process of PPP allowed the council to evaluate itself in light of the partnerships process in order to improve and make it a more effective strategy. It will also provide information and insight to other local authorities that endeavour to engage the PPP strategy in service delivery. This study is also important to the debate on PPP as a new strategy and thus contribute to the pool of knowledge and enhancement of theory development on PPP. Further the study is important to the government in policy formulation on PPP.

CHAPTER TWO: LITERATURE REVIEW

2.1 Introduction

This chapter reviews in details literature based on the concept of strategy implementation, public-private partnership strategy and the challenges of implementing the strategy.

2.2 Strategy Implementation

Noble (1999), defines strategy implementation as communication, interpretation, adoption and enactment of strategic plans. He makes a distinction between structural and interpersonal process views on strategy implementation. The structural perspective focuses on formal organizational structure and control mechanisms, while the interpersonal process is about understanding issues like strategic consensus, autonomous strategic behaviors, diffusion perspectives, leadership and implementation styles, communication and other interaction processes.

Implementation of a chosen strategy is the action phase of strategic management process. Whereas this process involves various phases such as strategy formulation and analysis of alternative strategies and strategic choice these phases cannot ensure success. The strategy must be translated into carefully implemented action. Translating strategic thoughts into organization action is moving from 'planning the work' to 'working the plan' (Pearce and Robinson, 2005).

Pearce and Robinson (2005) say that the implementation activities are related closely to one another and decisions about each are usually made simultaneously. They identify six principal administrative tasks that shape a manager's action agenda for implementing strategy. The first task involves building an organization capable of executing the strategy. The organization must have the structure necessary to turn the strategy into reality and the firm's personnel must possess the skill needed to execute the strategy successfully. The second task is establishing a strategy-supportive budget. If the firm is to accomplish strategic objectives, top management must provide the people with equipment, facilities, and other resources to carry out its part of the strategic plan. The next task is installing internal administrative support systems. These are policies and procedures to establish desired types of behavior, information systems to provide strategy-critical information on a timely basis, and whatever inventory materials and other administrative systems that are needed to give the organization important strategy-executing capability.

Yet another task is devising rewards and incentives that are tightly linked to objectives and strategy. People and departments of the firm must be influenced, through incentives, constraints, control, standards, and rewards, to accomplish the strategy. Shaping the corporate culture to fit the strategy is the fifth chore. A strategy-supportive corporate culture causes the organization to work hard toward the accomplishment of the strategy. The final task is of exercising strategic leadership. This consists of obtaining commitment to the strategy and its accomplishment. It also involves the constructive use of power and politics in building a consensus to support the strategy (Pearce and Robinson, 2005).

While agreeing with the above mentioned six tasks, Thompson et. al. (2007) adds that there is no definitive managerial recipe for successful strategy execution that cuts across all company situations. Specific ‘hows’ of implementation of strategy must always be customer tailored to fit individual companys’ own circumstances and represents management judgment about how best to proceed. However, good strategy implementation requires team effort and all managers have strategy execution responsibilities in their area of authority while employees are participants in the strategy execution process.

Bourgeois & Brodwin (1984) categorize strategy implementation into five models, which they say to represent a trend toward increasing sophistication in thinking about implementation. The first is commander model. In this model, the general manager, after exhaustive period of strategic analysis, makes the strategic decision, presents it to top managers, tells them to implement it, and waits for the results. The second is change model. After making strategic decisions, the general manager plans a new organisational structure, personnel changes, new planning, information measurement and compensation systems, and cultural adaptation techniques to support the implementation of the strategy. The third, collaborative model of strategy implementation, involves the management team in strategic decision-making. The fourth which is the cultural model takes the participative elements to lower levels in the organization. The general manager guides organization by communicating her vision and allowing each individual to participate in designing her work procedures in concert with the vision. In the final

model, the crescive model, the strategy comes upward from the bottom of the organization, rather than downward from the top. The general manager's role is to define organization's purposes broadly enough to encourage innovation, and to select judiciously from among those strategy alternatives that reach his attention.

2.3 Public-Private Partnerships

The Public Private Partnership (PPP) concept was barely mentioned a decade ago yet now it is attracting a lot of interest. The reason is that PPPs avoid the often negative effects of either exclusive public ownership and delivery of services, on the one hand, or outright privatization on the other. In contrast, PPPs combine the best of both worlds: the private sector with its resources, management skills and technology and the public sector with its regulatory actions and protection of the public interest. This balanced approach is especially welcome in the delivery of public services which touch on every human being's basic needs (UNECE 2008).

According to Jamal (2004), Public-Private Partnerships are contractual arrangements between government and private sector partly for provision of assets and delivery of services that have been traditionally provided by the public sector. In agreement, Sharpe (2002) adds that PPP are arrangements between government and private sector entities for the purpose of providing public infrastructure, community facilities and related services. Such partnerships are characterized by sharing of investment, risk responsibility and reward between the public and private sector.

A perspective expressed by UNESCAP (2007) is that, PPPs are “cooperative ventures between the public and private sectors, built on the expertise of each partner that best meets clearly defined public needs through the appropriate allocation of resources, risks and rewards”. PPPs are a means by which the public and private sectors can work together as they provide a contractual and formalized framework needed for easier cooperation between all parties.

However for Renda and Schrefler (2006), there is currently no overarching definition of PPP. The term is a sort of “umbrella notion” covering a broad range of agreements between public institutions and the private sector aimed at operating public infrastructures or delivering public services. Etienne and Ross (2005) agree with this and add that the term public-private partnership is used in slightly different ways with the result that a precise definition to which all will agree is elusive. Therefore scholars seem to be divided on their thinking about the definition of PPP.

Jamali, (2004) notes that given no single PPP model and a diversity of arrangements varying in regard to legal status, governance, management, policy-setting prerogatives, contributions and operational roles, it has to be emphasized that actual partnering involves collaboration in the pursuit of a common objective. A relationship therefore qualifies as a partnership if it involves the joint definition of specific goals and a clear assignment of responsibilities and areas of competence between the partners in the pursuit of a common endeavor. He further asserts that most supposed PPPs in third-world development countries do not seem to meet this criterion.

According to Jonhson and Scholes (2001) there are generally many types of partnerships which can be adopted as types of PPPs. These range from informal to highly formal arrangements. They include informal partnerships, co-optations, non-equity joint ventures and contracting. On the other hand The Pacific Private Policy Briefs (2008) is more specific and describes five broad categories of PPPs. They indicate that PPPs can take different forms depending on the nature of the procurement, desired allocation of risk, and investment requirements. These form the following types: service contracts, management contracts, leases, design/build-operate-transfer (DBO/BOT) and concessions

UNECE (2008) identifies two broad categories of PPP: the institutionalized kind that refers to all forms of joint ventures between public and private stakeholders and contractual PPPs. Contractual PPPs has the longest history of public-private financing. The normal terminology for these contracts, describes more or less the functions they cover. Contracts that concern the largest number of functions are concession and Design, Build, Finance and Operate (DBFO) contracts, since they cover the elements namely finance, design, construction, management and maintenance. They are often financed by user fees.

Another model of PPP is based on a UK Private Finance Initiative (PFI) which was developed in 1992. This has now been adopted as part of a wider reform program for the delivery of public services. In contrast to the concession model, privately financed

contracts for public facilities and public works cover the same elements but in general are paid for by a public authority and not by private users. The capital element of the funding enabling the local authority to pay the private sector for these projects is given by central government in the form of what are known as PFI credits. The local authority then procures a partner to carry out the scheme and transfers detailed control of the project to the partner. The cost of this borrowing as a result is higher than normal government borrowing (UNECE, 2008).

2.4 The Rationale for Public Private Partnerships

Until recently, the public and for-profit private sectors often viewed each other with antagonism, suspicion, and confrontation. These tensions are now being supplanted by increasing rapprochement and positive encouragement for PPPs. A chief factor apparently encouraging these partnerships is that neither side can achieve its specific goals alone; collaboration is unavoidable (Reich, 2000).

It has been argued that public-private partnerships (PPPs) and other forms of cooperation between the private sector and local and national governments are used frequently around the world for a variety of reasons. Underpinning this notion are the facts that neither national nor local governments in most countries have sufficient budgetary resources to extend services and infrastructure or to subsidize inefficient state enterprises or agencies. For instance, Kyvleou (2006 in Aziz, et al, 2007) in her study on urban development through PPPs in the Mediterranean region, argued that the main incentive of creating PPPs lays in the public sector's desire to bring private financing and managerial skills to

public services provision. Furthermore, by using private sector management as a tool, she argues that PPPs contribute towards achieving better success and more cost-effective outcomes. More specifically, local authorities tend to form PPPs due to the nature of urban development projects, which demand particular “know-how” and resources (Aziz, et al, 2007).

In principle, PPPs can be used whenever they offer greater efficiency than the public provision of services. A study in the Pacific region show that in Cambodia, for instance, full health services contracted out in 12 districts have resulted in net savings to the government over public service provision. In Malaysia PPP modalities have been used in many economic infrastructure projects like roads, power plants, ports, airports and urban transportation since 1983. Further, in the United States (US), even prison services are contracted out to the private sector (Pacific private policy briefs, 2008). The decision by governments to pursue PPP in service delivery is often based on analysis to determine that the PPP approach will deliver value to the public through lower cost, higher levels of service and reduced risk (UNECE, 2008)

The general disillusionment with privatization is another significant factor. Privatization did not result in massive reductions in national debts, nor did the private sector demonstrate the universal superiority in running businesses that had provided the philosophical underpinnings of the privatization process. PPPs, therefore, can be seen as a way of involving the private sector in projects of national importance while avoiding

the problems associated with the extensive privatizations of the 1980s (Grimsey & Lewis, 2002 in Jamali, 2004).

PPPs allow governments to access alternative private sources of capital, allowing important and urgent projects to proceed when otherwise they may not be possible. Though PPPs can be quite complex, they can be useful in assisting governments to develop community projects which by themselves may not be financially viable. For instance, after a fire destroyed the public market in Mandaluyong, Philippines, the Mandaluyong City Government (MCG), lacking the resources to build a new one, decided on a PPP to help finance and build a new market place. The private sponsor agreed to construct a new public market with a shopping mall above it. The building benefited the community as a whole by providing long-term employment opportunities to locals, as well as improved living standards in this and neighboring communities (UN ESCAP, 2007)

In the context of developing countries, PPPs have been attributed to the desire to improve the performance of the public sector. This may be done through employing innovative operation and maintenance methods, reducing and stabilizing costs of providing services, improving environmental protection by ensuring compliance with environmental requirements, reinforcing competition, and reducing government budgetary constraints by accessing private capital for infrastructure investments. For instance, the City Hall of Kuala Lumpur (CHKL) as the local authority responsible for the administration of the capital city of Kuala Lumpur, Malaysia, established a wide range of low-income housing

programs in meeting the challenge to provide housing for low-income households. Wangsa Maju, is a 2,000-acre major township in Kuala Lumpur developed by a private-public partnerships of CHKL and Landmarks Land and Properties Sdn Bhd, (formerly known as PGK Sdn Bhd). Thus, a win-win situation prevails where the private sector is able to reap its profit and the public sector to fulfill the obligations (Aziz, et al, 2007).

2.5 The Process of Public-Private Partnerships Strategic Implementation

The approaches to the process of PPPs vary. World-wide experience with PPP suggests that there is no 'one-size-fits-all' principle that might simplify the design of a PPP contract for a given objective and sector. UNECE (2008) however, gives clearly summarized stages in the process of PPP. Stage one involves defining the policy framework, testing legal viability, identifying project pipeline, developing foundation concepts and applying the lessons learnt from earliest deals to other sectors. Three conceptual issues here are significant for partnership equity: the definition of partners' roles and responsibilities in the partnership processes; associated action; and to what extent and how the state should play a mediating role, both enabling and regulating the partnership (Miraftab, 2004).

According to the UNECE approach, at stage two the partners start to build the marketplace and introduce legislative reform. They publish policy and practice guidelines, establish dedicated PPP units and refine PPP delivery models as they continue to foster marketplace. Further, they expand project pipeline, extend to new sectors and finally leverage new sources of funds (UNECE, 2008).

At the third stage, a fully defined comprehensive system is established. Legal impediments are removed and PPP models refined and reproduced. This is followed by a sophisticated risk allocation and committed deal flow and long-term political consensus. PPPs enable the participants to transfer the various risks inherent in a project to those who are best equipped to manage it (UNECE, 2008).

Evidence suggests that some factors heavily influence the likelihood of performance or failure in a PPP agreement. Three factors that could be considered as 'external' to the contract include the characteristics of the targeted sector and the market structure, the degree of macroeconomic instability and the country's regulatory and institutional framework. The fourth factor which is internal is the contract design and management, in particular, the payment mechanism and the risk allocation built in the contractual terms (Iossa et. al., 2007).

Findings of various studies indicate that in order to have successful PPPs, governments need to formulate effective policy, signaling government's willingness to engage with the private sector for the delivery of public services and triggering a review of potential PPP opportunities. To be fully effective, the policy must be mainstreamed into sector investment plans. In addition, governments need to make it legal, by allowing for PPPs in public enterprise and public sector legislation. They also need to create the institutional framework for PPPs, which should include clear guidelines for project tendering,

evaluation, and award. There is also need to develop government's risk management and contract monitoring and evaluation capabilities (Private Policy Sector briefs,2008).

Jamali (2004) suggests that there are several principles and guidelines worth applying during project preparation. These include but not limited to, clear identification of targets and goals, timely and transparent mapping of all costs, revenues and profitability aspects of PPP, clear boundaries, measureable outputs and performance, transparency, legal framework, considerations of environmental, safety and health analysis, arrangement for compensation for poor performance and satisfactory termination or handover arrangements are important considerations for successfull PPPs. Miraftab (2004) summarizes the key success factors to include rigorous definition of the partners' roles and responsibilities, associated action and how horizontal power relations among partners are to be ensured. The mediating role of the state to enable and regulate the partnership is an important point to consider. However, the contradictory expectations of government to both enable and regulate the market are examined as a factor limiting equality in partnerships.

UNECE (2008) report states that a fair and transparent selection process by which governments develop partnerships is very critical. It is important to have assurance that value for money has been obtained. An improvement of essential public services, adequate training for those to be involved in the new partnerships, fair incentives to all parties, and fair returns for risk takers combined with the achievement of commercial success are crucial. Sensible arrangements of negotiation of disputes that assures

continuation of services and prevents the collapse of projects and consequent public waste are all factors to be considered. Further, an enhanced security in the face of the new threats and for a general improvement in the safety of services provided under PPP arrangements is important.

Another significant requirement is to select the right projects and sectors where the possibility of achieving success is realistic. In this regard first and foremost, the project must be one for which there is plainly a social and economic need, while its delivery is recognized as important to most political opinions. Secondly, it should involve known and tested technologies, while cultivating an environment conducive to a marketplace of potential suppliers with whom to enter into partnership. Thirdly, the project payment stream must be clearly affordable by the sponsoring ministry or agency; and finally, the public authority responsible for payments must also be creditworthy (UNECE, 2008).

The PPP process also requires coherent policies that lay down clear objectives and principles sets realistic targets and the means of achieving them, with the overall aim of winning the support of the population for the PPP approach. The PPP policy is needed to set a 'roadmap' for implementation. An important consideration in preparing the policy is the need for considerable consultation with most relevant stakeholders. Given that the policy may impact various existing policies and arrangements, it is essential that stakeholders affected by the new policy be given the opportunity to be involved in its preparation (UNECE, 2008).

Finally, national political attitudes and existing competences play a key role for the development and success of PPP arrangements. PPPs require well-functioning institutions, transparent, efficient procedures and accountable and competent public and private sectors. Governments should also look at the sectors where PPPs have been especially successful to serve as benchmarks (Renda and Schrefler, 2006).

2.6 Challenges of Implementing Public-Private Partnerships

Despite their continuing popularity with governments, PPPs continue to face numerous challenges. The major task in implementing PPPs is developing the institutions, procedures and processes for effective PPP delivery. This can be defined as building governance along with building public sector expertise. Some governments even undertake PPPs without an overall PPP policy, which leads to ill defined goals and a greater likelihood of problems with the projects (UNECE, 2008). Both New Zealand and Malaysia acknowledge the potential of PPPs in delivering high quality infrastructure and services to the general public. Consequently, both countries made a move towards PPPs by creating PPP-specialized units and producing PPP guidelines (Aziz, et al, 2007).

PPPs demand a strong public sector which is able to adopt a new role with new abilities. In particular, strong PPP systems require managers who are not only skilled in making partnerships and managing networks of different partners, but also skilled in negotiation, contract management and risk analysis (UNECE, 2008). In the Pacific region, studies revealed the challenges in implementing PPP. In Papua New Guinea, for example, a BOT contract for the supply of electricity was structured without considering potential

currency risks. When the national currency devalued against the US dollar, the spread between the cost of purchasing power from the BOT partner (in US dollar) and the revenue from consumer payments (in local currency) widened substantially to the detriment of the public sector purchaser (Private Policy Sector, 2008).

A series of studies carried out in South Africa reveal serious discrepancies between the theory profounding partnerships as a third world panacea and their consequences in actuality. In the context of the third world, governments often have neither the will nor the ability to intervene effectively. Seemingly, PPPs are free to operate as the “trojan horses” of development. Private sector firms approach local governments and their impoverished communities with the message of power sharing, but once the process is in motion, the interests of the community are often overwhelmed by those of the most powerful member of the partnership-the private sector firms (Miraftab, 2004).

In Kenya, demands on PPP are still very one-sided, with private sector not bringing much to the table but asking government to put down a lot. Further, due to the complex political environment and the demands that come with it, it has been challenging to stick to the PPP schedule. In addition, there being are no uniform guidelines on the implementation of PPP contracts, they have been mired with corruption and confusion that have more often than not, led to failure of the same (Lubembe et al, 2009). Aziz, et al (2007) states that while Malaysia has successfully relied on PPP for provision of toll roads for over twenty years using PPPs, lack of transparency, weak environmental protections, exclusion of public involvement, and higher tolls than necessary paid to politically-

connected businesses are a few of the criticisms leveled at the Malaysian government's handling of the program.

In conclusion, it is seemingly easier to develop a sound strategy than to execute it. In view of Johnson et. al., (2008) the rationale for strategic change has to be sold to enough organization members to root out the status quo due to ingrained organization practices which don't melt away easily. In the developing countries that may be fascinated by the promise and appeal of PPPs as a strategy, greater awareness of the challenges and potential problematic aspects of PPPs needs to be nurtured as well as greater familiarity with basic policy requirements for success (Jamali, 2004). Management heading strategy implementation process will be considered successful if and when the organization achieves the targeted strategic and financial performance and shows good progress in making its strategic vision a reality (Thompson et al, 2007).

CHAPTER THREE: RESEARCH METHODOLOGY

3.1 Introduction

This section looks at how the study was conducted, the means of collecting data and the method of analysis and interpretation of the data.

3.2 Research Design

The study was wholly based on case study of the Municipal Council of Mombasa. A case study provides valuable insight for problem solving and evaluation thus allowing evidence to be verified and avoid missing data. This was the most appropriate design as it enabled the researcher to follow up on issues to great extents and provided opportunities for further queries on how PPP strategy is implemented at the Municipal Council of Mombasa as well as the challenges in implementing it.

3.3 Data Collection

The researcher collected both primary and secondary data. Primary data was the original information that was gathered on the implementation process of PPP as well as the challenges experienced in implementing this strategy from council heads of departments whose activities were on PPP. The summary report of the interview was availed to them for any clarifications. Secondary data entailed the contents of contract documents on PPP as well as council resolutions from minute documents of meetings held on PPP, progress reports and financial statements. These were useful for validation of the primary information as well as generation of up to date data.

Qualitative data was gathered by use of face to face interviews using a detailed interview guide which the researcher conducted with all heads of department whose activities were under PPP. This helped the researcher to investigate and learn more about attitude by

direct communication. The interviews were therefore sufficient for authenticating the views presented which enabled intensity in content analysis. Secondary data was gathered from council progress and annual reports, financial statements, council resolutions from minute documents and contract documents.

3.4 Data Analysis and Interpretation

The feedback from interviews as well as information from documented and published literature formed the basis for qualitative data analysis. This data was analyzed by use of content analysis. This tool was best suited for studying the primary and secondary data because the contents of the interview communication required to be analyzed and inferences made in order to establish PPP strategy implementation as well as determine the challenges of the process. This was a flexible application tool for measuring semantic content of communication. The findings were presented in descriptive form as well as diagrams and tables.

CHAPTER FOUR: DATA ANALYSIS, RESULTS AND DISCUSSIONS

4.1 Introduction

This chapter presents the findings of the study. Both primary and secondary data was collected. This data was gathered through face to face interviews with the directors of departments whose activities were put under PPP as well as three section heads involved in the PPP process. This response was adequate because the information required in the study only involved the two departments as well as the legal section of the council. The third department, Treasures department, was involved to give information concerning revenues generated as a result of the PPPs. The study also established that all these directors and section heads had worked for the council for more than ten years. This means the interviewees being senior managers were competent, experienced as well as conversant with the matter regarding PPP. Secondary data was collected from council minute books, PPP contract documents, MCM 2007-2012 strategic plan, as well as quarterly reports of service departments and financial statements. The data was analyzed through content analysis and the results were interpreted and discussed.

4.2 Profile of Municipal Council of Mombasa

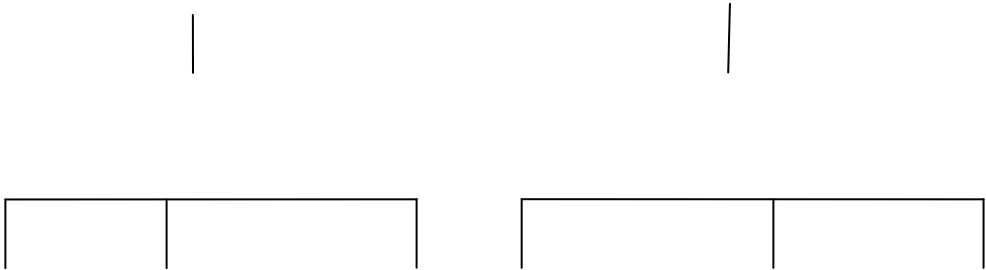
The Municipal Council of Mombasa (MCM) is a local authority which was first established in 1928 as a board by the Local Government Amendment Ordinance. The board was elevated to Municipal status in 1959. In 1963, the Municipal Council of Mombasa was constituted under the Local Government order. After the promulgation of the constitution of Kenya 2010, the Municipality was elevated to a City as stated in the Urban Areas and Cities Act, 2011. However it is yet to receive its charter. Currently the council has six constituencies namely Likoni, Jomvu, Kisauni, Changamwe, Mvita and Nyali with a total of twenty nine wards as proposed by the independent Electoral and

Boundaries Commission report of February 2012. The Council covers an area of about 347 kilometer square and has a human population of about one million.

The Municipal Council of Mombasa like other local authorities is mandated to provide a wide spectrum of services to the public. Until the promulgation of the new constitution 2010, it derived its mandate from the Local Government Act Cap 265 alongside other Acts of parliaments. The council therefore continued to execute these functions at the time the study was being undertaken. MCM provides, manages and co-ordinates health and services, provide and manages of social amenities, provides housing and co-ordinates housing development. It is also mandated to ensure planning, construction, rehabilitation and maintenances of physical infrastructure including traffic management. Further, the council manages solid waste, establishes and maintains sites for burial and cremation of the dead, manages and co-ordinates basic education services, provides emergency and rescue services and generates and reviews planning policies. MCM performs its functions through a work force of approximately 2,500 employees.

The functions of the Council are executed through fourteen technical departments namely: Town Clerk, Town Treasurer, Internal Audit, Human Resource, Town Planning, Public Health, Engineering, Inspectorate, Social Services & Housing, Education, Housing Development, Environment, Procurement and Information Communication Technology (ICT). Each department has its own distinct functions.

The structure of MCM is such that it is managed through two wings - the civic and the executive wing. On the civic arm, the Mayor is the political head of the local authority, managing through different committees. These committees are composed of councilors elected from each ward as well as nominated members. Each committee is headed by a Chairman elected among the members. The Town Clerk is the chief executive of the council. Under the Town Clerk is the deputy Town clerk in charge of administration. Below the deputy are two other deputy Town Clerks in charge of legal affairs and reforms respectively as well as all directors of departments. Under the directors are deputy directors and section heads followed by other technical staff in that order.



- D/TC Reform
- D/TC Legal
- Departments
- Committee
- Committee
- Committee

Source: The municipal Council of Mombasa Organogram

Diagram 1: The Organogram of MCM showing the Executive and Civic wing

4.3 Public-Private Partnerships Practices at the Municipal Council of Mombasa

The study sought to establish the strategy implementation process and practices at MCM. This entailed communication, interpretation, adoption and enactment of the chosen strategy. It was apparent that MCM like any other organization had faced both external and internal challenges which were an impediment to achievement of its defined goals. Therefore, the Council made deliberate efforts to operationalize strategies that could enhance the achievement of its objectives. PPP is one such strategy that the MCM put in place.

4.3.1 Initiation of Public-Private Partnerships at the Municipal Council of Mombasa

The study sought to understand how PPP was initiated at MCM and the factors that contributed to the council's choice of PPP as a strategy in delivery of its various services. This was an important aspect because it would enable the researcher to better understand the starting point of the process of implementation.

The PPP strategy at MCM was first initiated in 2007. This was during the 35th IAAF world cross country championships held in Mombasa. The council was required to host an estimated visiting population of 100,000 both from within and without Kenya. Therefore the factors which triggered the PPP strategy at that particular point in time were the challenges of adequately lighting all installations as well as maintaining lighting points in all the streets and roads for security purposes as well as the huge task of beautification, management and maintenance of the parks and roundabouts. Provision of sanitation facilities was also a big challenge because toilet facilities were dilapidated. In addition the council did not have all the money required for the task of cleaning and beautifying of the town due to inadequate resources.

The management then had to quickly think through and the solution was to bring on board private partners through PPP to surmount some of the biggest hurdles in preparations for the sports. In the preparation period for these championships in the year 2006 companies and organizations seized the opportunity and took up major responsibilities geared towards beautifying and lighting the town ahead of the sport through PPP contracts. The result was overwhelming. In this preparation phase, in May, 2006, the council realized that PPP strategy could as well be used to solve non performance in collection of parking fees as well as inability to efficiently maintain street lighting. As a result PPP was adopted as a quick solution.

The departments whose functions were put under PPP were the Environment Department and the Engineering department. The Environment department functions were environmental management which included provision of public toilet facilities, beautification of parks, roundabouts and recreational facilities. The roundabouts in Mombasa which were put under partnerships were Digo road roundabout, Makupa roundabout, Changamwe roundabout and Urban Police round about while the public parks were Uhuru gardens, Treasury Square, Mama Ngina drive and Law Courts. The department was also responsible for the management of 17 council public toilets and sanitary facilities. The Engineering departments' functions under PPP were street lighting and motorized parking services within the town

Table 1: The Functions under PPP, the Partners and the Length of Time of the PPP Contract

FUNCTION	NAME OF PRIVATE PARTNER/S	LENGTH OF PPP CONTRACT
Motorized parking	Kenya Airports Parking Services(KAPS)	25 years
Management of Public Toilets	Excloosive Company	10years
Street lighting	Magnate Ventures Whitehold Nakumatt Holdings Rich Pictures Translogics Taifa Outdoor Ideal Ceramics	5years
Beautification of roundabouts	LOTA Motors Imperial Bank Mabati Rolling Mills	3-5 years
Management of parks	Nakumatt Holdings Kenya Port Authority Bohora Community Computer Planet	3-5 years

Source: MCM Contract Documents File

The table above shows the function under PPP at MCM and the partners involved in each partnership. The length of time varies with shorter PPP taking between three to five years

for beautification of roundabouts and management of public parks while the long time PPPs take 10 years for the management of the public toilets and 25 years for the motorized parking services. The aspects of work performance targeted in using the PPP strategy included revenue enhancement, high performance in delivery of services at recreation parks and attractive roundabouts, quality parking installations, improved standards of toilet facilities as and well maintained and well lit streets to enhance security.

4.3.2 Documentation and Legal Processes of Public-Private Partnerships

Documentation is a crucial stage in any partnership. This stage binds the partners to fulfilling their obligations. It is a reference point in the whole implementation process because it is in the documents where all agreements are outlined. The documents in PPP include the contracts, the memorandums of understanding as well as any agreed document which are drawn by legal advisors in liaison with the technical advisors. The documents preserve the institutional memory because the partnerships involve binding long term commitments.

The study sought to find out whether feasibility studies were carried out prior to the choosing of the PPP strategy and the partners. It also wanted to find out what was entailed in the contract documents. There was also need to establish whether there was active participation of the partners and what precautions were taken in drawing the contracts. This was very important because the PPP process is very sophisticated and

requires a great deal of expertise. Further, a lot of precaution at every stage is crucial for successful outcomes.

From the study it was apparent that there was no formal feasibility studies carried out by the council in all partnerships. This was because at the initiation of the PPP strategy during the 35th IAAF championships it was a quick solution which seemed to offer tremendous results. In view of this the council adopted a system of advertising for interested partners to undertake the services through the normal competitive procurement process. This was especially for the street lighting PPP and management of public toilets PPP. However for the management of roundabouts and parks, the private partners came up with the proposals on how to undertake the beautifications. These were discussed in council meetings and the partners were awarded the contracts through council resolutions. The terms and conditions for the partnerships were agreed upon and a contract was signed between the council and partners. This was a big gap because if a feasibility study was carried out the council would have established whether this strategy would deliver value for money or not. At this stage they would also be able to know what they expected from the partners and the roles of each.

The policy guidelines for formation of PPP were lacking in all PPPs formed at the municipal council. The government did not have clear guidelines on formation of PPP in government entities until the year 2011 neither did the council have any guiding regulations. At its initiation it was clearly a new concept which seemed to offer tremendous solutions for other countries. The partners were competitively procured and

the bids evaluated through the traditional procurement process. For each partnership the conditions for each party were clearly outlined in the contract documents. These contracts were signed by both partners and documents retained by the council. On the side of the council the contracts were signed by the Town clerk and the Mayor.

The contract designs for the long term partnerships, which were the parking services and the management of toilets were done by a neutral lawyer agreed upon by both parties. However as you peruse into the contract documents it is clear that they were skewed towards favoring the private partner at the detriment of the council. The shareholding of KAPS Company in the parking services PPP was 65% while that of the Council was only 35%. Key issues that are principally requirements for a PPP contract document were not articulated. Thorough risk analysis was not done procedurally. Therefore the private partner in the parking contract for instance bears minimal risk. Most of the risk was loaded upon the council beating one of the main principals of PPP which is to have the risk borne by the partner most able to bear it. In the contract the conditions for termination were so stringent that it was almost impossible to exit. There were dire consequences for termination on the councils' part which have forced the parking services partners to continue working in a very acrimonious relationship.

The study in addition found out that for the short term contracts of beautification of roundabouts and parks, both the private partners as well as the council agreed upon all terms and conditions of the partnership in dialogue. The levels of performance were also agreed upon and documented. The role of the partner was to deliver while the councils'

role was to supervise and ensure standards were maintained as agreed. All the contracts have termination clauses. The street lighting agreements as well as that of beautification of roundabouts and parks were very flexible.

In the agreements, service levels were fixed. However the units of measurement for some activities were lacking except for the parking agreement. In this contract it was agreed that the private company was required to remit one million to the council every month for the first three years and pay the salaries for staff seconded to the company called KAPS-Municipal which was formed as a special purpose vehicle (SPV) for the partnership agreement. This agreed amount of money was not discounted to factor in time value for money neither was there room to adjust the same in the initial three years. After three years the amount would increase at a rate of 10% per annum every calendar year. The table below shows the revenues to the council from the partnership of parking services between the financial years 2006/07 to 2010/11.

Table 2: Revenue to the MCM from KAPS-Municipal from 2006-2011

Financial year (FY)	Amount Per year
2006/2007	Ksh. 12,000,000.00
2007/2008	Ksh. 12,000,000.00
2008/2009	Ksh. 12,000,000.00
2009/2010	Ksh. 12,000,000.00
2010/2011	Ksh. 13,310,000.00

Source: Municipal Council of Mombasa financial Statements of the years 2006-2011

The analysis show that the one million agreed upon was paid in for the first four years instead of three as agreed. This was a breach of the agreement.

The streetlights PPPs level of performance was measured by the number of working lighting point at any one time. The partners would in turn do advertisements along the street lighting polls to make their profits. In the toilet PPP it was not clear how these levels would be measured except for the improvement of the facilities though rehabilitating them to acceptable conditions. The partners would recoup their profits through user fees throughout the contract period and remit an agreed amount to the council.

It was clear from the findings that the value for money analysis was not a key factor in the all councils' PPPs. This is because this information was not available from any of interviewees neither was it documented. This was a major gap in PPP because it would be difficult to establish whether the PPP was making losses or adding value for the council and whether it was the best option. This also meant that there was lack of institutional memory because those who were actively involved in the whole process at the onset had been transferred and others retired. It was also clear that there were no technical and legal advisors for the parties to take them through the process. PPP requires a long time to implement because precaution has to be taken at every stage knowing that key issues have to be carefully examined and agreed before signing the contracts. The process at the MCM was rushed giving room for multiple mistakes and losses.

The importance of policy is also evident in the results of PPP. The councils' lack of PPP policy and regulations did not give a clear direction for PPP engagements and this

affected the results. Government support for PPP in local Authorities was seemingly quite slow with the PPP policy framework only adopted in parliament in the year 2011. The PPP bill was at its final stages in parliament at the time the data was being collected. PPP was also given great prominence in the County Government Act as well as the Public Finance Management Act, showing goodwill on the part of the government to the PPP strategy. It was clear that by the time MCM entered into the partnerships there was neither goodwill nor regulatory frameworks to guide on PPP initiatives from the government. This was therefore at the detriment of the partners because policy and regulations are key to permanency and success of PPPs.

4.3.3 Stakeholder Involvement

Stakeholder involvement refers to the level of participation of the key players in the process. The stakeholders in the PPP process in the council include the staff, the management, residents who are recipients of the services, the government, the civic wing and the private sector. It was important to establish their involvement because they contribute to the success of the strategy when they understand and own it. When stakeholders are actively involved they bring on board key issues as well as ideas which contribute to successful outcomes. Stakeholder involvement is also paramount in helping to resolve conflicts that may arise in the partnership. Non involvement of stakeholders can lead to sabotage and frustration of the process.

Internal stakeholders involved in the process were the management, the staff and the councilors as well as those in the procurement committees who made the procurement and implementation decisions. The staff that was affected by the process in the performance of their duties was hardly involved. They only received written as well as verbal communications about their deployments while others were transferred to perform different functions as the partnerships came on board. In the engineering department, all the staff collecting parking fees in the central business district was deployed to work under a company formed jointly by the council and the private company called KAPS-Municipal. This meant that the change in management was going to affect their terms and conditions of service. External stakeholders in the PPP implementation process were not extensively involved except through representation in consultative meetings.

The communication process to the stakeholders was both formal and informal ranging from internal memos, notices, and letters as well meetings. To most junior staff the communication was dominated by grapevine. In the analysis of the level of understanding of the council on the PPP strategy it was apparent that this strategy was not clearly understood by council staff. It was also clear that the staff did not understand exactly how the changes were going to affect them in their work.

Communication between partners was neither open nor honest in the PPP process especially for the parking services contract. It was not clearly defined hence the partners were liable to conflicts. However on the contrary, for the shorter time contracts communication flow was very good and so service levels improved a great deal both for

the street lighting as well as the beautification of roundabouts and parks PPPs. These findings mean that the process of PPP could easily fail if it was not well articulated. The outcomes were likely to be affected as well as the partnership frustrated as a result of communication gap. When communication is not clearly defined the private partners can also have undue advantage.

4.3.4 The Effects of the Public-Private Partnerships Implementation Process

The study examined the impact of the PPP implementation at the MCM so far. This was to establish how the partnership affected service delivery at the council. This was important because the results would shed light on whether the strategy was workable and viable given the inputs in this context.

There were great outputs as a result of the PPPs at MCM in the short term partnerships. These were beautification of roundabouts and public parks as well as street lighting. The partners actively played their role and changed the face of the town. Most of the streets were lit and maintained. The council was very active in monitoring and evaluating outputs. Constant dialogue with the partners resulted to great improvements in provision of these services. The public toilets PPP also realized good results as half the toilets owned by the council were rehabilitated to working status and were accessible to residents.

On the contrary the parking services PPP had major challenges and little impact. The council realized later that it was shortchanged. The contract was only favorable to the

private partner. The staff seconded to KAPS-Municipal realized that the working conditions were very unfavorable for them and demanded repatriation to the council. Arbitration as agreed in the contract failed. The staff therefore was recalled back and they abandoned the collection of parking fees. The private partner employed their own staff. The whole matter was taken to court. As a result of court cases it was very costly to the council, negatively affecting service delivery. This further resulted into partners not honoring the conditions of the contracts making the PPP not achieve its intended objectives. Since the contract was binding for twenty five years the private partner continued to single handed managed the lucrative parking services making huge profits with little control from the council. The agreed parking infrastructure that was to be done by the private partner was never put up. The court case is still pending. A copy of the contract is appended herewith.

4.4 The Challenges of Public-Private Partnerships Implementation

Studies as well as literature in general argue that strategy implementation is a difficult task in practice. This is because of the fact that each organization has its own discrete goals. PPP relationships are not without challenges. The researcher sought to establish the challenges faced by MCM in its PPP initiatives and how they dealt with the challenges.

The implementation of PPP by the MCM had major challenges. One of the main challenges was the failure of the partners to honor the terms and conditions of the contract. When the council withdrew its staff from KAPS-Municipal way into the partnership relationship, it almost crippled the collection of the parking fees. On the other hand the private partner in this PPP failed to construct the parking infrastructure that was agreed in the contract. This led to total failure of the parking services PPP. The

arbitration process failed and the matter was taken to court. This meant huge losses in court fines and delay in service delivery outcomes. The street lighting PPP also experienced similar challenges with some streets remaining in the dark for a long time before the private partners acted. This was especially when the partners realized that some streets were not busy hence did not duly attract advertisements.

Political interference was another major challenge. Efforts by the council to engage the partners to stick to the terms of the contract had often been hampered by politicians barring the council from taking any action on their non performance because of their own selfish interests. For instance when advertising business went down some private partners for street lighting realized losses in maintenance of the lighting points hence they failed to maintain the street lights as agreed in the contracts. Efforts to terminate such contracts and to bring on board other partners met a lot of resistance from the political wing hence some streets remained dark.

Another challenge was the soured relationship between the partners. This was especially for the parking services PPP. There was suspicion between them and efforts of arbitration to settle the matter out of court did not work. The court case for parking services was still pending at the time of the study and as a result the council incurred a lot of expenses in lawyer fees. The Councils' late realization that the contract was skewed to the private partners favor is an indication that expertise and good will were wanting in the PPP process. Yet it also seemed that this could have been done intentionally for personal gains.

This amounted to regrets and efforts by the successive management to terminate the contract reached a dead lock.

The expectations of the staff seconded to the partnership in the parking services did not work. This led to a lot of dissatisfaction on the side of the council staff and through the workers union they demanded to be reinstated back to the council. As this happened the revenue went down as the council had to bear the burden of paying their salaries contrary to the terms of the contract which stated that they were to be paid by the KAP-Municipal company. As a result the other conditions of the agreement were not honored hence the PPP could not achieve tangible results.

Corruption is yet another sited challenge facing the PPP agreements. This is on both the private partner as well as the council. Whereas the PPP process is technical and sophisticated the right procedures for procurement were not duly followed hence the beneficiaries reaped undue profits. For instance the KAPs contract drawn by an independent lawyer was skewed to the advantage of the private partner and this led to the failure of the partnership. Failure to deliver the expected results by the partners was also deemed as corruption because efforts to redo the contract failed with the private partner sometimes seeming being quite elusive.

Yet another challenge is the lack of political goodwill. This is evident in the fact that even though the council had long engaged the private partners in PPPs there had not been any initiative to formulate policies to guide formation of PPP contracts. The study

showed that there was political interference on the process of PPP. For instance the PPP contract for KAPS- Municipal parking services was signed despite the fact that it was fraudulently done. Further, attempts to exit from the PPP faced major resistance from political backing causing the council huge losses.

The challenges in PPP strategy implementation at MCM therefore included, political interference, weak management role, lack of communication, lack of policy , misunderstanding of the strategy, unaligned organizational systems and resources, unfeasibility of the strategy, poor coordination and sharing of responsibilities, unexpected obstacles or conflicts, and corruption.

To overcome the challenges the council took an initiative of training its staff on PPP to enhance expertise. There were attempts to start a PPP unit to guide on the PPP processes at the time the study was being undertaken. The council had also moved to court to try and terminate the PPP contracts that did not work. Further, the council managed to terminate some short time PPPs that were not adding any value. More precaution was now being taken to procure PPP partners. The government was giving guidelines on the same. A PPP bill was in its last stages in parliament. This would greatly offer corrective measures for the mistakes already made and for other future PPP engagements.

4.4.1 Lessons Learnt on Public-Private Partnerships

Lesson learnt refer to important understanding gained as a result of an undertaking. It is crucial to understand the lessons learnt for the purpose of future improvement. The

lessons learnt in this study helped the researcher to understand the strategy implementation process better from a practical perspective.

In the implementation of PPP process, one of the main lessons learnt was that PPP is a sophisticated process which requires a lot of precaution before getting into. Therefore a highly experienced expertise is required to lead in the whole process. Secondly, the choice of the PPP strategy requires stakeholder involvement to win their support; otherwise they can easily frustrate the process. Both parties need to have their own legal expert to negotiate the PPP contract. Flexibility is also paramount in any PPP contract. This is because the environment is dynamic and the situations may change in the process causing need for renegotiation. Thus the contract should be drafted in a way to allow for flexibility in future negotiations. It is also important that careful risk allocation is considered. The partner best able to bear the risk should pick it otherwise it leads to future conflicts and subsequent failure.

Other lessons learnt were that the longer the contract period, the more difficult it was to cope with the partnerships. Short period PPPs seemed to deliver results in the council as opposed to long term PPPs. Further, policies at local level are crucial in giving guidance on partnerships. A major lesson is that PPP is a marriage that cannot easily be broken. This is a hard lesson that the council learnt hence great precaution is required before engaging in it.

4.5 Discussions

The study established that MCM like any other organization is searching for new strategies in the management of its affairs. With the limited resources against increased demand for results by the public and the government, the organization chose PPP as one of their strategies for service delivery. This was clearly stated in their strategic plan for 2009-2012(MCM, 2009).

In order to effectively implement strategy, mechanisms such as organizational structure, information systems, leadership styles, assignment of key managers, budgeting, rewards, and control systems are essential ingredients (Pierce and Robinson, 2005). While the implementation of PPP at MCM clearly involved redeployments of their staff, putting in place control systems through drafting of contract documents as well as devising information mechanisms to ensure collaborative arrangements went on smoothly, it is also apparent that the essential systems to enable the PPPs to succeed were lacking. The organization did not have the vision, mission, goals or objectives of implementing the PPP strategy. Mintzberg, (1994) claims that some organizations begin implementing strategies before they clearly articulate mission, goals, or objectives in which case strategy implementation actually precedes its formulation. According to Iossa et. al., (2007) one of the factors that heavily influence the likelihood of failure in a PPP agreement is the contract design and management, in particular, the payment mechanism and the risk allocation built in the contractual terms. These came out clearly in the MCMs contract with KAPS.

The results of the finding attest to the fact that partnerships can be pivotal in improving public services. The initiation of the PPP strategy was majorly an ad hoc solution for the huge task of the 35th IAAF cross country championships. The results of this short term collaboration led to quick wins for MCM as well as the private partners then. This therefore underpins the purpose of PPP which is specifically important where the public sector lacks the competence or financial ability to efficiently perform. Positive impact was realized as a result of the PPPs in MCM. This included well lit streets which enhanced security, beautifully landscaped roundabouts and parks and improved public toilet services. A study carried out in the Fiji Islands similarly revealed that PPP contracts for shipping services had generated significant benefits to the local economy, at a cost lower than would have been possible through government ownership and operation of the vessels. (Private Policy Sector briefs, 2008).

The study at MCM established that short term PPPs were more successful than long term partnerships. The PPP which were most successful were the beautification of roundabouts and parks while the 25year motorized parking PPP was mired with conflict and huge losses for the council. This interesting realization has not been articulated in other studies that were reviewed here. It is therefore deduced from this study that partnerships are useful especially when they are short term and agreements are flexible.

The study showed that evidently PPP is a very useful strategy for improving public service delivery. Where public entities lack finances and expertise for service delivery the private sector can supplant and a win-win situation be realized for both partners. Nevertheless, the importance of a well researched strategy is also confirmed. The need to

do a pre-feasibility study as well as engagement of experts in implementation and documentation cannot be overemphasized. A study in New Zealand and Malaysia revealed that both countries acknowledge the potential of PPPs in delivering high quality infrastructure and services to the general public. Consequently, they both made a move towards PPPs by creating PPP-specialized units and producing PPP guidelines (Aziz, et al, 2007).

The choice of the PPP strategy at MCM did not have enough time for weighing options, thus key factors for success were not considered. Precaution in engaging the partners was neither considered nor was expertise and experienced PPP advisors brought on board. In the view of MirafTAB, (2004) the key steps in PPP strategy implementation include defining the policy framework, testing legal viability, identifying project pipeline, developing foundation concepts and applying the lessons learnt from earliest deals to other sectors. This study established that policies were not in place at the initiation of PPP even until the time the study was being carried out. Further, clear identification of goals, transparent mapping of all costs, revenues and profitability aspects, as well as clear boundaries, measureable outputs and outcomes were not the guiding principles of PPPs at MCM. These factors were applied in other PPPs reviewed. Nevertheless, the PPP process at MCM involved signed contract which set agreement levels, stakeholder involvement, and risks allocations.

It is clear that the contract between the council and KAPS did not clearly articulate all principle aspects of PPP hence it was hard to maintain the partnership. The huge losses

incurred by MCM confirm the importance of carefully taking precaution before signing a PPP contract. Payment agreements did not clearly discount the cash flows. In a similar scenario a study in Papua New Guinea for a BOT contract for the supply of electricity was structured without considering potential currency risks. Thus, when the national currency devalued against the US dollar, the spread between the cost of purchasing power from the BOT partner (in US dollar) and the revenue from consumer payments in local currency widened substantially to the detriment of the public sector purchaser (Private Policy Sector, 2008).

The challenges that MCM has faced in the implementation process confirm that strategy implementation is a difficult stage in the management of any strategy. A report by UNECE, (2008) reveals that PPPs continue to face numerous challenges despite their continuing popularity with governments. A series of studies carried out in South Africa also show that in the context of the third world, governments often do not have the will nor the ability to intervene effectively in PPP thus once the process is in motion, the interests of the community are often overwhelmed by those of the private sector firms (Miraftab, 2004). In Malaysia for instance while it has successfully relied on PPP for provision of toll roads for over twenty years, it has also faced challenges of lack of transparency, weak environmental protections, exclusion of public involvement, and higher tolls than necessary paid to politically-connected businesses (Aziz, 2007).The challenges are similar to those of MCM.

The challenges at MCM nonetheless brought out useful lessons for PPP implementation. They can be used as a stepping for future improvements. A study carried out in South Africa by Jamali, (2004) concluded that for developing countries fascinated by the promise and appeal of PPPs as a strategy, greater awareness of the challenges and potential problematic aspects of PPPs needs to be nurtured as well as greater familiarity with basic policy requirements for success.

CHAPTER FIVE: SUMMARY OF FINDINGS, CONCLUSIONS AND RECCOMENDATIONS

5.1 Introduction

This chapter discusses the summary and conclusions of the study. It also gives recommendations and proposals for further studies on the subject of PPP.

5.2 Summary of Findings

The Municipal Council of Mombasa had employed the PPP strategy in its various service delivery functions. These include management of eighteen public toilets, street lighting, management of its roundabouts and public parks as well as motorized parking services.

The study revealed that the initiation of PPP was as a result of the need to get a quick solution for challenges of inadequacy in hosting the 35th world IAAF cross-country championships in Mombasa. The implementation process was undertaken differently for each service. It was however apparent that before the process of PPP begun no formal feasibility study was carried out for all the PPPs. The engagement of stakeholders was also negligible in that only the internal stakeholders were involved. It was also clear that even though they were involved, major decisions about the operationalization were not well articulated. This for instance led to the staff being very uncooperative in the implementation process, which led to the failure of the parking services PPP.

The contract agreements for the PPP for the short time PPP were designed with the council taking caution to ensure the basic issues in a PPP were put into consideration. This resulted to success in the management of the roundabouts and parks. However for the long time PPPs it was clear that there was lack of expertise in the whole process starting with the contract design. This led to the council being shortchanged in the parking services PPP; a fact they realized when it was too late. Looking into the contract document it was clear that maximum risk was to be borne by the council thus beating the basic principles of PPP. The way the contract was designed proved almost impossible to terminate the contract because the stringent conditions for exit were highly costly to the council.

The relationship between partners varied from one PPP to another. Communication between the council and its short term PPP partners was quite open and honest. However

for the long term contracts this was not amiable leading to great conflicts. Because service levels were not clear in the contracts it was very difficult to measure the same. Likewise monitoring and evaluation mechanisms were not outlined hence very hard to challenge performance of each partner. This resulted to impunity hence loss to the public entity. On the other hand some PPPs realized great outputs. This was the case for the short term PPPs of beatification of roundabouts and parks, the management of the public toilets as well as street lighting. The outcomes were quite remarkable.

The implementation process realized various challenges. This includes political interference, corruption, failure of the partners to honor their terms of the contract which led to failure to deliver the expected outcomes and lack of openness between the partners which resulted to suspicion. Yet another challenge was the inability to deal with uncooperative staff that broke the agreement before the time was over for the contract which amounted to huge losses for the council. Further lack of expertise in handling the PPP process was another major challenge which resulted to the council being shortchanged a few times. The council realized too late that the process was quite sophisticated and had no trained expertise in PPP. Another challenge was the slow speed of the government in enacting laws that regulate PPP. This led to the private partners taking advantage of the council especially in drafting the contract. No clear policies were there to govern the whole process. Yet another challenge was lack of political goodwill due to ignorance on PPP as a delivery strategy. This resulted to the civic wing prematurely cancelling some PPPs which led to further losses.

5.3 Conclusions

In conclusion it was clear from the study that PPP is a very commendable strategy for public sector service delivery if the partners are well able to complement each other. The outcomes realized in the beatification of roundabouts and parks as well as management of toilet facilities at the council though PPP attest to this. However it is also evident that when this concept is not well articulated by the parties involved it can lead to very painful outcomes and huge losses of funds. PPP is a very sophisticated and tedious process which requires great expertise, patience and precaution. The principles of PPP need to be well understood by both partners in order to rightfully allocate risks.

In view of the study the implications to practice in PPP is that this strategy needs to be undertaken with a lot of precaution because of its inherent challenges. To overcome some of the challenges all stakeholders should be involved in the process. The service levels should be well articulated and measureable. The agreement should be flexible enough to allow partners to terminate it in case of any serious conflict. Political goodwill is paramount.

The study further implies that policy and regulations should precede any PPP agreement. The complexity of such arrangements and the high costs involved is enough cause for the government to take a careful approach to PPPs. It should also recognize that PPPs pose many of the same problems inherent in privatization thus they are not a panacea for development.

5.4 Limitations of the Study

There were a few limitations experienced in carrying out the research study. The main limitation was the hesitance of the respondents to give the details of the required data. This was due to fear that some partnerships had pending court cases hence releasing some sensitive information could be illegal.

Another limitation was the fact that PPP is quite a new concept which was not fully understood by the respondents. As a result the researcher had to seek for a lot of clarifications in order to get the information required for the study. This led to each interview taking longer than planned with respondents experiencing fatigue.

The other limitation of the study was getting an appointment with the respondents. With their busy schedules the appointments had to be rescheduled many times. This led to a lot of delays in collection of the data. Nonetheless the respondents were very resourceful.

5.5 Recommendations for Further Studies

The results of the study demonstrated the fact research can lead to local authorities realizing great outcomes in applying the PPP strategy. The study therefore recommended that further studies on the same subject be carried out in other local authorities as well as other government entities in order to consolidate the facts and allow for generalizations. A study on factors influencing successful partnerships can be conducted to give more imminence on success factors for PPP.

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APPENDIX I

Interview Guide on Public-Private Partnerships

Part One: Personal Details

1. Name of department
2. Position of respondent in the department
3. How long have you worked in the department?
4. What services are offered by the department?
5. What is the name of private partner?
6. What type of PPP is the Council engaged in?
7. What is the length of the PPP contract?

Part Two: Rationale for Public private Partnership Partnership (PPP) strategy

1. What possible factors triggered the PPP in the department?
2. What was the PPP program meant to achieve?
3. What aspects of work performance were targeted through PPP?

Part three: Implementation process

1. Was there a feasibility study carried out before choosing the strategy of PPP?
2. Who did the feasibility studies?
3. Were Stakeholders extensively consulted and their concerns taken into account?

4. How was the awareness of PPP communicated to stakeholders?
5. Are there policy guidelines for the formation of partnerships in the Council?
6. What were the conditions expected from the potential partner?
7. Was a contract signed for the partnerships?
8. Who was involved in contract design?
9. Is there an exit clause in the contract agreement?
10. How flexible is the contract agreement?
11. Were service level agreements made?
12. How were the service levels to be measured?
13. Was the PPP strategy clearly articulated and understood by all staff?
14. Was the level of communication throughout the PPP process effective, open and honest?
15. Did the top management support the process?
16. Did the rest of the staff support the process?
17. How did PPP changes affect service delivery?
18. Do you think the government has been supportive in implementing PPP?
19. What outward improvements have you noted as a result of implementing PPP?

20. What in your opinion needs to be done to improve the process?

21. List the major successes of PPP?

22. What factors were seen as critical for the success of PPP?

23. How is the relationship between the council and the partner?

Part Four: Implementation Challenges and their solutions

1. What were the major challenges faced in the implementation of the PPP process?

2. How were these challenges overcome?

3. Was there political interferences in the implementation of PPP? Explain

4. List the effects of PPP on service delivery

5. What lessons have been learnt so far from the PPPs process?

6. What objectives of PPPs been met so far?

7. What are your recommendations for future successful PPP initiative

8. In your opinion is this a good strategy? Give reasons for your answer.

