

REPUBLIC OF KENYA
MACHAKOS COUNTY ASSEMBLY

OFFICIAL REPORT

Tuesday, 17th July, 2018

The House met at 2.57 p.m.

[The Deputy Speaker (Hon. Museku) in the Chair]

PRAYERS

Hon. Deputy Speaker: Ring the bell please we are short of three members we have quorum now you may stop ringing the bell. Mr. Clerk, proceed.

NOTICE OF MOTION
MAPPING OF ALL LAND RESERVED FOR RURAL ROADS

Hon. Deputy Speaker: Hon. Members, under this Order, we have one notice of motion which is going to be moved by Hon. Cosmus Masesi on behalf of Hon. Agatha Mutunga

Hon. Masesi: Thank you, Mr. Speaker. Mr. Speaker, I wish to hold brief for one Hon. Agatha Mutunga and give notice on the following matter, Mr. Speaker.

Mr. Speaker, aware that in the Fourth Schedule of the constitution, matters of planning, land surveying and mapping boundaries and fencing up are functions of the County Government;

Further aware that Section 155(1)(a)(b) and (c) of Land Act 2012 provides that any person who without express or implied lawful authority or without any right or license under customary or statutory land law occupies or erects any building or any public land, clears, digs, ploughs, cultivates or grazes animals over any public land over or it shall be taken to be in unlawful occupation of the land;

Mr. Speaker, informed that access to convenient roads service is a necessity which every citizen has a right to enjoy;

Aware that the ministry of land did survey of land in most parts of Machakos County in the late 1970s;

Further aware that much of this land was reserved for rural roads which enhance accessibility and delivery of goods and services;

Mr. Speaker, remembering that many people especially the ones born after 1970s do not have information concerning the existence of those roads reserves unless they research from the lands office;

Noting that this lands clearly appear in the land maps in the office of the land survey, surprisingly aware that much of this land has been encroached for settlement and farming by people around such areas depriving other people essential services they should enjoy from those lands;

Mr. Speaker, I wish to give notice of motion that this House discusses and approves the motion that the department of lands does a thorough search to establish all lands reserved for the rural roads in Machakos County, marks the boundaries and declares those lands public utility in order to discourage further illegality of encroachment of public lands in Machakos County.

Mr. Speaker, I wish to call upon Hon. Ikusya to second this motion.

Hon. Deputy Speaker: That is a notice of motion. Thank you, Hon. Cosmus Masesi for moving that notice of motion. Mr. Clerk, proceed.

MOTION

MAPPING OF ALL LAND RESERVED FOR RURAL ROADS

Hon. Deputy Speaker: Hon. Members, under this Order we have a motion by the Hon. Agatha Mutunga which is again going to be moved by Hon. Cosmus Masesi.

Hon. Masesi: Thank you, Mr. Speaker.

Mr. Speaker, I want to move a motion that aware that in the Fourth Schedule of the constitution matters of planning land surveying and mapping boundaries and fencing are functions of the County Government;

Further aware that Section 155(1)(a)(b) and (c) of Land Act 2012 provides that any person who without express or implied lawful authority or without any right or license under customary or statutory land law occupies or erects any building or any public land clears, digs, ploughs, cultivates or grazes animals over any public land or part of it shall be taken to be in unlawful occupation of the land;

Mr. Speaker, informed that access to convenient roads service is a necessity which every citizen has a right to enjoy:

Aware that the ministry of lands did a survey of land in most parts of Machakos County in the late 1970s;

Further aware that much of this land was reserved for rural roads which enhance accessibility and delivery of goods and services;

Mr. Speaker, remembering that many people especially the ones born in the 1970s do not have information concerning the existence of those roads reserves unless they research from the lands office;

Mr. Speaker, noting that these lands clearly appear in the land maps in the office of the land survey, surprisingly aware that much of this land has been encroached for settlement and farming by people around such areas depriving other people essential services they should enjoy from those lands;

Mr. Speaker, I wish to move the motion that this House discusses and approves the motion that the department of lands does a thorough search to establish all

lands reserved for the rural roads in Machakos County, marks the boundaries and declares those lands public utility in order to discourage further illegality of encroachment of public lands in Machakos County.

Thank you, Mr. Speaker. I wish to call upon Hon. Ikusya Kaloki to second this motion.

Hon. Deputy Speaker: Hon. Ikusya.

Hon. Kaloki: Thank you, Mr. Speaker. I stand to support the motion. Thank you.

Hon. Deputy Speaker: Thank you Hon. Ikusya Kaloki.

(Question proposed)

Members, you may debate on this motion. Hon. Kalumu.

Hon. Kalumu: Thank you, Mr. Speaker, Sir. I would like to say this motion is timely because it has come at a time when some of our rural roads have been encroached to a certain status in a way that the roads are being graded, some pipes, some of the people have made the roads to be very small mostly in my ward in Mamba Sub-location where it is very hard to even for the grader to move or to fit in the part being called the road.

So, I would like to thank the member who has had that opinion and brought it to the floor of the House for the County Government to initiate that process of surveying and marking roads so that it may take care of those roads which are being graded for now because it is high time that we need to improve the road network of our County and with that it will help us. Thank you, Mr. Speaker.

Hon. Deputy Speaker: Thank you. Hon. Fredrick Muthoka.

Hon. Muthoka: Thank you, Mr. Speaker. This is a good motion but I beg if this House can consider just to amend a bit not only land for roads reserve but we have also lands which were meant for public health facilities which have been taken by private developers. Others which were meant for stage, ECDEs, cattle dips have been taken over by private developers. I do not know if we can amend a bit and we say all public land of Machakos County to be surveyed again and reserved for any public works. Thank you, Mr. Speaker.

(Applause)

Hon. Deputy Speaker: Thank you. Let me give guidance on this. The amendment you are requiring is substantive because it is now encroaching on all public lands. I would personally suggest that the Hon. Fredrick Muthoka comes up with a substantive motion on public lands, demarcation of public land which will be committed to the same committee which this one is going to be committed the report can be done duly but that to me requires a substantive motion because it is touching on very many other like schools, agriculture, roads, sports and culture and it is touching on very many issues.

So, I think it will be good if it came as a substantive order but noted. Please prepare the motion; let it be presented and will be okay.

Hon. Muthoka: Thank you, Mr. Speaker.

Hon. Deputy Speaker: Hon. Judas.

Hon. Ndawa: Thank you, Mr. Speaker, Sir. I stand also to support the motion and say it is timely. Mr. Speaker, you will realize that every road has size and nowadays the minimum road size is supposed to be nine meters. If you compare the roads we have at the moment, some are even four, six meters and others are less than four meters.

So, Mr. Speaker, without changing the spirit of the motion, let us concentrate on the issue of the roads and ensure that all the roads are marked so that when the graders come to do the grading the driver or the operator of the grader is not shot with an arrow from unknown destinations because in most cases when it comes to issue of roads, most of the people have gone to the roads.

Some of the occupants demarcated the land and used this sisal and when you plant one sisal here, the following year it moves where it was another one grows there, the following year another one there so after five years, the size of the roads will be almost two meters or one meter. So, you should also advise on what should be planted as a beacon for boundaries because some of these plants we are using are also becoming a problem to the roads. So, Mr. Speaker, without wasting much time, I believe no person can oppose this motion. So, I would request you make determination that we vote for this motion then go home. Thank you, Mr. Speaker.

(Applause)

Hon. Deputy Speaker: Hon. Member, I stand guided by the House we only stop debates in this House if there are no more contributions; you cannot guide the Chair. The Chair will make that decision, do not worry. Hon. Peter Mutiso.

Hon. P. J. Mutiso: Thank you, Mr. Speaker. I stand to support this motion; its a good motion and especially during this time of grading of our roads which has been destroyed by heavy rains which we had. Mr. Speaker, I think we have problems in our roads. For example, people when it rains, they do not want water to be diverted to their areas; they want water to run through the roads which is not supposed to be done like that. During that time of ministry of Public Works, they used to divert water from the main roads to the interior lands but this time round people are disputing, there are a lot of questions on the same so let this people who do the survey, do it thoroughly.

We must have civic education, if it can be done to our people so that they may know that if water is diverted to your area, you are the one to know what to do with it but not to bring it back to the roads.

Mr. Speaker, as Mheshimiwa from Mitaboni has said we have many so many problems and I know we are all leaders from Machakos County and not where I am elected from like Machakos Central. For example, if you go to Mua Ward, we have so many problems; public land has been grabbed, they grabbed everything. There were schools, markets, churches but this time round now, it is amazing if you go to that area.

So, I support Hon. Member from Mitaboni and if he can draft that motion as quickly as possible, it will help us Mr. Speaker. Another area at Kariobangi somewhere down there, there

was a pond where it was just a sewer pond but now that area has been given to people I do not know; they are plots of unknown people as we are talking now. So, it was public land.

If you go to Posta, down there, that area where there is that car wash that was a public land but we do not know how it disappeared; it is land for this people now these Hon. Members.

It is not my land because it is in Machakos Central but it belongs to us all members of this House. So, Members, I request the people of ministry do it as quickly as possible. Thank you, Mr. Speaker.

Hon. Deputy Speaker: Hon. Mueni.

Hon. (Ms.) Mueni: Thank you, Mr. Speaker. Mine is to say that the public lands are all taken; before the time of Mheshimiwa Nziva they were all given lands all the members who are in the House but now you cannot get one which is very bad. So, I think we can do this because when we say about the 1970s, there are people who do not have title deeds for their land and they know where their land is.

Mr. Speaker, we went to your place, I do not know the name of the school what, I think Mheshimiwa Margaret knows the school and it is your areas and there is land around where snakes are coming from and they are very dangerous for the children because the land was grabbed and the person is in the DCs place and so it cannot be used by the school, it cannot be used by the person.

So, Mr. Speaker, when you go out you go and look for that you help those people and the nursery which is there is very dangerous when it is called to be from your place; you go and see it is very terrible. The children who are in the class they are being bitten by the snakes so what I am saying is that if we give people the title deeds, there are women who have been thrown away by the brothers of the husband when the husband died, we need to also give them land because widows are suffering because their land is not divided.

So, I think we have to do this motion the way Mheshimiwa has said; we amend it for everybody even those people of lands department, they eat (sic) a lot of money when they giving somebody a title.

Mheshimiwa, when I was being given a title for my house and it is something I bought, I gave Ksh. 200,000 to get the title deed and it is not a joking matter; it is very dangerous we have to take those people.

Even those people of Kenya Power they are still sleeping in cells even those people of lands department have to sleep there to give people the title deeds. Thank you, Mr. Speaker.

Hon. Deputy Speaker: Thank you, Hon. Members. I think the message is driven home. As for Hon. Benedetta Mueni, I will take care of my own ward. The issue which has been raised here, I think we have finished that debate.

(Question put and agreed to)

(Applause)

From what have heard from you Hon. Members, first of all now that you have passed the motion, it is committed to the committee on Environment, Energy, Lands and Natural Resources to report on or before the 18th of September, 2018 on the same.

The motion which should be brought by the Hon. Member Fredrick Muthoka, I think is much of what members are talking here; grabbed land, public land and if we do have and I am very sure in our lands offices here, we have those records which show which lands had been demarcated for public land.

Then the committee on Environment, Lands will need to make sure we bring that motion so we can follow it through and those who were awarded public land illegally, the President is very clear on those issues.

ADJOURNMENT

Hon. Deputy Speaker: This House stands adjourned until Wednesday the 18th day of July, 2018 in the morning at 10.00 a.m. Thank you.

The House rose at 3.26 p.m.