

MACHAKOS COUNTY ASSEMBLY**OFFICIAL REPORT****Wednesday, 3rd December, 2014**

The House met at 10.25 a.m.

*[The Speaker (Mr. Mung'ata) in the Chair]***PRAYERS****Hon. Speaker:** Good morning hon. members. Let us proceed, Clerk.**BILLS****LIQUOR LICENSING REPORT**

Hon. Kanui: Mr. Speaker, Sir, I wish to present the report for committee on culture and tourism on public participation on liquor licensing bill. Mr. Speaker, Sir, President Barack Obama once said 'without good governance, no amount of oil, aid, no amount of effort can guarantee Nigeria's success but with good governance, nothing can stop Nigeria.' The people of Kenya, through the constitution, have been granted sovereign power to.....(*inaudible*).....a frame of government, power to choose to run the government and to be involved in governance and these is the principle behind the exercise of public participation.

Mr. Speaker, Sir, pursuant to Standing Order No. 119, on 5th November, 2015, the Bill on liquor licensing was read for the first time and it was committed to the committee on culture and tourism pursuant to Standing Order 120 (1). Further, Mr. Speaker, Sir, from 18th to 21st November, 2014, the committee undertook its constitutional responsibility to carry out public participation in the eight sub-counties pursuant to Standing Order 120 (3) which states that the sectoral committee to which a bill is committed shall facilitate public participation---

Hon. Speaker: Order. Let us hear that point of order. Just wait until you have the mic.

Hon. Matheka: Mr. Speaker, Sir, we are wondering what we are reading because according to your directions there before, anything being read in the House should be given in advance and we don't have the papers.

Hon. Speaker: I hear you. How many members do not have the report, maybe, just by show of hands? Hon. Kanui, kindly have a seat. You may have to begin again. Sit.

Hon. Kanui: Mr. Speaker, Sir, pursuant to Standing Order No. 119, on 5th November, 2015, the Bill on liquor licensing was read for the first time and it was committed to the committee on culture and tourism pursuant to Standing Order 120 (1). Further Mr. Speaker, Sir, from 18th to 21st November, 2014, the committee undertook its constitutional responsibility to carry out public participation in the eight sub-counties pursuant to Standing Order 120 (3) which states that the sectoral committee to which a bill is committed shall facilitate public participation and shall take into account the views the recommendations of the public when the committee makes its report to the House.

METHOD OF PRESENTATION

Mr. Speaker, the sessions were purely interactive whereby discussions, question and answer method and presentation of Memoranda by Community groups were applied.

PARTICIPANTS

Mr. Speaker, the Committee members highly credit the following groups of people who attended.

- The Presidency which includes the Ward Administrators, Chiefs, Sub-Chiefs and others.
- Business Community.
- The Civic Society.
- Community group Leaders.
- Farmers.
- Youths.

RESPONSE AND CONTRIBUTION OF THE PUBLIC ON THE BILL

MASINGA

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Mr. Speaker, after being taken through the Bill and synthesizing the contents, members of the public had the following to say:

- The License charges stipulated in the Third Schedule are generally too high as compared to licenses of the other businesses. Hence they proposed a reduction to an amount that is friendly to business persons.
- The fine of Ksh. 500,000 is punitive and needs to be reduced to 5 per cent the value of the license.
- The Trade License and the Liquor License be merged as one License.
- They raised the issue of liquor for special ceremonies like marriage ceremonies saying that the bill should address how such occasions will get a license.
- The members of Public tasked the Government to address the issue of the many bar operators who historically have not been paying taxes saying that some are very rich with highly stocked liquor businesses. Surprisingly it was reported that they are more than the ones who pay for licenses.
- The people proposed the bill to address the unnecessary competition the licensed bar owners face from the local *Karubu* brewers who are not licensed.
- The matter of the killer brews like *Thaisu brew*, which is not manufactured in Machakos was raised. Members of the public proposed that thorough inspection and brutal action for such people should feature in the bill.
- The public also proposed inclusion of clauses to control entry of brews from outside the county for the purpose of safety and empowerment of local brewers who after being licensed, will boost their sales.
- The bill has not specified time limits for alcohol taking. They proposed from 2.30 p.m-11.00 p.m.
- The people complained of the fact that this business has been granted very few hours of operation, from 4.30 p.m. yet it is the highly taxed business. It was proposed that opening hours be set at 2.00 p.m.

YATTA- MATUU

Mr. Speaker, members of public from Yatta Sub-County had the following to say:

- On Clause 38 1(b), they questioned how practically one is able to determine an employee who previously had committed a crime related to alcoholism and after all somebody could have reformed.
- The fine of Ksh. 500,000 is too high and needs to be reduced to Ksh. 200,000
- They requested for inclusion of a clause that will harmonize working hours for those licensed to sale wines and spirits and bar operators. Wines and spirits operate from 8.00 a.m. to 8.00 p.m. whereas bars open at 4.30pm and they complained of discrimination.
- On Clause 38 1(a), somebody questioned about a situation where a parent and his children secure accommodation in the rental houses next to a bar if that is really an offence.
- The public requested for inclusion of clauses enforcing tough legislation on wines and spirits saying that these brews have caused more harm than good.
- they asked merger of the liquor license with the others and charge an amount that will not discourage business community.

MWALA

Mr. Speaker for Mwala Sub-County members of the public proposed the following

- The fine of Ksh. 500,000 indicated in Section 40 is too high and should be amended.
- Include a clause that lays mechanisms on how youths can be counseled on excessive drinking.
- Include the distance a bar should be from a learning institution or school.
- Include a Department to be concerned with analysis and inspection of any brew entering the county.
- Establish a mechanism to have a company that deals with the *village Karubu*
- Reduce the number of licenses a liquor operator pays or even merge them as one.
- The bill should include provision of rehabilitation centre for alcohol addicts.

MACHAKOS

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Mr. Speaker, from the office of the chamber of commerce the following proposals were forwarded:

Section 4(3), on the Directorate, include bar owners association of Machakos and delete pubs and entertainment association of Kenya since the bill is meant for county level.

- Section 3 (f) include the chamber of commerce since it is the umbrella of business people.
- Section 3(c) the Tourism Association is irrelevant and should be deleted.
- The whole of Section 4 be deleted since these senior public officers will make the bill not sound as owned by the public.
- Section 5(2)(b) is discriminatory. Qualification should not be tied to Degree only since we have Higher Diploma fellows who are qualified in some disciplines.
- Section 12 (1), add sub-section (H) that should read '*a member may be removed upon petition or complain by a member of public, business sector and bar owners upon proof or reasonable grounds.*'
- Section 19 (2)(h), be deleted completely and be replaced with '*a nominee from the chamber of commerce and industry.*' Offices should not be dominated by the Executive. It is a public affair.
- Section 19, (4), a committee having two sittings per year is little. It should be increased to at least six times per year to facilitate trade within the county.
- Section 24(2), the application mentioned here should be developed as a standard form and be attached to the schedules of this bill.
- Section 24, (2) (b), is not constitutional since previous conviction of an offence should not bar an applicant from practicing legal business.
- Section 28, include that-response to an application of license be done in 14 days and re-application after rejection be done within 30 days in order to facilitate trade and investment.
- Section 29 (f), bankruptcy should not deny an applicant a license and should be deleted. This is contrary to constitutional right of fair administration and justice. After all which tool will measure the degree of bankruptcy?
- Section 31(2), where a Director may disqualify a company from getting a license is unfair and a loophole for sychophants and the sub-section should be deleted.
- Section 35 (3), where a person is denied the right to permit another person to manage, superintend or conduct day to day business is unjustifiable, hence delete the clause.

- Section 36 (1), we propose that the medical officer doing the inspection should have the consent of the owner.
- Section 40 about offences. We propose that Ksh. 500,000 is too punitive to investors and needs an amendment to an amount affordable to business people.
- Include a clause that those from outside Machakos County who ferry brews should register with Machakos.
- Reduce the license fee by 50 per cent in order to encourage investors

RECOMMENDATIONS OF THE COMMITTEE

Mr. Speaker, Sir, the committee on Culture and Tourism retreated to Mombasa from 13th to 16th November 2014 and after thorough discussion of the bill the following amendments and proposals came up:

- In Part 1 on preliminaries, give a concise definition of 'Liquor' and then the word Liquor needs to be used throughout the document.
- A clause on commencement date of the bill needs to be included rather than just waiting for gazetting time.
- Reference to part 2 of the Fourth Schedule of the constitution, there is no provision for advertisement and consumption and so it should be included.
- Clause 6 (f) is too general, specify.
- Clause 19 (6), referring somebody to the High Court, is an office very far from the common *Mwananchi*. Instead refer the person to a Magistrate.
- In Clause 32, a new sub-section needs to be included to show that somebody has fulfilled the requirements of a trade license before getting this license.
- In Clause 32 also, License hours for this business needs to be stated.
- Matters of packaging have been omitted.
- There is need to include a clause of establishing rehabilitation homes to address the negative effects of alcohol.
- Matters of licensing traditional brews needs to be included.

CONCLUSION

Mr. Speaker, a developing nation like Kenya has a lot to borrow from developed nations like England and Wales. In these nations, we have a Licensing Act 2003 which contains Mandatory

Licensing Conditions. These conditions apply to all licensed premises. In particular, if your premises trade alcohol, it is mandatory to ensure the following

- Age verification policy is applied before selling to a customer.
- Ban of irresponsible promotions in the premise.
- Mandatory provision of free tap water.

Thank you Mr. Speaker, Sir. I call on Hon. Bernardette Mueni to second this report. Thank you Mr. Speaker, Sir.

Hon. (Ms.) Mueni: Mr. Speaker, Sir, I stand here to second the report, Liquor Licensing Bill 2013/14. As a member of the Committee, we have gone through the Bill as read by the Chairman. Thank you, Mr. Speaker, Sir.

Hon. Speaker: Thank you, the report is properly before us for debate and I can see the hand of Hon. Itumo, kindly begin.

Hon. Itumo: Thank you, Mr. Speaker. I am happy that I have caught your eye. Mr. Speaker, I stand here this morning to support this report because it is a well-compiled report and, Mr. Speaker, I do not see a good reason as an Hon. member not to support this quite very important report. Mr. Speaker.....protect me, Mr. Speaker.

Hon. Speaker: Let us hear the point of order.

Hon. Matheka: Thank you Mr. Speaker, Sir, and the house at large. I am wondering, is it in order for this House to discuss a half-baked report. Public participation was done in eight Sub Counties but we are seeing report of only four Sub Counties, where is the report of the other Sub Counties? Thank you Mr. Speaker, Sir.

Hon. Speaker: Let us hear the Chairman Hon. Kanui. Where was public participation conducted?

Hon. Kanui: Thank you Mr. Speaker. I think it was an error and the reports should be incorporated in this report. They are there. Sorry for the inconvenience. Some of the issues are cutting across and I think we made the summary of this. It is only the issues which were brought up and they are not here we shall incorporate them.

Hon. Speaker: Let us hear Hon. Kitheka at the back.

Hon. Kitheka: Thank you Mr. Speaker. It is a good report. With the omissions, I think the Chair should accommodate the omissions which have been made in this report because I understand in Matungulu, there was a very hot debate about the issue and they are not captured here. So Mr. Speaker, we kindly request for the report which was given from those other parts otherwise, Mr. Speaker, if we can accommodate exactly what has been given by the participants outside, it could be a very good thing.

We are praying because we are just about to go for recess and we should see sense in this Bill, and if this Bill doesn't have a Second Reading, it will have been irrelevant to go for the public participation to come up with this document and then throw away the document. Because if, as per the Standing Orders, we will not have made the second reading by tomorrow, then the document will be irrelevant. So Mr. Speaker, I kindly request and urge this House, because there is a problem outside there. I don't know why the Hon. Member.....is trying to put up his hand as if I am talking trash. Mr. Speaker, protect me.

So Mr. Speaker, because I know there are a lot of problems outside there about this issue of the Liquor License. Why can't we now be very serious in this House and take this as a task of this Assembly to make sure that this Bill, at whatever cost goes for the Second Reading tomorrow with the entire documents put in place so that at the end of this vacation, the people can start paying for licenses. The County is crying for money and we are sitting on the Bill here nobody is getting money outside there and the people are rejoicing.

It will be another year and we will not get any penny from the business community who are just enjoying because we are pushing up and down, throwing the Bill outside. I wish and I request for commitment from this House today so that we can pass this Bill even if it forces you, as the Speaker, to call us for extra sitting even if it is today we pass this document. I am out at whatever cost to pass this document because it is hurting the people outside there and we cannot just come to sit here, start saying there are omissions and we are not giving remedy for the omissions. Thank you, Mr. Speaker.

Hon. Speaker: Thank you. I think members, those in support of that proposition, let me hear contributions that we appoint extra time and finalize. Hon. Manyolo then we can hear Hon. Muthuka there.

Hon. Manyolo: Thank you Mr. Speaker Sir. I am in support of it and I am calling on the Chair to liaise with the Clerk so that the report is complete for us to discuss it tomorrow. It could be better if everything is factored inside the Bill which I know most of the things have been factored in but because there are omissions, it is better that everything is captured within the document and then we discuss it tomorrow. Thank you, Mr. Speaker.

Hon. Speaker: Okay. Hon. Muthuka

Hon. Muthuka: Thank you Mr. Speaker, Sir, and the rest of the House. Mr. Speaker it is well we understand that this reports are not just for us. As we know, we spend public Money doing the public participation and that is the reason why we had the report so that we can legislate on this issue of alcohol. Mavoko, we know, is one of the places where alcohol is a menace and also even some of the illicit alcohol is brewed in Mavoko. So when the report fails to outline such hot-spots, we tend to think that the report is half-baked and because we are here to help our people, I don't see the issue of time because even in the Senate they go up to midnight, because they want to help people.

I would like to request the Chairman, through the Committee, you can sit down and have the full report because we are keeping this even for posterity. We are not the only Machakos assembly. After five years, other groups will sit down and go through the report and they will be able to make the amendments which are possible. I think it is prudent that they find time, compile the whole report, bring it to the Assembly even if we go up to midnight, it doesn't matter because we must legislate this because this is the festive season and liquor is one of the things that is most of the time abused and it is the time even the County government can get their share from that business. Thank you, Mr. Speaker.

Hon. Speaker: Can we hear the mover. Hon. Kanui, are you be able to perhaps first begin by telling us; do you have data from Matungulu and those areas that missed out in the report?

Hon. Kanui: Thank you, Mr. Speaker, Sir. I think we have the data and I need to be given time so that I consult with the office of the Clerk to see where the papers have been misplaced and they be brought here. Thank you.

Hon. Speaker: Hon. Members, maybe can we conclude by giving the...Hon. Dominic you appear to be burning on a point.

Hon. Maitha: Mr. Speaker, Sir, thank you very much for noticing me. I wish to applaud the Chairman for the so-called half-baked cake better than nothing because if it is half, we can at least share it and have something than nothing. But Mr. Speaker as Hon. Muthuka has just noted, I don't think this report will be complete without Mavoko Sub County being mentioned here. As we all understand, Mavoko is the headquarters of alcohol consumption in Machakos County. We cannot deny that. It is also the headquarters of alcohol manufacturing. We have go so many companies that are manufacturing and even other vices which are associated with that.

What I am saying is this, Mr. Speaker. In the best interests of the people of Machakos County especially liquor licensing, Mr. Speaker, we are giving the police a very big loophole to harass our people bearing in mind that actually liquor licensing has been devolved. It will be to the best interests of this House and the people of Machakos County and the businessmen who are

trading in this entity, to sit here even if it is up to midnight, pass this Bill and ensure we save our people from the harassment by the police officers.

Mr. Speaker, I would seek guidance also on the issue of enforcing liquor licensing. We need to be guided. Is it vested with the County Inspectorate Department or it is with the police?

Hon. Speaker: Let us take the point of order.

Majority Leader (Hon. Mwonga): Thank you Mr. Speaker. I think the Hon. member has started contributing on a report which the House has agreed it should come into this House when it is capturing all the participation from the eight Sub Counties. I think you have given a direction. I don't think it is in order for the member to stand up and start contributing on the same Mr. Speaker.

Time is of essence and we should start doing other businesses because we have agreed the Chair is going to bring here into this House a comprehensive report, Mr. Speaker and Mr. Speaker, going through the order of the day I don't think we have another business for this morning session. Mr. Speaker, allow me, I have been away for about two weeks Mr. Speaker, and with your permission---

Hon. Speaker: Order, order hon. Majority Leader. I refuse to give that permission.

Majority Leader (Hon. Mwonga): Thank you, Mr. Speaker. Maybe later.

Hon. Speaker: Hon. Dominic Maitha. I think the point is made. Let us give this committee up to tomorrow afternoon and I would urge the Chair to invite you to give that contribution to him. We will give this committee up to tomorrow afternoon to present a full report. Why I am saying tomorrow and not in the night is because the Clerk will facilitate this draft and is apparently away for the day. This has now been completed. You cannot contribute after the Speakers directions. Then I will advise that you approach the Chair and whisper to him that issue. It will be considered. Let us proceed.

(Second Reading)

MACHAKOS COUNTY RATING BILL 2014

Hon. Speaker: Let us proceed.

Hon. Nduva: Thank you, Mr. Speaker. I present the Machakos County Rating Bill 2014 to be read for the second time. Mr. Speaker I would like to ask Hon. Kamitu to second the second reading.

Hon. Kamitu: I stand here Mr. Speaker, Sir, to second Machakos County Rating Bill 2014. Thank you, Mr. Speaker, Sir.

Hon. Nduva: The report on Machakos Rating Bill 2014. Mr. Speaker, Sir, Article 209---

Hon. Speaker: Members you all have copies? Hon. Nduva, have a seat. Clerk, kindly circulate copies. Members can arrange and share copies. I am told we don't have enough copies now. May be you bear with the office. We can proceed

Hon. Nduva: Thank you, Mr. Speaker. I want to present the report on Machakos Rating Bill 2014.

Public participation and interrogation by the Committee

Mr. Speaker, Sir, Article 209 (3) of the constitution provides for the imposing of the property rates by the County Government. The Bill gives effects to exclusive County taxing powers by providing for the imposition and collection of property rates and that the Bill relies on the property valuations in place under the National Valuation for Rating Act chapter 266.

Mr. Speaker, Sir, the Machakos County Rating Bill 2014 was drafted pursuant to Article 185 (2) that states that 'a county Assembly may make any laws that are necessary for or are incidental to the effective performance and exercise of powers of a County government under the Fourth Schedule part 2 (7) on trade development and regulation including: (a) markets (b) trade licenses excluding regulation of professions (c) fair trading practices (d) local tourism and cooperative societies.

Acknowledgement

Mr. Speaker, Sir, the Machakos County Trade Licensing Bill was published on 24th September, 2014 sponsored by Hon. Sammy Nduva, Chairman for Trade planning and Industrialization. The Committee on Trade planning and Industrialization wishes to thank Hon. Sammy Nduva for sponsoring the Bill, the drafters who helped us in the publishing of the Bill, all members of the County Assembly for the good comments, amendments and encouragements. The committee further thanks members of the public for the participation during public hearing of the Bill. Finally Mr. Speaker, Sir, the Committee wishes to thank each and everyone who has contributed in this Bill in one way or another.

Introduction

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Mr. Speaker, Sir, the Machakos County Licensing Bill 2014 was read for the first time in the Assembly on 5th November, 2014 and thereafter committed to the committee of Planning, Trade and Industrialization pursuant to Standing Order No. 120 (1) which states that ‘a bill having been read for the first time, shall stand committed to the relevant sectoral committee without question put.’ Mr. Speaker, Sir, all recommendations from the members and the public were forwarded to the drafters of the amendments and they are annexed to this report.

Committee Meeting

Mr. Speaker, Sir, the committee and other members of the County Assembly considered the Bill at Sai-Rock Hotel in Mombasa on 13th to 16th November, 2014. The following attended;

MEMBERS OF COUNTY ASSEMBLY

Hon. Sammy Nduva	- Chairman
Hon. Ruth Ndumi	- Vice Chair
Hon. Gideon Kavuu	- Member
Hon. Philip Ndolo	- Member
Hon. Joshua Mwonga	- Member
Hon. Francis Kitheka	- Member
Hon. Cornelius Kitheka	-Member
Hon. Collins Mbithi	- Member
Hon. Festus Ndeto	- Member
Hon. Cecilia Sereka	- Member
Hon. Joseph Muli	- Member
Hon. Peter Nzioki	- Member
Hon. Charles Mutisya	- Member
Hon. Geoffrey Munyao	- Member
Hon. Stephen Muthuka	- Member
Hon. Benson Kasyoka	- Member
Hon. John Sila	- Member
Hon. Benedetta Mueni	- Member
Hon. Catherine Nguluku	- Member
Hon. Mary Ndinda	- Member
Hon. Nina Mbithe	- Member
Hon. Raphael Mutuku	- Member
Hon. Leonard Katela	- Member
Hon. Thomas Kasoa	- Member
Hon. Wilson Kasimu	- Member

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Hon. Alex Kathinzi	- Member
Hon. Veronica Mbithe	- Member
Hon. Joseph Itumo	- Member
Hon. Justus Kimata	- Member
Hon. Alphonse Wambua	-Member
Hon. Justus Katumo	- Member
Hon. Jacinta Luka	- Member
Hon. Isaac Muinde	- Member
Hon. Nathaniel Nganga	- Member
Hon. Phoebe Koki	- Member
Hon. Brigid Kitili	- Member
Hon. Kyalo Kyuli	- Member

MEMBERS OF STAFF

Peter Kivelenge	- Senior Clerk Assistant
Dominic Musyoka	
Sarah Mwania	
Norah Muteti	
Mutuku Kavita	
Hilary Muthui	- Principal Legal Counsel
Damas Masila	- Senior Research Officer
Bernard Mutua	- ICT Officer
Sammy Makau	- Sergeant at Arms.

Views from Members of County Assembly

Mr. Speaker, Sir, members praised the Bill that it was very good and that it would enable the County collect enough revenue to undertake its functions. Mr. Speaker, members proposed that Clause 1 (ii) be amended to reflect the amendment date shall be 30 days after the Rating Act is gazetted. They also proposed that Clause 10 to include provision of Revenue Offices at the Sub County level and Clause 15 to have a few clauses on gazetting on any land sold pursuant to clause 15 (1).

Mr. Speaker, Sir, the committee conducted public participation from 4th to 7th June, 2014 in all eight Sub Counties pursuant to Standing Order No. 120 (3) that states that 'a sectoral committee to which a Bill is committed shall facilitate public participation and take into account the views and the recommendations of the public when the committee makes its report to the

County Assembly.’ Mr. Speaker, Sir, 356 members of public attended public participation in all eight sub counties.

Views from the Members of the Public

Mr. Speaker, Sir, the public recommended that persons who default in paying rates be given notice of 30 days and that they should be granted an opportunity to explain why they have defaulted. The public proposed a fine not exceeding Ksh. 5,000 and imprisonment of not more than six months for those who default completely. Mr. Speaker, Sir, also proposed that a clear mechanism of identifying plot owners be stated in the Bill and that the owners of the plots should pay rates instead of tenants.

They further proposed that transfer documents to be made available and that the Bill considers waiver on rates that have accumulated because the plot owners were not aware they should pay them. Further, Mr. Speaker, the public proposed that a new clause on civic education on paying rates be inserted to ensure people are sensitized on their payments.

Amendments

Mr. Speaker, Sir, the committee proposes the following amendments after considering the recommendations made by public and also by the Members of the County Assembly; The amendments are annexed to the report. Thank you, Mr. Speaker.

Hon. Speaker: Kindly take us through the amendments. Hon. members, let us be patient and let us allow the Chairman to take us through the amendments.

Hon. Nduva: Thank you, Mr. Speaker. I request, through your Chair, the amendments should be taken through the members in the committee of the whole House after we have discussed the report.

Hon. Speaker: The proposed amendments? That is ok. I agree with that.

Hon. Nduva: I request Hon. Kamitu to second the report.

Hon. Kamitu: Thank you Mr. Speaker, Sir. I stand here once again to second the report. Thank you, Mr. Speaker, Sir.

Hon. Speaker: Thank you. The report is properly before the House for debate but as we proceed on debate, Hon. Chairman, I will take to page 4 the second last paragraph immediately before public participation which reads ‘Mr. Speaker, Sir, members propose lease period in the

second schedule to be changed from 999 to 99 years and that the term defaulter be defined under clause 2 on interpretation.’ I don't know, maybe you can explain to us what the import of that is. Why I am asking this question is that if there is a legislation that states the terms of lease then a County legislation cannot amend an existing legislation.

Hon. Nduva: Mr. Speaker, Sir, I concur with you because as per the constitution, the laws that are there, the County laws, cannot go above them. So I think we need to consult the legal officers for more advice.

Hon. Speaker: Let us hear you, yes

Majority Leader (Hon. Mwonga): Mr. Speaker, I think the Constitution has changed the period of lease from 999 years to 99 years.

Hon. Speaker: That is true.

Majority Leader (Hon. Mwonga): Yes. That is why it is like that in the report. Mr. Speaker, we cannot go to 999 years yet the constitution says 99 years.

Hon. Speaker: That aspect can be considered thoroughly within the Committee of the Whole House. Let us proceed with the debate. Any point in support? Yes Hon. Kitheka then hear the Majority Leader.

Hon. Kitheka: Thank you Mr. Speaker. In view of what you were asking about the lease period currently it is 99 years, 66 years and 33 years. I think there should be no big issue about the lease period. It is given in our Constitution. Mr. Speaker we agree with this Rating Bill, which has come at the right time, when there is no provision of such a document within the County. We know very well, majority of the people are evading the issue of paying rates in Machakos and to clarify a bit, Mr. Speaker, there is somewhere I have seen the owners should pay the rates instead of the people who have rented.

In fact that should be stressed very much because it is what has been happening in most of the businesses in Machakos. You find the people who have rented the house are the ones paying the rates instead of the owner. That is a very good observation.

Secondly, Mr. Speaker, I would wish the committee, after passing of this bill, will come up with a detailed document showing the entire premises within the County so that, at least, we can have adequate revenue collection within those areas because if we come up with a good rating procedure with the right technology of today, we will be getting about a 100 per cent of the rate of this County.

Mr. Speaker, not forgetting that KRA is still now pursuing the registration of all this premises, I would request the committee to be in touch with such departments so that, at least, they can also take the document which can give them a clarity of what is happening. Otherwise, Mr. Speaker, I support this document 100 per cent and let us push for the amendments which have been provided in the House Business Committee. Thank you very much, Mr. Speaker.

Hon. Speaker: Thank you, the second contribution was to Majority Leader.

Majority Leader (Hon. Mwonga): Thank you Mr. Speaker. When we were discussing about the Liquor Bill, I had requested I start by thanking our Almighty God for seeing me through an ailment, Mr. Speaker, although I went through a minor surgery, Mr. Speaker, which only took the doctors 30 minutes. I am happy that, Mr. Speaker, some members of this Hon. House made fun of it, Mr. Speaker.

Mr. Speaker, it did not give me a lot of thought. I did not even want to answer about the issues which were raised by the Hon. Members. Mr. Speaker, if the issues were being raised by hon. members who have their own dignity, I would have been surprised but Mr. Speaker, I am happy because what was talked about my illness was coming from one of the egg throwers, Mr. Speaker. Back to the Bill, Mr. Speaker,

Hon. Speaker: Let us take the point of order.

Majority Leader (Hon. Mwonga): Yes, Mr. Speaker, thank you.

Hon. Kitheka: We are happy that you are back even though we did not know whether he was somewhere and if you had a minor surgery, be happy to God that you are alive. Mr. Speaker, I wish this House is accorded the necessary dignity which it deserves. I don't know the people who are being referred as---

Hon. Speaker: Hon. Kitheka.

Hon. Kitheka: Yes, Mr. Speaker

Hon. Speaker: I can see you are out of order. Take a moment and look at your shirt. Let us hear Hon. Muthuka.

Hon. Muthuka: Thank you, Mr. Speaker. We are sorry that the Majority Leader was sick and we are happy that you are back and very energetic. If people made fun of that, that is normal and again egg throwers, we don't know who they are. What is important, Mr. Speaker, Sir, it is

good to thank God and we pray that since you are back, you are going to contribute to the Bills and we should differentiate between the hospital bills and the Bills in this House. Thank you. (*Speaker laughs*).

Hon. Speaker: Little information here.

Hon. Muli: Thank you Mr. Speaker. I want to inform Hon. Member for Ndalani that when the Majority Leader quoted egg throwers, we witnessed it practically being done..... (*inaudible*) and he is one of them.

Hon. Speaker: Hon. Members that matter is on trial. Let us desist from it. Proceed.

Majority Leader (Hon. Mwonga): Thank you Mr. Speaker back to the bill---

Hon. Speaker: Members, we are likely to have visitors from Migori. So, as we discuss, we know that this message is going wide and far.

Majority Leader (Hon. Mwonga): We are not going back to egg throwing, Mr. Speaker. I totally agree with this report Mr. Speaker and I want to concur with the issue raised by Hon. Kitheka about payments of rates. Mr. Speaker, in the past it is the people who rent this houses who were being forced by defunct councils to pay the rates instead of the owner of the building, Mr. Speaker. That is one issue we should emphasize on, Mr. Speaker.

I want also to support this Bill because it will enable this County government have more revenue when the owners of this buildings will be paying their rates, Mr. Speaker. Mr. Speaker, I want to propose one amendment on page 5, views from members of County Assembly. Mr. Speaker, I think the members recommended that the fine should not exceed Ksh. 5,000 and an imprisonment of not more than six months on those who default completely, Mr. Speaker.

Mr. Speaker, this means that we will never imprison any defaulter. Mr. Speaker, I think Ksh. 5,000 is less, Mr. Speaker. I think we should have an amount which is almost equivalent to six months which is Ksh. 20,000 or 30,000, Mr. Speaker. That is an amendment I wanted to propose. Even, Mr. Speaker, the petty thieves when are being charged in a court of law, it is either Ksh. 10,000 or three months. So Mr. Speaker this means it should be Ksh. 20,000 thousand or six months or above Ksh. 30,000, Mr. Speaker. Thank you.

Hon. Speaker: Thank you. That is a very good contribution.

Hon. Matheka: Thank you Mr. Speaker, Sir, and the House at large. I would like to start by saying that '*pole sana*' to the government leader in the House for being hospitalized. I know it is not easy to go down in that bed and come up. I was once there, so Bw. Majority, *pole sana* and

welcome back. Mr. Speaker, Sir, also on that note, I would like to inform the member from Ndithini that we know he is the Chief Government Spokesman and he should be given the title officially. Mr. Speaker, Sir, back to the Bill---

Hon. Speaker: Sorry, did I hear that?

Hon. Matheka: Yes Mr. Speaker, Sir. Yesterday you were not in the House and there was somebody who was introduced as the Government Chief Spokesman and today he has come back to the issue so he should be given the title officially.

Hon. Speaker: Let hear the point of order.

Majority Leader (Hon. Mwonga): Mr. Speaker, I wonder why a hon. member is suggesting that Hon. Member for Ndithini Ward is the Spokesman of this Assembly? Mr. Speaker, we have never had a Spokesman for the Machakos County Government, Mr. Speaker, and if ever we will have a spokesman, he will not come from this hon. Assembly. Mr. Speaker, when I am just the mouthpiece of the government and when I am away, we cannot start saying that there was a Spokesman in this hon. house, Mr. Speaker, for the government.

So Mr. Speaker, can the hon. member withdraw his statement because I think he is diminishing the position of the Leader of Majority who is the mouthpiece of the government in and outside this House, Mr. Speaker. Thank you.

Hon. Speaker: Order hon. members. Let us hear the Hon. member for Ndithini.

Hon. Muli: Thank you Mr. Speaker for giving me this chance. Yesterday, I also defended myself. There was an issue which was raised by a Hon. Member that I am a Spokesman. I described myself that I am an elected member of Ndithin Ward.

I am a hon. member and I am not a Government Spokesman. That position even does not exist in this Assembly. Therefore, Mr. Speaker, I request the hon. member from Kangundo to withdraw the statement. Thank you.

Hon. Speaker: If the matter was deliberated, hon. Matheka, yesterday and a ruling made by the Chair, I would urge that you withdraw and apologize to the hon. member for Ndithini.

Hon. Matheka: Thank you, Mr. Speaker, Sir. I would like to clarify that the hon. Leader of the government is Kiilu Mwonga but yesterday an issue was raised that hon. member for Ndithini is the Government Spokesman and he never came up to clarify that or say what he is but now I have heard it. I withdraw and he should not masquerade as the Spokesman of the Government.

Hon. Speaker: Very well. Proceed

Hon. Matheka: He should know that he belongs to the opposition and that is his place.

Hon. Speaker: Proceed.

Hon. Speaker: Mr. Speaker, Sir, back to the Bill, I would like to say this. We are introducing rates to our people and the National Government, that is KRA, is getting rates from our people and is that not double taxation? Are we overburdening our people or not, Mr. Speaker, Sir? I need your clarification and guidance on that matter as a lawyer and as our Speaker. Thank you.

Hon. Speaker: Thank you. We can be guided by the Chairman of budget committee who is an expert in that discipline but before that, the Rating Bill just lays the framework. It doesn't define taxation.

Hon. Muinde: Mr. Speaker, I was rising to contribute to the report on the Rating Bill by saying that this is one of the revenue Bills brought up in this house and currently, Mr. Speaker, in this government we do not actually have a specific law that gives power to the Minister Finance to collect rates. What the Government is using currently is only the finance law and the Fees and Charges as they were charged by the former councils. Currently, the truth is that if those who pay us rates would take us to court as a government they will succeed because we do not have a law and therefore this Bill being brought to the house, has come at the opportune time.

In fact, it should have been passed yesterday so I support the report and urge members to fast track it and ensure we have a right law because the Finance law only gives powers to the revenue bills with this rating bill, being one, and therefore we need to have a comprehensive law that ensures we get money from landowners.

Currently, we are only getting money as a sign of goodwill from those who are supposed to pay. If they knew exactly that we do not have a specific law other than what is passed by national government, they would actually not pay us. So, Mr. Speaker, I urge members to support this Bill and ensure that soon or later we have this law in place. Thank you.

Hon. Speaker: Hon. Chairman, kindly assure us. This is not introducing double taxation to clear the fears of Hon. Matheka.

Hon. Muinde: Mr. Speaker, I don't understand where double taxation is arising from. We already don't have a rating law. We need it just the same way the liquor license is given powers under the Finance law. Raising the Rating Bill will not amount to double taxation but will be

actually ensure that we have a specific law that captures matters to do with rates in our County. So, there is nothing like double taxation by passing this law

Hon. Speaker: Let us hear Hon. Matheka.

Hon. Matheka: Mr. Speaker, Sir, thank you. What I meant by double taxation is this. At the moment KRA is collecting rates from plot owners. You have to pay rates at the end of the year, if you are a landlord, and the same thing the County government wants to do. I know by collecting the rates from the land, they will extend to the plot and this will be double taxation to our people. Mr. Speaker, Sir, we need a clarification on that. It is double taxation to me.

Hon. Speaker: Let me understand. In what instances does KRA collect tax from landowners?

Hon. Matheka: You have to pay a certain percentage if you are a landlord and they say you load the percentage to the tenant and the same thing will happen to the County government. Are we not double taxing our people, Mr. Speaker, Sir?

Hon. Speaker: Okay. Right. Let us hear hon. Nduva.

Hon. Nduva: Mr. Speaker, my contribution to this matter is we are not introducing something new to our County government because rates were being paid during the time of councils. What now this Assembly is discussing is a law to safeguard this government when collecting these rates. The issue of KRA to the premises, I think, it is coming over. It is something which has not been there and we don't know how they will be doing their own charges. I don't know whether it is the property or the amount of money somebody is making in his utility. But what we are discussing here today is the rates and the rates were being paid during the former councils. Thank you, Mr. Speaker.

Hon. Speaker: Thank you. Majority Leader and then we hear hon. Kitheka.

Majority Leader (Hon. Mwonga): A short clarity, Mr. Speaker. What KRA are doing is they are charging on the income, Mr. Speaker. It is not the rates which the County government will be getting. Thank you.

Hon. Speaker: Yes Hon. Kitheka.

Hon. Kitheka: I think the Majority Leader has read my mind but notwithstanding all that, Mr. Speaker, the KRA are on the issue of tax compliance while the County is on the issue of

rates which have to be paid from the ground rents of those premises which are owned by the owners. So they are two very distinct issues which are being addressed in this matter. Thank you.

Hon. Speaker: Hon. Members, I think we guide ourselves by the Bill as published. When we go to clause 8 (1) ‘a rate becomes due on the 1st January and such other prescribed date of each year.’ Sub section 2 ‘the rating authority shall by notice in the County Gazette, specify the date on which a rate becomes viable and may publish that date in a newspaper circulating in the County.’ Sub section 3 ‘Notice of at least 30 days shall be given of the payment date published under sub section 2.’ Sub section 4 ‘For the purposes of this Act, the valuation role or any supplementary role imposed on the day on which any rate becomes viable, is conclusive evidence of all matters included in such law.’

Meaning that rates will be set and there will be an authority and if a member of the public has an appeal, they will have an opportunity to be heard. So the interest of all the members will be accommodated by the rating authority that will be established in this Act. So if there are issues of double taxation, they will be handled by that rating authority. I think that settles the debate.

Let us proceed. Any additional matter before we convert to a Committee of the whole House? Hon. Chair now the House now translates into a Committee of the whole House. Sorry, I am told to wait for a minute. I am advised for purposes of expediency, we can consider the other one for Licensing so that we can have a Committee of the Whole House for the two Bills. Let us proceed, please. Do we have it?

Second Reading

MACHAKOS COUNTY TRADE LICENSING BILL 2014

Hon. Speaker: Yes, members have the report? Do you have the report hon. members? It is just being read for the second time. Proceed.

Hon. Nduva: Thank you, Mr. Speaker. I present second reading of the Machakos County Trade Licence Bill 2014. I request Hon. Kiilu Mwonga to second the second reading.

Majority Leader (Hon. Mwonga): Mr. Speaker, I stand to second Machakos County Trade License Bill No. 15, 2014 for the second time Mr. Speaker. Thank you.

Hon. Speaker: Thank you. Proceed.

Hon. Nduva: Mr. Speaker, Sir, a report of Machakos Licensing Bill 2014.

Public participation and Interrogation by the Committee.

Mr. Speaker, Sir, Article 209 (4) gives Counties power to impose fees and charges for services provided and for regulatory purposes, in respect of certain licensed activities. The Machakos County Licensing Bill 2014 relies on the Licensing Bill, first enacted in 1968 and amended severally. Mr. Speaker, Sir, the Machakos County Licensing Bill was drafted pursuant to Article 185 (2) (a) which states ‘a county assembly may make any laws necessary or incidental to the effective performance of the functions of the exercise of the powers of the County Government under the Fourth Schedule part two, section 7. Trade Development and regulation including markets, (b) Trade Licenses excluding regulation for professions, (c) fair trading license and (d) local tourism and cooperative societies of the Kenya Constitution, 2010.

Acknowledgement

Mr. Speaker, Sir, the Machakos County Licensing Bill was published on 4th September, 2014, sponsored by Hon. Sammy Nduva. The Committee on Trade, Planning and Industrialization wishes to thank Hon. Sammy Nduva for sponsoring the Bill and the drafters who helped us enable the publishing of the Bill, all members of the County Assembly for the good comments, amendments and encouragements. The committee further thanks members of the public for the participation during public hearing of the Bill. Finally, Mr. Speaker, Sir, the committee wishes to thank each and everyone who has contributed in this bill in one way or another.

Introduction

Mr. Speaker, Sir, the Machakos County Licensing Bill 2014 was read for the first time in the Assembly on 5th November, 2014 and was thereafter committed to the committee of Planning, Trade and Industrialization pursuant to Standing Order No. 120 (1) which states ‘a bill having been read for the first time, shall stand committed to the relevant sectoral Committee without question put.’

Mr. Speaker, Sir, the committee on Trade, Planning and Industrialization was established under the Second Schedule of our Standing Orders with mandate to all matters related to Trade and development and regulation including markets and Trade Licenses excluding regulation of professions, fair trading practice and statistics. Mr. Speaker, Sir, all recommendations from the

members and the public were forwarded to the drafters of the Bill for amendments and they are annexed to this report.

Committee Meeting

Mr. Speaker, Sir, the committee and other members of the County Assembly considered the Bill at Sai-Rock Hotel in Mombasa on 13th to 16th November, 2014.

The following Members of County Assembly attended

Hon. Sammy Nduva	- Chairman
Hon. Ruth Ndumi	- Vice Chair
Hon. Gideon Kavuu	- Member
Hon. Philip Ndolo	- Member
Hon. Joshua Mwonga	- Member
Hon. Cornelius Kitheka	- Member
Hon. Collins Mbithi	- Member
Hon. Festus Ndeto	- Member
Hon. Cecilia Sereka	- Member
Hon. Joseph Muli	- Member
Hon. Peter Nzioki	- Member
Hon. Charles Mutisya	- Member
Hon. Geoffrey Munyao	- Member
Hon. Stephen Muthuka	- Member
Hon. Benson Kasyoka	- Member
Hon. John Sila	- Member
Hon. Benedetta Mueni	- Member
Hon. Catherine Nguluku	- Member
Hon. Mary Ndinda	- Member
Hon. Nina Mbithe	- Member
Hon. Raphael Mutuku	- Member
Hon. Leonard Katela	- Member
Hon. Thomas Kasoa	- Member
Hon. Wilson Kasimu	- Member
Hon. Alex Kathinzi	- Member
Hon. Veronica Mbithe	- Member
Hon. Joseph Itumo	- Member
Hon. Justus Kimata	- Member
Hon. Alphonse Wambua	- Member

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Hon. Justus Katumo	- Member
Hon. Jacinta Luka	- Member
Hon. Isaac Muinde	- Member
Hon. Nathialin Nganga	- Member
Hon. Phoebe Koki	- Member
Hon. Brigid Kitili	- Member
Hon. Kyalo Kyuli	- Member

Members of Staff

Peter Kivelenge	- Senior Clerk Assistant
Dominic Musyoka	
Sarah Mwanja	
Norah Muteti	
Mutuku Kavita	
Hilary Muthui	- Principal Legal Counsel
Damas Masila	- Senior Research Officer
Bernard Mutua	- ICT Officer
Sammy Makau	- Sergeant at Arms.

Views from Members of County Assembly

Mr. Speaker, members praised the Bill that it was good and that it will enable the County government collect enough revenue to undertake its functions. Members proposed that clause 3 (1) be amended to include appointment of Chief Licensing Officer by County Executive Committee member responsible for Trade with approval of the County assembly. On clause 4 (2) members proposed that fines imposed to be equal to the amount of obtaining the Trade License and that timeline should be stipulated on when to pay for the license after paying the fine.

Mr. Speaker, Sir, members proposed that clause 5 (1) to include provisions of opening offices of different locations nearer to the people, preferably at ward level for purposes of Trade Licenses to cut on costs and time spend to travel to County Headquarters. Further, Mr. Speaker, Sir, members propose for deletion of clause 6 (4) as it may open a window of corruption and that clause 8 (4) on fines if a person continues to do business if the License is cancelled and to be reviewed to equal the amount of trade license. On clause 8 (5) where license had been suspended, pro rata should be considered when it resumes (???)

Finally, Mr. Speaker, Sir, members proposed provision to have officers entering to premises for purpose of inspection to take inventory of what they have signed for accountability

purposes and also to have another provision and that business persons should be given a notice of 30 days to comply with any requirement laid down in this Bill before the property can be seized. Members also proposed for inclusion in the second schedule a provision that applicant of licenses to state if they are residents of Machakos County.

Public Participation

Mr. Speaker, Sir, the Committee conducted public participation from 18th to 21st November, to 2014 in all eight sub counties pursuant to Standing Orders No. 120 (3) which states that ‘the sectoral Committee to which a bill is committed, shall facilitate public participation and take into account the views and recommendations of the public when the committee makes its report to the County Assembly.’ Mr. Speaker, Sir, 356 members of public attended public participation in all eight sub counties.

Views from Members of the Public

Mr. Speaker, Sir, the public requested that the fine in clause 4 (ii) and 8 (iv) be reduced and proposed two percent, five percent and fifty percent of the amount of the license while others proposed figures running from Ksh. 250,000. They also proposed that before one can be accused of not paying the license and he is subjected to a fine he/she should be given a notice of not less than seven days failure to which he/she should pay Ksh. 2 million and the Licensing Officer should also give him/her an opportunity to explain why he/she has not paid the License.

Mr. Speaker, Sir, the public proposed that those who start businesses later in the year be considered to pay for the remaining months of the year pro rata or essentially to consider having the license expire 12 months from the date of issue. They argued that this will reduce congestion and delays in issuing licenses when all traders apply at the same time in general.

In addition, Mr. Speaker, Sir, the public proposed that the Bill should provide for three months grace period after the expiry of the trade license during which a trader should be able to pay for his/her license fully without being penalized. They also recommended that provisions for time span of issuing trade licenses be included in the Bill and that during this period, a receipt used for trade license application be valid.

Mr. Speaker, Sir, the public also proposed that the first schedule to our provisions that the authorized officer should identify himself first before entering a premise and also to be in uniform. Moreover, the public recommended that persons with disabilities be exempted from paying for trade licenses fee or be charged less than other business people.

Mr. Speaker, Sir, the public further recommended that the bill considers environmental impact such that those trade licenses for those that degrade the environment to cost more to

sustain or improve it. Further, Mr. Speaker, the public proposed that a new clause to provide for a board to handle trade licensing issues be incorporated in the bill.

In addition, grounds that may lead to a cancellation of a license under clause 8(iii) be stated. They added that a new clause be included in the Bill that a trader to continue operating business pending outcome of his/her appeal. They also recommended clause 9 of the second schedule under charge bankruptcy to be deleted and that clause 12 of the second schedule to state the additional documents needed to obtain a trade license.

Finally, Mr. Speaker, Sir, members of the public appreciated the trade licensing bill and requested that the procedure of obtaining a trade license to be made simple and fast.

Amendments

Mr. Speaker, Sir, the committee proposes the following amendments after considering the recommendations made by the public and also by the members of the county assembly. Amendments are next to the report. Thank you, Mr. Speaker. I call upon Hon. Joshua Kiilu Mwonga to second the second reading of this Bill.

Majority Leader (Hon. Mwonga): Thank you Mr. Speaker. I stand to second the second reading of this report and say it is a good report because it has the contribution of both the public and the hon. members of this House who are truly representatives of the same public, Mr. Speaker. Thank you, Mr. Speaker.

Hon. Speaker: Thank you very much. Let us contribute to the report. Members contributions? If members are well with the report, then the House converts to..... yes let us hear Chairman, Budget.

Hon. Muinde: Thank you Mr. Speaker. Again this Trade Licensing Bill, just like the Rating Bill, is also a revenue bill that will help this County collect enough revenue. Mr. Speaker, while supporting this report, I want to put the attention of the Chairman while reading views from the members of the public, there is a penalty of Ksh. 2 million. This is out of this earth. That is just too much. You can imagine a license of, let us say Ksh. 5000. Failure to pay Ksh. 5,000 occasioning someone to pay Ksh. 2 million!

I want to believe it is typo and that the minds did not sit and come up with Ksh. 2 million. I don't want to comment on pro rating of licenses, Mr. Speaker. Members of public are never willing to part with their money to pay licenses. The moment we allow a person who opens a shop in November to pay a license for one month, perhaps because it is expiring in December,

we would be opening a window for corruption. This is a problem that has been existing even during times of the defunct Councils and these questions have always been asked by members of public, especially the Small Business people dealing with groceries.

If we do that, we will find that a member of the public who has a shop that he/she opened in January may collude with our tax collectors and indicate in the records that this shop was opened sometime in August and the tax collector goes away with our money. This is one area where a lot of leakage will be, Mr. Speaker.

I am skeptical on pro rating taxes. Even on the issue, still on three point one (????), Mr. Speaker, the report indicates that members of the public want the government to allow them three months grace period after the expiry of one license to pay. Mr. Speaker, I know as members of the Assembly because we represent the people we would want to give them niceties. We want to be as good to them as possible but when it comes to matters of payment of taxes, the moment we allow a grace period of three months, it will be turned to six months and will turn to a whole year and this government will never collect money.

We will continuously cry we are not collecting enough money and the government requires money to give services to the people. So again, the more we allow the grace period the more we will be allowing our tax collectors to collude with the public and deny this government money. Mr. Speaker, business people in this country are becoming very innovative. You will find one building with many stores. You may find a store with butchery inside, with an M-PESA shop inside, a photocopying machine inside all owned by different people but these members of the public want to only pay one license under one roof.

We need to make this law and make it very clear that every distinct business, whether under one roof or otherwise, should pay the licenses because this is one area where currently our traders are trying to beat our tax collectors. I am saying this law is timely so that we can give our officers the energy to enforce payment of Licenses because our business people have also become smarter over time and I also ask this House, as we pass this law, to ensure that we also have an environment law where we help our members of public to avoid having businesses that also endanger them.

Currently, Mr. Speaker, you find that on one is selling petroleum products in shops and still using the same license he is using to handle groceries for the shop. I come from a Ward where two or three traders have been burned because they are also selling petroleum products in jerricans and we need to have a specific law so that such products are not sold in the same shop just because they want to avoid paying multiple licenses so that we can protect them as we collect money. So Mr. Speaker, with those few remarks, I support the report and urge members to pass the License Bill. Thank you, Mr. Speaker.

Hon. Speaker: Thank you. Hon. Muthesya then we have the Deputy Speaker

Hon. Nzioki: Thank you, Mr. Speaker. I stand to support this Bill but Mr. Speaker there are some issues which need to be addressed. If you look at page 5 on 3 (1) views from the members of the public. As Hon. Muinde has just said, traders will always look for ways of evading taxes or paying licenses and for example, Mr. Speaker, I would support this bill but with amendments that we should not give notice to those people who have not paid licenses because Mr. Speaker, for somebody who has stolen you don't him notice that you come and tell me 'you go and then you come and tell me why you stole so that I either fine you or set you free.

Mr. Speaker, that should be deleted. A trader should be fined on the spot. Mr. Speaker, also on the last paragraph on the same page 'the public recommended that persons with disabilities be exempted from paying for trade licenses fee or be charged less than other business people. Mr. Speaker, I would also propose an amendment to that clause.

Mr. Speaker, disability is not inability for example. I want to give an example of the disabled members of this Assembly, like hon. Raphael, Mr. Speaker who earns the same money I earn. He drives a vehicle bigger than what I drive. Mr. Speaker, if he is disabled and he can be able to afford to buy a vehicle or to collect money to trade, he should be charged the same amount.

Mr. Speaker, we are opening a window for the disabled to apply for licenses and may be give it to persons who are able. So Mr. Speaker, I sit but make those amendments but I support the Bill. Thank you, Mr. Speaker.

Hon. Speaker: Okay.

Hon. Nganga: Thank you Mr. Speaker and the House at large. I want to applaud the predecessors that have commented before me and say that it is like they have read my mind. Those are the number of items that are flat about the opinions of the public in relation to the Bill. Mr. Speaker for the Ksh. 2 million fine, I also propose that the same be reduced to approximately Ksh. 500,000 or Ksh. 50, 000, for that matter, as the Chairman would lead us when we get into the Committee of the whole House.

On the issue of paying on a pro rata basis, Mr. Speaker, you realize with the report that is within a Committee of this House, on average this County has not been able raise more than Ksh. 100 million per month and going by our Revenue target of Ksh. 2.7 billion per year. We cannot be able to meet these rates if we end up opening most of the loopholes that had already been sealed by the former County and Municipal councils.

Mr. Speaker, for us to achieve our financial targets, it is important that we seem not to be relaxing the rope on the loopholes that were existing before the County Governments came to force. Mr. Speaker, on page 5, the second last paragraph, there is a proposal that a grace period be provided for members of the public who are business people to be able to pay their licenses within the first three months. That is another loophole that we will be creating, Mr. Speaker, to allow the corrupt individuals either members of the public who in the long term would not be able to pay the monies that are expected to be used to do the development programs that have been set out within our Budget.

As I finalize, Mr. Speaker, I want to appreciate the opinion on the last paragraph on page 5 which states that ‘members of the County Government that are Revenue collecting Officers should be able to identify themselves before they enter any premise.’ Mr. Speaker, because we have had cases that have been raised by the public that members that some of the members of the public have been pretending to be officers of the county Government, collecting this money and end up using them for their own good.

So to cure that corruption vice, Mr. Speaker, it is important that in law be outlined that these members of the County Government should be able to identify themselves before they get into any premise and demand for funds. There is also need for them to take an inventory as they arrest whosoever might not have paid for the license. It is also another good step towards ensuring we lock out all available avenues of enhancing corruption.

Mr. Speaker, as I wind up, I also want to applaud the sentiments said by hon. Peter Nzioki relating to the disability. Mr. Speaker, disability, as he rightfully put it, is not inability and therefore any person who is disabled and has capacity to undertake any business should be able to pay the license as has been outlined within the law. Mr. Speaker you realize that there are very many other measures that have been taken by both the National and County Governments, affirmative measures to ensure that people with disabilities have been taken care of in matters to do with access to cheap finance and many other avenues of self development.

Mr. Speaker, before I wind up, under Standing Order No. 27 section (iii) I would also like to request that this House extends its sitting to approximately 1 p.m. or 1.30 p.m. so that we may be able to dispense the Bill that is before us and I would also to call upon hon. Sammy to second on that proposal. Thank you, Mr. Speaker.

Hon. Speaker: I don't know.....Hon. Mueni, what is on your mind? You don't want the extension done?

Hon. (Ms.) Mueni: Thank you Mr. Speaker, Sir. I disagree with the Deputy Speaker and the other hon. member about the disabled---

Hon. Speaker: Order, order Hon. Mueni. You will have a moment to talk. Let the point on extension be completed first.

Hon. Nduva: Thank you Mr. Speaker. I also concur with the sentiments of the Deputy Speaker to extend the period of this sitting so that we can complete this Bill. So Mr. Speaker, I second and propose for the extension of the sitting of this Assembly today.

Hon. Speaker: Thank you. It is granted. Hon. Mueni, there will be a committee of the whole House where you can push for that. Let us hear them.

Hon. (Ms.) Mueni: Thank you, Mr. Speaker. We are not talking about disabled who are in the House, we are talking about the poor women who are there outside who are using their hands to move and they want to sell the *sukumus* and the dishes and all the others. Please, Mr. Speaker, Sir, we consider the disabled. They need to be---

Hon. Speaker: Thank you. There is a point of order? Let us hear the point of order then quickly, let us conclude this because much of the issues coming up will be there in the Committee of the whole House.

Hon. Nganga: Mr. Speaker, if I heard Honorable Mueni right she talked of poor women selling *Sukuma Wiki* in the rural areas. Mr. Speaker, being poor does not amount to disability. I would like the hon. member to substantiate what she means when she talks of poor women being disabled in the rural areas.

Hon. Speaker: I think the Chair understands hon. Mueni. Let us proceed with hon. Kitheka.

Hon. Kitheka: Thank you Mr. Speaker for allowing me to have this chance. Mr. Speaker first and foremost, I would wish to communicate to the Deputy Speaker that he should be coming early to this House and not to be moving motions of extending while he has been late. We have been here since morning so he should have come a bit early so we can exhaust the business of the day. To continue with the agenda of the day---

Hon. Speaker: Proceed.

Hon. Kitheka: I can proceed (*laughs*). Mr. Speaker, on the issue of grace period for three months after the expiry of end of the year, it is made for the business community to pay and enforcement to start after the third month. So, it is the issue of enforcement which starts after the third month and not a grace period which is given for the members to pay.

On the other issue, I have not heard whether the Bill has captured the issue of transfer of license, where a member leaves the business and tends to transfer the license to another person. It is not captured anywhere and issue of offices. There are offices up in the big buildings in the town and they have not been captured because majority of them have not been paying licenses and so they should be captured.

On the issue of big businesses in the town like supermarkets that are selling nearly everything, making the people who having small businesses in town just to pack and go because you will find in a supermarket they have a butchery, a grocery shop nearly selling everything so they should even consider the license for the mega businesses so that, at least, we can sustain our people in business.

On the other issue of the disabled people, I have heard our hon. member comment about a vehicle for our other hon. member. I want to bring to your attention in this House that the big red Pajero is for the Chairman (Hon. Nzioki) who has just moved from this House. So on the issue of the disabled, we have disabled in the town and we should only give priority to those who are registered.

There are those registered with the Disability Association of Kenya and they can be given a waiver in the payment of the licenses just as it was happening within the former council. They should extend that to the disabled so that, at least, we can sustain them in businesses and we watch very closely for them not to be misused by the wealthy businessmen by getting licenses for them. At least, there should be something to check on that so that it can be best practiced in the business industry. Thank you, Mr. Speaker.

Hon. Speaker: Thank you. I think Hon. Members, I have been looking at the report and on page 6, second paragraph. They also recommended clause 9 of the second schedule and discharged bankruptcy to be deleted and that article 12, the second schedule to state the additional documents to attain a trade license.' My question goes to the Chairman, hon. Sammy. What was in the mind of the members of public by saying that you delete the term bankruptcy because in my view if you are bankrupt then you lack capacity to trade?

Hon. Nduva: Mr. Speaker, Sir, this issue was raised in all the sub counties when we went across during the public participation and members of public argued that someone can be bankrupt today or this year and maybe tomorrow or the other year, he will be in a position to have money or property and actually in Machakos Sub County, several members of public put

details of people they knew were bankrupt and today they are the ones holding most of the bigger businesses in this Sub County.

So the argument was that before someone is denied a license because he was sometime declared bankrupt, assessment on details should be followed for that person not to be denied a license while he is in a capacity to do business or else when we are getting this information, Mr. Speaker, people may think that you don't deserve to do business here and they push your bankruptcy so that you may be denied the license.

Actually, that was the argument of the public that one might be denied a license and it is not only that because he is bankrupt but because of the feeling of other members that he should not do business. Thank you, Mr. Speaker, Sir.

Hon. Speaker: Are you saying this person is bankrupt at the time of licensing or he has a history of bankruptcy?

Hon. Nduva: What I am saying, Mr. Speaker, and the argument the way it was is, if somebody is bankrupt today he cannot do business but according to the members of public, maybe somebody was bankrupt sometime before he is denied a license. Today when he applies, consideration should be done thoroughly to make sure that he is not bankrupt so that he can do business but not to be assessed on whether he was bankrupt or not. Thank you, Mr. Speaker.

Hon. Speaker: I wanted us, as a house, to understand that bankruptcy is a judicial position. It is a judicious conclusion and that if you are bankrupt at the time of licensing, then you lack capacity to even get the license. But if you have a history of bankruptcy and you have been discharged of bankruptcy by the same court, then you are back to business. So it is an area that we don't even need to regulate on. Let us hear.

Majority Leader (Hon. Mwonga): Mr. Speaker, you have already read my mind,

Hon. Speaker: Yes.

Majority Leader (Hon. Mwonga): Actually, you have exactly said what I wanted to say that was my argument which I wanted to raise and Mr. Speaker, at this juncture, I want to propose that we turn to a Committee of the whole House because some issues being raised by the members have to be discussed in the Committee of the whole house. Thank you, Mr. Speaker

Hon. Speaker: I agree. I think in oneness in the House we translate into a Committee of the whole house and urge hon. to make his point that time. You can make your point within the committee of the whole House. Ok, be brief

Hon. Ngunzi: Mr. Speaker, turning into a Committee of the whole House with the numbers you see here and it is towards lunch and we are aged, Mr. Speaker---

Hon. Speaker: Let us hear the point of order,

Hon. Ngunzi: Protect me, Mr. Speaker.

Hon. Speaker: Alright, you are protected. Proceed.

Hon. Ngunzi: we have no quorum. Our sugar levels are going down we are a bit old and by the time we convert to a Committee of the whole House, this House will have no quorum. So, just a plea, that we adjourn and come back.

Hon. Speaker: Hon. Munyaka

Hon. Nzeki: Thank you, Mr. Speaker, Sir. I think this bill lies squarely on my Committee and on a point of grace period of three months, I totally disagree with that because somebody might be winding up to go and leave the business. On payments, I would suggest that we go paperless payment because we are now at digital era and not at analogue, So Mr. Speaker, Sir, I propose that we go on paperless payment.

Hon. Speaker: You can repeat that on the Committee of the whole House. You will have that moment.

Hon. Nzeki: On revenue collection, I think in most cases it is done by casuals so Mr. Speaker, Sir, I propose that permanent employees be given the task of charging revenue. Thank you, Mr. Speaker, Sir.

Hon. Speaker: Now, I think the House will now convert to a Committee of the whole House. Let us proceed.

(The Bill was read a Second Time and committed to a Committee)

of the whole House today by leave of the House)

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

[Mr. Speaker left the Chair]

IN THE COMMITTEE

[Mr. Chairman (Hon. Nduva) took the Chair

MACHAKOS COUNTY RATING BILL 2014

MACHAKOS COUNTY TRADE LICENSING BILL 2014

Hon. Chairman: Hon. Members, I was saying that despite the sugar levels being down, I would request you to give yourself a task so that we can go and complete these Bills. These Bills are of much importance to our County government. As you know that for a government to run it has to have funds and these Bills are the laws to collect funds for our government, so Hon. members, I want you to give your time so that we can go and finish these Bills. Thank you.

Hon. members, we are starting with the Rating bill and we will start with clauses without amendments.

Rating Bill

(Clauses 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 18 and 19 agreed to)

(Clause 17 and 20 as amended agreed to)

*(Question, that the Memorandum to be deleted
put and agreed to)*

(Clauses 1 and 2 amended agreed to)

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Licensing Bill

Hon. Chairman: Hon. Members, are now have done with the Rating Bill and now we go to the Licensing Bill. Members, we start with Clauses without amendments.

(Clauses 4, 6, 7 (i) and (ii), 10, 11 and 15, 16 agreed to)

Hon. Members, now we are going to the Clauses with amendments.

(Clause 2, 3, 5, 8, 9, 13, 14, 16 and 17 as amended agreed to)

(First Schedule, Second Schedule and Title of the Bill agreed to)

*(Question, that the Memorandum to be deleted
put and agreed to)*

Hon. Nduva: Hon. Members, I want to take this opportunity to congratulate you because we are through with these Bills and I dearly thank you very much. I knew the sugar levels were down but you have chosen to stay with me here so that we can finish these Bills which are of importance to our Government.

(Question proposed)

(Question put and agreed to)

So Hon. members, I thank you very much for taking your time I know this was a busy Chef's time so that we have made and gone through these Bills of which I believe they are of importance to our County Government for collecting revenues. Once again thank you very much and that we are through with the Bills.

(The House resumed)

[Mr. Speaker in the Chair]

REPORTS AND THIRD READINGS

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MACHAKOS COUNTY RATING BILL 2014

Hon. Nduva: Thank you Mr. Speaker. I wish to report that the committee does report to the House its consideration of the Machakos County Rating Bill and its approval thereof with amendments. I now call upon Hon. Kamitu to second this report.

Hon. Kamitu: Thank you Mr. Speaker, Sir. I am a member of this committee. I stand here to second this Rating Bill with amendments. Thank you, Sir.

(Question proposed)

(Question put and agreed to)

Hon. Speaker: Proceed, Clerk.

Hon. Nduva: I propose that the Bill be now read for the third time. Thank you, Mr. Speaker, Sir.

Hon. Kamitu: Thank you Mr. Speaker, Sir. I stand here to second the thirds reading of the Rating Bill. Thank you Mr. Speaker, Sir.

(Question proposed)

(Question put and agreed to)

(The Bill accordingly read for the Third time)

MACHAKOS COUNTY TRADE LICENSING BILL 2014

Hon. Nduva: Thank you Mr. Speaker. I wish to report that the committee does report to the House its consideration of the Machakos county trade licensing bill 2014 and its approval thereof with amendments. I now call upon Hon. Joshua Kiilu Mwonga to second this report.

Majority Leader (Hon. Mwonga): I do second, Mr. Speaker, Sir.

Hon. Speaker: Thank you.

(Question proposed)

(Question put and agreed to)

Hon. Nduva: Thank you Mr. Speaker. I move the motion that this Bill be read for the third time. I call upon Hon. Kiilu Mwonga to second the third reading.

Majority Leader (Hon. Mwonga): Mr. Speaker, I second that the Bill be read for the third time. Thank you.

(Question proposed)

(Question put and agreed to)

(The Bill accordingly read for the Third time)

ADJOURNMENT

Hon. Speaker: In the absence of any additional business, then the first section of the afternoon will end. We shall meet for the second afternoon session. I think today we will have three sittings. Have a good afternoon.

The House rose at 12.29 p.m.