

MACHAKOS COUNTY ASSEMBLY**OFFICIAL REPORT****Tuesday, 8th April, 2015**

The House met at 10.08 a.m.

*[The Speaker (Mr. Mung'ata) in the Chair]***PRAYERS****Hon. Speaker:** Good morning Hon. Members. Let us proceed, Clerk.**MOTION**

STATUS OF THE PHASE 1 ROADS PROJECT 2013/14

Hon. Felix Ngui: Thank you, Mr. Speaker, Sir---**POINT OF ORDER****Hon. Speaker:** Yes let us hear point of order.**Hon. Nzoka Munywoki:** Thank you Mr. Speaker, Sir. I understand that there might be no quorum in the house. Thank you.**Hon. Speaker:** Let Clerk advice.

Hon. Speaker: Hon. Nzoka, under what Standing Order did you raise your point of order?

Hon. Nzoka: Mr. Speaker, Sir, I cannot locate it now.

(Laughter)

Hon. Speaker: Okay.

Hon. Speaker: Right then, the Chair will aid you, that is Standing Order No. 31(2), which states that 'if there is not a quorum present when the Chair is taken at the time appointed for meeting of the assembly, immediately after saying of the prayer, the Speaker shall order the bell be rang for 10 minutes'.

Hon. Speaker: Sergeant at Arms, kindly ring the bell for 10 minutes.

(Quorum Bell ringing)

Order, I think when we are at this stage. Members are not allowed to leave the chamber. Sorry about it.

(Quorum Bell stops)

What is the position now? Ok, thank you. We are now informed. Hon. Chair transport, proceed.

Hon. Ngui: Thank you Mr. Speaker, Sir. Mr. Speaker, Sir, the committee of transport is mandated to investigate report, recommend and even propose legislation in all matters related to public transport pursuant to Standing Order No. 190. Mr. Speaker, Sir, on 25th February, 2015, a report on the status of the phase 1 roads project was tabled in the assembly for discussion. After

lengthy and heated debate, the report was referred back to the committee on grounds of insufficient recommendations after which the committee was given 10 days to report back.

Mr. Speaker, on behalf of the committee members, we sincerely apologize for taking a longer time to report back as directed. The members wrote and invited Chief Officer and the CEC with the aim of doing more research, squeezing for more critical information and supportive documents from them, which were instrumental for this report, a process which delayed for about three weeks.

Mr. Speaker, on 25th March, 2015, this report was ready for discussion, but due to unavoidable circumstances, it was not possible to have it discussed that day. Again last week on Tuesday, 31st March, the report was part of the business for the day, but it was interrupted by a motion of adjournment of the house that saw the Hon. members released to go and unite with their families for Easter holidays---

Hon. Speaker: Sorry Chairman, I don't know whether the report has been circulated. Members do you have the report?

(Report circulated)

As its being circulated, look at the last paragraph of your first page. It says, 'Mr. Speaker on the 25th March, 2015 this report was not ready for discussion due to unavoidable circumstances. I don't know whether my English serves me right? I was just referring the Chair to page number one, first page, and front page.

Hon. Ngui: Mr. Speaker, that is an introduction part of it, 'the members do not have that part.

Hon. Speaker: They don't have this part?

Hon. Ngui: Yes it is not part of the report. It is just introduction. I am trying to introduce the motion back to the house.

Hon. Speaker: Just proceed. I wanted you to explain. I think that is a typographical error.

Hon. Ngui: Ok. Thank you, Mr. Speaker.

Hon. Speaker: Proceed.

Hon. Ngui: Mr. Speaker, today, the report is before the house for discussion and despite the shortcomings that befell the whole process, with your permission, it is never too late to permit the discussion to proceed.

Mr. Speaker, the report has been circulated and since I had read the report in this house, and only recommendations were a problem, I will refer members to page 12 of the report. That is where I will start reading what we got from our research after calling the CEC and the Chief Officer. So, page 12 of the report which starts with the comments and analysis. Mr. Speaker, the intention of the committee members was to visit all the 42 roads, identified for grading in phase one in order to have data that is presentable. Unfortunately, within the time allocated, it was impossible for the general picture of the work performance as reflected in this view;

1. That the work done does not match the budget allocation.
2. That the needs and expectations of road users who are taxpayers were not properly addressed and this discourages their economic effort.
3. That poor supervision is evident in the whole exercise.
4. That the mission of facilitating for provision and maintenance of quality infrastructure is yet to be realized.

Mr. Speaker, it also important to put into consideration that all the time when the committee was doing road inspection, most of the roads had been affected by heavy rains and so evaluation of the quality of quality work done by the contractors was somehow tricky.

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Committee reactions from the above findings

Mr. Speaker, after noting the above anomalies, the members of this committee took upon themselves and resolved the following;

1. To invite the CEC and the CO to respond to queries on issues related to usage of finances allocated and supervision of work.
2. Request for all documents related to procurement and the contractors and the county transport equipment.
3. Write to the Chief Officer to avail all the BQs for phase one road projects for the purpose of evaluating on the work done in the line with what was expected.

Engagement of the CEC member and the chief officer

Mr. Speaker, the above two officers, on invitation, attended a committee meeting, held on 17th March, 2015 and availed the following documents:

1. Copies of the BQs for phase one roads project as requested.
2. Funds requisition forms which were used to pay contractors and completion of work.
3. Inspection and acceptance report together with minutes of site meeting.
4. Financial year 2013/15 roads work plan implementation.
5. List of supervisory engineers and sub county engineers.
6. Letter of appointment of tender evaluation committee.
7. A document for pre-qualified contractors.
8. A document for invitation for quotations for 41 roads.
9. Tender notice for motor vehicles.
10. Tender notices for bitumen distributors, chips spreaders and rollers.

Responses on the CEC member and CO on the status of phase one project financial year 2013/14

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Mr. Speaker, in response to queries raised by Hon. Members pertaining poor workmanship, the officer highlighted the following;

1. The department is ready to receive complaints from the concerned MCAs on any road poorly done and the department is ready to repair the roads to the satisfaction of the concerned Hon. Member. This will be made possible by the road equipments and vehicles the ministry has bought and the ones expected from the National Government such as graders excavators, loaders and supervisory vehicles.
2. The CEC member regretted of the Ksh. 15 million allocated for five roads per ward in financial year 2013/14, saying that this was not achieved. He informed the members that this budget was affected by the other projects which were undertaken and not budgeted for citing the Makutano-Kithimani road which cost Ksh. 598,700,010. He went ahead to say that they had formed and even discussed in CEC committee meetings that in future, no adoption of any new project before the previously budgeted ones are fully implemented.
3. That for every road poorly done, the ministry is giving an allocation referred to as retention money which is 10 per cent of the total road allocation. This money will be used to re-do grading work in situations where a road project work is not done to the satisfaction.
4. That for phase one road projects, grading was not well done. They promised to empower the MCAs and sub county engineers to closely work together to manage the programs.
5. That before payment is done in future, approval by the electorates who were the stakeholders be a requirement whereby the MCA of the area, who is the representative of citizens in the ward, after being satisfied with the contractors work, will be required to write to the Chief Officer to register his appreciation and satisfaction after which payments could be processed.
6. That the office of the Governor is aware that projects contracts have become an avenue of corruption and since this department has acquired machinery and equipment for the roads

construction, the number of contracts offered will be minimized and the department will take up the job of grading county roads.

7. That for all roads that had raised issues in the process of grading, no single payment has been done and that the money is still being kept awaiting inspection report. He gave the example of Katani road in Muthwani ward and Mikuyuni road in Mua ward.
8. That during this financial year 2014/15 an emergency fund will be set aside to address the emergency issues that may occur such as roads being washed away by heavy down pour, broken drifts, erosion of murram, breakdown of culverts and such.

Recommendations

Mr. Speaker, for the purpose of effective oversight that measures to the demands of the public, as a committee, we hereby recommend the following;

1. The county government can try deploying members of the public to do the roads construction and grading that is Kazi Kwa Vijana program. This, by far, will motivate the citizens, reduce wage bills on infrastructure, create jobs and reduce poverty, diversify opportunities, foster appealing ownership of the public projects, circulate funds within the county which generally boosts economy and reduces cases of compromise as far as tender issues are concerned. Through experience, roads which were constructed manually have a long life span than the ones done by graders. This approach is evident in the county since we have many dams that were constructed by the members of the public from 2007/13 and whose work performance is rated excellent. By the way, Suez Canal was constructed using human labor, simple tools and equipments supported by limited machinery.
2. The retention money that is the 10 per cent for the allocation of roads which the department is keeping for the purpose of cushioning the lapses arising from contractors work should now be utilized to do all the phase one roads that have been rated as substandard work.

3. That when doing budget allocations roads should be allocated money based on lengthy terrain of the place and soil type. For instance, it was noted that some roads have that advantage of being located in areas with laterite soil, the soil type that does not become water logged even in times of heavy rains. Again, this is the soil type used to murram roads and hence the cost of grading a road in such a place is low compared to the black cotton soil prevalent in some parts of Kangundo, Matungulu, Yatta and Mavoko sub counties.
4. That in the ward development fund, consideration should be done to have an allocation for road repairs, to supplement the allocation from the main budget. This will take care of instances of rapid destructions caused by heavy trucks, heavy rains and insufficient amounts of murram that a contractor may apply in a place.
5. The county government should consider local contractors when awarding tenders. These people are much conversant with where materials like murram could be found easily and cheaply. This county is known to have large tracks of land with murram soil such as in Katangi, Ikombe, Masinga and Mwala yet many roads were not murramed properly. By so doing this will ensure quality work, circulate funds using the county and boost the financial status of our citizens.
6. It is the high time the county assembly of Machakos should consider recruiting an engineer who will advice and give committees technical guidelines especially on budgetary matters that lead to physical infrastructure.
7. The poor workmanship was as a result of collusion, negligence, irresponsibility, poor supervision of the contractors work. This is contrary to section 30 and 32 of the County Government Act and the Chief Officer who happens to be the accounting officer, pursuant to the Public Finance Management Act should be held accountable.

Sorry, Mr. Speaker, there is a repetition of the last points that is, that reads the poor workmanship was as a result of either collusion, negligence, irresponsibility and poor supervision of the contactor's work. This is contrary to section 30 and 32 of the County

Government Act and the chief officer who happens to be the accounting officer, pursuant to Public Finance Management Act should be held accountable.

Conclusion

Mr. Speaker, it is clear the department of transport, roads, public works and housing budgeted and implemented phase one roads projects. The work output indicates a lapse in implementation, monitoring and evaluation process, a scenario that should not be repeated while in remaining phase two and three, hence the belt of oversight in the sector needs tightening.

Mr. Speaker, Sir, this report was read and approved by the following Honorable members:-

1. Hon. Felix Ngui - chairman
2. Hon. Penina Kaluki - vice chair
3. Hon. Timothy Kilonzo - member
4. Hon. Rachael Nduku -member
5. Hon. Michael Mutuku -member
6. Hon. Isaac Muinde -member
7. Hon. Dominic Maitha -member
8. Hon. Oliver Munyaka -member
9. Hon. Thomas Kasoa -member
10. Hon. Christine Mutune -member
11. Hon. Jackline Nziva -member

Thank you Mr. Speaker, Sir.

Hon. Speaker: Thank you very much chairman. But first, before the chair takes his seat, he still owes this house an explanation on when this matter was last coming up, when he did not show up in the house together with his deputy. Kindly, chairman.

Hon. Ngui: Mr. Speaker, Sir, this report was to be discussed on the 25th March, 2015 when I myself and vice chairman did not show up and Mr. Speaker, I do not know why the vice-

chairperson did not show up but on my part I had travelled to see my electorates and it rained so much and I could not get to the assembly on time so I apologize to members. Thank you, Mr. Speaker, Sir.

(Applause)

Hon. Speaker: Thank you. I think the apology is taken. Let us proceed. Let us hear contributions on the report.

Hon. Dominic Maitha: Thank you Mr. Speaker Sir, I wish to applaud my able chairman on the report and I would also wish to also to apologize to the Hon. Members for the delay that he has very well substantiated but I wish to make a correction on page 15. I think whoever was been typing this document must have had something in mind. If you read page 15, the last part, "the poor workmanship was as a result of collusion, negligence, responsibility and poor supervision of the contractor's work- this is contrary to section 30 and 32 of the County Government Act".

Mr. Speaker, Sir, I have the County Government Act with me here, and it has nothing to do with the issue of contractors, Mr. Speaker, Sir. If you read section 30 of the County Government Act of 2012, it talks about the County Executive, functions and responsibilities of the County Governor and it also reads about the functions of the Deputy Governor. So, in real sense, where does section 30 and 32 County Government Act co-relate with the work of the contractors, Mr. Speaker, I need to be guided, unless there is a change of the County Government Act that I have, Mr. Speaker. Thank you Mr. Speaker, Sir.

Hon. Speaker: Thank you. Mr. Chairman, kindly guide me on this because section 30 contains the functions and powers of the Governor and section 32 of the County Governments Act contains the function of the Deputy Governor. Chairman, kindly guide us on this. It is your report, if perhaps you are not sure, then you can amend your report and have that particular section deleted. But I think you had good ideas.

Hon. Ngui: Mr. Speaker, I am trying to consult the County Government Act with the Clerk because I think there was a typing error and so we are going to correct it as soon as practicable.

POINT OF INFORMATION

Hon. Speaker: Yes Hon. Ndeto.

Hon. Felix Ndeto: Mr. Speaker, the point of information that I have is that, this document is signed by around nine members, I think 10 and I believe before they appended their signatures, they must have gone through the report. Therefore, there is Hon. Dominic Maitha, who raised the same and should give us the right section in which this falls because I can see he is also a member of this team and he has also signed. Thank you.

Hon. Speaker: Thank you very much Hon. Ndeto. I think yes, I agree. Hon. Dominic, you owned this report?

Hon. Maitha: Mr. Speaker, Sir, thank you. Why did I raise that point? Because the copy that I have it is not reading about the County Government Act. That is section 30 and 32 of the PFM Act Mr. Speaker. So it is a point of correction and why did I raise this? Let us not take it as a point of contention because, this report is much overdue. What is important are the contents and the way forward about this report. I wanted to make a correction that is section 30 and 32 of the Public Finance Management act of 2012 Mr. Speaker, Sir. So I would request members, kindly, let us deliberate on the report noting that we have phase two and three of the budget for roads department 2012/13, 2013/14 which has not even been delivered in this house. So it is better in the interest of time we proceed and it is a correction. It is PFM Act section 30 and 32, Mr. Speaker, Sir. Thank you.

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Hon. Speaker: Let us proceed with the debate. I think that is now clarified and I think it should be the Public Finance Management Act. So the report is accordingly amended. Let us proceed with contributions. Yes Hon. Nduva.

Hon. Sammy Nduva: Thank you, Mr. Speaker. Mr. Speaker, on page 13, paragraph 4, ‘that for every road poorly done the department is keeping an allocation referred to as retention money which is 10 per cent of the total allocation. This money will be used to re-do grading work in situations where a road project work is not done to satisfaction’. Mr. Speaker, according to myself and according to the report that we have here, these works were supervised by qualified engineers employed by the county government of Machakos. If today a project that was awarded to a contractor and was poorly done and monies from the tax of wananchi of this county was paid to the contractor, Mr. Speaker, I think it would be prudent enough for now the government to put more money to re-do a project that was paid to a contractor and poorly done and it was paid.

Mr. Speaker, we would like to get an explanation from the chairperson representing this committee on how they went along with the department or the CEC and the CO. The other one that of phase one road project grading was not well done. They promised to empower the MCAs and the sub county engineers to closely work together to manage the program. Mr. Speaker, I think this content is not well understood. I would also like the chairman to elaborate on how it will be done.

The other one is ‘before payment is done in future, approval by the electorate who are stake holders will be a requirement whereby the MCA of the area who is the representative of citizens in the ward after being satisfied with the contractor's work will be required to write to the Chief Officer to register this appreciation and satisfaction after which payment could be processed.’

Mr. Speaker, I want to take you back. In the sittings of this assembly, Mr. Speaker, it was requested that before these payments of contractors are done, a satisfactory document to be given

by the electorate and the MCA of that area to show that the work done is satisfactory and I believe Mr. Speaker, this task was forwarded to a certain committee to give the way forward.

Mr. Speaker, I seek your guidance on that because if it done that way, Mr. Speaker, we would not be here now to hear or to decide on a project that was paid to be given more funds so that fair and good work is done. Thank you, Mr. Speaker.

Hon. Speaker: Thank you very much. I think it is fair we hear the mover of the motion. There are issues that have been raised on the retention of 10 per cent and also elaborate on the second last bullet on page 13 of your report, Chairman.

Hon. Ngui: Thank you Mr. Speaker. Mr. Speaker, I want to put to the attention to these members that the retention money that is 10 per cent kept by the department is not any other budget but it was part of the contract. If the contract was Ksh. 5 Million, then 10 per cent, according to the law, was taken and was retained by the department. This is always kept because, once a road is done, it is given a timeframe. Maybe I think it is around three months so that maybe if there are issues then this retention money can be used to do the repairs. So the county government is not going to get any other money from any other budget but the 10 per cent was part of the contract.

Mr. Speaker the other issue is about the grading of the phase one. Mr. Speaker, the county government of Machakos bought graders and there was phase one of grading of our roads and the CEC, this is an extract of the meeting that we had with the CEC member and he says that, the grading was not well done and in future they are going to engage the sub county engineers and maybe on a soft ground against the MCAs to show them the roads which are of priority to be graded in their wards.

Then the last point is about the satisfactory letter that is supposed to be written by the stakeholders who are the electorates. Mr. Speaker, the minister said that they have already formed the development committees in our wards, whereby if there is a project that is being done

at Katangi, after is completed, then the development committee and the MCA, being their patron, will be able to write a letter to the department, so that a payment can be done. This way, the MCA will not be engaging himself in the works of the implementation of the executive but there will be a Ward Development Committee and the MCA is only there to oversee. Thank you Mr. Speaker Sir.

Hon. Speaker: Thank you very much. Let us proceed.

Majority Leader (Hon. Joshua Mwonga): Mr. Speaker, is it in order for the chairman of transport committee to tell us the CEC or the minister told them about a development committee in our wards yet in his report it is self explanatory that it the electorates, through their representative who is the MCA who should satisfy about the works of the contractor, Mr. Speaker. Is he in order to start telling us about a development committee which is not in this report? Thank you.

Hon. Speaker: My understanding of the chairman is that the devolvement committee consists of the electorate so your point of order is disallowed. Let us proceed. Yes Hon. Muli.

Hon. Joseph Muli: Thank you Mr. Speaker. Mr. Speaker, first I applaud the committee for transport and the chairman for at least the work they have done. I believe they have done something but not utmost. Mr. Speaker, the committee had made comments and analysis, they have even done well inviting the CEC and CO to appear to their committee and also the good recommendations they have done. But Mr. Speaker, the issue of virgin roads which have not been opened and also the stony roads and hilly areas especially Ndithini Mr. Speaker, the committees has not recommended about them and also the CEC member has not quoted about those roads.

Mr. Speaker, even if the committee went round I believe they did not visit areas like Ndithini ward which is extensively in a mess. Mr. Speaker, those phases which have already

been done, the first phase, the second and the third phase, nothing has been done in my ward Mr. Speaker. The ward is landlocked. Right now Mr. Speaker, right now even within my ward in Ndithini, you can't access because the roads are totally in a mess. Therefore, it is a request to the chairman and also to the committee to address what he is planning to do with those roads which are of that initiative and especially in my ward to mitigate that problem Mr. Speaker. Thank you.

Hon. Speaker: Thank you. Yes Hon. Kasoa.

Minority Leader (Hon. Kasoa): Thank you Mr. Speaker. First, let me start by thanking the chairman and the committee, where I belong, despite many challenges of compiling this report, we came with it and Mr. Speaker my point goes to page 13, where the CEC and CO concur that the grading was not well done and the last paragraph on that page talks about the MCA writing a letter. Maybe we can do some amendments for the department of transport to come up with a legal document like what is happening in the county of Nyeri. The Department for transport came up with a legal document where the MCA, in that document, it has set aside.....protect me, Mr. Speaker, I am making that point

Hon. Speaker: The Hon. Member is protected. I think he is coming up with a very important point. Proceed.

Minority Leader (Hon. Kasoa): Thank you Mr. Speaker, for protecting me.

POINT OF ORDER

Hon. Speaker: Alright, let me hear the point of order.

Hon. Maitha: Mr. Speaker, Sir, that question would be asked by a non-member of the committee. He is a member of that committee. He was supposed to have come in that committee and give that guidance so that the members can deliberate on it. Is he in order Mr. Speaker, Sir?

Hon. Speaker: Yes, I will overrule that point of order. There is nothing wrong with a member growing in mind between the report and now. Proceed.

(Laughter)

Minority Leader (Hon. Kasoa): Thank you Mr. Speaker for protection. Mr. Speaker, I was putting to attention that the county government of Nyeri has written a very good legal document where, in their document, they have set aside a place where the MCA should give a recommendation when work is complete or not. So I think instead for the MCA to write a letter, maybe they can come with a legal document where the MCAs can give the final comments.

Thirdly Mr. Speaker, maybe in the near future, we need to do away with the contractors and empower our county to buy our own machinery. Mr. Speaker, if you happen to go to our wards now, when our county is grading our roads, they are even grading better than the contractors. So Mr. Speaker, maybe and I wish the chairman for budget was here, we can allocate some more money to the department of transport so that we can buy some more machinery for the department of transport. Thank you, Mr. Speaker.

Hon. Speaker: Thank you. I think that is a nice idea. Let us hear Hon. Veronica.

Hon. Veronica Mbithe: Thank you Mr. Speaker and the house at large. I stand here to support this report and applaud the committee on transport together with the chairman. Mr. Speaker, for any economy to grow and for any development to take off and to be sustainable Mr. Speaker, Sir, the only way is to involve the community and make them participate. So Mr. Speaker, Sir, I am here to support recommendation of the committee number one, on page 14

that the county government can try developing members of the public to do the road construction and grading.

Mr. Speaker, Sir, I happened to have worked in the old regime and during the CDF project; you find that the youths were much involved. I hope it still goes on today and with the county government it is going to be better if the youth and the community it are involved in constructing the road because the money comes back to the pocket of the citizen and it is better utilized that the contractors and also the community will own up the project and you will find that they will do the work carefully knowing that they own the roads, they own the work and it is to their own benefit. So I beg the entire house to adopt this report on the transport committee so that our county can go on and proceed to better development. Thank you Mr. Speaker, Sir.

Hon. Speaker: Thank you. Let us hear the Chairman, Finance.

Hon. Munyaka Nzeki: Thank you Mr. Speaker, Sir. I just wanted to talk about the retention money which is talked here in page 13. I just want to differ with my chairman, who did lot of research and here I remember we talked with the engineer or Chief Officer and they told us about the retention money. The retention money is supposed to be kept the CEC and it is supposed to stay there for around two years. Yes, it is supposed to be kept there for two years and members I am urging you because you know your roads have not been done well, that money is still kept by the CEC finance and you can go there and get it and the road can be redone.

There is also this one for phase one project. They have not been done well. So because they have not been done well I am saying that the retention money is there so the engineer, that is the CO, should give us that money we start re-doing our roads.

There is also the last bullet before the payment is done, because the MCAs are not engineers, they don't know the work which has to be done to the roads, I would like to add some few letters here or sentences. Before it is paid in conjunction with the sub engineers, the MCA is

included there and if the sub engineer is there, he can advise the MCA and the payment can be done if the work has been done satisfactorily. Thank you, Mr. Speaker, Sir.

Hon. Speaker: Thank you. I think that was the same point that was raised by Hon. Kasoa the last point he raised. Maybe we can hear the Chairman, what ideas he has because I think members are proposing that some particular regulations can be developed. Guide us on this before payment is done.

Hon. Ngui: Mr. Speaker, the information I have from the department is that, as I said before, they are forming development committees within the wards. You know all the electorates, within the wards, cannot sign letters to say I am satisfied with the work. So the department should have a committee on the ground which should be looking on the projects that are being done within the ward, whether they have been done to satisfactory. So Mr. Speaker, the issue of an MCA signing the report, maybe, we will have to consult how legally it has to be done, then maybe if it can be done legally, then the MCAs will be included in the same report to be signing. Thank you, Mr. Speaker.

Hon. Speaker: I think Hon. Chairman, the position you ought to take is to take up the matter and come up with regulations and report to the house. Maybe, you need to tell us whether you have that capacity?

Hon. Maitha: Mr. Speaker, I think my able chairman now is taking this house in a different direction because, this is practicable and, with your permission, I beg to give even an example. The just recently constituted ward bursary committees, Mr. Speaker. Those guys, those committees, are messing us Hon. Members. You find the chairman distributing cheques in your ward you are not aware. The issue here is clear and straight forward. The work and the functions of members of the county assembly is to legislate, represent and oversight. Oversight comes in the aspect of a road project has been done. You are satisfied as the area member of the county

assembly representing your people, then you have to make a personal commitment that you are satisfied such that when your people come around complaining, then you are subjected to the blame.

So Mr. Speaker, if we constitute committees, we will make the work more difficult due to vested interests. So let Hon. Members and we decisively say, let Hon. Members, because it is out of the complaints that we received in the floor of this house that we were tasked to go around and bring and do our recommendations and evaluations on the works which were done based on the arguments. If the Hon. Members had not raised their concerns, then we would not be here raising the same issues.

So what I am saying and what we recommended, as a committee, is that, let the Hon. Member who represents those 50,000 electorates certify in writing “I am satisfied this project was done to my satisfactory level as per the law which entails the Hon. Member to oversight, Mr. Speaker, Sir. I think it will be in order, otherwise if we start to do with regulations and giving more committees powers, then those committees will be usurping the powers of elected Hon. Members who are representing the people Mr. Speaker. Thank you Mr. Speaker, Sir.

Hon. Speaker: Thank you. Let us hear the Chairman. kindly conclude.

Hon. Chairman: Thank you Mr. Speaker. Mr. Speaker, I think my report is very clear and I would want to read it again the last bullet, ‘that before payment is done in future, approval by the electorates who are the stakeholders will be a requirement, whereby the MCA of the area who is the representative of citizens in the ward, after being satisfied with the contractor’s work, will be required to write to the Chief Officer to register his appreciation and satisfaction after which payment should be processed. So Mr. Speaker, I think this point is very clear that the MCA, at his capacity of oversight should write a letter of appreciation and satisfaction. So I think Mr. Speaker I agree with the Hon. Dominic Maitha and this house has got all the powers to decide and approve this. Thank you, Mr. Speaker.

Hon. Speaker: I think that point is well taken. Let us hear Hon. Kimata, please.

Hon. Kimata: Thank you Mr. Speaker. While we appreciate the-----

Hon. Speaker: Hon. Kimata, we cannot hear you.

Hon. Kimata: *(Laughter)* Thank you Mr. Speaker, for giving me this chance to contribute to this important report. I appreciate the report but in the report you can see 40 per cent of most of the wards were about 40 per cent but 60 per cent are left out. So in the report the committee should make sure that this 60 per cent are catered for in future so that people do not complain about heavy rains which carry away these roads.

He should also make sure that this 10 per cent set aside, should be used in a proper way so that every ward, they are satisfied with the work done. They should also make sure that the contractors were given to the people who know the sight very well, who are very conversant with the areas. They should make sure that they follow the right channels so that, we do not have any problems. The other thing about the MCAs is they should be involved in this exercise, so that if they collude with sub-county engineers, there will be no shoddy jobs, so we should be consulted for that particular issue. Thank you, Mr. Speaker.

Hon. Speaker: Thank you. Let us hear Hon. at the back.

Hon. Edrick Ngunzi: Thank you, Mr. Speaker. I want to echo the sentiments of Hon. Kimata, who is my neighbour, down home. Now when the committee tells us that there is a 10 per cent retention and the work that is not done is 60 per cent. Is 10 per cent able to do the remaining 60 per cent? The chairman should guide us on this, because the retention of 10 per cent is little money and what that remains and done is 60:50, 40 is the retention of 10 per cent able to cushion the difference? (???)

Secondly, Mr. Speaker, the committee has told us that, His Excellency the Governor and his officers have agreed that there is corruption in the department of transport. There is a paragraph that talks about that. That is, the office of His Excellency the Governor is aware that project contracts are riddled with corruption. Then they are telling us that the department is buying tractors, is buying graders to do the work to minimize corruption.

Doesn't it therefore mean that the officers in the department of transport, which the chairman and his team have agreed, are corrupt? Now if they are corrupt and you retain them there, and you give them graders that need to be repaired, there are graders that need to be fuelled. And the corrupt officer is the same person who is used to do this. Then are we have been told that corruption has now been transferred from the contractors to the graders.

Very soon Hon. Minority Leader is telling us we acquire more graders so that work moves on efficiently. Now the graders have been going without fuel and service and spare parts for months. A grader takes a whole month in your ward lying unattended. You want us to buy more so that they even sleep. Those that are not working are increased from 10 to 20? Are we moving anywhere Hon. Members?

We should be looking at curbing corruption. We want to do away with corruption. Those corrupt officers and this committee should have come with recommendations that we do away with them. We clean the mess in the transport sector, not buying graders when those already there cannot work due to lack of fuel, service and minor repairs. Thank you, Mr. Speaker.

Hon. Speaker: Thank you very much. I think we can now hear, but first before we hear you Hon. Ndawa at the back.

Hon. Magdalene Ndawa: Thank you, Mr. Speaker. Mr. Speaker, I am honestly shocked because when I am going through this report, page seven, Matungulu West ward. Mr. Speaker, I am shocked even by the report by the committee, if really they went to Matungulu West ward. This road has never been done. The culvert they are talking about is half way done. I am just

shocked to see that the road is complete, not unless the chairman and the committee members who went there have been compromised. Page 7 it is saying ‘the road is generally in a good condition, culverts were fitted, the drifts proposed were built but the murram was halfway spread. Status report indicates that the road is complete.’ There is nothing done in that road, Mr. Speaker.

Hon. Speaker: Hon. Ndawa, you are reading?

Hon. Ndawa: Page 7.

(Loud consultations)

Hon. Speaker: Order Hon. Members. I am the one dealing with the Hon. Member. We are in page 7, right Hon. Ndawa?

Hon. Ndawa: Yes.

Hon. Speaker: And you are saying, the road that you are stating is which road?

Hon. Ndawa: This is upgrading Kisukioni-Nguluni-Koma-Kithuani-Mukukuni road.

Hon. Speaker: Then I agree, you are out of order. Let us hear the next contributor. Because the road that you are talking about, if you are holding the same report, is the road number 6, which is Mathatani-Kithuani-Miu-Kaseveni road. Road on number 7, Kisukioni road—the observations are directly below. Are we together now, Hon. Ndawa?

Hon. Ndawa: Thank you Mr. Speaker, I will rise again when we get there.

Hon. Speaker: Alright.

(Laughter)

Hon. Speaker: Fine now we can take the Majority Leader.

Majority Leader (Hon. Mwonga): Thank you Mr. Speaker and with your permission, I have a matter of concern. Mr. Speaker, it was in the media that one of the Hon. Members died and resurrected with Jesus Christ. Mr. Speaker, the member has not shown up yesterday and today. Mr. Speaker it is a matter that should be taken seriously. Back to the report---

(Loud consultations)

Hon. Speaker: Order Hon. Majority leader

Majority Leader (Hon. Mwonga): Yes, Sir.

Hon. Speaker: Can you have a seat. I don't know we come back to the debate. The debate is on the report. I don't know what the matter that you are raising?

Majority Leader (Hon. Mwonga): Mr. Speaker it was just a matter of concern and I said with your permission Mr. Speaker, there is in the public domain that, Mr. Speaker, one of the members disappeared---

Hon. Speaker: No permission was granted by the Speaker. You need to withdraw those sentiments.

Majority Leader (Hon. Mwonga): I do withdraw Mr. Speaker. Thank you. Back to the report, Mr. Speaker, I want to start by applauding the committee and its Chairman for a report

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well done and for the work that they have presented to this Hon. House. On page 13, there is a member who rose and contributed on the re-doing of the roads. Re-doing of the roads or doing of the roads which are weather roads, is a continuous exercise. Mr. Speaker, the bodies endowed with construction of the roads, the weather roads, an example of KeRRA. Last financial year, Mr. Speaker, they graded some roads and this year and the Hon. Members can bear me witness. Mr. Speaker, the programs we were given last week, from KeRRA, they are still re-doing the same or they are still grading the same, same roads. So there is nothing wrong with that.

Mr. Speaker, on the last paragraph about the issue of MCAs being involved Mr. Speaker, in certifying whether the works are satisfactory, I do agree with the CEC and the CO and the Chair and his Committee. Mr. Speaker, I want to give an example. Mr. Speaker, the contractor who was doing second phase in my ward, could not be paid or his payment could not start being processed until when I wrote a satisfaction letter that, I am satisfied with the works he has done Mr. Speaker and this is one way of doing away with the collusion of engineers and the contractors. I also want to say let the Hon. Members not use it as an avenue for Chickengate Mr. Speaker.

Mr. Speaker, on page 15, I firmly conquer and agree with the recommendation that, Mr. Speaker although in their report they have said in the future we are not giving contracts to contractors. Mr. Speaker, I want to agree with them that, that is paragraph 3 Mr. Speaker, page 15, that the county government should consider local contractors. Mr. Speaker, I am 100 per cent agreeing with them and I want to sight an example of a local contractor in my ward who was given contract to do the first phase and I want to say it before this house. After meeting with some engineers, if they were to vote for the best contractor, they would have voted for that contractor Mr. Speaker and I would urge the chairman and his committee to have time and visit Masinga Central ward and see the drifts which were done during this first phase Mr. Speaker. They are the best in the ward, Mr. Speaker and I have never come across such drifts Mr. Speaker.

Lastly, Mr. Speaker, I do agree with all the recommendations but the last recommendation. The poor workmanship was as a result of collusion, negligence irresponsibility and poor supervision of the contractors work. Mr. Speaker the last sentence says the 'chief

officer who happens to be the account officer pursuant to Public Finance Management Act should be held accountable.’ Mr. Speaker, I want to say this is an organization and one of the core principles for an organization to prosper, it is decentralization and delegation. What do I mean? Mr. Speaker, we have a chief officer in the department of roads transport and public works but to attain the core principal of delegation, that is why we have eight sub county engineers. Mr. Speaker, I think we should amend that last recommendation and say the sub county engineers, who are the eyes of the chief officer in that department, should be counted as accountable but not the chief officer who has delegated duties authority and power.

I want to cite an example of the sub county engineer, who was by this time the sub county engineer in Masinga, one Eng. Wachira. Mr. Speaker, he has already left the county and the mess the Hon. Member for Ndithini is raising here, is because of that sub county engineer Mr. Speaker. Mr. Speaker, he even ran away when I became a whistleblower when he had signed documents for a contractor who had done a shoddy job on the road connecting Masinga market and Kamukunji market. Mr. Speaker, the contractor had done 10 per cent of the works and he had recommended that that contractor be paid and he has done the work 100 per cent, Mr. Speaker. So Mr. Speaker, it is my humble request to this Hon. House that we amend the last recommendation. Let us get hold of the sub county engineers who are the locals on the ground, Mr. Speaker. Thank you, Sir.

Hon. Speaker: Thank you. Now we can get this tight. Let us hear Hon. Nzoka.

Hon. Nzoka: Thank you, Mr. Speaker. I want to do some two comments. Open, page 10 Matungulu North ward. Mr. Speaker, Sir, I need to get information because I requested for the BQ to be given and I was not given and I want to know if the chairman of the roads committee, when there were looking and inspecting the roads, whether they had the BQs because if you go to Matungulu North on observations, the forth line where there is the bridge was poorly done. Underline that one. Mr. Speaker, Sir, I want to draw your attention that it is me who did that bridge when I was councilor. It was not the county government which did it and I did it at a cost

of Ksh. 1.1 million from the Kenya Rural Roads Authority (KeRRA). Even it was not from the council. So there is a lot of forgery there if its correct and I should like to know whether it is that way---

Hon. Speaker: That is which page?

Hon. Nzoka: Page 10 Matungulu North ward. Observation fourth line, underline ‘the bridge was poorly done.’ Only that. Might be it was inserted in the BQ and that bridge was there. I need an answer for that one.

Hon. Speaker: You will get it. Thank you.

Hon. Nzoka: Again when we move to, when they observed and found that the supervision was poor. We did not get enough answer on the action they did or they recommended, for those who did that because we cannot allow some people to mess and then they are told ok, ‘you did it well.’ We cannot do that and the funds have gone. We need to know, because the funds were lost through that mismanagement, what action they took on the officers concerned. Majority Leader here said, we need to take someone here accountable so what have they done. Who is accountable for that and what have they done in that one in respect to that?

Again when they talked of there is a committee to be formed by transport, this and this, I do say that is irrelevant. Why? Like the roads which we have been doing, like mine which I was talking of, I select some people from that area and that project is where it lies. It defeats the people who should be in the committee, should be from the site because the road is not touching Matungulu North. We do select, even before, when we start a project, like now we are making a borehole, we have to get the area community to be the committee of the borehole. We cannot allow the department of roads to select committee in the ward to be going to that corner, that corner and there is no project for their interest. The people who are concerned where the project is, are the ones to be the committees. Thank you.

Hon. Speaker: Thank you. I think we hear this side we can hear Hon. Kitheka and we go to Hon. Kyalo Kyuli at the back, Hon. Alice. Let us first hear that team. Then as Hon. Kitheka contributes, the chairman think about the amendment that was proposed by the Majority Leader and prepare an answer for Hon. Nzoka on the matter that he raised. Proceed.

Hon. Cornelius Kitheka: Thank you Mr. Speaker and respect to the house at large. Mr. Speaker, I will only restrict myself to only three issues. First and foremost, I would like to congratulate the chairman for coming up with a report, even though it is hitting below the knee. We are still going to accommodate it because it is the only what we have. Mr. Speaker, the retention fund, which is 10 per cent, is meant for doing project in a period of less than six months for grading a road but not for a tarmac road and because we are doing earth roads, it only for six months, it is not for two years as our Hon. finance chairman has said because if you retain 10 per cent for two years, the project might be re-done again.

Mr. Speaker, on the other issue it is about the issue of the MCA signing about the issue of the document. Mr. Speaker, we should understand clearly that one of our principle duties in our wards is oversight and what we will be doing in terms of oversight it is the social audit of the project. Now when the social audit comes in place you have to document what you are auditing and exactly you observations. So Mr. Speaker, for the social audit of the projects by the MCAs, it is worthy the MCA to come up with a document which they will sign and show that the commitment and the work done by the contractor is satisfactory.

So what am trying to agitate the committee to come up with, is a small policy document or a form which will show clearly what aspect should the MCA consider in making comment for the payment of the contractor because it may seem, as the Majority Leader has put, it may seem like a Chickengate avenue if it is let loose without guidelines and people might exploit the contractors. Mr. Speaker, it has come to my attention that, on the last page, where there are signatures, I can see that Hon. Kalunde who is not here, he has just gone out and Hon. Nathaniel Nganga have not signed and to the puzzle about the entire issue is that Hon. Kalunde is a qualified engineer and might have not signed this document. It seems that there is something

which is in a mess. Can the Hon. Member Kalunde tell us where he has not signed the document and if he has a minority report, he can represent it to this house with Hon. Nganga because they have not signed so they have to make a comment of why they have not signed.

Mr. Speaker, on the issue over what the Hon. member for Matungulu North had said about the issue of the project under the issue of the committees, I concur with him but the issue should be there must be a project management committee for every project which is being done by the county and that is the only way we can do some good management of the project and make sure that we run the project professionally. Mr. Speaker, I am also perturbed by the situation that we passed a bill of the Ward Development Fund now that the the Ward Development Fund stayed and maybe it was not assented, I don't know whether it was assented or not because there is no communication in the assembly, Mr. Speaker, I assume---

POINT OF ORDER

Hon. Speaker: There is a point of order. We will take it.

Hon. Maitha: Mr. Speaker I---

Hon. Speaker: Hon. Kitheka, kindly have your seat.

Hon. Maitha: This Hon. Member maybe termed as one of the members who are very much behind and ignorant on information. The Ward Development Fund was assented by the His Excellency the Governor last year before we broke for recess. Documents and even the bill itself after it has been published, through the office of the Clerk were issued to him. Then what do we expect of him, Mr. Speaker? He is out of order. Actually even discussing the Ward Development Fund here, while we are discussing about a road project report yet the Ward Development Fund is not a subject matter, Mr. Speaker. I want to put the information that the bill is ready. Let him

consult the office of the Clerk to get the draft bill.

Hon. Speaker: Ok. The point of order is sustained. Proceed on any other area.

Hon. Kitheka: Mr. Speaker, I think with all those sentiments and issue of page 14, the first paragraph which talks about the issue of His Excellency the Governor and the issue of contractors and corruption issues. Mr. Speaker, I think it will be prudent if we clearly get a list of the contractors who have messed with the work they were given, we blacklist list them and we proceed. Mr. Speaker, I still have an issue on the increase of the implements which can be used for the making of the roads. Mr. Speaker, if we increase, I tend to differ with my friend there, if we increase the graders and employ some qualified personnel we will get rid of the few contractors who are exploiting the county.

I've learnt, with a lot of concern, that some of these contractors are running up with the county sub engineers to request for graders to go and make the roads which they have been given as contracts from the same county. It seems as if they are making a lot of shoddy jobs and shoddy deals with sub county engineers and I think, as per the way one of the members has said, the sub county engineers should squarely be held responsible and accountable for any mess of any work done which has been bestowed on them because, if we translate this and take it to the CO, it seems that the CO is just being caught up into a trap which he is not aware of. So Mr. Speaker, with all those few remarks, I say thank you.

Hon. Speaker: Proceed on. May be Hon. Kitheka, now that you know that that ward development fund is in force, what is your point on project management committee because I think the Ward Development Fund has a standing committee

Hon. Kitheka: Ok. The issue I was trying to drive the issue on is of project management committee in the ward development fund. Any project which will be run by the ward development fund will be having a project management committee which will be running the

projects whether a borehole or a road. So my issue was on the issue of the roads so that, at least, they can if the roads will be funded through the board, we can as well address the issue at that avenue. That was my point,

Hon. Speaker: Thank you. The next one was Hon. Alice. She is not in. Can we hear.....

Hon. Bernardete Mueni: Thank you Mr. Speaker, Sir. Mine is a recommend that the contractors they should not be paid all the money before they have finished the work and even when to see the rains come and see how the road is. I was talking to the chairman and if you can go to his ward towards Kyua to Kikeniani, you can wonder whether there was somebody working there and he has been paid. It is a poorly done road and is so bad even somebody cannot pass there. Mr. Speaker, I ask that the contractors not to be paid all the money before the rains come. Thank you, Mr. Speaker

Hon. Speaker: Thank you Hon. Kyalo Kyuli.

Hon. Kyalo Kyuli: Thank you, Mr. Speaker. I want to congratulate the committee first and say that one of the well done roads was the one that was done in my ward. Unfortunately, when they were randomly sampling or they chose to visit roads, they didn't have time or they didn't get to my ward. Secondly, in their observations on the roads they visited, I was wondering if they could get another column where it says that particular person is paid or not because you have seen the status report of every road that they visited. I also wanted to hear when they are talking about Mwala-Makutano ward that Norbit enterprises were given and they did the road up to 40 per cent. Were they paid and was the payment up to 40 per cent or it was full payment.

Mr. Speaker, while on the same, when they are saying that 10 per cent is retained when the contractor that did the works in my ward, that particular person was paid the full amount that was allocated. There was no retention of that particular contractor. I agree because I appreciate and I wrote a letter maybe that is why they had to pay him fully but he was paid fully no 10 per

cent retention. Mr. Speaker, I would like to know if road A or let us say the road in Masii that was allocated Ksh. 4.970 million, was that particular person paid in full if it was paid and if it was paid why he was not paid because I have an issue with one contractor who happens to be my friend that did his work and I have seen the report here they have said it is 80 per cent. That person was not paid a single cent since the time he completed the works. Thank you, Mr. Speaker.

Hon. Speaker: Let us hear the Deputy Speaker and you begin by telling us whether you have a minority report because it was raised by Hon. Kitheka while you were away that you did not sign this report and you are a member of this committee.

Hon. Nganga: Thank you Mr. Speaker and the house at large. I would want to begin by appreciating the committee and the chairman for a job well done after referring the report back the committee, we can see that some substantial amount of time was invested` in bringing a reasonable report before the house, Mr. Speaker. Starting with responses to the question raised by the member for Machakos Central. While the committee was finalizing the report on the roads, as you are aware Mr. Speaker, I was away on official duty so I was not in a position to be able to sign the report before it came before the house. So it is not out of not abiding or agreeing with the colleagues on recommendations made and investigations done, Mr. Speaker, Sir, that is the reason why I was not in a position to sign the report, Mr. Speaker,

Further to it, I want to look at the last recommendation on page 15 where the committee says that the poor workmanship was a result of either collusion, negligence, irresponsibility and poor supervision of the contractors work this contrary to section 30 and 32 of county government act and the Chief Officer who happens to be the accounting officer pursuant to the public finance management act should be held accountable and I would like to call upon the chairman to further elaborate that holding the Chief Officer accountable, what in literal terms, does it mean that the Chief Officer would be compelled to step aside or rein on the contractors pay back monies for

those that had been cleared their contract sums because some roads had been done 30 per cent and in some instances most of the contractors had been paid.

I would like to seek the clarification of the chairman of the committee whether the Chief Officer is going to be held accountable by stepping aside or reining on the contractors to pay back the public money that was lost by the negligence, irresponsibility, collusion and such like acts that are witnessed in the report. Thank you, Mr. Speaker

Hon. Speaker: Thank you. I don't know, perhaps you can tell this house whether you were in the house when debate began because it will appear that you are raising issues that are already deliberated.

Hon. Kyalo: Mr. Speaker, as you are aware I was also committed to undertake some events early this morning where the Governor was presiding over a function of an investor who was launching his investment within Machakos County.

POINT OF ORDER

Hon. Speaker: There is a point of order.

Majority Leader (Hon. Mwonga): Mr. Speaker, is it in order for the Deputy Speaker to mislead this house and he has confided to me that he overslept. He has not even attended the Governor's the functions, Mr. Speaker. Is he in order Mr. Speaker? Thank you.

Hon. Speaker: I think the point of order is sustained. Deputy Speaker, I would advise you apologize to the house and sit down and follow debate.

(Laughter)

Hon. Nganga: If you allow me, I would like to clarify further that the Majority Leader is misinforming this house---

Hon. Speaker: The point of order is taken.

POINT OF ORDER

Hon. Magdalene Ndawa: Mr. Speaker, is it in order for the Deputy Speaker to start now communicating again when you have already directed? He should apologize to the house.

Hon. Speaker: Thank you. The Deputy Speaker has little choices.

Hon. Nganga: Thank you Mr. Speaker for that room. Mr. Speaker, the Majority Leader cannot provide any evidence---

Hon. Speaker: Sorry, I am saying the Deputy Speaker has little choices. It is indeed no choice but apologize to the house.

Hon. Nganga: Mr. Speaker, I apologize to the house that---

(Applause)

Hon. Speaker: Now the next direction was that the Deputy Speaker takes his seat and follows debate.

(Applause)

Allow us to hear the lady and then we hear you. Kindly, kindly that is another direction.

Hon. Christine Mutune: Thank you Mr. Speaker, Sir, member of that committee. I understand that we have done something quite good for the committee. Mine is only to urge the elected members to be following the progress of the projects in their wards in order to give their grievances, maybe to the chairman of the committee in time in order to avoid payment being done to sub-standard job. Something else I want to comment on is about engaging an engineer in the county assembly. It will help this assembly when allocating monies to the committees come. For instance, when we allocate money for making the roads, there are some areas where we find that the amount allocated, according to the terrain of the place, can even make two roads in one ward.

(Applause)

Therefore, I urge the house to recommend engaging an engineer to this assembly. Finally, it is the work of the contractor to ensure that he does his work 100 per cent and I wonder how the executive can tell us that somebody has done work up to 20 per cent and has been paid. I am wondering, how can you pay work done at that level up to completion? Thank you Mr. Speaker, Sir.

Hon. Speaker: Thank you. Let us hear Hon. Ndawa now and then we hear Hon. Nguzi at the back.

Hon. Ndawa: Mr. Speaker, let me come back to my ward, on page 7. Mr. Speaker, if you can remember, I have complained about this road severally, almost the whole of last year and last year but one. Once this contract was given, I went to the site and I saw what the contractor was doing. I complained in this house, I complained to the chairman, I complained to the CEC member r himself. Protect me, Mr. Speaker---

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POINT OF ORDER

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

Hon. Kitheka: Mr. Speaker, with due respect, it seems as if we may be transacting illegal business because I can see there is no quorum unless now you give guidance---

Hon. Speaker: Clerk, kindly advice us on quorum. Hon. Ndawa, the point of order is taken. Kindly have a seat.

(Silence)

Hon. Kitheka, kindly guide us on the Standing Order that you brought up a point of order

Hon. Kitheka: Mr. Speaker, for now I don't have the Standing Order but in reference to the Standing Orders, it is very clear that the house must be having one third of the members in the house and this translates that 60 divide by 3 that is almost 20 and I think that we are less than 20. Even less than 19. I think---

Hon. Speaker: Hon. Kitheka, the question from the Chair is under which Standing Order?

Hon. Kitheka: I cannot read as I don't have the Standing Order right now but I know it is among our Standing Orders.

Hon. Speaker: You know it is a disorder not to quote the Standing Order.

Hon. Kitheka: Yes, but when you have the knowledge that it is in the orders, you can as well refer a Standing Order. In any case, it is on the issues of the quorum for transacting business in the house. Why can't we go to read---

(Loud consultations)

I think it is Standing Order 34.

Hon. Speaker: Hon. Kitheka, maybe you can now have a seat. The advice I have is that there is quorum so your point of order is disallowed. Let us proceed.

Hon. Ndawa: Thank you Mr. Speaker. As I was saying, Mr. Speaker, complaints have been launched for a very long time. I am actually surprised to hear members congratulating this committee. This is a report which was supposed to be here last year and not this year because this is the phase one roads. When are we going to discuss the phases two and three which are not even done and we allocated money? Mr. Speaker, I agree with the committee that the Chief Officer from the department of transport should be held accountable. What about the CEC member? Why are we not holding accountable the CEC member who single sourced all these contracts in this first phase? Mr. Speaker, it is very clear that this, the first financial year, Mr. Speaker, protect me---

Hon. Speaker: She is protected, proceed and conclude.

Hon. Ndawa: The first financial year, there is nothing really we can show in our wards. The CEC member, the Chief Officer should actually be held accountable and step aside.

(Applause)

If this is the way this house is going to play the role of oversight, then it is going to be a mess by the end of our term. Nothing is implemented even when passed by this Hon. House. Everything we pass and adopt does not get to the right hands, it does not get implemented, Mr. Speaker. If we adopt this report, the first person to go is the Chief Officer including the CEC member who was in charge that time, Mr. Speaker. We do not have a choice if we want to play our role. Thank you, Mr. Speaker.

Hon. Speaker: Thank you. Let us hear Hon. Ngunzi at the back.

Hon. Ngunzi: Thank you, Mr. Speaker. I am on recommendation number one page 14. I find the recommendation contradicting the very spirit of the county government of Machakos that has already purchased enough machinery to do works that include roads and dams. This recommendation, I propose should be deleted from the report. We can never go back to the times of the Suez Canal.

(Laughter)

It is a recommendation that has been overtaken by events. In any case, all works have to go through a contractor. We cannot have the government paying the youth that they are calling the *Kazi Kwa Vijana*. Whether it is *Kazi Kwa Vijana* it has to go through a contractor. What the committee proposed here is a recommendation that has been overtaken by time. Can I propose it be deleted from the report? Thank you, Mr. Speaker.

(Applause)

Hon. Speaker: Thank you. Then members we need to deal with that proposition. There are two amendments that were suggested. The first amendment is by the Majority Leader to include the sub-county engineers on the proposal and then the proposal that has now been made

to remove the recommendation in the second last bullet on page 14. Let us hear the mover, if you concede to those recommendation then I will quickly out the vote.

Hon. Ngui: Thank you Mr. Speaker, Sir, and I want to appreciate members for their contributions. Mr. Speaker, the amendment that was put by the Majority Leader is very much accepted because the Chief Officer at the office has delegated officers at the sub county and there is also the county chief engineer who is also in charge of supervision of works within the county. Mr. Speaker, I would support the amendment by the Majority Leader that all the sub county engineers should be held accountable for the poor workmanship.

Then Mr. Speaker the other amendment is the one put across by the Hon. Member from Kibauni ward. Mr. Speaker, I want to state that it is still possible under the county government to engage *Kazi Kwa Vijana* program. Mr. Speaker, there is a point that was raised by Hon. Joseph Muli from Ndithini that there are areas that are hilly whereby the graders cannot go. So Mr. Speaker, there is an option by the county government to engage *Kazi Kwa Vijana* within our wards to do the works where by the graders cannot reach. Thank you, Mr. Speaker, Sir.

Hon. Speaker: Thank you. Point of information how many points. All these are points of information? (*Indicating members' raised hands*) Ok, let us hear Hon. Nzoka

Hon. Nzoka: Yes. I commend what Kibauni member of county assembly said. When we are saying *Kazi Kwa Vijana*, there are some areas where the graders cannot do. We agree that one but those works should be given to contractor so as for the contractor to pay those people because many of our people who do those jobs are paid in daily basis and also might be weekly basis. There shall be a lot of inconveniences. In the county, they are taking one month to be paid. Let us give these works to contractor then he does it with *Kazi Kwa Vijana*. Thank you very much.

Hon. Speaker: Thank you. Let us hear Hon. Ndawa.

Hon. Ndawa: Thank you Mr. Speaker. As we say that the Chief Officer and the sub county sub engineers have to be included in this report by stepping aside, these people take orders from the CEC member who is in charge of the department. There is no way we can work it out and say that the Chief Officer the sub county engineers are wrong when they are taking information direct from the CEC member. Let the CEC member be included in this report. Let the CEC member who was in charge step aside, Mr. Speaker, because whatever happened, it happened because he or she was also in charge and he or she knew what was happening because all the contracts were single-sourced, Mr. Speaker.

Hon. Speaker: Let us hear the Majority Leader.

Majority Leader (Hon. Mwonga): Mr. Speaker, I totally disagree with the Hon. Member for is it Matungulu West the Hon. Ndawa. Mr. Speaker, I want to give a little lecture to the Hon. Member with your permission. In any organization, Mr. Speaker, there is delegation of duties and authority and the hierarchy we have the operatives, middle managers and the top managers. The top managers cannot be held responsible for the wrongs done by the middle managers. Why? Because Mr. Speaker when they were appointed to those positions, they were appointed with the responsibility and authority---

Hon. Speaker: Let him proceed.

Majority Leader (Hon. Mwonga): Mr. Speaker, I want to thank the chairman of this committee for agreeing that the supervisors at the grass roots were the sub county engineers, Mr. Speaker. I want to urge this house that we go by my amendment which has been supported by the Hon. Chairman of this committee. The other issue, I want to say is the *Kazi Kwa Vijana* program, although it was misused by the former government when it was under the office of the

former Prime Minister. Mr. Speaker, I know this members have the same fears that is it will be mismanaged but I want to put it clear that during that time I was a councilor representing Kangonde ward by the and Mr. Speaker, I want to say it here, the roads which were done by the *Kazi Kwa Vijana* program are still passable to date unlike the roads which were given to contractors just the year before.

Mr. Speaker, there are areas which this graders cannot penetrate, Mr. Speaker. So as to have roads in these areas like Ndithini and Mananja areas and even some parts of Kangonde where we have hills and rocks, it is only the *Kazi Kwa Vijana* program which can do these roads. Mr. Speaker, I want to differ with the Hon. Member for Kibauni for saying that we delete the first recommendation which is talking about this program and when we say *Kazi Kwa Vijana* it is not a must to be run by the county government, Mr. Speaker. We can recommend that where the graders cannot do, and we have no dozers, let this works be given to contractors local contractors but they engage the youth. I think that was the intention of this committee, Mr. Speaker. Thank you, Sir.

Hon. Speaker: Let us take..... sorry. I thought I saw Hon. Member for Iveti. Ok. Let us take the request for Hon. Maitha.

Hon. Maitha: Mr. Speaker, thank you and hon. member. I just take for a minute. Mr. Speaker, Sir, this debate seems to be quite hot and if you read the Standing Orders No. 27, paragraph 4, it seems this debate may exceed the normal time of 12.30 p.m. Mr. Speaker, because members are still contributing, we have amendments to make, so Mr. Speaker, I wish with your permission to move a motion that this house extends up to 1 p.m. if you so agree, because the Standing Orders are very clear. They say that you should be notified 30 minutes before. So if at all 12.30 p.m. comes around then we might not be able to extend.

So I wish to put to your notice that I propose to bring the motion that if we will exceed the normal time, I had proposed we extend because 12.30 p.m. comes in then a motion is proposed then we will be out of order, Mr. Speaker so that you might aware that if we don't

exceed 12.30 p.m. then well and good. We can stop at that time but if we exceed 12.30 p.m. I will have notified that Mr. Speaker we need to extend for further debate. Thank you, Mr. Speaker, Sir.

Hon. Speaker: I don't know. Do you have any difficulties with that request?

Majority Leader (Hon. Mwonga): Mr. Speaker, I totally agree with the member but the member will still have the evening plenary, Mr. Speaker so if we are caught by 12.30 p.m. still with the debate, we can automatically adjourn and have the same in the afternoon. Why extend for half an hour and we are not sure whether we will be through with the debate? So my argument is that we stick to the time Mr. Speaker, if we are caught by 12.30 p.m. still debating, we will have the report discussed in the afternoon. Thank you, Mr. Speaker.

Hon. Speaker: Yes. Let us hear a point of information.

POINT OF INFORMATION

Hon. Maitha: Mr. Speaker, I wish to bring to the attention of the Majority Leader that this house cannot be held hostage because of one report, Mr. Speaker, Sir. We have the report on the budget and appropriation committee, we have the .motion from Hon. Nduva, we have the report for the audit report that is supposed to be tabled and we only have two sittings, Mr. Speaker. Are we going to handle those reports within two sittings, Mr. Speaker? That why I was requesting if there is need to extend for another 30 minutes we will better extend for another 30 minutes, deliberate on this, finalize on this report and in the afternoon we come refreshed and continue debating on another report, Mr. Speaker, Sir? Thank you, Mr. Speaker, Sir.

Hon. Speaker: Thank you. I note the point raised and we shall appropriately comply if 12.30 p.m. finds us. Let us proceed.

Hon. Alphonse Wambua: Thank you, Mr. Speaker. Mr. Speaker, I start by congratulating the chairman, transport and his committee for they have done good research concerning transport. Mr. Speaker, I have gone in recommendations and have gone through bullet by bullet and page 15, bullet 5 which says ‘the county government should consider local contractors when awarding tenders.’ Mr. Speaker, this tells me that this committee understands that by engaging the community, the work of roads will be cheaper when the county government wants to do the best. Mr. Speaker, if you read the mood of the house it shows that we have exhausted this document so it is my humble request, if the house can approve this document instead of wasting a lot of time. Thank you, Mr. Speaker.

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

Hon. Ndeto: Mr. Speaker, allow me to contribute to this document by first stating that, to me, this report is more of a concept paper than a report and for it to be a report---

Hon. Speaker: Hon. Ndeto, maybe can you guide us on the difference.

Hon. Ndeto: A concept paper just give is a conceptual framework of the work to be done and is mainly broad and a report should be a little bit specific which somehow this report is not. For it to be a report, it should be specific in that we need to come up with the amendments that have been proposed and if possible I also recommend more recommendations and before I go to that, I want to state that in page 13, bullet 2, about the responses ‘the CEC member regretted of the Ksh. 15 million allocated for five roads per ward in the 2013/14.’ This was three roads per ward. Down there he also presupposes that due to the Ksh. 598 million given to the Kithimani road, this work has not been done and I believe this one was brought into this assembly and we

did a supplementary budget and the supplementary budget was not taken out of the department of roads but various departments. So that is not an excuse.

More to that, I expected this report to contain some appendix that is when I say it should be specific little bit. Like when they say, a given road was done 20 per cent, we need to know which roads are these, classified and grouped and also know who the contractor was as it has been done. Then they give a recommendation about that specific contractor. When we come to the proposal by Majority Leader, we need to go by road or by sub county and we know which sub county we recommend what and how many roads within that sub county were poorly done and which ones were done.

When we go also to the money, there is something that is contradicting here, Mr. Speaker. It is stated, that is page 14, 'that all the roads that had raised issues in the process of grading, no single payment has been done and that the money is still kept awaiting inspection report.' What does this mean? Page 14, bullet 2 'that for all the roads that had raised issues of grading, no single payment had been paid and that the money is still kept awaiting inspection.' He gave the example of Katani road in Muthwani ward and Mukuyuni road in Mua ward. Those are two roads and to me there are more roads which issues have been raised. Like me, I went personally, raised this and even you look at the report over my ward it is only 20 per cent of the road that was done and that is why I am saying, as much as we adopt this report and we pass the recommendations, we need to make some amendments and we be specific for this report to be a true report.

When we talk of also holding the Chief Officer and also the sub county engineers accountable, if we adopt the recommendations, we also need to be specific on what are the disciplinary measures that will be taken to this people. We should not leave the report pending. So Mr. Speaker, personally though I said somehow it is a concept paper, but if we adopt the amendments, it will somehow come to be a report. I recommend that we adopt with those recommendations and they be specific. Thank you.

Hon. Speaker: Yes.

Hon. Kitheka: Mr. Speaker, there was an issue I raised about the project management committee. I think the Hon. Chairman, when making the amendments can know where to fix the issue of managing the projects, Mr. Speaker

Hon. Speaker: I think at this point we would rather hear the chairman.

Hon. Ngui: Thank you Mr. Speaker, Sir. Once again I want to appreciate the Hon. Members for their contribution on my report. Mr. Speaker, I will start with the issue on page 16 about recommendations. Mr. Speaker, it is very clear in our report that the poor workmanship was as a result of collusion, negligence irresponsibility and poor supervision of the contractors work. Mr. Speaker, for that point I feel that we cannot leave the sub county engineers out because the work of the Chief Officer in the office is to delegate duties if a contract is given to a contractor at Katangi then the engineer will not be able to go to Katangi, Masinga or Matungulu. There has to be somebody responsible on the works that are going on the ground. So Mr. Speaker, it is at that point that I want to support the amendment of the Majority Leader that it should read very clearly that the sub county engineers should be held responsible for poor supervision of the work.

Then Mr. Speaker, again I would want to respond to the issue of Hon. Ngunzi of Kibauni ward that we have recommended that some of the roads were done 40 per cent, others 80 per cent and others 20 per cent. Mr. Speaker, if you can go to page 12 of our report, we stated just down the comments and analysis, and I will read; 'it is also important to put into consideration that at the time that the committee was doing the roads inspection, most of the roads had been affected by heavy rains and so evaluation of the quality of work done by the contractors was somehow tricky.' Mr. Speaker, when the committee on roads went for the inspection, the rain had already come and most of the roads were affected. Mr. Speaker, you realize that most of the contracts which were given to contractors were for maintenance of our access roads.

So Mr. Speaker, after rains and considering that the terrain in Machakos County rains affect so much our roads and that is why we stated that point for consideration by Hon. Members. That is why we say some of the work has been done 40 per cent. The works was already done but carried away by the rains so by the time the committee went on ground we saw 80 per cent. Then Mr. Speaker, I would also want to answer Hon. Nzoka of Matungulu---

POINT OF INFORMATION

Hon. Speaker: I am taking a point of information, Hon. Chairman. Let us take that point of information.

Hon. Ndeto: Mr. Speaker, this point raises a very serious concern now. It may nullify the whole report and may also put us in a very awkward situation now. As stated it says 'it is important to put into consideration that at the time when the committee was doing the road inspection, most of the roads had been affected by heavy rains.' Thereby, the contractor can argue 'I did my work' and according to your report it is clear it is the rains that destroyed the roads. The contractor can come and argue that. Secondly, 'evaluation of the quality of work done by contractors was somehow tricky.' This single paragraph can nullify this report if it is somehow scrutinized and I request the Chair and the entire house to either delete this paragraph or else the implementation of this report will be very tricky. Thank you.

Hon. Speaker: That is in page?

Hon. Ndeto: Page 12.

Hon. Speaker: Yes. On that point only, let us hear from Majority Leader.

Majority Leader (Hon. Mwonga): Mr. Speaker, I think there is nothing wrong with that bullet. Mr. Speaker, there is no point of this committee bringing into this house a fabricated

report. It is true the roads were done in the financial year 2013/14 and the committee went out just the other day. It is true the roads had been washed away and this is why they are saying it is tricky to come with a clear evaluation, Mr. Speaker. What else could the committee have said other than saying this. Thank you, Mr. Speaker.

Hon. Speaker: Let us hear Hon. Ndawa. Hon. Members, I think care must be taken that we don't bring issues that you can bring on private members motions. We cannot handle all issues in a single report. Just proceed.

Hon. Ndawa: Mr. Speaker, I feel disappointed. It is very clear that this two Hon. Members are telling us every time we do roads, we should expect the rains to wash them away just within one season. Is it also clear to them that there is no way a culvert is going to be washed away by rain within one season of a rain. Mr. Speaker, to be honest if like the road which was supposed to be done in Matungulu West was supposed to have four culverts in different places and not in rivers that we can call the rivers, seasonal rivers, do you want to tell me that it was tricky for them to go and inspect that road when it is very clear that the culvert was not put? The word tricky should not come in this report, Mr. Speaker.

Hon. Speaker: Thank you. Let us get the point of order.

POINT OF INFORMATION

Hon. Leonard Katela: Mr. Speaker, Sir, I am here to support the report and give a word of advice to the just immediate contributor---

Hon. Speaker: Kindly, Give the point of information.

Hon. Katela: Thank you Mr. Speaker, Sir. I am supporting the report on roads and reminding members that---

Hon. Speaker: Hon. Katela, you don't have a point of information.

Hon. Katela: I wanted to inform the house that we cannot stop nature so if the roads were washed away by nature. We cannot stop it even big bridges in Suez Canal can be washed away by floods. That is nature in tarmac roads. So if a member like me, I have an issue with his road a single road, why can't you write to the committee and call them again to go and inspect your road. We will also support that. I will also join the committee I can be invited---

Hon. Speaker: Hon. Member, now the moment goes back to the Chairman, the mover of the motion. Let us hear the mover of the motion. Proceed, Hon. chairman. On the matter that was raised by Hon. Dominic Maitha, I think on second sitting of the day has began.

Hon. Ngui: Thank you Mr. Speaker. Mr. Speaker, considering some of the issues, I want members maybe to read the report clearly. Mr. Speaker, in the case of Matungulu West, the report is very clear that the road was graded but it was impassable with a lot of wide deep potholes, no murrum was put and at river Kithiwani, the contractor constructed a water barrier not a drift, Mr. Speaker. The structure is not well-fitted I the river bank hence the river---

Hon. Ndawa: On a point of information.

Hon. Speaker: Let the chairman conclude.

Hon. Ngui:as the river would easily pass all the water on the sides so Mr. Speaker, the committee on transport did its part and we cannot purport or the committee cannot come to the house and give lies that by the time we went on the ground there was no

rains. The rains were already there and some of the roads were washed away, Mr. Speaker. I give an example of the KeRRA and KURA roads and you realize that some of the roads which were done by KeRRA and KURA last year are being done again this year because it is maintenance and stated it very clear that most of the works were about maintenance and repairs.

Mr. Speaker, at a time when we have heavy rains, we expect some of the roads to be washed away. Mr. Speaker this point then is I would wish and I would request the members to adopt this report with the amendments we have made that; the poor workmanship that was evident due to the supervision by sub county engineers is included in this report. Mr. Speaker, it is my plea to the house to adopt this report with amendments. Thank you Mr. Speaker, Sir.

Hon. Speaker: Let us get the point of order from Hon. Dominic

Hon. Maitha: Sorry Mr. Speaker. Mine was not a point of order. I just want to request your permission. There is one thing I want to say Mr. Speaker, about the first phase construction of roads and clearly and unless as members we accept first thing the department messed us up. We were very new most of us, we never knew how the BQ were supposed to be handled and time is gone, Mr. Speaker, Sir. Unless we are living in the moon, Mr. Speaker, we will continue addressing this issue meaning that we have the second and third phases were for 2013/14. Right now, we could be putting the chairman and the committee to task asking them what the road projects are for 2014/15 which is almost two to three months to go.

I want to say this Mr. Speaker; the recommendations that have been given here, if adopted and well implemented, and the chairman for implementation is here, Mr. Speaker, Sir, we will have a positive direction. The key emphasize on this report is value for money, Mr. Speaker, Sir. We cannot continue listening to the chairman telling us that they were routine maintenances. You cannot give a road Ksh. 600 million and say it is routine maintenance because, next year, if you allocate the same road, it is going to raise audit queries. This roads, the amounts of monies actually which were given for this projects were even far much above the

normal quotations because some of the roads were done by Kenya Rural Roads Authority (KeRRA) at less than the amount that was given by 50 per cent.

What do I want to emphasize? I want to say this; yes we have to agree that we were taken for a ride the second and third phases and other preceding phases that are coming, we need to exercise full oversight authority and ensure that if the first phase was poorly done and we cannot reverse the situation, then we need to take the necessary measures. The recommendations are here and to emphasize on the issue of the local contractors, this members can attest, almost 80 per cent of those roads projects were not given, even including the second and third phases, to local contractors.

That contradicts the constitution Article 174 which talks about empowering the local communities. What am I saying? We need to ensure that our local contractors are given contracts because if someone is coming from Nairobi and is not a resident of Machakos county, then what are we going to do to the contractors of Machakos county? Let contractors in Nairobi get contracts in Nairobi, let contractors in Makueni and Kitui and other counties get contracts from their own home counties so that we can empower our people. That is what is meant all devolution, Mr. Speaker? So what I want to say is this; Mr. Speaker, protect me.

Inasmuch as we might dwell a lot on this report, let us know that that was the first year. We have got another three, four years to move forward. It is high time that we now put the right mechanisms and structures to deal with errant officers, Chief Officers. Some contractors, Mr. Speaker, through the Chair, will be brought in this house and other chairmen and we are going to blacklist them from Machakos County. We don't have to pay contractors who have done shoddy jobs and to give an example, I have personally visited the road for Hon. Ndawa, Mr. Speaker. The contractor took advantage of the graders that were taken to Matungulu and Kangundo sub counties and I can assure you, the only section of that road which was done was the bridge.

As at the time we visited that road, it had already being paid, it had been authorized for payment, so what could we have done ? Right now that the contractor has been paid. Hon. Peter Kyalo Kyuli said is contract was paid full without the retention which is required as per the law. So in short I want to say this Mr. Speaker it is now the duty of this assembly to ensure that

whatever we are going to pass today, is implemented to the fullest so that when we start now questioning the responsible officers, in future, we have a basis of argument.

We have dwelt on one phase yet we have another 50 phases to come that we are going to hold ourselves hostage. Notwithstanding that, that does not stop any hon. member to come and complain as per this report as stated. Anyone who has any formal complaints or issues, we welcome those complaints. We will act swiftly but there is much ahead for this assembly, members. We have now to stand firm. We have to say that for the first phase, we were taken for a ride but we will ensure now in the future, all contacts at least will be given to people who belong to the Machakos county, people who understand our wards well, because if a contract like the one which was given in my area was given to someone who resides there, he would have done the best work because he uses that road.

Thank you, Mr. Speaker. I urge this house to adopt this report with the best recommendations and know that there is a big challenge ahead in terms of implementation. Thank you Mr. Speaker, Sir. I congratulate the members.

Hon. Speaker: Thank you. It is my considered view that this debate has been exhausted.

(Applause)

I will say that we take the direction that the Hon. Member for Muthwani has said. That members are still at liberty to seek specific statements on their roads that raise questions and Hon. Ndawa will have an opportunity to do that at the appropriate time and the particular aspect will be looked into by the committee or the relevant officers and with that Hon. Members I will proceed to put the question.

(Question was put and agreed to)

ADJOURNMENT

Hon. Speaker: Let us meet later in the afternoon for the third and final sitting.

The House rose at 12.37 p.m.