

**MACHAKOS COUNTY ASSEMBLY****OFFICIAL REPORT****Wednesday, 7<sup>th</sup> October, 2015**

The House met at 2.44 p.m.

*[The Speaker (Mr. Mung'ata) in the Chair]***PRAYERS****Hon. Speaker:** Good afternoon Hon. Members. Proceed Clerk.**MOTION****REPORT ON DESIGNATED PLACES PARKING BILL, 2015**

**Hon. Ngui:** Thank you Mr. Speaker. I wish to read a report whose paper and notice of motion was given last week and I wish to read the report now. This is a report on a Bill that was committed to the committee of Transport, Roads and Public Works on the Machakos County Designated Parking Places Bill, 2015.

**Preamble**

Mr. Speaker, Sir, development of roads and transport infrastructure is a key priority area for realization of sustainable development. This can be done by understanding stakeholders' needs, running business with excellence and adapting to ever changing industrial expectations.

**Committee's Mandate**

Mr. Speaker, Sir, pursuant to Standing Order 190 (5a) and (5g), the Committee on Transport is mandated to investigate, report, recommend and even propose legislation under its mandate.

Mr. Speaker, Sir, in the second schedule of the Standing Orders, this committee is specifically mandated to deal with all matters related to County transport, including county roads, housing, street lighting, traffic and parking, public transport and ferries and harbors, excluding the regulation of international and national shipping and matters related to county public works and services.

**Department under oversight**

Department of Transport, Roads, Public Works and Housing.

**Committee Composition**

1. Hon. Felix Ngui - Chairman
2. Hon. (Ms.) Penina Kaluki - Vice Chairperson
3. Hon. Timothy Kilonzo
4. Hon. (Ms.) Rachael Nduku
5. Hon. Michael Mutuku
6. Hon. Isaac Muinde
7. Hon. Dominic Maitha
8. Hon. Nathaniel Nganga
9. Hon. Joseph Kalunde
10. Hon. Oliver N. Munyaka
11. Hon. Thomas Kasoa
12. Hon. (Ms.) Christine Mutune
13. Hon. (Ms.) Jacqueline Nziva

**Committee Sitings**

Mr. Speaker, the committee made three (3) sittings in the month of July to scrutinize the Bill, present submissions and also to propose alterations in the contents of the Bill.

**Significance of the Bill**

Mr. Speaker, Machakos County in its mission to offer quality services to its citizens requires proper policies and well thought legislative framework. This will lead to proper organization of activities in the transport sector, cause sanity, block loopholes leading to unnecessary loss of revenue and maximize revenue collection. In the process, delivery of services will be commendable and this is our dream.

**Public Participation**

Mr. Speaker, Sir, in the month of July this year, the committee undertook Public participation on this Bill in all the sub-counties pursuant to Standing Order 120(3) which provides that, ‘The sectoral committee to which a Bill is committed shall facilitate public participation and shall take into account the views and recommendations of the public when the committee makes its report to the House.’

Mr. Speaker, the exercise of public participation is crucial as indicated in Article 10 (2a) of the Constitution which outlines the national values and principles of governance. Mr. Speaker, in any democratic state, public participation is a fair activity that improves transparency and accountability in decision making in addition to increasing public confidence in any undertaking.

It also provides an opportunity for the public to influence project design in a positive manner, thereby creating a sense of ownership.

### **Retreat**

Mr. Speaker, the committee retreated to Naivasha from 2<sup>nd</sup> to 5<sup>th</sup> September, 2015 for the exercise of report writing. In the report, both the views of the Committee members and those of the public have been factored in this report. Mr. Speaker, Sir, the report is a crucial product required by all stakeholders who participated in the Bill process for the purpose of offering feedback in order to convince the stakeholders that their views have been considered.

### **Recommendations**

#### **Committee Members**

Mr. Speaker, Sir, the committee members welcomed the Bill as a good document intended to streamline areas that occasionally cause friction in the transport sector. However, they noted some sections in the Bill that need consideration as outlined below:-

- In the First Schedule, include Mwala as a designated parking place.
- Include a clause to regulate parking of oil tankers and lorries. This is because of the danger they are likely to pose to residential areas.
- Establish reserved parking for owners of buildings and big businesses.

#### **The Public**

Mr. Speaker, the public credited Machakos County Government for installing new policies in the transport sector to counter the challenges that have been there for years in addition to creating avenues for revenue collection. However, they raised concern on the following matters:-

- In Clause 12 (1), review this clause to include the days when there are special activities in the town and then charge parking fee. This will promote revenue collection.
- In Clause 12 (2), review this clause to have only officers using government vehicles but not personal vehicles.
- In Clause 24 (a) and (b) reduce the imprisonment term from six months to three months.
- In Clause 7 establish reserved parking for owners of buildings and big businesses.
- Include a clause providing for establishment of parking places committee. The committee is proposed to comprise of County Government officials and transport stakeholders such as schools and business holders.
- Consider provision of toilets and water points within the parking places.
- Establish drop-off and pick-up points for PSV vehicles within the periphery of the central business zone.
- Include a clause to regulate parking of heavy commercial vehicles.
- Include a clause indicating gazettement of the parking places.

- Review the Bill to confirm if it is in line with the Integrated Development Plan to avoid future risk of demolition of structures.

### Challenges

Mr. Speaker, the committee in its effort to adhere to the Constitution and Standing Order 120, witnessed some the challenges:-

- Poor attendance by members of the public. This was specifically evident in Yatta, Mwala, Matungulu and Kathiani sub counties. This was attributed to distance and financial constraints to facilitate them to where the exercise was being carried out.
- Reluctance by the public to voice their submissions. They claim that this exercise is just a routine and no implementation is done. They gave an example of the Sand Bill.

### Conclusion

Mr. Speaker, Sir, it is very obvious that for development that is credible and that satisfies the needs of its citizens, proper strategic assessment and sound policies need to be developed and implemented. This will promote the political faith which citizens have towards their government, create development opportunities, boost the economy and therefore reduce the gap between the rich and the poor. As county government of Machakos, this is our dream. Thank you Mr. Speaker, Sir.

I now call upon my colleague, Hon. Nathaniel Nganga who is a leader of the committee to second the discussion of this report.

**Hon. Speaker:** Thank you.

**Hon. Nganga:** Thank you Mr. Speaker, Sir, and the house at large. I will say that being a member of that committee, I stand to support the reading of the report. I would say that the matter is long overdue for the control of omnibuses and parking. As you understand, most of the controls that are being used are relying on what the former councils and municipals had put in place and it is high time that we come up with county laws that will be able to put that matter to rest.

I therefore stand to support that the report be read and adopted in the House so that the Bills can be of important use as the speech has said we need to have a proper legislative framework so that our policies can be found to fall in place. I beg to second, thank you.

**Hon. Speaker:** Thank you. The report is now properly before us for debate. Yes Hon. Kathinzi.

**Hon. Kathinzi:** Thank you Mr. Speaker. I would like to start by congratulating the chairperson of this particular committee. He is what we call in Kikamba my '*Mwendia*' and I

have to support because of that one obvious reason first of all. Mr. Speaker, I would like to emphasize on page five, before we go back to the other important issues and challenges.

**Hon. Speaker:** Maybe you can guide the House on the meaning of your quote.

**Hon. Kathinzi:** *Mwendia* is that my mother and his mother come from one family, same tribe, we share things which are common and indeed if one of us passes on, it is the responsibility of the other one to take care of the family.

*(Laughter)*

So those are obvious reasons why I am the first to respond to this. I totally support and I wanted to go straight away to the challenges of the committee. If you can see Mr. Speaker there is 1.9 which says poor attendance by members of the public. This was specifically evident in Yatta, Mwala, Matungulu and Kathiani sub-counties. This was attributed to distance and financial constraints to facilitate them to where the exercise was being carried out.

Mr. Speaker, it is very clear in this Assembly that I personally came up with the Public Participation Bill and my most important point was to make sure that we do facilitate the members of public to the places they are supposed to go to attend this public participation. For instance my area, Kivaa ward is 522 square kilometers, composed of 80 public and private schools and when you call for meetings, they do not attend because of distance and financial constraints.

When you consider what you are doing in this side of the government, that is the legislation point of view, and what the Executive is doing, everybody knows very well that when the Governor is going somewhere, arrangements are done for the public to be present but whenever we have a function that is composing the Assembly side, I can say nothing is done for our people to be able to attend those particular forums. So this one might have an extra mile in terms of challenges; even in Masinga, you go for a meeting you find like 15 people have attended, others are business people so they are going to do their own business, so they tell you they are very busy. Others who are coming from far distances say things are just done because they are not consulted, but we do our part. But that particular point of not facilitating the public to attend to public participation because we are discussing their own issues is very important.

I have pointed out that one because I am a victim of the same; meeting people and they tell you they are not aware. So even when I am supporting, we need to emphasize and say what can we do as an Assembly to overcome this particular challenges. It is very easy; we have the budget with us, whenever we have a public participation to be carried out, let us have a small budget, let us facilitate.

My proposal was that every location to have a 51-seaterbus to make sure that we ferry these people to a central point. Let them be facilitated, be given a small token or lunch and then they go home happy; they are going to spread the gospel elsewhere so that we move together as a community.

The other thing still on challenges is reluctance by the public to voice their submissions. They claim that this exercise is just a routine and no implementation is done. They gave an example of the Sand Bill. I wish the chair, Implementation was here because now it is coming back to that committee, which I am a member. For instance, we passed a motion that no portrait of the Governor should be put on the projects which are done by the county; let us replace and put the emblem of the county '*kyaa kimwe kiyuaa ndaa*' it means that we move together. It has been enormously not possible. In the committee we have been able to discuss this, we write several letters to the Executive, no response. So what are we doing really?

The public is following very keenly because I believe in the speaker's gallery there is a public who is watching and listening. They take the gospel home and say our Assembly is working but the implementation part of these programmes is not possible. So that is another point for all of us to check.

Therefore what can we do? I have said when you are supporting my *mwendia* here, it shows that we need to try and see how to handle this particular segment of the challenges by exercising whatever we have been given as the mandate of this Assembly. The Constitution has given us a lot of powers to make sure that whatever is important for us to execute is done.

I also want to point out another area I have seen only in Mwala is given a parking zone and as I request to end my submission there, I also request for clarification on this one on page 4(1.8) on recommendations; it says that '*Mr. Speaker, sir, the committee members welcomed the Bill as a good document intended to streamline areas that occasionally cause friction in the transport sector. However, they noted some sections in the Bill that need consideration as outlined below:-*

1. *In the First Schedule, include Mwala as a designated parking area.'*

I think it is also important to check because we need to see where else we need to designate for instance in Kivaa, in Ndithini, in Muthwani; where do we have to put things that are going to protect our people in terms of the transport sector? I have mentioned that because I am not very sure what they meant on that so I seek my fellow colleague the chairman to highlight on that or any person who has more information to clarify on that. Do we have in every sub county a place whereby we have a common designated parking area or what do they mean in this particular area? Thank you.

**Hon. Speaker:** Hon. Kathinzi if you look at section 26 of the Bill...you don't have a copy of the Bill?

**Hon. Kathinzi:** I don't have a copy of the Bill.

**Hon. Speaker:** You were discussing content you do not have Hon. Kathinzi?

**Hon. Kathinzi:** Mr. Speaker, as I was speaking I was waiting for the Bill to come but I think we can now have a look at it.

**Hon. Speaker:** This Bill was circulated a long time ago, Hon. Kathinzi. Immediately after the first reading, the Bill was circulated. Let us go to section 26. Are you there Hon. Kathinzi?

**Hon. Kathinzi:** Yes I am there.

**Hon. Speaker:** Then you can take us through that.

**Hon. Kathinzi:** Well, subsection 26(1) says that '*the County Executive Committee member shall from time to time revise:*

- a) Schedules for designated parking areas;*
- b) Charges for parking, plumbing and towing; or*
- c) Fines for offences under this Act.'*

26(2) says that '*the County Executive Committee member shall issue a thirty-day notice for any revisions intended under subsection one in the two daily newspapers of wide circulation within the country*' and probably if I may finish (3), '*under issuance of notice provided under 26(2), the County Executive Committee member shall gazette the intended revisions in the county gazette.*'

**Hon. Speaker:** That appears to answer your worries?

**Hon. Kathinzi:** Absolutely Mr. Speaker.

**Hon. Speaker:** So you had not read your content?

**Hon. Kathinzi:** That means I have not supported in blackout; I was in order. Thank you.

**Hon. Speaker:** Alright. Let us take a few contributions.

**Hon. Nzoka:** Thank you Mr. Speaker, Sir. It might be repeating but I want to give my

contribution on challenges and I appreciate this committee which came up with these findings. I think we should admit that when we go for public participation, it is poorly done. I do attend all those public participation in our sub-county headquarters, Kisukioni.

When we were doing this one, in my ward only one person was there, we even asked my colleague from Matungulu East and there was nothing. I am saying what was there. So when we are saying we do public participation, I disagree with that because we are just putting these ones in newspapers, in radios but no one can say that our people are economically challenged. You don't expect my people to spend 400 shillings transport to come to Kisukioni and participate. He or she shall say, *'do I buy seed for planting or just go there and when we go there, nothing happens.'*

It is a duty of this Assembly, and I have been talking of that, to see how we can get our electorate to participate in Bills. I can agree now this one is not known in my area and I am saying we participated, we put in radios; radios cannot pay transport for the community to attend.

*(Applause)*

...and we cannot sit here and say we did public participation. I challenge whoever is here, we did not do it. I think this House should admit that the Bills, not only this one but also others, have not been participated in by the electorate and it is there right; it is the duty of this House....

### **POINT OF ORDER**

**Hon. Nganga:** Mr. Speaker, would the member substantiate whether he has factual evidence on the allegations that he is making that this institution did not take public participation over these Bills, because Mr. Speaker it is evident that there was an advert and people attended; personally I attended in Yatta sub-county. Maybe he did not attend the event in their sub-county or even at the county headquarter because if we are discussing a matter of a Bill and by law we are required to undertake that exercise, then if he has evidence that public participation was not undertaken, then we can be guided properly so that we can take a proper decision which informs and involves the people.

**Hon. Speaker:** I agree with that point of order. Hon. Nzoka if indeed you are confident that this Bill was not....

**Hon. Nzoka:** Yes. Can I give evidence?

**Hon. Speaker:** Order, allow me to finish. Then you need now to mount a proper motion and dismiss the Bill because if there is no public participation, then it ought not to be here. Hon. Nzoka, now proceed.



**Hon. Nzoka:** Thank you Mr. Speaker, Sir. Why am I saying so?

**Hon. Speaker:** ... and if you do not have evidence then you will be out of order and I will be at liberty to push you out of this House.

**Hon. Nzoka:** Just a minute.

*(Laughter)*

The evidence is with the clerks who take the names; can we have that one tabled here. You shall see my ward was only one person. Again Matungulu East there was nothing. We have evidence from those who were taking minutes. What I am saying Mr. Speaker is this---

**Hon. Speaker:** Let me take the point of order.

#### **POINT OF ORDER**

**Hon. Kamitu:** Thank you Mr. Speaker, Sir. I am standing on a point of order in regard to Hon. Nzoka who happens to be my neighbor and he is talking of a participation we did and the subject was Finance, the public participation that we did last week but one. In this regard, he has no evidence because we were not talking about the Bill now that we are debating so on a very honest move, Nzoka is out of order because he is trying to cheat the house and I stand to say that during the participation in regard to the Designated Parking Places Bill, we did it in Talaat AIC; it was not in Kisukioni so I think he is confused. Thank you Mr. Speaker, Sir.

**Hon. Speaker:** Yes, another point of order.

#### **POINT OF ORDER**

**Hon. Nganga:** Mr. Speaker, there was a recent court ruling sometime last year that defined the extent to which public participation is supposed to be. Mr. Speaker, if my mind serves me right, public participation does not even necessitate the institution to go out there and hold public barazas; even running a daily in the newspapers and in the radios and requesting for people with memoranda to file them with the institution, or even putting it in the website of the institution is enough public participation.

The court itself in its wisdom made that determination and the Hon. Member is alluding his allegations on details that he does not have within his hands Mr. Speaker, I find the matter that the member is raising substantially insignificant and he should either substantiate, provide

evidence or frantically just withdraw the matter because he appears to lack evidence, only to be moved by emotions. Thank you, Mr. Speaker.

**Hon. Speaker:** Hon. Nzoka, all these points are raised against you, you need to take notes and respond. Proceed.

**Hon. Kasimu:** Thank you Mr. Speaker. I stand here to support Hon. Nzoka who happens to be my neighbor.

*(Applause)*

**Hon. Speaker:** You are on a point of order?

**Hon. Kasimu:** On a point of clarification, Mr. Speaker.

**Hon. Speaker:** You are out of order. Let us hear Hon. Nzoka to substantiate his allegations that no public participation was conducted and if you find that indeed you cannot substantiate, then you are at liberty to withdraw.

**Hon. Nzoka:** Yes. What I can say is this, members, Mr. Speaker, Sir, law was meant to suit people, not people to suit law. In this regard, I know where I come from. He has talked of website, who knows website down there? It is a duty of this House to see how the common mwananchi can get information, not law. We cannot keep on law. Law was made to suit people not people to suit law.

*(Laughter)*

And I think my friend Kamitu here can attest that there were no people from Matungulu East and from Matungulu North, you saw one young man. Do you expect me to come here and stay idle and keep quiet when my people are not receiving the information? I was elected to come and voice their voice here so that is why I am saying, can we come up with a system whereby everyone can be brought to get information. That is my.....

**Hon. Speaker:** Thank you but then, answer this important question, was public participation done for this particular Bill?

**Hon. Nzoka:** In law it was done because it was advertised and I will still repeat, law was made to suit people, not people to suit law.

**Hon. Speaker:** Okay. Thank you for that good attempt.

*(Hon. Nzoka laughs)*

Let us hear the chairperson.

**Hon. Ngui:** Thank you Mr. Speaker. I stand to request that now that the members have been supplied with the report and most of the members have not read this Bill from the point of view they are arguing, I would request they be given time to go through the report and look into the Bill so that we can discuss the report tomorrow. Thank you, Mr. Speaker.

**Hon. Speaker:** I think Hon. Kathinzi you agree with me that we can hear this Bill tomorrow?

**Hon. Kathinzi:** Let me appreciate the kind concern by the chair. We would say like what is done in the churches, my people will be your people and mine will be yours. That is the philosophy we deal with 'Mwendia'; he is mheshimiwa Katangi, so let us form some self groups overnight and then we deliberate the issues and then come with one common mind and address the issues once and for all tomorrow afternoon so that we will be able to read from the same script because most of us look like they are very new to this. On top of that Mr. Speaker, what mheshimiwa Nzoka is raising is of immense importance and I request maybe sometime next week we have a Speaker's Kamukunji so that we can discuss those things in camera as members.

**Hon. Ngunzi:** Just before we can decide to look at the Bill tomorrow, I have a concern that directly addresses the committee and the members of this House. As I was looking at page 3 on the significance of the Bill, I was particularly interested with the mission of the county which is to offer quality services to citizens that requires policies and well thought out legislative framework. This will lead to proper organization of activities in the transport sector, cause sanity, block loopholes leading to unnecessary loss of revenue and maximize revenue collection.

Then again I was looking at the citation of the revenue officer and it is here meant to mean, an officer of the county government authorized, in writing by the County Executive Committee member, to collect fees. Then I was looking at the County of Machakos that has for the last two or so years lost so much revenue because revenue in this county is collected by people who bear no letters of appointment or letters of offer to work with the county and members will bear me witness that not a single revenue officer deployed by the County Government of Machakos has a single letter. So what happens, they spent... I am looking at the meaning of...

**Hon. Speaker:** There is a point of order.

## POINT OF ORDER

**Hon. Ngui:** Mr. Speaker, maybe I will need your guidance because I rose to request for adjournment so that we can discuss the report tomorrow when the members have read it. I don't know whether it is in order for the member to start discussing the report.

**Hon Speaker:** I agree Hon. Ngunzi is off the mark. Maybe you reserve your comments for tomorrow.

**Hon. Ngunzi:** Before we meet tomorrow.

**Hon. Speaker:** You will have time out there to whisper to the chair. Hon members I think we can agree together that we will go through this document, particularly the Bill, word for word and then we can have some constructive debate tomorrow in the afternoon. Those in support of that proposition.

*(Question put and agreed to)*

### ADJOURNMENT

**Hon. Speaker:** In the absence of further business then the House adjourns until tomorrow. Thank you and have a good afternoon.

The House rose at 3.23 p.m.