

REPUBLIC OF KENYA
MACHAKOS COUNTY ASSEMBLY
OFFICIAL REPORT

Wednesday, 22nd February, 2017

The House met at 10.05 a.m.

[The Speaker (Hon. Mung'ata) in the Chair]

PRAYERS

Hon. Speaker: Good morning Hon. Members. Let us proceed clerk.

PAPERS LAID

SYOKIMAU PETITION ON POOR SERVICE DELIVERY

Hon. Speaker: The Hon. Penina Kaluki.

Hon. (Ms.) Kaluki: Thank you, Mr. Speaker, Sir, and the House at large. I beg to lay the following paper on the floor of the House today, 22nd February, 2017; the report of petition by Syokimau ward residents on poor service delivery. Thank you, Mr. Speaker, Sir.

Hon. Speaker: Thank you. The paper is laid. Proceed.

MASTER PLAN PETITION BY SYOKIMAU RESIDENTS ASSOCIATION

Hon. Speaker: Hon. Michael Mutuku.

Hon. M. Mutuku: Thank you Mr. Speaker, Sir. I beg to lay the following paper on the table of the House today 22 February, 2017; the report on petition by Syokimau residents association on Syokimau master-plan. Than you, Mr. Speaker.

Hon. Speaker: Thank you. The paper is laid. Proceed.

NOTICES OF MOTIONS
SYOKIMAU PETITION ON POOR SERVICE DELIVERY

Hon. (Ms.) Kaluki: Mr. Speaker, Sir, pursuant to Standing Order 190 (5), I wish to give notice of the following motion, that this Hon. House discusses and approves the report on petition by Syokimau ward residents on poor service delivery. Thank you, Mr. Speaker, Sir.

Hon. Speaker: Thank you. Notice is issued. Proceed.

MASTER PLAN PETITION BY SYOKIMAU RESIDENTS ASSOCIATION

Hon. M. Mutuku: Thank you, Mr. Speaker, Sir. Pursuant to standing order 190 (5), I wish to give notice of the following motion; that this Hon. House discusses and approves the report on petition by Syokimau residents association on Syokimau master-plan. Thank you Mr. Speaker, Sir.

Hon. Speaker: Thank you. Notice is issued. Proceed.

MOTIONS
SYOKIMAU PETITION ON POOR SERVICE DELIVERY

Hon. Speaker: Hon. Penina Kaluki.

Hon. (Ms.) Kaluki: Thank you Mr. Speaker, Sir, and the House at large.

THAT aware that that on 27th June, 2016, a petition by Syokimau residents on poor service delivery was submitted to the assembly pursuant to Standing Order 194 and committed to the committee of transport and public works, pursuant to Standing Order 201;

Further aware that part 2 (5) and (11) of the Fourth Schedule of the Constitution of Kenya 2010 mandates the county government to address issues of the county roads and storm water respectively;

Informed that Syokimau area is a key revenue source of Machakos county and that good infrastructural facilities is a great contributor in revenue earning, remembering that Machakos county has for the last two financial years not attained its revenue target;

Cognizant that the spirit of devolution was to bring services closer to the citizens, Mr. Speaker, Sir, I wish to move the motion that this Hon. House discusses and approves the report for the committee of transport and public works on poor service delivery in Syokimau.

Thank you, Mr. Speaker, Sir. I now call upon Hon. Justus Katumo to second the motion. Thank you, Mr. Speaker.

Hon. Speaker: Thank you. Hon. Katumo.

Hon. Katumo: Thank you, Mr. Speaker, Sir. I second this motion that this House approves the report on petition of Syokimau residents on service delivery from their area. Thank you, Mr. Speaker, Sir.

Hon. Speaker: The motion is before us. Proceed.

Hon. (Ms.) Kaluki: Thank you, Mr. Speaker. Now with your permission, I beg to take the House through the report on petition by Syokimau residents on poor service delivery.

Hon. Speaker: Permission granted. Proceed.

Hon. (Ms.) Kaluki: Thank you, Mr. Speaker.

Mr. Speaker, Sir, Transport and Public Works Committee is established in the Second Schedule of Standing Orders and gives the committee specific mandate to deal with all matters relating 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 thereto; county public works services.

Mr. Speaker, Sir, on 27th June, 2016 the office of the Clerk received a petition from Syokimau residents Association. The petition was tabled in the House pursuant to Standing Order 201 and committed to the committee for Transport and Public Works for investigations. In view of the aforementioned, the committee members visited the office of Syokimau Residents Association where the petitioners had convened to give their grievances.

Mr. Speaker, Sir, the members found the visit to be very beneficial as it served as an eye-opener to the challenges and predicament that some Machakos County government citizens were going through.

The committee composition is as per the list.

Mr. Speaker, Sir, the following were the prayers of the petitioners which they wanted the County Assembly of Machakos to intervene on;

1. Poor and impassable roads in Syokimau and Katani estates.
2. High transport costs to and within the estates.
3. Approvals for un agreed residential and commercial developments within the estates.
4. Illegal land allocations.
5. Flooding making residents leave their beautiful homes and going back to renting.
6. Lack of public hospitals and nursery schools in the Ward.

Mr. Speaker, Sir, some of the prayers of the petitioners fall under the mandate of the committee of Environment but the committee involved members of Environment committee during its discussions and field investigations. The Committee visited the sites of interest, held a meeting with the petitioners and made the following observations;

- The roads for Syokimau proposed for grading during Phase 1 and 2 roads project implementation were never done despite the budget allocations. In phase 1 roads project, Syokimau was allocated Ksh. 5,029,000 and the contract was given to HAWI Company. The contract was terminated and no further road work was done. Again, in phase 2 roads project Syokimau Ward was allocated Ksh. 7,928,600 and the contract was given to WAYLIN General Merchants. The Contract was again terminated and no further road work was done.
- That state of roads in Syokimau and Katani Estates was in pathetic situation and impassable.
- The *El Nino* rains worsened the situation and residents of the areas suffered the effects of heavy flooding and monster potholes on the roads.
- Business activities in the area were grinding to a halt and others closing down due to poor state of roads in the estates. Investors in what would have been a booming real estate zone were now keeping off or postponing their investment decisions due to poor state of roads.
- Residents were leaving their beautiful homes and going back to renting due to poor state of roads and submerging of houses in rain waters.
- Transport costs to and from the estate had become unbearable and residents were subjected to paying Kshs. 200 from Nairobi when it rained.
- NEMA and other development approving agencies approved development on wetlands like the 360 Estate. Developments in the wetlands were one of the major causes of flooding during the rainy season.
- The petitioners raised concern on approvals for undesired residential houses like flats and commercial developments within the estates and also irregular public land allocations.

- Roads are the only public utility the residents of Syokimau and Katani can claim to use since the rest of the utilities like schools, hospitals, and water supply are all privately-owned.

Mr. Speaker, Sir, the committee recommends that;

1. Syokimau area is endowed with quarries and the management of the quarry industries is ready to work with the department of roads in Machakos County to improve the condition of roads leading to the quarry sites and in Syokimau by providing stones and machinery. The County government should therefore exploit this chance by partnering with these investors who are ready to promote development in that area.
2. The Chief Officer, department of Transport and Public Works should account for Ksh. 12,957,600 budgeted for Syokimau in phase 1 and 2 roads project implementation since all contracts were terminated and up to date Syokimau residents have never enjoyed that road services.
3. On high transport costs within the estates, the forces of demand and supply dictate this and so the County Government has no control over this.
4. In the 2017/2018 financial year, the County Government should set aside funds for repairs of the roads in the Ward in order to improve mobility of the residents.
5. Machakos County Government through the departments of lands and urban planning and decentralized units should develop proper land policies to govern issues related to town planning, building approvals, preservation of natural habitats within the town and harmonious working of the county Government and residents association.
6. The County Government of Machakos and the National Construction Authority should revoke all the residential and commercial developments in Syokimau that are not as per the agreed plan and prosecute in a court of law all individuals involved pursuant to Article 6 of the Constitution of Kenya that provides for mutual relations of the two levels of Government on the basis of consultation and cooperation.
7. The County Land Management Board should investigate on the irregular land allocations in Syokimau and prosecute in a court of law all the officers involved in the deal.
8. In part 2 (11) of the Fourth Schedule of the Constitution of Kenya 2010, the County Government is mandated to address storm water management. The County Government of Machakos should therefore construct water channels along the riparian zones to

accommodate the free-flowing storm water in Syokimau area. This will reduce incidence of flooding in the residential areas.

9. That the County Government should repossess the riparian section which has been grabbed by individuals who have erected structures leading to blockage of free movement of water since this has been a major cause of flooding in times of heavy rains.
10. That the County Government should immediately repossess the grabbed public land earmarked for the development of public utilities and utilize that land to establish facilities like nursery schools, roads and hospitals.

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 stakeholder's needs, running business with excellence and adapting to ever changing industrial expectations. In accordance with the Constitution of Kenya, every County Assembly is expected to ensure efficiency, effectiveness, transparency and accountability in the utilization of public funds and other financial resources.

Mr. Speaker, Sir, cases of land use conflict are expected to occur when incompatible uses are located in proximity to each other and where there is an insufficient separation distance between these uses. In such a situation, complaints will occur and can lead to restrictions on practices, loss of efficiency and profitability for the intended operation.

Mr. Speaker, Sir, it is therefore my pleasure and privilege, on behalf of the Committee on Transport and Public Works to table this report of the Syokimau Residents petition on poor service delivery in this Hon. House for consideration and adoption. Thank you, Mr. Speaker Sir.

Hon. Speaker: Thank you. The report is laid. Hon Members, I urge we deliberate and I ask for your contributions. Yes, Hon. Mutuku.

Hon. M. Mutuku: Thank you Mr. Speaker for granting me the opportunity to make my contribution. Mr. Speaker, Sir, as a representative of Athi River and the greater Mavoko sub-county, we have heard what happened in Syokimau in line with their petition and I would like to say that we have been having many reports, which we table in this Hon. House and the challenge has been implementing the reports.

Mr. Speaker, Sir, I would wish and request the committee in charge of implementation to make sure it uses what is in its means in disposal to make sure the report which has been tabled to this House has been implemented fully. Mr. Speaker, Sir, we have heard in the report the amount of money which was allocated to murrum roads in both phase one and two in Syokimau. Work never took place.

In summary, we have heard the two contracts in phase one and two were terminated and so far, since the county government took over, no murraming of any road within Syokimau took place. Mr. Speaker, Sir, it is within our knowledge, all the roads which belong to the county governments are routinely maintained by murraming. Now, in a situation whereby since 2013, all those roads within Syokimau were not murramed, let us try to speculate the situation of the county as at now. (??)

Mr. Speaker, Sir, in the recommendations, there is a request for 2016/2017 financial year, that budget has at least factored, the report has requested those roads be murramed. Mr. Speaker, I would wish to say, there is a big problem in Syokimau as we have heard. As far as developers encroaching riparian and wet lands, it has been highlighted.

Mr. Speaker, I think something went wrong on the same and it is only this Hon. House that can correct that because it is this House which has mandate to oversight and make recommendations on the same. And since the committee went and found it is true, we have some developers who maneuvered in their ways and through dubious means, they got ownership of the land and actually they developed in riparian and wetlands, diverting the water courses to other areas.

Mr. Speaker, Sir, mine is to request if the recommendations can be effected accordingly. Thank you, Mr. Speaker, Sir.

Hon. Speaker: Thank you. Yes, Hon. Rachel.

Hon. (Ms.) R. Nduku: Thank you, Mr. Speaker. I want to clarify something from this report and also to support the report and to applaud the committee for work well done. Mr. Speaker, Mlolongo and Syokimau is one ward but the petition is coming from Syokimau Residents Association, which is based in Syokimau Estate.

When you look at the report Mr. Speaker, there is a bit of contradiction because these monies which are being allocated for phase one and phase two roads, these are roads which I gave in this House for Mlolongo areas and from the Governor's office of Special Programmes the Governor allocated around Ksh. 100 million for 11 roads in Syokimau and it is not given or provided on this report.

Mr. Speaker, if you look at the roads for Syokimau proposed for grading during phase 1 and phase 2, Phase 1 was one road which I issued a statement in this House from Gossip to Phase III Centre and it was allocated Ksh. 5 million and phase 2 was feeder roads in Mlolongo which was allocated around Ksh. 7 million and all these roads were contracted, Mr. Speaker. So, for Syokimau Estate, it is different from the monies which were allocated in Mlolongo.

So, I would wish, Mr. Speaker, to request this committee to look at their budget allocations which were allocated for Syokimau Estate from special programmes so that Syokimau people they can realize there monies which were allocated for their road. So, I would wish to request you, Mr. Speaker, as long as this report is very good and also it has good recommendations for the prayers which were requested by the people of Syokimau, I would wish

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to request the committee to get the report from the budget committee the monies which were allocated for Syokimau Estate which is the biggest estate in Kenya, Mr. Speaker. Thank you.

Hon. Speaker: Thank you. I have heard your concerns Hon. Rachael but you realize that this report emanates from a petition and a petition is a specific request that the residents did. So we can only proceed with the report as laid and if there are other extraneous issues, you can raise them up for the committee to debate. So, let us proceed. Hon. Nzoka.

Hon. Nzoka: Thank you, Mr. Speaker, Sir. I just want to circle one point on findings in bullet 1 and recommendation number 2. Mr. Speaker, when this money was allocated, there is a contractor who won the tender and he is named here. It is my request, the committee should have gone further and find out from the CEC member for transport, how much money was paid because we can see around Ksh. 12 million was allocated. We are hearing that the contractor might be he came on site and the contract was terminated.

Can we know whether this man was paid? Might be we are following money that is not there. So, my request is, we need to find out how much money was paid to this contractor. The name of the contractor is Waylin and it seems as if he had much interest because he won the two tenders for Ksh 5 million and also for the Kshs. 7 million. So, can we know how much was paid? If it was paid the whole amount, and what is not done, from there we will see how we can retrieve those monies from those crooks. Thank you, Mr. Speaker.

Hon. Speaker: Hon. Members, so that we do not appear to lose direction, the matter before hand is a petition and we need to understand how to handle a petition. It is of essence that I take you through Standing Order No. 201 (1); 'every presented or reported pursuant to this part, shall stand committed to the relevant sectoral committee. (2) whenever a petition is committed to a sectoral committee, the committee shall, in not more than sixty calendar days from the time of reading the prayer, respond to the petitioner by way of a report addressed to the petitioner or petitioners and laid on the table of the Assembly and no debate on or in relation to the report shall be allowed, but the Speaker may, in exceptional circumstances, allow comments or observations in relation to the petitions for not more than twenty minutes.'

Thereafter in part (3) 'the clerk shall, within fifteen days of the decision of the Assembly, in writing, notify the petitioner of the decision of the Assembly on the petition.'

Basically, the petition is a formal judgment that the committee has arrived at and what we can only admit are not proposals to amend it, are only proposals, comments and observations. Let us proceed.

Hon. Maitha: Thank you, Mr. Speaker and the Hon. Members present. Mr. Speaker, the matter at hand is a very critical issue as it touches Mlolongo/Syokimau ward which borders Katani/Muthwani Ward, Mr. Speaker and this matter was brought before this House as a result of some manners of harassment which were caused to Syokimau residents who tried to send this petition to the office of the Governor and they were harassed and sent to jail and their case is still in.

Not going far into those details, Mr. Speaker, this petition brought before this House was as a result of a number of advertisements which were done by the County Government,

Machakos, which everybody knows clearly that taxpayers' monies were spent and residents of Syokimau were promised tarmacked roads starting from October 2015.

To date, Mr. Speaker, as the Hon. Member for Syokimau/Mlolongo ward, Hon. Rachel can attest and maybe any other Member who is privy to Syokimau, those roads have never been done and I believe that is why these residents brought this petition.

Mr. Speaker, I just want to go as per the recommendations that have been given in that report. Mr. Speaker, with your permission, allow me to say this; the residents of Syokimau whom I border very closely, plus the residents of Katani whom I represent, have suffered irreparable damage in terms of their health status. The roads in Syokimau and Katani are extremely dusty, extremely and if the word can be underlined and in big font and in capital letter, they are extremely suffering because of the dust that is emanating from those areas.

Syokimau residents border the quarries in Katani where the County Government of Machakos is collecting not less than Ksh. 1 million daily but doing very little. The quarries have been more than willing, I have had various meetings and sessions with the quarry operators and they have been more than willing to do those roads perfectly even to an extend of even willing to tarmac them as far as the County Government of Machakos allows them or agrees with them maybe to pay a certain percentage in terms of the cess that we pay.

But the County Government of Machakos has been adamant even to a great extent of threatening the quarry operators that if they undertake that work, they will impound their trucks. So, those are some of the challenges that the residents of Syokimau have been going through and as you have seen there is a recommendation in the report that the quarry operators are more than willing and I can attest to that, Mr. Speaker.

Even currently, some of the roads being done in Syokimau right now Mr. Speaker, all the materials that are being used to repair those roads are being given free of charge by my quarry operators, Mr. Speaker. So, at any time Hon. Members, I just want to put into your awareness that the very day a report will be brought before this House saying that, the construction of roads in Syokimau, the County has spent more than Ksh. 30 to 40 million buying murrum, that is a total pure lie, Mr. Speaker because the quarry operators have given the murrum free of charge.

The only the thing the County is supposed to provide is machinery and equipment, Mr. Speaker. As we speak today, almost all the machineries and equipment that are in Syokimau right now are grounded. No fuel, there has been serious challenges in terms of fuel, there serious challenges in terms of the machinery, they break down because of some few small technical issues but they cannot be repaired, Mr. Speaker.

So, I believe out of these frustrations that is why the residents of Syokimau forwarded this petition to the House so that we can speak and act on their behalf, Mr. Speaker. So, what I want to say is this; this report is self-explanatory, this report will be adopted and passed by this House, but we need the soonest and immediate action on the recommendations that have been given out. We need the roads which were promised and advertised to be tarmacked in Syokimau, we need to see that happening, Mr. Speaker.

It is quite frustrating to see that even after the County Government spent over Ksh. 5 million to put an advert, not even a single inch of a tarmac road was realized by the Syokimau residents. Even to some great extent, Mr. Speaker, the area which was excavated about 1 km from where I border with Hon. Rachel, it was total frustration when it rains even with a 4x4 car like me, I could not access and that is the main road.

But I thank God because the National Government has come to the rescue of the Syokimau residents. Right now, the area which the County Government had promised to do, is almost being finished in terms of tarmac. We have secured, with my intervention, about Ksh. 1.6 billion, the residents of Katani/Syokimau realizing the second phase of tarmacking which is extending up to Kamulu/ Kangundo road but we have realized nothing from the County Government of Machakos.

Even to express my greatest disappointment, Mr. Speaker, these Hon. Members can remember Syokimau residents were given three roads in the financial Year 2014/2015 and about Ksh. 14.7 million was given to one road, the road connecting Katani and Syokimau, Mr. Speaker. But to the greatest disappointment, after that road having been done, Mr. Speaker, the first day, when it rained having spent Ksh. 15 million for a less than 3 Kilometre road Mr. Speaker, that road is quite impassable.

Actually, I had to wake up by then CEC member for roads, Hon. Kioko Luka to go and see the situation the following day. That road was impassable and it tells us that, the value of work versus the money which was allocated, Mr. Speaker, was not realized. So, I just want to say this; the train has already derailed and in as much as we exert a lot of efforts and energy and get back the train to the rail, it is a difficult situation.

I just want to say for the remaining session, let us pass these recommendations and maybe if mercy comes from heaven and maybe the Syokimau residents will realize the dream of this petition, then so be it, Mr. Speaker. But I want to say this; the residents of Syokimau and Katani are quite disappointed by the experience they have really gone through with the County Government of Machakos in spite of the much collected revenue in that area.

Syokimau Estate is the only soul estate in Machakos County that we can be boasting of equivalent to Runda of Nairobi, Lavington of Nairobi unlike other posh estates, Mr. Speaker. So, if we cannot realize a kilometer of a road within Syokimau, Mr. Speaker, having advertised and spent more than Ksh. 5 million, then I find totally nothing from now henceforth, until the end of this Government when we can realize that, Mr. Speaker.

I request, as the Hon. Member of Syokimau has said, the amounts of monies that will be allocated for the Syokimau roads, can we see those roads being done because they were advertised and taxpayers' monies were spent to the same. If that is done, Mr. Speaker, we will be more than grateful and if that is not done, we will be back here to question, where did that money go? Thank you, Mr. Speaker, Sir.

Hon. Speaker: Let us hear the mover. Hon. Members, I had given direction in the manner in this petition is supposed to be deliberated but nevertheless, let us move on.

Hon. (Ms.) Kaluki: Thank you, Mr. Speaker, Sir, and the House at large. I have noted the concerns raised by the Hon. Members, and since it is the same situation all across our County concerning our roads, now it is upon the department pushed by the committee on public works transport and housing to make sure the recommendations are implemented to the letter and the people of Syokimau get funded for their advert and tax which they paid to the County and get proper services delivered to them.

So, I wish to thank the Members for a well-informed debate for your comments and I hope the County will now do its work especially the executive because it is there mandate to implement what we pass here in the Assembly. Thank you, Mr. Speaker, Sir.

(Applause)

Hon. Speaker: Thank you, Hon. Kaluki

(Question put and agreed to)

The report is duly adopted with direction that the Clerk will comply with Standing Order No. 201 (3) according to the forwarded petitioners. Let us proceed.

MASTER PLAN PETITION BY SYOKIMAU RESIDENTS ASSOCIATION

Hon. M. Mutuku: Thank you, Mr. Speaker, Sir. Mr. Speaker, Sir and the entire House. Earlier on, I had given a notice of the motion and Mr. Speaker, before I proceed, I would like also your advice and direction before I move the motion because I would like the debate of the motion to be deferred to next week because of the contentious issues which need to be taken care of before the debate takes place. Can I move the motion, Mr. Speaker, Sir?

Hon. Speaker: You can move the motion.

Hon. M. Mutuku: Okay. Thank you. Mr. Speaker, Sir;

THAT aware that the committee on decentralized units and urban areas is mandated to deal with all matters relating to the delineation and management of decentralized units, urban areas and municipalities;

Further aware that in June last year, a petition by Syokimau residents in Syokimau master plan was received in the Assembly and committed to this committee pursuant to Standing Order 201;

Informed that between 24th and 25th June, 2016 the committee visited the area and held a meeting with the Members of this association;

Mr. Speaker, Sir, cognizant that lack of proper land policies lead to proliferation of informal settlement, inadequate infrastructure services, congestion environmental degradation, unplanned urban centers, pressure on agricultural land and land use conflicts;

Informed that development in Syokimau has faced challenges due to improper land policies;

Mr. Speaker, Sir, I wish to move the motion that this Hon. House discusses and approves the report on petition by Syokimau Residents Association on Syokimau Master Plan. Having said that, Mr. Speaker, Sir, I would wish if the debate on the same can be deferred to next week. I wish to call upon Hon. Geoffrey Munyao to second. Thank you.

Hon. Maitha: On a point of order, Mr. Speaker.

Hon. Speaker: Allow me to help the Chairman and permit him to proceed.

Hon. M. Mutuku: Thank you, Mr. Speaker, Sir, for your protection and guidance. I wish to call Hon. Geoffrey Munyao to second the motion. Thank you.

Hon. Munyao: Thank you, Mr. Speaker, Sir. I second the report on petition by Syokimau Residents Association on Syokimau Master Plan. Thank you, Mr. Speaker, Sir.

Hon. Speaker: Thank you, the motion is properly laid and the report will be send for further balloting by the House Business Committee. Any other issue?

ADJOURNMENT

Hon. Speaker: Then the House will adjourn until the in the afternoon

House rose at 10.50 a.m.