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THE NATIONAL ASSEMBLY

ELEVENTH PARLIAMENT – FOURTH SESSION – 2016

DEPARTMENTAL COMMITTEE ON TRANSPORT, PUBLIC WORKS AND HOUSING

**REPORT ON THE PETITION BY THE HON. KHATIB MWASHETANI, MP ON BEHALF
OF RESIDENTS OF LUNGALUNGA ON THE INTENDED DEMOLITION OF
BUILDINGS DUE TO THE EXPANSION OF LIKONI-LUNGALUNGA ROAD**

DIRECTORATE OF COMMITTEE SERVICES,
CLERK'S CHAMBERS
PARLIAMENT BUILDINGS
NAIROBI

AUGUST, 2016

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CHAIRPERSON'S FOREWORD

The petition was tabled in the House by the Hon. Khatib Mwashetani, MP on behalf of the petitioners. This is in accordance with the provisions of Standing Order No. 225 (2) (a). The petition requests the Ministry of Transport, Infrastructure, Housing and Urban Development through the Kenya National Highway Authority (KeNHA) to have the expansion of the Likoni-Lungalunga road be effected without demolition of the buildings.

The petition was referred to the Departmental Committee on Transport, Public Works and Housing as per the requirements of S.O. 227.

In considering the petition, the Committee held meetings with the Hon. Khatib Mwashetani, MP, who appeared on behalf of the petitioners, and the Cabinet Secretary, Ministry of Transport, Infrastructure, Housing and Urban Development. The meetings were aimed at inquiring into and responding to the issues raised in the petition.

The Committee appreciates the assistance provided by the Offices of the Speaker and the Clerk of the National Assembly that enabled it to discharge its functions in considering the petition.

On behalf of the Committee, and pursuant to Standing Order, 227 it is my duty to table in the House the Report of the Committee on the petition.

Hon. Maina Kamanda, EGH, M.P.

EXECUTIVE SUMMARY

In this report, the Committee has considered and responded to the prayers sought by residents of LungaLunga Constituency in a petition on the intended demolition of buildings due to the expansion of Likoni-Lungalunga road.

The main objective of the intended demolition of buildings is to pave way for the expansion of Likoni-Lungalunga road.

The report entails presentations by the Petitioner, Hon. Khatib Mwashetani, MP, and Cabinet Secretary for the Ministry of Transport, Infrastructure, Housing and Urban Development. After presentations and deliberations, the Committee recommends that the Ministry of Transport, Infrastructure, Housing and Urban Development through the Kenya National Highways Authority (KeNHA) should follow due process in dealing with land acquisition and the project affected persons (PAPs) before the commencement of the expansion works. Secondly, the Ministry should not carry out demolition without fair compensation to the project affected persons (PAPs). The Authority should expeditiously engage the stakeholders and identified PAPs in consultations prior to implementation of the project.

2.0 MANDATE OF THE COMMITTEE

The Committee is established in accordance with the provisions of Standing Order No. 216, with the following terms of reference: -

- i. To investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and departments;
- ii. To study the programme and policy objectives of Ministries and departments and the effectiveness of the implementation;
- iii. To study and review all legislation referred to it;
- iv. To study, access and analyze the relative success of the Ministries and departments as measured by the results obtained as compared with their stated objectives;
- v. To investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House or a Minister;
- vi. To vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order 204 (Committee on Appointments); and
- vii. To make reports and recommendations to the House as often as possible, including recommendation of proposed legislation.

The Committee under Standing Order 227 is mandated to respond to the petitioner by way of a report addressed to the petitioner or petitioners and laid on the floor of the House.

The Committee is mandated to consider matters of, Transport, Roads, Public works, Construction, Maintenance of roads, rails and buildings, air, seaports and housing and oversees the Ministry of Transport, Infrastructure, Housing and Urban Development

2.3 MEMBERS OF THE COMMITTEE

1. The Hon. Maina Kamanda, M.P. – (**Chairperson**)
2. The Hon. Eng. Mahamud Maalim, M.P. – (**ViceChairperson**)
3. The Hon. Eng. Stephen Ngare, M.P.
4. The Hon. Ali Wario, M.P.
5. The Hon. Arch. David Kiaraho, M.P.
6. The Hon. Cecily Mbarire, M.P.
7. The Hon. Capt. Clement Wambugu, M.P.
8. The Hon. Eng. John Kiragu, M.P.
9. The Hon. Gideon Konchella, M.P.
10. The Hon. BarchileiKipruto, M.P.
11. The Hon. Mark Lomunokol, M.P.
12. The Hon. Grace Kipchoim, M.P.
13. The Hon. Mathias Robi, M.P.
14. The Hon. Joseph Lomwa, M.P.
15. The Hon. Peter Shehe, M.P.
16. The Hon. Stephen Manoti, M.P.
17. The Hon. Emmanuel Wangwe, M.P.
18. The Hon. K.K. Stephen KinyanjuiMburu, M.P.
19. The Hon. Suleiman Dori, M.P.
20. The Hon. Rashid Juma Bedzimba, M.P.
21. The Hon. Simon Nyaundi Ogari, M.P.
22. The Hon. Johnson Many Naicca, M.P.
23. The Hon. Mishi Juma, M.P.
24. The Hon. Aduma Owuor, M.P.
25. The Hon. ChachuGanya, M.P.
26. The Hon. Omar Mwinyi, M.P.
27. The Hon. Ahmed Abbas Ibrahim, M.P.
28. The Hon. Omulele Christopher, M.P.
29. The Hon. Mukwe James Lusweti, M.P.

2.4 COMMITTEE SECRETARIAT

Mr. Samuel Kalama	Clerk Assistant I
Ms. Christine Ndiritu	Clerk Assistant III
Mr. Abdifatah M. Bule	Clerk Assistant III
Mr. James Chacha	Fiscal Analyst III
Mr. Ringera Humphrey	Research Officer III
Mr. Salem Lorot	Legal Counsel II
Ms. Deborah Mupusi	Media Relations Officer III

2.5 LIST OF RECOMMENDATIONS

In response to the prayers by the petitioners, the Committee recommends that that:-

The Ministry of Transport, Infrastructure, Housing and Urban Development should

1. Follow due process in dealing with land acquisition and project affected persons (PAPs) before the commencement of the expansion works.
2. Not carry out demolition without fair compensation to the project affected persons (PAPs). The Authority should expeditiously engage the stakeholders and identified PAPs in consultations prior to implementation of the project.

3.0 INTRODUCTION

The petition by the Hon. Khatib Mwashetani,, MP Member LungaLunga Constituency, on behalf of residents of LungaLunga constituency regarding the intended demolition of buildings due to the expansion of likoni-lungalunga road and was tabled in the House pursuant to Standing Order 225 (2) (a) on Thursday 5th May 2016.

Pursuant to the House rules, the petition was referred to the Committee on 5th May, 2016 for consideration and preparation of a report within 60 days. The Committee considered the petition pursuant to the provisions of Standing Order 227.

The Petitioners drew the attention of the House to the following, that:-

- a) LungaLunga Constituency is a tourist attraction area and the food basket of the coastal region in Kenya;
- b) There are major investments in form of recreational establishments and businesses in Lungalunga area and in particular Kanana Area that facilitate economic activities;
- c) The KeNHA has issued an eviction and demolition notice to land and business owners in regards to buildings erected along the Likoni-LungaLunga road reserve, especially at the Kanana area;
- d) The buildings in questions are constructed on legally acquired land and the land owners have valid allotment letters from the Ministry of Lands;
- e) Some of the buildings marked for demolition are located more than twenty meters from the road reserve, therefore are not eligible for demolition or eviction ;
- f) The intended demolitions and eviction will render these residents squatters and deprive them of their means of livelihood; and
- g) The issues in respect of which this Petition is made are not pending before any Court of Law or before any Constitutional or statutory body.

h) The Petitioners pray that the National Assembly , through the Departmental Committee on Transport, Public Works and Housing :-

- I. Intervenes to have the expansion of the Likoni-Lungalunga road be affected without demolition of the buildings in LungaLunga Constituency; and
- II. Recommends and ensure that KeNHA halts the proposed demolitions.

4.0 EVIDENCE

4.1 Presentation by the Hon. Khatib Mwashetani, MP on behalf of the petitioners

The Hon. Khatib Mwashetani, M.P appeared before the Committee on 4th August 2016 informed the Committee that:-

1. The KeNHA had issued an eviction and demolition notice to land and business owners in regards to buildings erected along the Likoni-Lungalunga (A14) road reserve, especially at Kanana area.
2. The buildings in question were constructed on legally acquired land and land owners are in possession of valid allotment letters from the Ministry of Lands, and that some of the buildings marked for demolition are located more than 20 meters from the road reserve and are thus not eligible for demolition and/or eviction.
3. The KeNHA has not indicated the intended timelines for the evictions and/or demolitions, since the residents were unsettled by the intended move.

4.2 Presentation by Eng. David Muchilwa, a representative of the Director General, Kenya National Highways Authority (KeNHA)

Eng. David Muchilwa informed the Committee that:-

1. The Likoni-Lungalunga Road is classified as A7 (formerly A14). There is routine maintenance works ongoing between Likoni and Lungalunga and periodic maintenance works between Ukunda and Lungalunga. The engineering design of the road has been finalized under the Multinational Malindi-Mombasa-Lungalunga-Bagamoyo project to be funded by the African Development Bank.
2. The Resettlement Action Plan (RAP) detailing the extent of land acquisition necessary for the road expansion and particulars of the project-affected-persons (PAPS) has been finalized.
3. Due process shall be followed in dealing with land acquisition and project affected persons (PAPs) before the commencement of the expansion works.
4. The Governments of Kenya and Tanzania are jointly working out the financing arrangements under the auspices of the East African Community (EAC) before the project implementation plan is drawn up.
5. No demolitions have been sanctioned in connection with the proposed expansion of Likoni-Lungalunga road. No demolitions shall be carried out without fair compensation to the project affected persons (PAPs). The Authority will engage the stakeholders and identified PAPs in consultations prior to implementation of the project.
6. The owners of emerging encroachments within the road reserve along the said road are routinely served with notices to vacate to enhance functionality and level of service of the road. The KeNHA has no plans to demolish any buildings along the said road.

5.0 OBSERVATIONS

The Committee made the following observations from evidence adduced in the meetings, that:-

1. The Resettlement Action Plan (RAP) detailing the extent of land acquisition necessary for the road expansion and particulars of the project-affected-persons (PAPS) has been finalized and due process shall be followed in dealing with land acquisition and project affected persons (PAPs) before the commencement of the expansion works.
2. The Ministry of Transport, Infrastructure, Housing and Urban Development has not sanctioned any demolitions in connection with the proposed expansion of Likoni-LungaLunga road.
3. No demolitions shall be carried out without fair compensation to the project affected persons (PAPs). The Authority will engage the stakeholders and identified PAPs in consultations prior to implementation of the project.

6.0 RECOMMENDATIONS

In response to the prayers by the petitioners, the Committee recommends that:-

The Ministry of Transport, Infrastructure, Housing and Urban Development should

1. Follow due process in dealing with land acquisition and project affected persons (PAPs) before the commencement of the expansion works.
2. Not carry out demolition without fair compensation to the project affected persons (PAPs). The Authority should expeditiously engage the stakeholders and identified PAPs in consultations prior to implementation of the project.

Signed..........Date.....*16/8/016*.....

Hon. Maina Kamanda, EGH, M.P.

Chairperson, Departmental Committee on Transport, Public Works and Housing

THE NATIONAL ASSEMBLY




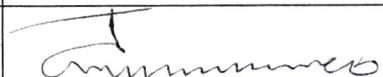
ELEVENTH PARLIAMENT – 4TH SESSION

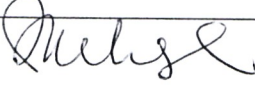
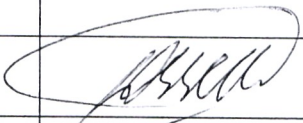
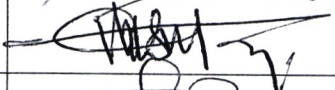

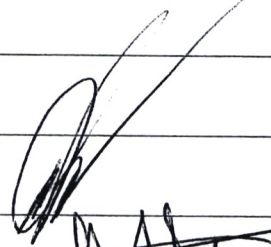

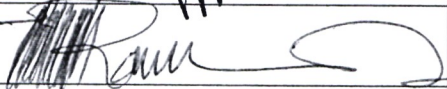
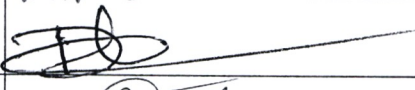

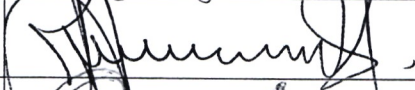
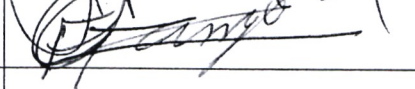
DEPARTMENTAL COMMITTEE – TPWH: TRANSPORT, PUBLIC WORKS AND HOUSING


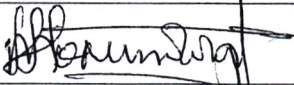
Adoptions register for the reports on the following petitions;

- a) Petition by the Hon. Joseph Manje, MP on behalf of the residents of Kajiado County on decongestion of Bomas-Ongata Rongai-Kiserain road
- b) Petition by the Hon. Peter Weru on behalf of residents of Magutu and Iriaini wards regarding the dilapidated state of the sections of Karatina-Jambo road
- c) Petition by the Hon. Khatib Mwashetani on behalf of residents of Lungalunga on the intended demolition of buildings due to the expansion of Likoni Lungalunga road
- d) Petition by the Hon. Cyprian Kubai Iringo, MP on behalf of residents of Igembe Central Constituency regarding the deplorable state of a 28-kilometre section of the Meru-Maua road from Farm to Murera Gate, Meru National Park.

Tuesday, 9th August 2016 – 11.00 a.m.

NO.	MEMBER	SIGNATURE
1.	Hon. Maina Kamanda (Chairperson), MP	
2.	Hon. (Eng.) Mohamed Maalim (Vice Chairperson), MP	
3.	Hon. KK Stephen Kinyanjui Mburu, MP	
4.	Hon. Christopher Omulele, MP	
5.	Hon. (Eng.) Stephen Ngare, MP	
6.	Hon. Johnson M. Naicca, MP	

7.	Hon. (Eng.) John Kiragu, MP	
8.	Hon. Stephen K. Manoti, MP	
9.	Hon. Joseph Lomwa, MP	
10.	Hon. (Capt.) Clement M. Wambugu, MP	
11.	Hon. Emmanuel Wangwe, MP	
12.	Hon. Grace J. Kipchoim, MP	
13.	Hon. Cecily M. Mbarire, MP	
14.	Hon. Mishi Juma Khamis, MP	
15.	Hon. Peter Shehe, MP	
16.	Hon. Omar Mwinyi, MP	
17.	Hon. Suleiman Dori, MP	
18.	Hon. Rashid Juma Bedzimba, M.P	
19.	Hon. Aduma Owuor, MP	
20.	Hon. Gideon Konchella, MP	
21.	Hon. Abass Ahmed Ibrahim, MP	
22.	Hon. Ali Wario, MP	
23.	Hon. David Kiaraho, MP	
24.	Hon. Barchilei Kipruto, MP	
25.	Hon. Simon Nyaundi Ogari, MP	
26.	Hon. Chachu Ganya , MP	
27.	Hon. Mathias N. Robi , MP	

28.	Hon. Mukwe James Lusweti, MP	
29.	Hon. Mark Lomunokol, MP	

MINUTES OF THE 40TH SITTING OF THE TRANSPORT, PUBLIC WORKS AND HOUSING COMMITTEE HELD ON THURSDAY 4TH AUGUST, 2016 IN THE NEW DINING AREA, MAIN PARLIAMENT BUILDINGS AT 10:00 AM

PRESENT

1. Hon. Maina Kamanda, M.P. – **Chairperson**
2. Hon. K.K. Stephen Kinyanjui Mburu, M.P.
3. Hon. Omulele Christopher, M.P.
4. Hon. Johnson Manyana Naicca, M.P.
5. Hon. Joseph Lomwa, M.P.
6. Hon. Emmanuel Wangwe, M.P.
7. Hon. Mishi Juma, M.P.
8. Hon. Peter Shehe, M.P.
9. Hon. Suleiman Dori, M.P.
10. Hon. Aduma Owuor, M.P.
11. Hon. Simon Nyaundi Ogari, M.P.
12. Hon. Ahmed Abbas Ibrahim, M.P.
13. Hon. Mukwe James Lusweti, M.P.
14. Hon. Mark Lomunokol, M.P.

APOLOGIES

1. Hon. (Eng.) Mahamud Maalim, M.P. – **Vice Chairperson**
2. Hon. Grace Kipchoim, M.P.
3. Hon. Ali Wario, M.P.

ABSENT

1. Hon. (Eng.) Stephen Ngare, M.P.
2. Hon. (Eng.) John Kiragu, M.P.
3. Hon. Stephen Manoti, M.P.
4. Hon. (Capt.) Clement Wambugu, M.P.
5. Hon. Cecily Mbarire, M.P.
6. Hon. Omar Mwinyi, M.P.
7. Hon. Rashid Juma Bedzimba, M.P.
8. Hon. Gideon Konchella, M.P.
9. Hon. (Arch.) David Kiaraho, M.P.
10. Hon. Barchilei Kipruto, M.P.
11. Hon. Chachu Ganya, M.P.
12. Hon. Mathias Robi, M.P.

IN ATTENDANCE - NATIONAL ASSEMBLY

1. Hon. Peter Weru, M.P.
2. Hon. Joseph Manje, M.P.
3. Hon. Kubai Iringo, M.P.
4. Hon. Khatib Mwashetani, M.P.

**IN ATTENDANCE - MINISTRY OF TRANSPORT, INFRASTRUCTURE ,
HOUSING AND URBAN DEVELOPMENT**

- | | |
|------------------------|---|
| 1. Eng. John O. Ogango | Director General, KeRRA |
| 2. Eng. David Muchilwa | General Manager (Special Projects), KeNHA |
| 3. Mr. Francis Meja | Director General, NTSA |
| 4. Mr. M.Y. Tarus | Parliamentary Liaison Officer |

IN ATTENDANCE - NATIONAL ASSEMBLY

- | | |
|--------------------------|-----------------------|
| 1. Mr. Samuel Kalama | First Clerk Assistant |
| 2. Mr. AbdifatahBule | Third Clerk Assistant |
| 3. Ms. Christine Ndiritu | Third Clerk Assistant |
| 4. Mr. Humphrey Ringera | Research Officer III |
| 5. Mr. James Chacha | Fiscal Analyst III |
| 6. Mr. Salem Lorot | Legal Counsel II |
| 7. Ms. Debra | Media Officer III |

MIN/DC-TPWH/2016/160 Preliminaries

The Chairperson called the meeting to order at 10:30 am. A prayer was said followed by introductions.

**MIN/DC-TPWH/2016/161 Consideration of various petitions before the
Committee**

**Petition by the Hon. Kubailringo, MP on behalf of residents of Igembe Central
Constituency**

The Chairperson invited the petitioner, the Hon. Kubai Iringo, M.P. to make his submissions before the Committee.

He informed the Committee that his petition, presented on behalf of residents of Igembe Central Constituency had been occasioned by dilapidated state of the 28-kilometer section of road from Farm (along Meru Maua Road) to Murera Gate (Meru National Park) which was tarmacked about twenty (20) years ago, after which it has not been regularly maintained thereby degenerating into a deplorable state, particularly after the recent El-Nino rains.

He further noted that the impassable state of the road has drastically reduced inflow of tourists in the Meru National Park and cut off residents from accessing markets for their farm produce, consequently stagnating economic growth and escalating of poverty among residents who depend on agriculture and tourism.

He also noted that in 2014, a valuation done by engineers from Meru National Park and the Kenya Rural Roads Authority (KeRRA) estimated the cost of re-carpeting the road at Ksh. 75,000,000 and that out of this, the Ministry had only disbursed Ksh. 5,000,000 without any indication on whether the balance would be available and when it would be disbursed.

In response, the Director General, KeRRA informed the Committee that the Ministry was aware of the deplorable state of the road which is in urgent need of repairs. He however noted that prioritization of maintenance for roads in the Constituencies is the responsibility of the Constituency Roads Committees (CRC's) as per the Finance Act, 2009. The Road Maintenance Levy Fund (RMLF) allocated to KeRRA is shared equally amongst the Constituencies, and therefore, the Authority has no extra funds for roads maintenance.

Further, he noted that due to the huge financial outlay required to maintain bitumen roads, most CRC's across the country have not been prioritizing their maintenance leading to continued deterioration.

In view of the above, KeRRA has been working on a strategy to maintain its bitumen road network, which will require additional financing for maintenance of paved road network from the National Treasury.

The Committee was further informed that the Farm to Murera Gate (Meru National Park) road will be one of the roads to be included in the aforementioned strategy.

It was resolved that an allocation from the emergency fund under the Cabinet Secretary, Ministry of Transport, Infrastructure, Housing and Urban Development be given to KeRRA to enable the Authority deal with such maintenance works.

Petition by the Hon. Peter Weru, MP on behalf of residents of Magutu and Iriaini Wards in Mathira Constituency

The Chairperson invited the petitioner, the Hon. Peter Weru, M.P. to make his submissions before the Committee.

He informed the Committee that the road loop connecting Karatina town via Ihwagi, Giakaibei, Kagochi to Karatina University and the sections through Gitunduti, Gaikuyu to Karatina Hospital has over time degenerated to an impassable state, causing traffic snarl-ups in the area. The poor state of the road has been blamed for causing five fatal accidents that have occurred along the road in the past two months.

The Committee further heard that at the beginning of 2016, the Cabinet Secretary in the Ministry of Transport, Infrastructure, Housing and Urban Development undertook to allocate Ksh. 307,000,000 for re-carpeting the dilapidated tarmacked section and upgrade the earthen section to bitumen standards but the process is yet to commence.

He thus sought to find out the circumstances behind the delay in disbursement of the funds meant for construction of the road.

In response, the Director General, KeRRA informed the Committee that the Ministry through KeRRA was not aware of a commitment by the Cabinet Secretary to allocate Ksh. 307,000,000 to re-carpet the dilapidated tarmacked section of the road.

Further, that the Road Karatina – Jambo – Ihwagi – Gikaibei – Kagochi – Gitunduti– Gaikuyu – Karatina Hospital is approximately 28.5 kms. It is divided into three sections namely Karatina – Jambo – Kagochi is 12.3 Km which is tarmacked but not in a satisfactory state. However, it has been earmarked for rehabilitation under the Roads 10,000 km Low Volume Seal (LVS) programme. The procurement for this section is underway.

The second section is Kagochi – Karatina University – Gitunduti which is 4.2 km. This section is gravelled and is currently in a fairly good condition. It is proposed for upgrading to bitumen standards under the Development Partner AFD funded R 2000 Low Volume Seal (LVS) program. It is envisioned that road works will commence this financial year 2016/2017.

The third section is Gitunduti – Gaikuyu – Karatina Hospital which is approximately 12 Km long is graveled and in a fair condition. This section has also been proposed for upgrading to bitumen standards under the R 10,000 Km LVS program, and procurement for road works is also ongoing.

The Hon. Peter Weru, MP was however concerned that the Ministry was not aware of the commitment by the Cabinet Secretary to allocate Ksh. 307,000,000 for construction of the road. The Director General, KeRRA however clarified that the allocation was done not long ago.

It was resolved that since the procurement processes for the construction of the various sections were underway, the Ministry, through KeRRA should fast track the process and give feedback to the Hon. Peter Weru, MP regarding the proposed commencement dates of construction works.

Petition by the Hon. Joseph Manje, MP on behalf of residents of Kajiado North Constituency, Kajiado County

The Chairperson invited the petitioner, the Hon. Joseph Manje, M.P. to make his submissions before the Committee.

He informed the Committee that the Bomas-OngataRongai-Kiserian road is a single lane inhibiting the free movement of people, goods and services from a densely populated area.

As a result, the road has seen the cost of transport increase to unpredictable rates during peak hours, causing an increase in the time taken to cover the short distance. The added cost has increased expenses on the already burdened OngataRongai and Kiserian residents working or travelling to Nairobi.

He thus sought to find out when the Ministry, through the Kenya National Highways Authority (KeNHA) would have the section of the road made into a dual carriage road to decongest it.

In response, the General Manager (Special Projects), KeNHA noted that the Ministry through KeNHA is aware that Bomas-OngataRongai- Kiserian experiences heavy jam. This is attributed to the road being a two way single lane, increase in population in OngataRongai, mushrooming of unplanned developments next to the road without proper traffic impact studies.

In view of the above, the Ministry through KeNHA was undertaking the following measures in order to decongest traffic along the road:-

- a) On the long term, the solution for the constant traffic jam on this road, the Ministry has proposed this road to be done under Annuity Programme. The procurement process under Annuity is ongoing. The proposed design is to have this road dualled with service lanes.
- b) The Ministry is also undertaking maintenance of the existing roads by patching potholes to enable traffic to flow as smoothly as possible. The tender for 2016/2017 Bomas/Ole tepesi routine maintenance works was scheduled to be awarded in August, 2016 once the process is finalized.

The Hon. Joseph Manje, MP proposed that in the meantime, alternative routes could be tarmacked to allow traffic access the routes.

The Director General, KeRRA noted that consultation were underway with the Ministry to have alternative routes tarmacked.

The Committee further raised concern over the commencement of the Annuity Program and the progress of the Low Volume Seal (LVS) roads program saying that the Ministry should provide a supplementary answer detailing the progress of both programs.

Petition by the Hon. KhatibMwashetani, MP on behalf of residents of Lungalunga Constituency

The Chairperson invited the petitioner, the Hon. KhatibMwashetani, M.P. to make his submissions before the Committee.

He informed the Committee that the Ministry, through KeNHA had issued an eviction and demolition notice to land and business owners in regards to buildings erected along the Likoni-Lungalunga (A14) road reserve, especially at Kanana area.

The Committee further heard that the buildings in question were constructed on legally acquired land and land owners are in procession of valid allotment letters from the Ministry of Lands, and that some of the buildings marked for demolition are located more than 20 meters from the road reserve and are thus not eligible for demolition and/or eviction.

He therefore sought to find out the intended timelines for the evictions and/or demolitions by the Ministry since the residents were unsettled by the intended move by the Ministry.

In response, theGeneral Manager (Special Projects), KeNHA informed the Committee that the Likoni-LungaLunga Road is classified as A7(formerly A14).Currently there is routine maintenance works ongoing between Likoni and LungaLunga and periodic maintenance works between Ukunda and LungaLunga.The engineering design of the road has been finalized under the Multinational Malindi-Mombasa-LungaLunga-Bagamoyo project to be funded by the African Development Bank.

The Resettlement Action Plan (RAP) detailing the extent of land acquisition necessary for the road expansion and particulars of the project-affected-persons (PAPS) has been finalized and that due process shall be followed in dealing with land acquisition and project affected persons (PAPs) before the commencement of the expansion works.

Currently, the Governments of Kenya and Tanzania are jointly working out the financing arrangements under the auspices of the East African Community (EAC) before the project implementation plan is drawn up and thus no demolitions have been sanctioned in connection with the proposed expansion of Likoni-LungaLunga road. Further, no demolitions shall be carried out without fair compensation to the project affected persons (PAPs). He assured that the Authority will engage the stakeholders and identified PAPs in consultations prior to implementation of the project.

The owners of emerging encroachments within the road reserve along the said road are routinely served with notices to vacate to enhance functionality and level of service of the road. Currently, KeNHA has no plans to demolish any buildings along the said road.

Petition to the National Assembly seeking Amendment to National Transport and Safety Authority Act to introduce Road Safety Branding and Establishment of National Road Safety Insurance Fund by a Member of Public, Mr. Blamuel Njururi

The Chairperson invited the Director General in the National Transport and Safety Authority (NTSA), Mr. Francis Meja to give submissions to the Committee on the Ministry's position with regards to the petition. Mr. Meja informed the Committee as follows:

1. With regards to Road Safety Branding, the Committee was informed that the NTSA Act in section 4 includes the development and implementation of Road Safety Strategies as well as public education as part of its functions. Specifically Section 4(2)(d) provides as follows:-
 - i. In the performance of its functions under subsection (1), the Authority shall-*
 - ii. (d) develop and implement road safety strategies;*
 - iii. (e) facilitate the education of the members of the public on road safety;*
2. He noted that the above is an overarching provision that encompasses all road safety strategies including road safety branding and that it was not possible to legislate all the road safety strategies as they are not only infinite but by doing so this would limit the Authority's mandate in terms of development of new safety strategies.
3. The amendment of the NTSA Act to legislate road safety branding is therefore not prudent and the Authority consequently objected to it.
4. On the issue of Commercial Vehicle Branding, the Committee heard that the Authority had developed draft Regulations on the Operation of Commercial Vehicles 2016 which were submitted for public participation through the local

dailies. The regulations are aimed at regulating all aspects of the operations of these vehicles; the issue of reflective branding had also been included wherein it had been made mandatory for commercial vehicles to have reflective markings to outline not only the rear and sides as proposed by the petitioner but the front as well.

5. With regards to the introduction of a National Road Safety Insurance Fund, the Committee was informed that this shall have a substantial effect on the premiums payable by motorists including public and commercial vehicles and therefore a substantive increase in the cost of the movement of goods and services. Further, that any attempt to create the fund should be done through the Insurance Regulatory Authority in consultation with the National Treasury and not the NTSA.
6. Section 47 of the NTSA Act establishes a National Transport and Safety Fund as follows:-

47. (1) There is established a Fund to be known as the National Road Transport

and Safety Fund which shall vest in the Authority.

(2) There shall be paid into the Fund:-

(a) moneys appropriated by Parliament;

(b) the levy;

(c) grants and donations made to the Authority; and

(d) moneys from a source approved by the Authority.

(3) The Authority shall apply the moneys received into the Fund to-

(a) conduct research activities and audits on road transport safety;

(b) conduct road safety education and awareness campaigns;

(c) implement road safety strategies; and

(d) carry out the operations of the Authority.

(4) The Authority shall apply the moneys received into the Fund to-

(a) conduct research activities and audits on road transport safety;

(b) conduct road safety education .and awareness campaigns;

(c) implement road safety strategies; and

(d) carry out the operations of the Authority.

The Ministry's view was that the matters petitioned i.e. road safety branding, commercial vehicle branding and creation of a Fund are already catered for in the NTSA Act.

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Adjournment

The Chairperson adjourned the meeting at 12.20pm to be convened at a later date.

SIGNED.....

DATE

Hon. Maina Kamanda, EGH, M.P. (Chairperson)

MINUTES OF THE 41ST SITTING OF THE TRANSPORT, PUBLIC WORKS AND HOUSING COMMITTEE HELD ON TUESDAY 9TH AUGUST, 2016 IN THE NEW DINING AREA, MAIN PARLIAMENT BUILDINGS AT 11:00 AM

PRESENT

1. Hon. Maina Kamanda, M.P. – Chairperson
2. Hon. Simon Nyaundi Ogari, M.P.
3. Hon. Ahmed Abbas Ibrahim, M.P
4. Hon. Mark Lomunokol, M.P.
5. Hon. Ali Wario, M.P.
6. Hon. Chachu Ganya, M.P.
7. Hon. (Arch.) David Kiaraho, M.P.
8. Hon. Barchilei Kipruto, M.P
9. Hon. Omar Mwinyi, M.P
10. Hon. Gideon Konchella, M.P.
11. Hon. Johnson Manya Naicca, M.P
12. Hon. Peter Shehe, M.P.
13. Hon. Suleiman Dori, M.P.
14. Hon. (Eng.) John Kiragu, M.P
15. Hon. Mukwe James Lusweti, M.P.

APOLOGIES

1. Hon. (Eng.) Mahamud Maalim, M.P. –Vice Chairman
2. Hon. Stephen Manoti, M.P
3. Hon. Omulele Christopher, M.P
4. Hon. Joseph Lomwa, M.P.
5. Hon. (Capt.) Clement Wambugu, M.P.
6. Hon. Mathias Robi, M.P.
7. Hon. (Eng.) Stephen Ngare, M.P.
8. Hon. Emmanuel Wangwe, M.P.
9. Hon. Rashid Juma, MP
10. Hon. Mishi Juma, M.P.
11. Hon. Cecily Mbarire, M.P
12. Hon. Aduma Owuor, M.P.
13. Hon. Grace Kipchoim, M.P
14. Hon. K.K. Stephen Kinyanjui Mburu, M.P

IN ATTENDANCE

- NATIONAL ASSEMBLY

- | | |
|--------------------------|-----------------------|
| 1. Mr. Samuel Kalama | First Clerk Assistant |
| 2. Mr. Abdifatah M. Bule | Third Clerk Assistant |
| 3. Ms. Christine Ndiritu | Third Clerk Assistant |
| 4. Mr. Salem Lorot | Legal Counsel |
| 5. Mr. Deborha Mupusi | Media Officer |

MIN/DC-TPWH/2016/ Preliminaries

The Chairperson called the meeting to order at 11:00 am with a word of prayer. A prayer was said by the Hon. Chachu Ganya, M.P.

He then presented the agenda as follows:-

1. Prayer
2. Consideration and adoption of the following reports
 - a) Report on the Petition by the Hon. Joseph Manje, MP on behalf of the residents of Kajiado County on decongestion of Bomas-Ongata Rongai-Kiserain road
 - b) Report on the Petition by the Hon. Peter Weru on behalf of residents of Magutu and Iriaini wards regarding the dilapidated state of the sections of Karatina-Jambo road
 - c) Report on the Petition by the Hon. Khatib Mwashetani on behalf of residents of Lungalunga on the intended demolition of buildings due to the expansion of Likoni Lungalunga road
 - d) Report on the Petition by the Hon. Cyprian Kubai Iringo, MP on behalf of residents of Igembe Central Constituency regarding the deplorable state of a 28-kilometre section of the Meru-Maua road from Farm to Murera Gate, Meru National Park.
3. Any Other Business

MIN/DC-TPWH/2016/163 Consideration and Adoption of Report on Various Petitions

- a) Report on the Petition by the Hon. Joseph Manje, MP on behalf of residents of Kajiado County on decongestion of Bomas-Ongata Rongai-Kiserain road

The Committee considered and adopted the report on the Petition by the Hon. Joseph Manje, MP on behalf of the residents of Kajiado County on decongestion of Bomas-Ongata Rongai-Kiserain road as proposed and seconded by the Hon. Ali Wario, M.P and the Hon. Omar Mwinyi, M.P respectively with the following observations and recommendations:-

Observations

The Committee made the following observations, that:-

1. The Ministry through KENHA has earmarked the Bomas-OngataRongai- Kiserian road to be constructed under Annuity Programme.
2. The proposed design for the Bomas-OngataRongai- Kiserian road is to have it dualled with service lanes.
3. The Ministry through KENHA is undertaking maintenance of the existing roads by patching potholes to enable traffic to flow as smoothly as possible.
4. The tender for 2016/2017 Bomas/Ole tepesi routine maintenance works will be awarded in the month of August, 2016 once the process is finalized.

Recommendations

The Committee made the following recommendations:-

1. The Ministry through KENHA should put the Bomas-OngataRongai- Kiserian under Annuity Road Development Programme.
 2. The Bomas-OngataRongai- Kiserian road should be designed and constructed as a dual carriage with service lanes to decongest it
- b) Consideration and adoption of Report on the Petition by the Hon. Peter Weru on behalf of residents of Magutu and Iriaini wards regarding the dilapidated state of the sections of Karatina-Jambo road**

The Committee considered and adopted the report on the Petition by the Hon. Peter Weru on behalf of residents of Magutu and Iriaini wards regarding the dilapidated state of the sections of Karatina-Jambo road as proposed and seconded by the Hon. Chachu Ganya, M.P. and the Hon. Simon Nyaundi Ogari, M.P respectively with the following observations and recommendations:-

Observations

The Committee made the following observations, that:-

1. The section of the road namely Karatina – Jambo – Kagochi is 12.3 Km which is tarmacked but not in a satisfactory state. However, it has been earmarked for rehabilitation under the Roads 10,000 km Low Volume Seal (LVS) programme. The procurement process for this section is underway.
2. The section between Kagochi – Karatina University – Gitunduti which is 4.2is gravelled and is currently in a fairly good condition. It is proposed for upgrading to bitumen standards under the Development Partner AFD funded R 2000 Low Volume Seal (LVS) program. It is envisioned that road works will commence this financial year 2016/2017.
3. The section Gitunduti – Gaikuyu – Karatina Hospital which is approximately 12 Km long is graveled and in a fair condition. This section has also been proposed for

upgrading to bitumen standards under the R 10,000 Km LVS program, and procurement for road works is also ongoing.

Recommendations

The Committee recommends that:-

The Ministry of Transport, Infrastructure, Housing and Urban Development through KERRA should:

1. Fast track the procurement process for the rehabilitation of the Karatina – Jambo – Kagochi section of the road for under the Roads 10,000 km Low Volume Seal (LVS) programme.
 2. Fast track the procurement process for the upgrading of the section of the road between Kagochi – Karatina University – Gitunduti under the Development Partner AFD funded R 2000 Low Volume Seal (LVS) program and road works to commence within 2016/201 Financial Year.
 3. Fast track the procurement process for the upgrade to bitumen standards of the Gitunduti – Gaikuyu – Karatina Hospital section of the road under the R 10,000 Km LVS program.
- c) Consideration and adoption of report on the Petition by the Hon. Khatib Mwashetani on behalf of residents of Lungalunga on the intended demolition of buildings due to the expansion of Likoni Lungalunga road**

The Committee considered and adopted the report on the Petition by the Hon. Khatib Mwashetani on behalf of residents of Lungalunga on the intended demolition of buildings due to the expansion of Likoni Lungalunga road as proposed and seconded by the Hon. (Arch.) David Kiaraho, M.P and the Hon. Omar Mwinyi, M.P respectively with the following observations and recommendations:-

Observations

The Committee made the following observations, that:-

1. The Resettlement Action Plan (RAP) detailing the extent of land acquisition necessary for the road expansion and particulars of the project-affected-persons (PAPS) has been finalized and due process shall be followed in dealing with land acquisition and project affected persons (PAPs) before the commencement of the expansion works.
2. The ministry of Transport, Infrastructure, Housing and Urban Development has not sanctioned any demolitions in connection with the proposed expansion of Likoni-LungaLunga road. The ministry averred to the Committee that no demolitions shall be carried out without fair compensation to the project affected persons (PAPs). The

Authority will engage the stakeholders and identified PAPs in consultations prior to implementation of the project.

Recommendations

The Committee recommends that:-

The ministry of Transport, Infrastructure, Housing and Urban Development should:-

1. Follow due process in dealing with land acquisition and project affected persons (PAPs) before the commencement of the expansion works.
 2. Not carry out demolition without fair compensation to the project affected persons (PAPs). The Authority should expeditiously engage the stakeholders and identified PAPs in consultations prior to implementation of the project.
- d) Consideration and adoption of Report on the Petition by the Hon. Cyprian Kubai Iringo, MP on behalf of residents of Igembe Central Constituency regarding the deplorable state of a 28-kilometre section of the Meru-Maua road from Farm to Murera Gate, Meru National Park.**

The Committee considered and adopted the Report on the Petition by the Hon. Cyprian Kubai Iringo, MP on behalf of residents of Igembe Central Constituency regarding the deplorable state of a 28-kilometre section of the Meru-Maua road from Farm to Murera Gate, Meru National Park as proposed and seconded by the Hon. (Arch.) David Kiaraho, M.P and the Hon. Barchilei Kipruto, M.P respectively with the following observations and recommendations:-

Observations

The Committee made the following observations, that:-

1. The re-carpeting and periodic maintenance of the 28-kilometre section of the Meru-Maua road for roads and any other in the Constituency are the responsibility of the Constituency Roads Committees (CRC's);
2. The Ksh. 5,000,000 disbursed by the Ministry of Transport, Infrastructure, Housing and Urban Development through KeRRA was not sufficient as it was used for patching up in the worst sections of the road.
3. The ministry of Transport, Infrastructure, Housing and Urban Development has undertaken to ask for allocation of funds to rehabilitate the Farm to Murera Gate (Meru National Park).

Recommendations

The Committee recommends that:-

1. An allocation from the emergency fund under the Cabinet Secretary in the Ministry of Transport, Infrastructure, Housing and Urban Development be disbursed to KeRRA to enable the Authority undertake construction works on the 28-kilometre section of the road from Farm (along Meru-Maua road) to Murera Gate (Meru National Park);
2. The Igembe Central Constituency Roads Committee should allocate funds to cater for periodic maintenance of the Farm to Murera Gate (Meru National Park).

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Any Other business

The Committee resolved to carry out inspection tours to various infrastructural projects in the country during the long recess of September, 2016 particularly in Kwale and Isiolo counties.

MIN/DC-TPWH/2016/165

Adjournment

The Chairperson adjourned the meeting at 12.30 pm to be convened on 11th August, 2016 at 10.00 am.

SIGNED.....

DATE11/8/2016.....

 Hon. Maina Kamanda, EGH, M.P. (Chairperson)