

Approved for tabling in the House.

~~Bill~~ SNA

1/3/2022,

PARLIAMENT
OF KENYA
LIBRARY



REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY



TWELFTH PARLIAMENT - SIXTH SESSION

DATE: 01 MAR 2022

DAY
TUESDAY

THE DEPARTMENTAL COMMITTEE ON
TRANSPORT, PUBLIC WORKS AND HOUSING

TABLED BY THE TABLE: Chairperson, Committee on Transport, public works and housing G. Chebet.

REPORT ON

CONSIDERATION OF PETITION REGARDING A PROPOSAL TO AMEND THE NATIONAL CONSTRUCTION AUTHORITY ACT TO PROVIDE FOR INCLUSION OF THE COST OF PUBLIC FUNDED PROJECTS ON PROJECT SIGN BOARDS

(PETITION NUMBER 044 OF 2021 BY MR. BONIFACE MWAI GACHUNGA)

DIRECTORATE OF DEPARTMENTAL COMMITTEES
CLERK'S CHAMBERS - NATIONAL ASSEMBLY
PARLIAMENT BUILDINGS
NAIROBI

MARCH 2022



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1.0 PREFACE

On behalf of the Departmental Committee on Transport, Public Works and Housing and pursuant to provisions of Standing Order 199 (6), it is my pleasant privilege and honour to present to this House the Report on the Petition on Inclusion of project costs on the project sign board for all public funded project.

The petition was tabled before the House pursuant to Standing Order 225 (2) (b) by Mr. Boniface Mwai Gachunga of ID no. 22377410

Pursuant to Standing Order 227 (1), the petition was referred to the Departmental Committee on Transport, Public Works and Housing for consideration and preparation of a report within 60 days.

1.1 Mandate of the Committee and Membership

a) Mandate

1. The Departmental Committee on Transport, Public Works and Housing is established under Standing Order 216(1) whose mandate, pursuant to the Standing Order 216 (5), is as follows;

- a. *investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and departments;*
- b. *study the programme and policy objectives of Ministries and departments and the effectiveness of the implementation;*
- c. *study and review all legislation referred to it;*
- d. *study, assess and analyze the relative success of the Ministries and departments as measured by the results obtained as compared with their stated objectives;*
- e. *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;*
- f. *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);*
- g. *examine treaties, agreements and conventions;*
- h. *make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;*
- i. *make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;*
- j. *consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and*
- k. *examine any questions raised by Members on a matter within its mandate.*

2. Further, the Second Schedule to the Standing Orders mandates the Committee to consider matters relating to the following subjects: -

- a) Transport;
- b) Roads;
- c) Public works;
- d) Construction and maintenance of roads, rails and buildings;
- e) Air and seaports; and
- f) Housing.

3. In executing this mandate, the Committee oversees various State Departments, namely:
 - i. The State Department of Transport;
 - ii. The State Department of Infrastructure;
 - iii. The State Department of Housing and Urban Development;
 - iv. The State Department of Public Works; and
 - v. The State Department of Shipping and Maritime Affairs.

1.2 Committee Membership

4. The Committee on Transport, Public Works and Housing as constituted by the House comprises of the following members:

Chairperson

Hon. David Pkosing, C.B.S., M.P.
Pokot South Constituency

Jubilee Party

Vice-Chairperson

Hon. Mercy Wanjiku Gakuya, M.P.
Kasarani Constituency

Jubilee Party

Members:

Hon. Abdul Rahim Dawood, M.P.
North Imenti Constituency
Jubilee Party

Hon. David Njuguna Kiaraho, M.P.
Ol Kalou Constituency
Jubilee Party

Hon. Johnson Many Naicca, M.P.
Mumias West Constituency
Orange Democratic Movement Party

Hon. Omar Mwinyi Shimbwa, M.P.
Changamwe Constituency
Orange Democratic Movement Party

Hon. Peris Tobiko, C.B.S., M.P.
Kajiado East Constituency
Jubilee Party

Hon. Samuel Arama, M.P.
Nakuru Town West
Jubilee Party

Hon. Ahmed Abdisalan Ibrahim, M.P.
Wajir North Constituency
Orange Democratic Movement Party

Hon. Ahmed Bashane Gaal, M.P.
Tarbaj Constituency
Peoples Democratic Party

Hon. Ali Wario Guyo, M.P.
Garsen Constituency
Orange Democratic Movement Party

Hon. Dominic Kipkoech Koskei, M.P.
Soitik Constituency
Jubilee Party

Hon. George Aladwa Omwera, M.P.
Makadara Constituency
Orange Democratic Movement Party

Hon. Gideon Mutemi Mulyungi, M.P.
Mwingi Central Constituency
Wiper Democratic Party

Hon. Kulow Maalim Hassan, M.P.
Banisa Constituency
Economic Freedom Party (EFP)

Hon. Moses Malulu Injendi, M.P.
Malava Constituency
Jubilee Party

Hon. Janet Wanyama Nangabo, M.P.
Trans-Nzoia County
Jubilee Party

Hon. Shadrack John Mose, M.P.
Kitutu Masaba Constituency
Jubilee Party

Hon. Tom Mboya Odege, M.P.
Nyatike Constituency
Orange Democratic Movement Party

1.3 Committee Secretariat

5. The Committee secretariat comprise the following:

Ms. Chelagat Tungo Aaron
Senior Clerk Assistant
Head of Secretariat

Mr. Ahmed Salim Abdalla
Second Clerk Assistant

Mr. Ronald Walala
Legal Counsel I

Mr. Abdinasir Moge Yusuf
Fiscal Analyst I

Mr. Eric Kariuki
Research Officer III

Ms. Zainabu Wario
Serjeant-at-Arms

Mr. Yeziel Jilo
Serjeant-at-Arms

Mr. Yaqub Ahmed
Media Relations Officer

Mr. Collins Mahamba
Audio Recording Officer

1.4 Committal and Consideration of the Petition

5. Pursuant to the provisions of Standing Orders 227 (1), the petition was referred to the Departmental Committee on Transport, Public Works and Housing for consideration and preparation of a report within 60 days. The Committee proceeded with the consideration of the petition by holding meetings to set up terms of reference and scheduling meetings.
6. In considering the petition, the Committee invited and held meetings with the officials from the State Department for Public Works, The National Construction Authority as well as the Petitioner, Mr. Boniface Mwai Gachunga. The meetings were aimed at responding to issues raised by the petitioner.

1.5 Committee Observations

7. Having held meetings and considered the submissions presented on the petitions, the Committee observed that the petitioners had prayed that the National Assembly through the Committee on Transport, Public Works and Housing: -
 - i. considers and amend the NCA act and any other applicable laws to make it a statutory requirement for the total cost of a public-funded project to be **included and displayed** in the project sign- board; and that
 - ii. in his humble opinion, this will go a long way into capturing the aspirations and the spirit of the provisions of article 10 of the constitution of Kenya 2010.

In response to the above prayers, the Committee recommends that: -


8. The Committee observed that it may have to request for views from the Public Procurement Regulatory Authority (PPRA) before making its determination because the issue of costing and accountability may be beyond the scope of the National Construction Authority. The Committee however was of the opinion that procurement laws are more comprehensive in terms of ensuring accountability and thus there is no need to amend the NCA Act.

1.6 Acknowledgment

The Committee wishes to sincerely thank the Offices of the Speaker and the Clerk of the National Assembly for the support and services extended to the Members to enable the Committee complete this report within the given timelines.

I am grateful to the Members of the Committee whose support enabled the Committee to accomplish this task. Special thanks to the Secretariat for their technical support during the compilation of the report.

On behalf of the Committee, and pursuant to Standing Orders 227(2) of the National Assembly, it is my honor and privilege to present this report to the House for consideration and adoption of the Committee Report on proposal to amend the National Construction Authority Act to provide for inclusion of the Cost of Public Funded Projects on Project Sign Boards.

SIGNED  DATE 01/03/2022

HON. DAVID PKOSING, CBS, M.P
CHAIRPERSON,
DEPARTMENTAL COMMITTEE ON TRANSPORT, PUBLIC WORKS & HOUSING

2.0 BACKGROUND INFORMATION

9. The Petition on proposal to amend the National Construction Authority Act to provide for inclusion of the Cost of Public Funded Projects on Project Sign Boards was conveyed to the House by the Hon. Speaker of the National Assembly on 28th September, 2021 pursuant to Standing Order 225 (2)(b).
10. Pursuant to House rules, the petition was referred to the Departmental Committee on Transport, Public Works and Housing 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 wished to draw the attention of the National Assembly to the following: -

- i. **THAT:** Article 10 of the constitution of Kenya requires all stage organs, state officers, public officers and all persons whenever any of them:
 - 1.1 Applies or interprets the constitution
 - 1.2 Enacts, applies and interprets any law or
 - 1.3 Makes or implements public policyTo strictly observe and be guided by our national values and principles always in the course of executing their mandate.
- ii. **THAT** the National Construction Authority Regulations (2014) enumerate the items to be included in the project sign board but conspicuously missing in the list of requirements is the **PROJECT COST FOR PUBLIC FUNDED PROJECTS**.
- iii. **THAT,** I have made the best efforts to have this matter addressed by the relevant authorities- in this case National Construction Authority which have failed to give a satisfactory response.
- iv. **THAT,** none of this issue raised in the petition is pending in any court of law, constitutional or any other legal body.

THEREFORE, your humble petitioner prays that the National Assembly –
 - v. considers and amend the NCA act and any other applicable laws to make it a statutory requirement for the total cost of a public-funded projects to be **included and displayed** in the project sign- board
 - vi. That this in his humble opinion will go a long way into capturing the aspirations and the spirit of the provisions of article 10 of the constitution of Kenya 2010.

3.0 SUBMISSIONS AND EVIDENCE

11. Having been seized of the Petition, the Committee commenced its consideration by inviting Mr. Boniface Mwai and the officials from the State Department for Public Works as well as officials from the National Construction Authority. During the meeting, written and oral evidence was adduced as recorded hereunder.

3.1 SUBMISSION FROM THE PETITIONER

12. The Petitioner, Mr. Boniface Mwai, took Member through the petition. He explained that disclosure of cost is an important aspect both from an accounting perspective and it terms of good governance. He explained that whereas the information on cost is not a secret, he was praying that the National Assembly makes it easier to access, thereby the need for the amendment to the law to provide for the same on sign boards.

3.2 SUBMISSION FROM THE NATIONAL CONSTRUCTION AUTHORITY

13. In his presentation to the Committee, The National Construction Authority, through the Principal Secretary for Public Works and the Executive Director NCA, submitted that the costs are available in all government agency websites in line with a Presidential Directive issued some years ago. They further submitted that including the cost of projects in sign boards may enhance the use of the board to include accountability for resources. However, for the board to be used for this purpose, there may be need to add other information as accountability may not be judged by cost alone. They submitted that the cost is not included in the board because the guidelines are mainly intended to enhance quality assurance and to confirm compliance.

The NCA Act No. 41 of 2011 does not have any express provision under the Act that requires a developer whether public or private to have a site sign Board. This is a requirement under the Physical Land Use and Planning Act.

The site sign Board is a requirement at the point of approval of the project by the respective county. In furtherance of section 5(1) (n), of the NCA Act, the National Construction Authority has developed guidelines for a standard Construction Site Sign Board for projects being undertaken by private developers, Ministries, Departments and Agencies to capture standard details for display. However, the cost of the project is not included.

As per the guidelines, the project site sign board is required to have the following information on it;

- A. Project- Name of location (Land no.) to be constructed;
- B. Ownership details-client/developer
- C. Supervising consultants namely;
 - i. Architect
 - ii. Electrical engineer
 - iii. Quantity surveyor
 - iv. Civil/ structural engineer
 - v. Mechanical engineer
 - vi. Other (consultants involved in the project not outlined in 3)
- D. Contractor
 - i. Main contractor
 - ii. Subcontractor(s)
- E. Statutory approvals
 - i. County construction permit as per PLUPA2019;
 - ii. NEMA license
 - iii. NCA Compliance certificate
 - iv. Others (approval for the project not outlined in 5)

As regards the cost, it is disclosed in the certificate of compliance issued to the applicant. Including the cost may enhance the use of the board to include accountability for resources. However, for the board to be used for this purpose, there may be need to add other information as accountability may not be judged by cost alone.

The cost is not included in the board because the guidelines are mainly intended to enhance quality assurance and to confirm compliance

4 COMMITTEE OBSERVATIONS AND RECOMMENDATION

4.1 OBSERVATIONS

14. The Committee observed that it may request the Public Procurement Regulatory Authority (PPRA) to provide any additional information on the issues raised in the Petition because the issue of costing and accountability may be beyond the scope of the National Construction Authority.

4.2 RECOMMENDATIONS

15. The Committee having heard from the officials makes the following recommendation, that: - The Committee was satisfied with the Ministry's response and was of the opinion that procurement laws are more comprehensive in ensuring accountability and thus there is no need to amend the NCA Act.


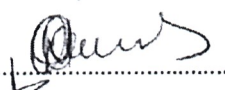
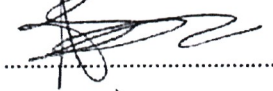

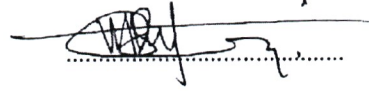
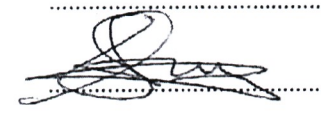

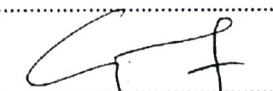
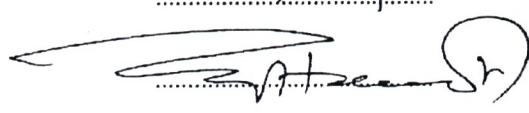
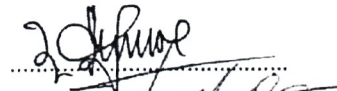
SIGNED *[Signature]* DATE *01/03/2022*
HON. DAVID PKOSING, CBS, M.P
CHAIRPERSON,
DEPARTMENTAL COMMITTEE ON TRANSPORT, PUBLIC WORKS & HOUSING



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Adoption of the Committee Report on consideration of the Public Petition by Mr. Boniface Mwai Gachunga of ID number 22377410 on proposal to amend the National Construction Authority Act to provide for inclusion of the Cost of Public Funded Projects on Project Sign Boards

We, the Members of the Departmental Committee on Transport, Public Works and Housing, have today, the 24th day of February 2022, pursuant to Standing Order 199, adopted this Report and affixed our signatures to affirm our approval and confirm its accuracy, validity and authenticity:

- | | | |
|----------------------------------|--------------------|---|
| 1. Hon. David Pkosing, CBS | - Chairperson |  |
| 2. Hon. Mercy Wanjiku Gakuya | - Vice Chairperson |  |
| 3. Hon. Abdul Rahim Dawood | |  |
| 4. Hon. David Njuguna Kiaraho | |  |
| 5. Hon. Johnson Many Naicca | | |
| 6. Hon. Moses Malulu Injendi | | |
| 7. Hon. Omar Mwinyi Shimbwa | |  |
| 8. Hon. Peris Pesi Tobiko, CBS | | |
| 9. Hon. Samuel Arama | |  |
| 10. Hon. Ahmed Abdisalan Ibrahim | | |
| 11. Hon. Ahmed Bashane Gaal | | |
| 12. Hon. Ali Wario Guyo | | |
| 13. Hon. Dominic Kipkoech Koskei | |  |
| 14. Hon. George Aladwa Omwera | | |
| 15. Hon. Gideon Mutemi Mulyungi | |  |
| 16. Hon. Kulow Maalim Hassan | |  |
| 17. Hon. Janet Wanyama Nangabo | | |
| 18. Hon. Shadrack John Mose | |  |
| 19. Hon. Tom Mboya Odege | | |
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MINUTES OF THE NINTH (9TH) SITTING OF THE DEPARTMENTAL COMMITTEE ON TRANSPORT, PUBLIC WORKS & HOUSING HELD ON THURSDAY, 24TH FEBRUARY 2022 AT 10:00 AM AT THE NEW DINING HALL, WITHIN PARLIAMENT BUILDINGS

MEMBERS PRESENT

1. Hon. David L. Pkosing, C.B.S., M.P. – *Chairperson*
2. Hon. Mercy Wanjiku Gakuya, M.P. – *Vice Chairperson*
3. Hon. Abdul Rahim Dawood, M.P.
4. Hon. David Njuguna Kiaraho, M.P.
5. Hon. Omar Mwinyi Shimbwa, M.P.
6. Hon. Samuel Arama, M.P.
7. Hon. Dominic Koskei, M.P.
8. Hon. Gideon Mulyungi, M.P.
9. Hon. Kulow Maalim Hassan, M.P.
10. Hon. Shadrack John Mose, M.P.
11. Hon. Tom Mboya Odege, M.P.

MEMBERS ABSENT WITH APOLOGY

12. Hon. Moses Malulu Injendi, M.P.
13. Hon. Peris Pesi Tobiko, C.B.S., M.P.
14. Hon. Johnson Manya Naicca, M.P.
15. Hon. Janet Nangabo, M.P.
16. Hon. Ahmed Abdisalan Ibrahim, M.P.
17. Hon. Ali Wario Guyo, M.P.
18. Hon. Ahmed Bashane Gaal, M.P.
19. Hon. George Aladwa Omwera, M.P.

SECRETARIAT

- | | | |
|-----------------------------|---|------------------------|
| 1. Ms. Tungo Chelagat Aaron | - | Senior Clerk Assistant |
| 2. Mr. Ahmed Salim Abdalla | - | Clerk Assistant II |
| 3. Mr. Ronald Walala | - | Legal Counsel |
| 4. Mr. Abdinasir Moge | - | Fiscal Analyst |
| 5. Ms. Lilian Cherotich | - | Protocol Officer |
| 6. Ms. Christine Maeri | - | Audio Officer |
| 7. Mr. Tindi Simiyu | - | Hansard Reporter III |

MIN No. TPWH 038/2022: PRELIMINARIES

The Chairman called the meeting to order at five minutes past ten o'clock followed by a word of prayer. The Chairman informed the Honorable Members that the Committee was meeting to consider the following agenda:

1. Consideration of the Addendum/Amendments to the Supplementary Estimates 1 for the Financial Year 2021/2022;
2. Briefing on the petition regarding Enforcement of Maritime Labour Convention, 2006 by Hon. Ali Menza Mbogo, MP;
3. Adoption of the Report on Consideration of the Petition on Economic Viability of Phase 2B of the Standard Gauge Railway (Hon. David Ole Sankok, MP);

4. Adoption of the Report on Consideration of the Petition on Proposal to amend the National Construction Authority Act (Mr. Boniface Mwai Gachunga); and
5. Adoption of the Report on Consideration of the Petition on Compensation of owners of land acquired for construction of St. Marys-Kinooro, Access to Igoji TTC, Gianchuku-Mbogoro Roads Project (Hon. Kareke Mbiuki, MP).

The agenda of the meeting was therefore adopted after being proposed by the Hon. David Kiaraho, MP and seconded by the Hon. Shadrack Mose, MP.

MIN No. TPWH 039/2022: **CONFIRMATION OF THE MINUTES OF THE PREVIOUS SITTINGS**

The agenda item was deferred to the next meeting.

MIN NO. TPWH 040/2022: **CONSIDERATION OF THE ADDENDUM / AMENDMENTS TO THE SUPPLEMENTARY ESTIMATES 1 FOR THE FINANCIAL YEAR 2021/2022**

Members of the Committee went through the proposed amendments. The Committee resolved to reject the amendments in totality considering that there was already a huge deficit on budget for *Kazi Mtaani* program and from the budget for airstrips countrywide. It was the view of the Committee that any further reductions to those sectors were not reasonable.

MIN NO. TPWH 041/2022: **BRIEFING ON THE PETITION REGARDING ENFORCEMENT OF MARITIME LABOUR CONVENTION, 2006 BY HON. ALI MENZA MBOGO, MP**

Members of the Committee were briefed on the petition regarding Enforcement of Maritime Labour Convention, 2006 by Hon. Ali Menza Mbogo, MP. The Committee noted that the petition came on the backdrop of ratification of five conventions on maritime affairs.

Resolution

Noting that majority of the stakeholders in the maritime industry are in the Coastal Region, and the need to give as many stakeholders a platform to express their views on issues raised in the petition, the Committee resolved to conduct an inquiry in Mombasa County in the next two weeks. The Clerk's Office directed to organize the same.

MIN NO. TPWH 042/2022: **ADOPTION OF THE REPORT ON CONSIDERATION OF THE PETITION ON ECONOMIC VIABILITY OF PHASE 2B OF THE STANDARD GAUGE RAILWAY (HON. DAVID OLE SANKOK, MP)**

The Committee observed that there is need to complete/connect the Emurutoto section to Narok Town with the SGR line, a distance of 12km. This will accelerate economic activities in the larger Narok County and the regions beyond. The Committee however noted that indeed, the

The Hon. Member reports back to the Committee within three months if dissatisfied with the Ministry's response in planning to compensate the affected registered owners of parcels of land that was acquired through the National Lands Commission.

The Report was therefore adopted after being proposed by Hon. Tom Odege, MP and seconded by Hon. Dominic Koskei, MP.

MIN No. TPWH 045/2022: ADJOURNMENT

There being no other business, the sitting was adjourned at forty-seven minutes past eleven o'clock. Next meeting to be held on notice.

Signed.....

(Chairperson)

Date.....

country is operating under constrained budgetary provisions, and that the National Treasury has to constantly review the fiscal situation while prioritizing on important development projects.

The Committee Recommended that:

1. The National Treasury and the Kenya Railways Corporation undertakes costing for SGR project completion from Emurutoto to Narok Town.
2. The National Treasury and the Kenya Railways Corporation prioritizes the allocation of funding for the remaining part of the project from Emurutoto to Narok Town.
3. The National Treasury considers to include the allocations in the Estimates for the Financial Year 2022/2023.

The Report was therefore adopted after being proposed by Hon. Samuel Arama, MP and seconded by Hon. Omar Mwinyi, MP.

MIN NO. TPWH 043/2022:

**ADOPTION OF THE REPORT ON
CONSIDERATION OF THE PETITION ON
PROPOSAL TO AMEND THE NATIONAL
CONSTRUCTION AUTHORITY ACT (MR.
BONIFACE MWAI GACHUNGA)**

The Committee observed that the issue of costing and accountability may be beyond the scope of the National Construction Authority. However, Hon. Abdul Rahim Dawood, MP and Hon. Omar Mwinyi, MP were of the opinion that it was ideal to have the requirement that all public-funded projects display the costs as this would promote transparency.

The Committee Recommended that:

There is no need to amend the NCA Act because the existing procurement laws are more comprehensive in ensuring accountability.

The Report was therefore adopted after being proposed by Hon. Gideon Mulyungi, MP and seconded by Hon. Shadrack Mose, MP.

MIN NO. TPWH 044/2022:

**ADOPTION OF THE REPORT ON
CONSIDERATION OF THE PETITION ON
COMPENSATION OF OWNERS OF LAND
ACQUIRED FOR CONSTRUCTION OF ST. MARYS-
KINOORO, ACCESS TO IGOJI TTC, GIANCHUKU-
MBOGORO ROADS PROJECT (HON. KAREKE
MBIUKI, MP)**

The Committee observed that the Principal Secretary for State Department of Infrastructure undertook to include the amount of Kshs. 114 million in the Supplementary Budget Estimates for the Financial Year 2021/2022 so that the project affected persons may be paid immediately.

The Committee Recommended that:

MINUTES OF THE SIXTY THIRD (63RD) SITTING OF THE DEPARTMENTAL COMMITTEE ON TRANSPORT, PUBLIC WORKS & HOUSING HELD ON WEDNESDAY, 24TH NOVEMBER 2021 AT 10AM AT 4TH FLOOR, CONTINENTAL HOUSE, WITHIN PARLIAMENT BUILDINGS

MEMBERS PRESENT

1. Hon. David L. Pkosing, C.B.S., M.P. – *Chairperson*
2. Hon. Mercy Wanjiku Gakuya, M.P. – *Vice Chairperson*
3. Hon. Omar Mwinyi Shimbwa, M.P.
4. Hon. Ahmed Bashane Gaal, M.P.
5. Hon. Ali Wario Guyo, M.P.
6. Hon. Dominic Koskei, M.P.
7. Hon. Kulow Maalim Hassan, M.P.
8. Hon. Shadrack John Mose, M.P.
9. Hon. Tom Mboya Odege, M.P.

MEMBERS ABSENT WITH APOLOGY

10. Hon. Moses Malulu Injendi, M.P.
11. Hon. Abdul Rahim Dawood, M.P.
12. Hon. David Njuguna Kiaraho, M.P.
13. Hon. Johnson Many Naicca, M.P.
14. Hon. Peris Pesi Tobiko, C.B.S., M.P.
15. Hon. Samuel Arama, M.P.
16. Hon. Janet Nangabo, M.P.
17. Hon. George Aladwa Omwera, M.P.
18. Hon. Ahmed Abdisalan Ibrahim, M.P.
19. Hon. Gideon Mulyungi, M.P.

SECRETARIAT

- | | | |
|------------------------------|---|--------------------|
| 1. Ms. Tungo Chelagat Aaron | - | Clerk Assistant I |
| 2. Mr. Ahmed Salim Abdalla | - | Clerk Assistant II |
| 3. Mr. Ronald Makokha Walala | - | Legal Counsel |
| 4. Mr. Eric Kariuki | - | Research Officer |
| 5. Ms. Zainab Wario | - | Sergeant-at-arm |
| 6. Mr. Collins Mahamba | - | Audio Officer |
| 7. Mr. Eugene Luteshi | - | Audio Officer |
| 8. Mr. Boniface Matano | - | Legislative Fellow |
| 9. Mr. Frank Rutto | - | Legislative Fellow |

SECRETARIAT

- | | | |
|------------------------|---|--|
| 1. Mr. Boniface Mwai | - | Petitioner |
| 2. Mr. Solomon Kitungu | - | Principal Secretary, Transport |
| 3. Eng. Maurice Akech | - | ED, NCA |
| 4. Ms. Cindy Ogoola | - | Legal Officer, NCA |
| 5. Ms. Diana Maithya | - | Legal Intern, NCA |
| 6. Mr. Samson Lukoba | - | Corporation Secretary / Head of Legal, NCA |

MIN No. TPWH 369/2021: **PRELIMINARIES**

The Session Chairman called the meeting to order at ten o'clock followed by a word of prayer. The Chairman informed the Honorable Members that the Committee was meeting to consider the petition by Mr. Boniface Mwai on amending the NCA Act.

The agenda of the meeting was therefore adopted after being proposed by the Hon. Moses Malulu, MP and seconded by the Hon. Ahmed Bashane, MP.

MIN No. TPWH 370/2021: **CONFIRMATION OF THE MINUTES OF THE PREVIOUS SITTINGS**

Minutes of the 62nd sitting which was held on 23rd November 2021 were confirmed as a true record of the proceedings, after having been proposed by the Hon. Kulow Maalim, MP, and seconded by the Sahdrack Mose, MP.

MIN NO. TPWH 371/2021: **CONSIDERATION OF THE PETITION BY MR. BONIFACE MWAI GACHUNGA ON PROPOSAL TO AMEND THE NATIONAL CONSTRUCTION AUTHORITY ACT TO PROVIDE FOR INCLUSION OF THE COST OF PUBLIC FUNDED PROJECTS ON PROJECT SIGN BOARDS (PETITION NUMBER 44 OF 2021)**

The Petitioner, Mr. Boniface Mwai, took Member through the petition. He explained that disclosure of cost is an important aspect both from an accounting perspective and it terms of good governance. He explained that whereas the information on cost is not a secret, he was praying that the National Assembly makes it easier to access, thereby the need for the amendment to the law to provide for the same on sign boards.

The National Construction Authority, through the Principal Secretary for Public Works and the Executive Director NCA, submitted that the costs are available in all government agency websites in line with a Presidential Directive issued some years ago. They further submitted that including the cost of projects in sign boards may enhance the use of the board to include accountability for resources. However, for the board to be used for this purpose there may be need to add other information as accountability may not be judged by cost alone. They submitted that the cost is not included in the board because the guidelines are mainly intended to enhance quality assurance and to confirm compliance.

The Committee observed that it may have to consult the Public Procurement Regulatory Authority (PPRA) before making its determination because the issue of costing and accountability may be beyond the scope of the National Construction Authority.

MIN No. TPWH 372/2021: **ANY OTHER BUSINESS**

1. The Committee resolved to invite the Kenya Ports Authority Managing Director on Tuesday, 30th November 2021, to provide an update on Lamu Port and expenditure update of the 2021/2022 budget estimates.



REPUBLIC OF KENYA

**MINISTRY OF TRANSPORT, INFRASTRUCTURE, HOUSING,
URBAN DEVELOPMENT AND PUBLIC WORKS**

STATE DEPARTMENT FOR PUBLIC WORKS

NOVEMBER 2021

11



**MEMORANDUM REGARDING A PROPOSAL TO AMEND THE NATIONAL
CONSTRUCTION AUTHORITY ACT TO PROVIDE FOR INCLUSION OF THE
COST OF PUBLIC FUNDED PROJECTS ON PROJECT SIGN BOARDS**

1.0 BACKGROUND

The National Construction Authority (NCA) is established under the National Construction Authority Act No. 41 of 2011 (hereinafter referred to as the 'Act') which came into effect on the 8th of June 2011. In exercise of the Cabinet Secretary's powers conferred under Section 42 of the Act, the National Construction Authority Regulations were adopted by the National Assembly and took effect on the 6th June 2014 by Notice in the Kenya Gazette.

The object for which the Authority is established is to oversee the construction industry and coordinate its development. Pursuant to Section 5(2)(g) of the Act, the Authority's function in terms of compliance is to promote and ensure quality assurance in the construction industry and under Section 5(2) (ga) to enforce the prescribed Building Code in the construction industry.

**2.0 AMENDMENT TO THE NATIONAL CONSTRUCTION AUTHORITY TO
PROVIDE FOR THE INCLUSION OF THE COST OF PUBLIC FUNDED
PROJECTS ON PROJECT SIGN BOARD**

The NCA Act No. 41 of 2011 does not have any express provision under the Act that requires a developer whether public or private to have a site sign Board. This is a requirement under the Physical Land Use and Planning Act.

The site sign Board is a requirement at the point of approval of the project by the respective County.

In furtherance of section 5 (1) (n), of the NCA Act, the National Construction Authority has developed guidelines for a standard Construction Site Sign Board (**Annex 1**) for projects being undertaken by private developers, Ministries, Departments and Agencies to capture standard details for display. However, the cost of the project is not included.

As per the guidelines, the project Site Sign Board is required to have the following information on it;

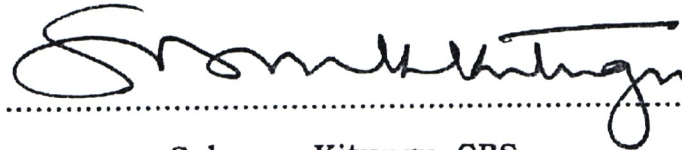
1. Project -Name of location (Land No.) to be constructed;
2. Ownership details -Client/ Developer
3. Supervising consultants namely;
 - i. Architect;
 - ii. Electrical Engineer;
 - iii. Quantity Surveyor;
 - iv. Civil/Structural Engineer;
 - v. Mechanical Engineer
 - vi. Other (consultants involved in the project not outlined in 3)
4. Contractor
 - i. Main Contractor;

- ii. Subcontractor(s);
- 5. Statutory approvals
 - i. County Construction permit as per PLUPA 2019;
 - ii. NEMA license
 - iii. NCA Compliance certificate
 - iv. Others (approvals for the project not outlined in 5)

As regards the cost, it is disclosed in the certificate of compliance issued to the applicant.

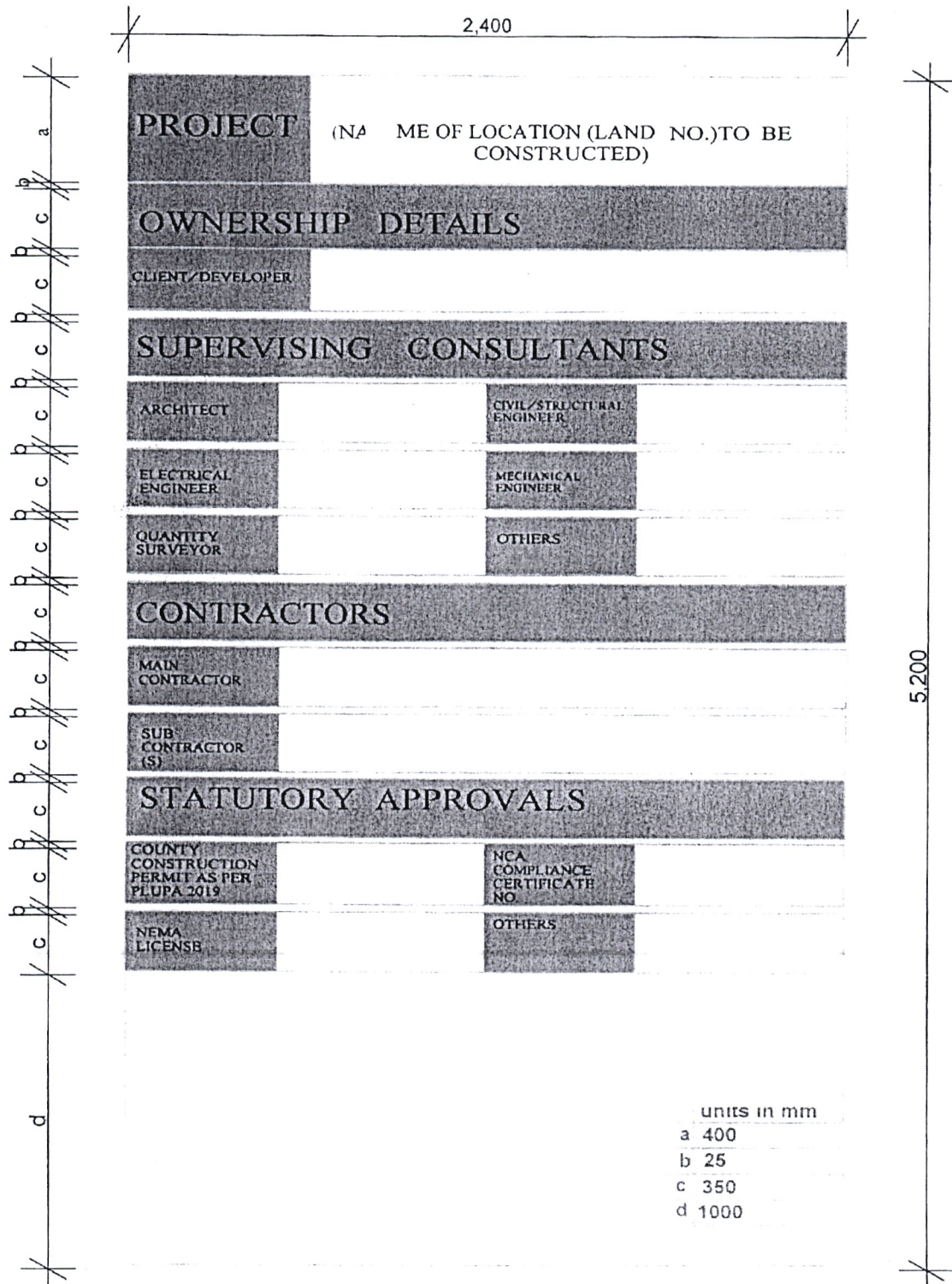
Including the cost may enhance the use of the board to include accountability for resources. However, for the board to be used for this purpose, there may be need to add other information as accountability may not be judged by cost alone.

The cost is not included in the board because the guidelines are mainly intended to enhance quality assurance and to confirm compliance.

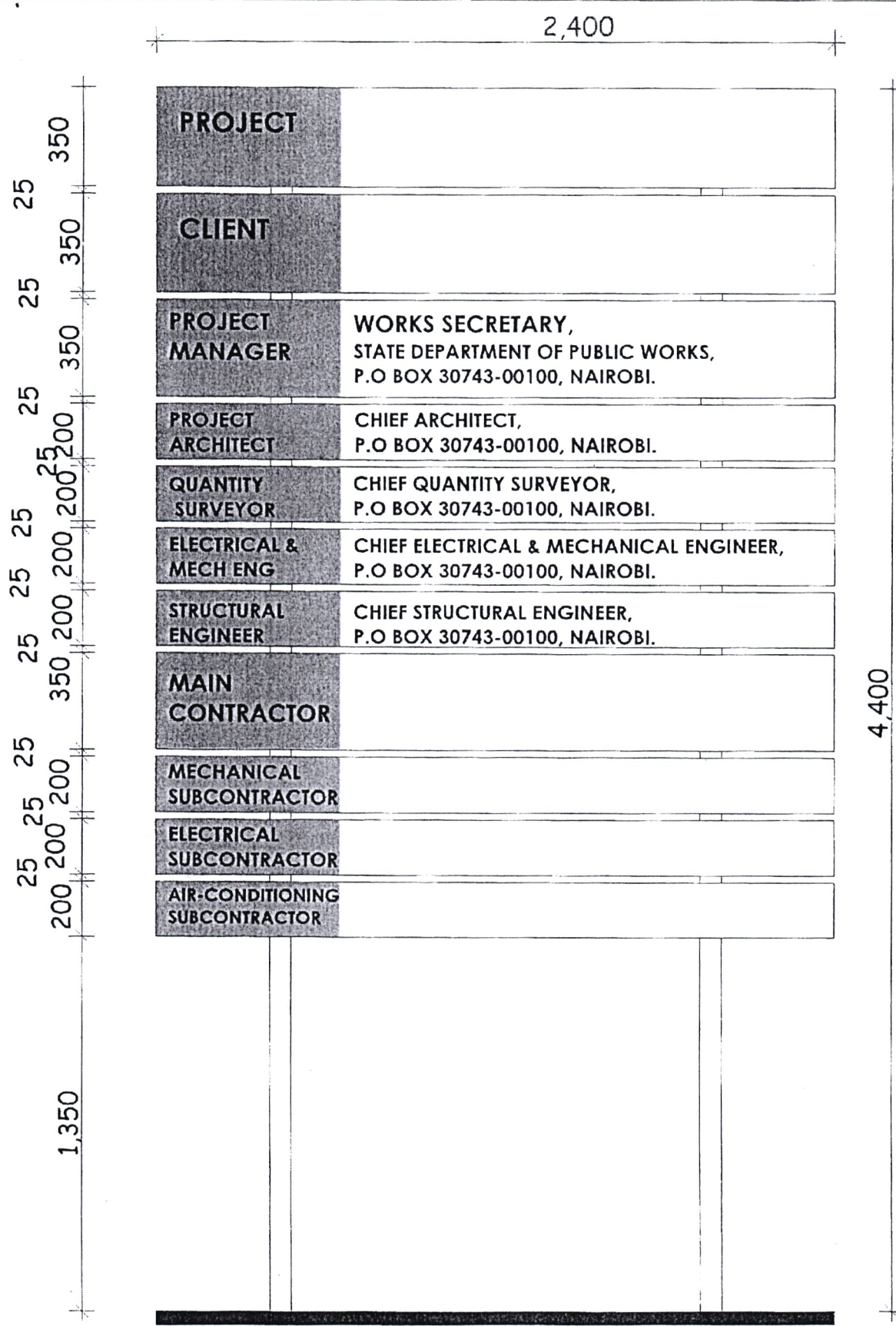


Solomon Kitungu, CBS
PRINCIPAL SECRETARY

ANNEX 1. NCA PROJECT SIGN BOARD







STANDARD MoW SIGNBOARD



*Hon. Speaker,
You may approve.
Wanjiku*



REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY (FIFTH SESSION)

CONVEYANCE OF A PUBLIC PETITION

(No. 044 of 2021)

REGARDING A PROPOSAL TO AMEND THE NATIONAL CONSTRUCTION AUTHORITY ACT TO PROVIDE FOR INCLUSION OF THE COST OF PUBLIC FUNDED PROJECTS ON PROJECT SIGN BOARDS

Honourable Members, Standing Order 225(2) (b) requires the Speaker to report to the House any petition, other than those presented by a Member. Further, Article 119 of the Constitution provides for the right of any person to petition Parliament to consider any matter within its authority, including petitioning the House to enact, amend or repeal any legislation.


In this regard, **Honourable Members,** I wish to report to the House that my office has received a petition signed by Mr. Boniface Mwai Gachunga of ID No. 22377410. The Petitioner states that both the National Construction Authority Act, 2011 and the National Construction Authority Regulations, 2014 do not include the requirement that the cost of all public funded projects be included in the list of items displayed on project sign boards. He claims that the above omission negates the constitutional principle of good governance, integrity, transparency and accountability as envisaged under Article 10(2)(c) of the Constitution.

Honourable Members, the Petitioner therefore prays that the National Assembly amends the relevant provisions of the National Construction Authority Act, 2011 with a view to entrenching in law a mandatory

requirement to that the full cost of all public funded projects be displayed on project sign boards.

Honourable Members, having determined that the matters raised by the Petitioner are well within the authority of this House, I order that, pursuant to the provisions of Standing Order 227(1), this petition be committed to the Departmental Committee on Transport, Public Works and Housing. The Committee is required to consider the Petition and report its findings to the House and to the Petitioner in accordance with Standing Order 227(2).

I thank you!


THE HON. JUSTIN B.N. MUTURI, EGH, MP
SPEAKER OF THE NATIONAL ASSEMBLY

Date: 28/9/2021.....

Telegraphic Address
'Bunge', Nairobi
Tel. +254-20-2848000
Fax : +254-20-2243694
E-mail : clerk@parliament.go.ke
When replying please quote



REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY

Clerk's Chambers
National Assembly
Parliament Buildings
P.O. Box 41842-00100
NAIROBI, Kenya

Ref: NA/DCS/TPWH/CORR/2021/ (070)

18th November, 2021

Mr. Solomon Kitungu, CBS
Principal Secretary
State Department for Public Works
Ministry of Transport, Infrastructure, Housing,
Urban Development and Public Works
Works Building - 6 Ngong Road
NAIROBI

Eng. Maurice Aketch
Executive Director
National Construction Authority
9th Floor, KCB Plaza - Kenya Road
NAIROBI

Ms. Mary Mwiti
Ag. Chief Executive Officer
Council of Governors
Delta Corner, 2nd Floor
Opp. PWC Chiromo Road
Off Waiyaki Way
NAIROBI

Mr. Boniface Mwai Gachunga
P.O. Box 300-20300
NYAHURURU

Dear *Mr. Kitungu*

**RE: INVITATION TO A MEETING WITH THE DEPARTMENTAL COMMITTEE
ON TRANSPORT, PUBLIC WORKS AND HOUSING TO RESPOND TO A
PUBLIC PETITION**

Article 119 of the Constitution of Kenya provides that every person has a right to petition Parliament to consider any matter within its authority.

Pursuant to the said Article 119 and National Assembly Standing Orders 220 and 227, the Speaker of the National Assembly conveyed Public Petition No. 44 of 2021 presented to the House by Mr. Boniface Mwai Gachunga proposing to amend the National Construction Authority Act to provide for the inclusion of the cost of public funded projects on project signboards. The Petition (*copy attached*) was referred to the Departmental Committee on Transport, Public Works and Housing for consideration and reporting to the House.

Given the foregoing, the Committee has scheduled to meet the Petitioner, the Ministry, the National Construction Authority and the Council of Governors to receive stakeholder responses to the issues raised in the Petition.

This is therefore to invite you to the said meeting scheduled for **Wednesday, 24th November 2021 at 10.00 am**. The meeting will be held in the **Committee Room on 2nd Floor, Continental House, Parliament Buildings**.

Our Liaison Officers on this subject are **Ms. Chelagat Tungo Aaron** who can be contacted on Tel. No. 0720436528 or email address tungoaaron@gmail.com and **Mr. Ahmed Salim**, Tel. No. 0710204056 or email address asadamnan@gmail.com.

Yours



JEREMIAH W. NDOMBI
For: CLERK OF THE NATIONAL ASSEMBLY

Copies to: Mr. James Macharia, EGH
Cabinet Secretary
Ministry of Transport, Infrastructure, Housing,
Urban Development and Public Works
Transcom House
Ngong Road
NAIROBI

MEMO

TO : DIRECTOR, DEPARTMENTAL COMMITTEE
SERVICES (NA)

FROM : HEAD OF THE TABLE OFFICE

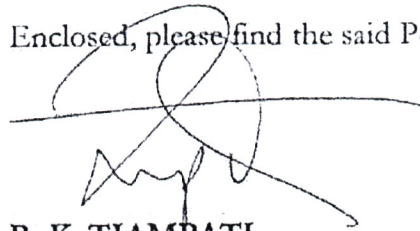
DATE : SEPTEMBER 30, 2021

SUBJECT : PUBLIC PETITION

The following Petition was conveyed to the House on Thursday, September 30, 2021 (Afternoon Sitting): -

- Public Petition on Proposal to amend the National Construction Authority Act to provide for Inclusion of the Cost of Public Funded Projects on Projects on Project Sign Boards (Referred to the Departmental Committee on Transport, Public Works & Housing).

Enclosed, please find the said Petition for your necessary action.



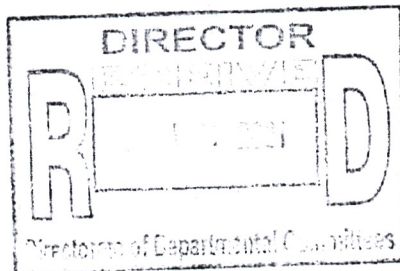
R. K. TIAMPATI

Copy: Clerk of the National Assembly
Deputy Clerks
Director, Legislative & Procedural Services

(Encls).

Tung Aarn
To facilitate consideration and update psh hours

tracker
UP W/LM
1/10/21





*Hon. Speaker
You may approve.
w/ct Kivai. D. 2021*



REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY (FIFTH SESSION)

CONVEYANCE OF A PUBLIC PETITION

(No. 044 of 2021)

**REGARDING A PROPOSAL TO AMEND THE NATIONAL
CONSTRUCTION AUTHORITY ACT TO PROVIDE FOR
INCLUSION OF THE COST OF PUBLIC FUNDED PROJECTS ON
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Honourable Members, Standing Order 225(2) (b) requires the Speaker to report to the House any petition, other than those presented by a Member. Further, Article 119 of the Constitution provides for the right of any person to petition Parliament to consider any matter within its authority, including petitioning the House to enact, amend or repeal any legislation.

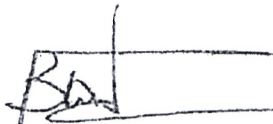
In this regard, **Honourable Members,** I wish to report to the House that my office has received a petition signed by Mr. Boniface Mwai Gachunga of ID No. 22377410. The Petitioner states that both the National Construction Authority Act, 2011 and the National Construction Authority Regulations, 2014 do not include the requirement that the cost of all public funded projects be included in the list of items displayed on project sign boards. He claims that the above omission negates the constitutional principle of good governance, integrity, transparency and accountability as envisaged under Article 10(2)(c) of the Constitution.

Honourable Members, the Petitioner therefore prays that the National Assembly amends the relevant provisions of the National Construction Authority Act, 2011 with a view to entrenching in law a mandatory

requirement to that the full cost of all public funded projects be displayed on project sign boards.

Honourable Members, having determined that the matters raised by the Petitioner are well within the authority of this House, I order that, pursuant to the provisions of Standing Order 227(1), this petition be committed to the Departmental Committee on Transport, Public Works and Housing. The Committee is required to consider the Petition and report its findings to the House and to the Petitioner in accordance with Standing Order 227(2).

I thank you!


THE HON. JUSTIN B.N. MUTURI, EGH, MP
SPEAKER OF THE NATIONAL ASSEMBLY

Date: 28/9/2021.....

29/10-LSO
deal
19/08/21

**THE NATIONAL ASSEMBLY
DIRECTORATE OF LEGAL SERVICES**

INTERNAL MEMORANDUM

TO: THE DEPUTY CLERK NATIONAL ASSEMBLY

③ Petition
please drop
19/08/21

LSO
18/08/21

THRO: THE DIRECTOR, LEGAL SERVICES-NA

THRO: PRINCIPAL LEGAL COUNSEL-NA

Forwarded, the petition may be
checked for consideration as
it meets the requirements
under the law.
I enclose. I agree with the opinion of counsel.
The petition may be forwarded to the Speaker if you
approve. 18/08/2021

FROM: LEGAL COUNSEL I

DATE: 12TH AUGUST, 2021

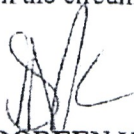
RE: PETITION BY BONIFACE MWAI GACHUNGA ON INCLUSION OF PROJECT COSTS ON THE PROJECT SIGN BOARD FOR ALL PUBLIC FUNDED PROJECTS

The above matter and your instructions to the Directorate of Legal Services to peruse and establish whether the Petition by Mr. Boniface Mwai Gachunga (herein referred to as the Petitioners) complies with the National Assembly Standing Orders refer.

The Petitioner prays that the National Assembly amends the National Construction Authority Act and any other applicable laws in order to provide for the total cost of a public funded project to be included and displayed in the project sign-board.

We have perused the Petition, the Constitution, the Petitions to Parliament (Procedure) Act, 2012 and the National Assembly Standing Orders and find that it complies with the requisite provisions.

In the circumstances, the petition may be forwarded to the Speaker for tabling in the House.



DOREEN KARANI,
LEGAL COUNSEL

THE CLERK OF THE NATIONAL ASSEMBLY

Parliament Buildings

P.O. Box 41842 -00100

NAIROBI

Email: parliament.petitions@parliament.go.ke



**RE: PETITION TO THE NATIONAL ASSEMBLY CONCERNING
INCLUSION OF PROJECT COST IN THE PROJECT SIGN BOARD FOR
ALL PUBLIC FUNDED PROJECTS**

Dh S
pse deal.
OMA
15/7/14

I, the undersigned,

Citizen of the Republic of Kenya and resident of Elburgon location, Molo district,
Nakuru county DRAW the attention of the National assembly to the following:

1. THAT: Article 10 of the constitution of Kenya requires all state organs, state officers, public officers and all persons whenever any of them:
 - 1.1. Applies or interprets this constitution
 - 1.2. Enacts, applies and interprets any law or
 - 1.3. Makes or implements public policy decisions,To strictly observe and be guided by our national values and principles always in the course of executing their mandate
2. THAT the National Construction Authority Regulations (2014) enumerate the items to be included in the project-sign board but conspicuously missing in the list of requirements is the PROJECT COST FOR PUBLIC FUNDED PROJECTS.
3. THAT, I have made the best efforts to have this matter addressed by the relevant authorities – in this case National Construction Authority which have failed to give a satisfactory response.
4. THAT, none of this issues raised in this petition is pending in any court of law, constitutional or any other legal body.

WHEREFORE, your humble petitioner pray that the National Assembly-

1. To consider and amend the NCA act and any other applicable laws to

**PETITION TO THE NATIONAL ASSEMBLY CONCERNING INCLUSION
OF PROJECT COST IN THE PROJECT SIGN BOARD FOR ALL PUBLIC
FUNDED PROJECTS**

Ms. Doreen Nkato

Please advise's process

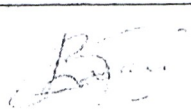
OMA
intake

make it a statutory requirement for the total cost of a public-funded project to be included and displayed in the project sign-board.

2. This is my considered and humble opinion that this will go a long way into capturing the aspirations and the spirit of the provisions of article 10 of the constitution of Kenya 2010.

Display

Dated this 28th day of December 2020.

No.	NAME	Address	ID No.	Signature
1.	BONIFACE MWAI GACHUNGA	300-20300 NYAHURURU 0723 113354	22377410	

**PETITION TO THE NATIONAL ASSEMBLY CONCERNING INCLUSION
OF PROJECT COST IN THE PROJECT SIGN BOARD FOR ALL PUBLIC
FUNDED PROJECTS**