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THE NATIONAL ASSEMBLY

ELEVENTH PARLIAMENT - THIRD SESSION - 2015

DEPARTMENTAL COMMITTEE ON TRANSPORT, PUBLIC WORKS AND
HOUSING

REPORT ON THE CONSIDERATION OF THE PUBLIC PETITION BY
PARENTS AND STAKEHOLDERS OF MATANGINI PRIMARY SCHOOL ON
THE IMPEDING RELOCATION OF THE SCHOOL TO SUB-STANDARD
TEMPORARY STRUCTURES

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

NOVEMBER, 2015

RAJ
SAA
19/11/15
Paper Lead
By Hon. Cikamu Gamaqo
Member, DC - Transport, Public
Works & Housing
Thurs. 19.11.2015 (pm)
Mmm

ACRONYMS

SGR - Standard Gauge Railway

MoU -Memorandum of Understanding

BoM -Board of Management

DSM -Dust Screening/Suction Machine

NEMA -National Environmental Management Authority

CBRC-China Roads and Bridge Company

EIA -Environmental Impact Assessment

VIP -Ventilated Improved Pit

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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 of the Committee on the Public Petition by Parents and stakeholders of Matangini Primary School on the impending relocation of the school to sub-standard temporary structures.

The petition was tabled before the House pursuant to Standing Order 225 (2)(a) by the Hon. Jessica Mbalu, MP, on behalf of Parents and stakeholders of Matangini Primary School on the impending relocation of the school to sub-standard temporary structures in Ivingoni-Nzambani Ward, Kibwezi East Constituency.

1.1 Mandate of the Committee

The Committee is established pursuant to the provisions of Standing Order 216, with the following terms of reference: -

- 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 effectiveness of 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 compared with the 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; and
- f. Make reports and recommendations to the House as often as possible including recommendation of proposed legislation

The Committee is mandated to oversight the following Ministries and Departments:

- a. Ministry of Transport and Infrastructure and
- b. Department of Housing and Directorate of Public Works in the Ministry of Lands, Housing and Urban Development.

1.2 Committee Membership

The Committee comprise of the following Members:-

1. The Hon. Maina Kamanda, M.P. – **(Chairperson)**
2. The Hon. (Eng.) Mahamud M. Mohamed, M.P.– **(Vice Chairperson)**
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. Barchilei Kipruto, 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 Kinyanjui Mburu, M.P.
19. The Hon. Suleiman Dori, M.P.
20. The Hon. Edick Omondi Anyanga, M.P.
21. The Hon. Simon Nyaundi Ogari, M.P.
22. The Hon. Johnson Manyanaicca, M.P.
23. The Hon. Mishi Juma, M.P.

24. The Hon. Aduma Owuor, M.P.
25. The Hon. Chachu Ganya, 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.

1.3 Committal and Consideration of the Petition

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. The Committee considered the petition pursuant to the provisions of Standing Order 227 (1) and (2).

The Committee proceeded with the consideration of the petition by holding meetings to set up terms of reference and schedule meetings.

In considering the petition, the Committee invited and held meetings with the Hon. Jessica Mbalu, MP, the petitioners and the Ministry of Transport and Infrastructure. The meetings were aimed at responding to issues raised by the petitioners.

1.4 Committee Observations

Having held meetings and considered the submissions presented on the petition, the Committee observed that:-

- (i) Matangini Primary School does not fall within the Mombasa-Nairobi Standard Gauge Railway (SGR) construction corridor. However, the Mange'elele Quarry which is being used by the SGR Contractor is located close to Matangini Primary School.

- (ii) The SGR Contractor identified Mang'elele Quarry being the only source of Hardstone within Mtito Andei and Tsavo Area for good quality stones for the production of coarse aggregates.
- (iii) The contractor entered into an agreement and signed a Memorandum of Understanding (MoU) on 30th March, 2015 with the School's Board of Management (BoM). The MoU included rehabilitation of the Matangini Primary School buildings such as construction of concrete floors, fitting of doors as well as windows to the classrooms. These works were conducted to the satisfaction of the School Board of Management.
- (iv) Dust generated from the quarry found its way to the school and all efforts to address the dust menace became futile including the use of a Dust Screening/Suction Machine (DSM) as an additional component to the crusher. The DSM was installed in February/March, 2015. With the installation of the DSM dust emission from the quarry has reduced considerably. However, the noise from the crusher has contributed negatively to the school, making learning difficult to take place.
- (v) The Contractor agreed with the Matangini School Board of Management to relocate the school to temporary location away from the Mang'elele quarry site during the time the quarry will be in use. The BoM identified an area some 1.1 km away from the current Matangini Primary School location after the local Market Centre from Mtito Andei side. The temporary school compound is 8.0 Acres (same as the total area of the existing school) and has been leased for the period quarrying activities for the Mombasa-Nairobi SGR will be on-going at the Mang'elele Quarry.
- (vi) Temporary Classrooms, Offices, Kitchen and Ventilated Improved Pit (VIP) Latrines have been constructed and were complete for the 2nd term school opening as from 4th May, 2015. An 8,000 liters capacity Plastic Water Tank with two (2) watering points (taps) has also been installed and can store rain water harvested from the new building structures. All the floors are concreted. To take care of heat from the perennial hot weather, all the walls have been fitted/lined with bright insulating materials, the wall and roof height raised and ceiling boards made of plywood fitted.

- (vii) The temporary school has been fenced, with space for a standard playing field and is conducive for learning.
- (viii) The Contractor also agreed to inspect and carry out any other necessary repairs in the existing school before pupils can be allowed back after quarrying activities.

1.5 Response to the prayers in the petition

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

Intervenes with relevant authorities to ensure that the setting up and operation of a crusher less than one kilometer next to Matangini Primary School is halted until CRBC constructs permanent and quality structures to which the school will be relocated.

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

1. The prayer by the petitioners to have the setting up and operation of a crusher less than one kilometer next to Matangini Primary School is halted until CRBC constructs permanent and quality structures to which the school will be relocated is hereby declined.
2. The Contractor through the Kenya Railways Corporation should routinely maintain the temporary structures where the school has been relocated with a view to ensure a conducive learning environment for the pupils and teachers.
3. The Contractor through the Kenya Railways Corporation should refurbish the original school once they are through with the quarrying activities at Mang'elele site and the school relocates to the original site.

1.6 Adoption of the Report

The members of the Departmental Committee on Transport, Public Works and Housing pursuant to Standing Order 199 adopted this Report on the Public Petition by Parents and stakeholders of Matangini Primary School on the impeding relocation of the school to sub-standard temporary structures and affixed their signatures as per the attached Annex I to affirm their approval and confirm its accuracy, validity and authenticity on Monday, 19th October, 2015:-

1.7 Acknowledgment

The Committee wishes to sincerely thank the Offices of the Speaker and the Clerk of the National Assembly for the support extended to it in the execution of its mandate.

I take this opportunity to thank all the Members of the Committee for their useful contributions towards the production of this report and hard work during the long sitting hours under tight schedules which enabled us to complete the tasks within the stipulated period.

The Committee wishes to record its appreciation for the services rendered by the staff of the National Assembly attached to the Committee. Their efforts made the work of the Committee and the production of this Report possible.

Finally, it is now my pleasant duty, on behalf of the Departmental Committee Transport, Public Works and Housing, to present this report to the House pursuant to the provisions of Standing Order 227 (2).

FOR THE HON. FRANCIS OCHIENG OCHIENG
SIGNED:*[Signature]*.....DATE: *19/10/2015*.....

THE HON. MAINA KAMANDA, M.P. CHAIRPERSON

DEPARTMENTAL COMMITTEE ON TRANSPORT, PUBLIC WORKS AND HOUSING

2.0 BACKGROUND INFORMATION

- 2.1 The Public Petition by Parents and stakeholders of Matangini Primary School on the impending relocation of the school to sub-standard temporary structures was presented to the House by the Hon. Jessica Mbalu, MP, on Wednesday, 29th April, 2015 pursuant to Standing Order 225 (2)(a).
- 2.2 Pursuant to House rules, the petition was referred to the 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.
- 2.3 The petitioners wished to draw the attention of the House on the following:-
- i) **THAT**, aware that residents of Matangini are among development conscious Kenyans who paved way for construction of the flagship Standard Gauge Railway across their Land;
 - ii) **THAT**, the Railway line which is being laid by China Roads and Bridge Company (CBRC) is earmarked to pass next to Matangini Primary School in Kibwezi East Constituency;
 - iii) **THAT**, the CRBC has since put up a crusher within a distance of one kilometer from the school, contrary to the National Environmental Management Authority (NEMA) regulation;
 - iv) **THAT**, CRBC had agreed to relocate the school to a quiet place nearby, only for the company to put up temporary mabati structures instead of constructing modern permanent structures that are habitable to the pupils and the teachers;
 - v) **THAT**, the temporary structures to which CBRC intends to have the school relocated are not conducive for learning since the region experiences extremely high temperatures, which may interfere with learning in the mabati classroom;
 - vi) **THAT**, this is an infringement on the right of Matangini Primary School fraternity to enjoy a quiet and conducive learning environment as granted under Article 42 of the constitution;

- vii) **THAT**, parents and stakeholders of Matangini Primary whose good will caused them to allow the railway to traverse their land for public good are now at a risk of having their well-built facilities and being condemned to poor structures that are not conducive for learning;
- viii) **THAT**, the pupils' inalienable right to education in a conducive environment can only be protected when the CRBC relocates the school to good structures or moves the crusher to another site:
- ix) **THAT**, to the best of my knowledge, there is no pending case before any court of law inspect to this matter.

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

Intervenues with relevant authorities to ensure that the setting up and operation of a crusher less than one kilometer next to Matangini Primary School is halted until CRBC constructs permanent and quality structures to which the school will be relocated.

3.0 SUBMISSIONS AND EVIDENCE

Having been seized of the Petition, the Committee commenced its consideration by inviting the petitioners, the Hon. Jessica Mbalu, MP and the Principal Secretary for the Ministry of Transport and Infrastructure for meetings on diverse dates. During the meetings, written and oral evidence was adduced as recorded hereunder:-

3.1 Meeting with the Petitioner

On Thursday, 23rd July, 2015 the Committee held a meeting with the Petitioners, Ms. Janet Ikyuma, Mr. Benson Mwingi and the Hon. Jessica Mbalu, MP. They informed the Committee on the effect of the temporary structures built by the contractor of the Standard Gauge Railway (SGR) for the school since the region experiences extremely high temperatures, which may interfere with learning in the

mabati classrooms. The Member pledged to provide land if the contract agrees to build a school with permanent structures.

3.2 Meeting with the Principal Secretary, Ministry of Transport and Infrastructure

On Thursday, 23rd July, 2015 the Committee met with the Principal Secretary, Eng. John Mosonik and made his presentation as follows, that:-

1. Matangini Primary School does not fall within the Mombasa-Nairobi Standard Gauge Railway (SGR) construction corridor; as such it is not earmarked for relocation. However, the Mange'elele Quarry which is being used by the SGR Contractor is located close to Matangini Primary School. It is imperative to note that Mang'elele Quarry is an old Hardstone Source that has been used over the years including by Road Contractors during the Rehabilitation Construction of the Mombasa-Nairobi (A109) Road.
2. Following prospecting for Hardstone Sources: the SGR Contractor identified Mang'elele Quarry being an only source within Mtito Andei and Tsavo Area for good quality stone for production of coarse aggregates. As per National Environment Management Authority (NEMA) requirements, and Environmental Impact Assessment (EIA) was conducted a report prepared and submitted to NEMA who granted a specific License No. NEMA.EIA/PSL/597 dated 23rd September, 2014 for quarrying operations.
3. Before the SGR Contractor commenced quarrying activities at Mang'elele Quarry, the contractor entered into an agreement and signed a Memorandum of Understanding (MoU) on 30th March, 2015 with the School's Board of Management (BoM). The MoU included rehabilitation of the Matangini Primary School buildings e.g. construction of concrete floors, fitting of doors as well as windows to the classrooms. These works were conducted to the satisfaction of the School Board of Management. During a site visit on 4th May, 2015, the Deputy Head Teacher and another teacher confirmed their satisfaction with the improvement/rehabilitation works which the SGR Contractor has carried out.
4. At the time when the Contractor commenced quarrying activities at Mang'elele Quarry, there used to be several tall trees and other shrubs within the school compound in between the quarry face and the classrooms. The trees covered part of the school playing field and provided a shield to dust as well as noise. Later,

the School Head Teacher requested the Contractor to help with his bulldozers and clear the areas covered by trees and shrubs so as to enable them extend the school playing field.

5. Following the cutting of trees, when wind flows towards the direction of the school, dust generated from the quarry finds its way to the school. To address the dust menace, the Contractor imported a Dust Screening/Suction Machine (DSM) as an additional component to the crusher. The DSM was installed in February/March, 2015. With the installation of the DSM dust emission from the quarry has reduced considerably.
6. The only negative environment/social effect which remained was high noise levels when quarrying is on-going. To address this issue, the Contractor agreed with the Matangini School Board of Management that it is prudent to look for a temporary place away from the quarry site to temporarily relocate the school during the time the Mang'elele Quarry will be in use. The BoM identified an area some 1.1 km away from the current Matangini Primary School location after the local Market Centre from Mtito Andei side. The temporary school compound is 8.0 Acres (same as the total area of the existing school) and has been leased for the period quarrying activities for the Mombasa-Nairobi SGR will be on-going at the Mang'elele Quarry.
7. Temporary Classrooms, Offices, Kitchen and Ventilated Improved Pit (VIP) Latrines have been constructed and were complete for the 2nd term school opening as from 4th May, 2015. An 8,000 liters capacity Plastic Water Tank with two (2) watering points (taps) has also been installed and can store rain water harvested from the new building structures. All the floors are concreted. To take care of heat from the perennial hot weather, all the walls have been fitted/lined with bright insulating materials, the wall and roof height raised and ceiling boards made of plywood fitted. The Contractor also agreed to inspect and carry out any other necessary repairs in the existing school before pupils can be allowed back after quarrying activities. The temporary school, has been fenced, has space for a standard playing field and is suitable for learning.

3.3 Fact finding visit and meeting with the public

On Monday, 10th August, 2015 the Committee undertook a fact finding visit to Matangini Primary School. The objective of the visit was to ascertain the impact of the Stone Crusher erected by China Roads and Bridge Company (CRBC) particularly the dust and the noise pollution to the school. The Committee visited where the school was relocated from as well as the temporary structure where the school is currently and the Mangalelte Quarry.

The Committee further held a consultative meeting with the parents, teachers and the pupils of the school to hear their complains. The stakeholders informed the Committee as follows: -

That-

- i. The residents of Matangini are development conscious Kenyans who paved way for the construction of the flagship Standard Gauge Railway across their land.
- ii. The Contractor, CRBC has put up a crusher within a distance of one kilometer from the school.
- iii. The CRBC has put up temporary mabati structures instead of constructing modern permanent structures that are habitable to pupils and teachers.
- iv. These temporary structures are not conducive for learning given that the region experiences extremely high temperatures which may interfere with learning in the mabati classrooms.
- v. The Constitutional rights to education in conducive learning environment of the pupils have been infringed by CRBC.
- vi. The CRBC should buy the land from the owner for the school and build permanent structure class-rooms same as their previous school.

3.4 Committee Observations from the fact finding Visit

- (i) The temporary school compound is 8.0 Acres (same as the total area of the existing school) and has been leased for the period quarrying activities for the Mombasa-Nairobi SGR will be on-going at the Mang'elele Quarry.
- (ii) Temporary Classrooms, Offices, Kitchen and Ventilated Improved Pit (VIP) Latrines have been constructed and were complete for the 2nd term school

opening as from 4th May, 2015. An 8,000 liters capacity Plastic Water Tank with two (2) watering points (taps) has also been installed and can store rain water harvested from the new building structures. All the floors are concreted. To take care of heat from the perennial hot weather, all the walls have been fitted/lined with bright insulating materials, the wall and roof height raised and ceiling boards made of plywood fitted.

(iii) The temporary school has been fenced, with space for a standard playing field and is conducive for learning.

(iv) The Contractor also agreed to inspect and carry out any other necessary repairs in the existing school before pupils can be allowed back after quarrying activities.

4.0 COMMITTEE OBSERVATIONS

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

THAT:-

- (i) Matangini Primary School does not fall within the Mombasa-Nairobi Standard Gauge Railway (SGR) construction corridor. However, the Mange'elele Quarry which is being used by the SGR Contractor is located close to Matangini Primary School.
- (ii) The SGR Contractor identified Mang'elele Quarry being the only source of Hardstone stones within MtitoAndei and Tsavo Area for good quality stones for the production of coarse aggregates.
- (iii) The contractor entered into an agreement and signed a Memorandum of Understanding (MoU) on 30th March, 2015 with the School's Board of Management (BoM). The MoU included rehabilitation of the Matangini Primary School buildings such as construction of concrete floors, fitting of doors as well as windows to the classrooms. These works were conducted to the satisfaction of the School Board of Management.

- (iv) Dust generated from the quarry found its way to the school and all efforts to address the dust menace became futile including the use of a Dust Screening/Suction Machine (DSM) as an additional component to the crusher. The DSM was installed in February/March, 2015. With the installation of the DSM dust emission from the quarry has reduced considerably. However, the noise from the crusher has contributed negatively to the school, making learning difficult to take place.
- (v) The Contractor agreed with the Matangini School Board of Management to relocate the school to temporary location away from the Mang'elele quarry site during the time the quarry will be in use. The BoM identified an area some 1.1 km away from the current Matangini Primary School location after the local Market Centre from MtitoAndei side. The temporary school compound is 8.0 Acres (same as the total area of the existing school) and has been leased for the period quarrying activities for the Mombasa-Nairobi SGR will be on-going at the Mang'elele Quarry.
- (vi) Temporary Classrooms, Offices, Kitchen and Ventilated Improved Pit (VIP) Latrines have been constructed and were complete for the 2nd term school opening as from 4th May, 2015. An 8,000 liters capacity Plastic Water Tank with two (2) watering points (taps) has also been installed and can store rain water harvested from the new building structures. All the floors are concreted. To take care of heat from the perennial hot weather, all the walls have been fitted/lined with bright insulating materials, the wall and roof height raised and ceiling boards made of plywood fitted.
- (vii) The temporary school has been fenced, with space for a standard playing field and is conducive for learning.
- (viii) The Contractor also agreed to inspect and carry out any other necessary repairs in the existing school before pupils can be allowed back after quarrying activities.

5.0 RESPONSE TO THE PRAYERS IN THE PETITION

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

Intervenes with relevant authorities to ensure that the setting up and operation of a crusher less than one kilometer next to Matangini Primary School is halted until CRBC constructs permanent and quality structures to which the school will be relocated.

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

1. The prayer by the petitioners to have the setting up and operation of a crusher less than one kilometer next to Matangini Primary School is halted until CRBC constructs permanent and quality structures to which the school will be relocated is hereby declined.
2. The Contractor through the Kenya Railways Corporation should routinely maintain the temporary structures where the school has been relocated with a view to ensure a conducive learning environment for the pupils.
3. The Contractor through the Kenya Railways Corporation should refurbish the original school once they are through with the quarrying activities at Mang'elete site.

THE NATIONAL ASSEMBLY


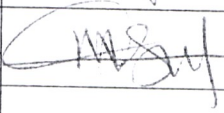
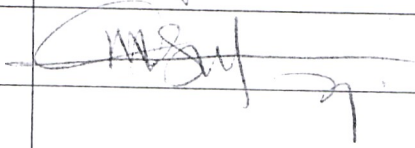
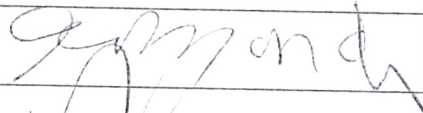

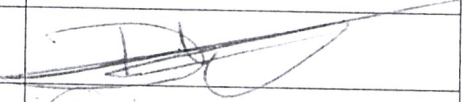

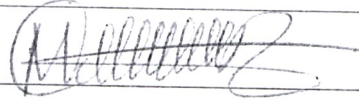


ELEVENTH PARLIAMENT – 3RD SESSION

DEPARTMENTAL COMMITTEE – TPWH: TRANSPORT, PUBLIC WORKS AND HOUSING

Register for the adoption of the Report on the Petition by the parents and stakeholders of Matangini Primary School on the impending relocation of the school to sub-standard temporary structure

NO.	MEMBER	SIGNATURE
1.	Hon. Maina Kamanda (Chairperson), MP	
2.	Hon. (Eng.) Mohamud M. Mohamed (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. Edick O. Anyanga, MP	
19.	Hon. Aduma Owuor, MP	
20.	Hon. Gideon Konchella, MP	
21.	Hon. Abass Ahmed Ibrahim, MP	
22.	Hon. Ali Wario, MP	
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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	

Mr. Samuel Kalama – First Clerk Assistant

For: CLERK OF THE NATIONAL ASSEMBLY

MINUTES OF THE 38TH SITTING OF THE TRANSPORT, PUBLIC WORKS AND HOUSING COMMITTEE HELD ON THURSDAY 23RD JULY, 2015 IN THE COMMITTEE ROOM ON 4TH FLOOR, CONTINENTAL HOUSE AT 10:30 AM.

PRESENT

1. Hon. Maina Kamanda, M.P. – **Chairperson**
2. Hon. (Eng.) Mahamud Maalim, M.P. –**Vice Chairman**
3. Hon. Omulele Christopher, M.P.
4. Hon. Cecily Mbarire, M.P.
5. Hon. Emmanuel Wangwe, MP
6. Hon. Mathias Robi, M.P,
7. Hon. (Capt.) Clement Wambugu, M.P.
8. Hon. (Eng.) Stephen Ngare, M.P
9. Hon. Peter Shehe, MP
10. Hon. Edick Omondi Anyanga, M.P.
11. Hon. Ali Wario, M.P.
12. Hon. Aduma Owuor, M.P
13. Hon. Ahmed Abbas Ibrahim, M.P.
14. Hon. Simon Nyaundi Ogari, MP
15. Hon. Omar Mwinyi, M.P.

ABSENT WITH APOLOGY

1. Hon. K.K. Stephen Kinyanjui Mburu, M.P
2. Hon. Johnson Manya Naicca, M.P.
3. Hon. Gideon Konchella, MP
4. Hon. Chachu Ganya, M.P.
5. Hon. Joseph Lomwa, M.P.
6. Hon. Grace Kipchoim, M.P
7. Hon. Suleiman Dori, M.P.
8. Hon. Mark Lomunokol, M.P.
9. Hon. Mukwe James Lusweti, M.P.
10. Hon. Eng. John Kiragu, M.P.
11. Hon. Stephen Manoti, M.P.
12. Hon. (Arch.) David Kiaraho, M.P.
13. Hon. Barchilei Kipruto, MP
14. Hon. Mishi Juma, M.P.

IN ATTENDANCE

1. Hon. Jessica Mbalu
2. Hon. Sanjev K. Birdi

- **NATIONAL ASSEMBLY**

MP

MP

IN ATTENDANCE

1. Samuel Kalama
2. Mr. Abdifatah Bule
3. Ms. Nuri Kitel
4. Mr. James Muguna

Clerk Assistant

Clerk Assistant

Clerk Assistant

Researcher Officer

IN ATTENDANCE

**MINISTRY OF TRANSPORT & INFRASTRUCTURE
(MOTI)**

1. Eng. J.K Mosonik
2. Eng. Jacob Ruwa
3. Eng. F.D Karanja
4. Eng. G.M. Kiru
5. Eng. S.K Kogi
6. Mr. Frances Meja
7. Mr. F. Gitao
8. Eng. P.M Mundiria
9. Mr. M.Y Tarus
10. Mr. Danish Onyango
11. Mr. Micheal Labot
12. Ms. Carolyn Nganga
13. Ms. Grace Kamau
14. Mr. Justin Rapando

Principal Secretary (PS)

Director General, Kenya Roads Board

Ag. Executive Director, Kenya Rural Roads Authority

Ag. DG, Kenya National Highway Authority(KENHA)

Chief Engineer, MOTI

Director General, National Transport & Safety Authority

MOTI

Ag. Director General

Parliamentary Liaison Officer, MOTI

MOTI

MOTI

Legal Affairs, MOTI

Principal State Counsel, MOTI

Legal Affairs, Moti

IN ATTENDANCE

PETITIONERS

1. Mr. Martin M. Njogu
2. Ms. Janet Ikyuma
3. Mr. Bewson Mwingi

Kenya Long Distance Truck Drivers & Allied Workers' Union

Petitioner

Petitioner

The Chair called the meeting to order at 10:30 am and opened it with word of prayer. The Chairperson presented the agenda as follows:-

1. Prayer
2. Communication from the Chairperson
3. Confirmation of Minutes
4. Matters Arising
5. **Meeting with the Ministry officials on the following Petitions**
 - ✓ Petition by Hon. Jessica Mbali, MP on behalf of parents, teachers, pupils and stakeholders of Matangini Primary School on Ivingoni-Nzambani Ward in Kibwezi East Constituency on the impending relocation to sub-standard temporary structure
 - ✓ Petition by Hon. Sunjev Birdi, MP regarding alleged corrupt practices at the weighbridges
6. **Meeting with the Ministry officials on the Road Bill, 2015**
7. Any Other Business
8. Adjournment

Min/DC-TPWH/2015/194 Meeting with the Ministry officials on the following Petitions:-

- A. **Petition by Hon. Jessica Mbali, MP on behalf of parents, teachers, pupils and stakeholders of Matangini Primary School on Ivingoni-Nzambani Ward in Kibwezi East Constituency on the impending relocation of the school to sub-standard temporary structure**
- B. **Petition by Hon. Sunjev Birdi, MP regarding alleged corrupt practices at the weighbridges across the country**

The Chairperson invited the Principal Secretary (PS) and his team, to make their presentation on the following petitions:-

- A. **Petition by Hon. Sunjev Birdi, MP regarding alleged corrupt practices at the weighbridges across the country**

The PS responded the petition as follows:-

That:-

1. Weighbridges on National roads are managed by Kenya National Highway Authority (KENHA as set in the Kenya Roads Act of 2007. Since January 2013, the management of the weighbridges has been contracted to SGS (K) Ltd, a renowned quality assurance company in the country. The Ministry concur that there have been widespread allegations of corruption at the weighbridges. Indeed the Kenya National Highways Authority and SGS (K) Ltd continuously liaise with Ethics and Anti-Corruption Commission (EACC) to investigate and take action on issues of corruption. The collaboration resulted in two sting operations carried in 5th August 2014 at Mariakani and Athi River Weighbridge resulted in arrests and arraignment in court of several weighbridge staff.
2. Overloading at weighbridges can only be determined through weighing at the weighing scales. All vehicles detained at weighbridges are detained for a reason and prohibition. Vehicles are detained when they have contravened section 55 and section 56 of the traffic act cap 403 and the detention is in accordance with section 105 and 106 of the same traffic act cap 403.
3. In order to reduce delays at the weighbridges, all weighbridges on the Mombasa-Malaba route were installed with High speed weigh in Motion (HSWIM) system, which works by weighing the vehicles while in motion and compliant vehicles are cleared without diverting to the weigh bridges. Only suspected overload vehicles are called and out of the called in vehicles, only the ones determined to be overloaded are detained.
4. Harassment is not only a criminal offence but also unacceptable and is not condoned at any of the weighbridges. Indeed action will be taken on any officer proven to have harassed any weighbridge users.
5. The Ministry is astounded by the allegations of harassment from Kenya Long Distance Truck Drivers and Allied Workers Union (KLTDWU) since it has never received any written complaint from KLTDWU. It is worth noting that KeNHA and KLTDWU being both signatory of the self-regulatory charter, and other signatories regularly meet to deliberate on progress of the charter and the above issues have never arisen.
6. All weighbridges are designated police stations and it is procedure in accordance with the traffic act cap 403, sections 105 and 106 and truck keys, driving licence and any other necessary document detained by the Officer commanding station to

ensure safety and security for not only the detained truck but also the valuable cargo.

7. All complaints regarding Axle load control operations are being addressed comprehensively, through the normal administration channels.
8. All commercial vehicles are classified as per legal notice No. 93 of June 2013. Special trucks are those that are not classified as per legal notice no. 93, and this can only operate on Kenyan Roads with an exemption permit as set out in Traffic Act and indeed legal notice no 86 of May 2013.
9. Vehicles with exemption permits are usually assessed by confirmation of the contents of the permit and by weighing at the nearest weighbridge to its point of journey commencement. All this details are captured in an exemption permit.
10. Weighbridges are designated solely as points for determining weights of vehicles and cannot cater for extensive social needs which will hamper the key operations of the weighbridge facility. It is worth noting however that all weighbridges are usually within 6 Km of a major center which has health facilities and even weighbridge staff have to seek medical attention at the nearby centers. All weighbridges have operations vehicles which can be used in case of emergency to deliver not only weighbridge staff but any person in distress at the weighbridges for emergency attention

Issues raised by Hon. Sunjev Birdi, MP and the Petitioners

The following issues were raised in the meeting in reaction to the response presented by the PS:-

1. The Hon. Sunjev Birdi, MP declared her interest on the petition that she is an interested party.
2. The Petitioner informed the meeting that the issues of corruption practices at weighbridges are rampant and he admitted that the vice is still practiced.

The Committee resolved to undertake a fact finding tour to all major weighbridges in the country to assess the issues raised in the petition before the matter is concluded. The Committee also agreed to invite the Inspector General of Police for a meeting with the Committee on the long stay of the police officers attached to the weighbridges.

B. Petition by Hon. Jessica Mbalu, MP on behalf of parents, teachers, pupils and stakeholders of Matangini Primary School on Ivingoni-Nzambani Ward in Kibwezi East Constituency on the impending relocation of the school to sub-standard temporary structure

The PS responded the petition as follows:-

That:-

1. Matangini Primary School does not fall within the Mombasa-Nairobi Standard Gauge Railway (SGR) construction corridor; as such it is not earmarked for relocation. However, the Mange'elele Quarry which is being used by the SGR Contractor is located close to Matangini Primary School. It is imperative to note that Mang'elele Quarry is an old Hardstone Source that has been used over the years including by Road Contractors during the Rehabilitation Construction of the Mombasa-Nairobi (A109) Road.
2. Following prospecting for Hardstone Sources: the SGR Contractor identified Mang'elele Quarry being an only source within Mtito Andei and Tsavo Area for good quality stone for production of coarse aggregates. As per National Environment Management Authority (NEMA) requirements, and Environmental Impact Assessment (EIA) was conducted a report prepared and submitted to NEMA who granted a specific License No. NEMA.EIA/PSL/597 dated 23rd September, 2014 for quarrying operations.
3. Before the SGR Contractor commenced quarrying activities at Mang'elele Quarry, the contractor entered into an agreement and signed a Memorandum of Understanding (MoU) on 30th March, 2015 with the School's Board of Management (BoM). The MoU included rehabilitation of the Matangini Primary School buildings e.g. construction of concrete floors, fitting of doors as well as windows to the classrooms. These works were conducted to the satisfaction of the School Board of Management. During a site visit on 4th May, 2015, the Deputy Head Teacher and another teacher confirmed their satisfaction with the improvement/rehabilitation works which the SGR Contractor has carried out.
4. At the time when the Contractor commenced quarrying activities at Mang'elele Quarry, there used to be several tall trees and other shrubs within the school compound in between the quarry face and the classrooms. The trees covered part of the school playing field and provided a shield to dust as well as noise. Later, the School Head Teacher requested the Contractor to help with his bulldozers and

clear the areas covered by trees and shrubs so as to enable them extend the school playing field.

5. Following this, when wind flowed towards direction of the school, dust generated from the quarry found its way to the school. To address the dust menace, the Contractor imported a Dust Screening/Suction Machine (DSM) as an additional component to the crusher. The DSM was installed in February/March, 2015. With the installation of the DSM dust emission from the quarry has reduced considerably.
6. The only negative environment/social effect which remained was high noise levels when quarrying is on-going. To address this issue, the Contractor agreed with the Matangini School Board of Management that it is prudent to look for a temporary place away from the quarry site to temporarily relocate the school during the time the Mang'elele Quarry will be in use. The BoM identified an area some 1.1 km away from the current Matangini Primary School location after the local Market Centre from Mtito Andei side. The temporary school compound is 8.0 Acres (same as the total area of the existing school) and has been leased for the period quarrying activities for the Mombasa-Nairobi SGR will be on-going at the Mang'elele Quarry.
7. Temporary Classrooms, Offices, Kitchen and Ventilated Improved Pit (VIP) Latrines have been constructed and were complete for the 2nd term school opening as from 4th May, 2015. An 8,000 liters capacity Plastic Water Tank with two (2) watering points (taps) has also been installed and can store rain water harvested from the new building structures. All the floors are concreted. To take care of heat from the perennial hot weather, all the walls have been fitted/lined with bright insulating materials, the wall and roof height raised and ceiling boards made of plywood fitted. The Contractor also agreed to inspect and carry out any other necessary repairs in the existing school before pupils can be allowed back after quarrying activities. The temporary school, has been fenced, has space for a standard playing field and is suitable for learning.

Issues raised by Hon. Jessica Mbalu, MP

The following issues were raised in the meeting in reaction to the response presented by the PS:-

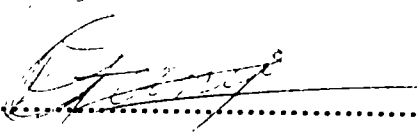
The Hon. Jessica Mbalu, MP expressed her dissatisfaction on the response given by the PS. She informed the meeting on the effect of the temporary structures built by the contractor of the Standard Gauge Railway (SGR) for the school. She pledged to provide land if the contract agrees to build a school with permanent structure.

The Committee resolved to undertake a fact finding tour to Matangini Primary School in Kibwezi East Constituency to assess the situation on Monday, 10th August 2015.

MIN/DC-TPWH/2015/195 Meeting with the Ministry officials on the Road Bill, 2015
Agenda deferred

MIN/DC-TPWH/2015/196 Adjournment

And time being 1.10 pm, the Chair adjourned the meeting and to be convened on Thursday, 28 July, 2015 at 10.00 am

FOR
HON. MAINA KAMANDA, M.P.
SIGNED.....

HON MAINA KAMANDA, M.P
(Chairperson)

DATE.....*17/7/2015*.....

MINUTES OF THE 49TH SITTING OF THE TRANSPORT, PUBLIC WORKS AND HOUSING COMMITTEE HELD ON MONDAY 19TH OCTOBER, 2015 IN BARAZA 2, WHITE SANDS HOTEL, MOMBASA 2:30 PM.

PRESENT

1. Hon. Maina Kamanda, M.P. – **Chairperson**
2. Hon. (Eng.) Mahamud Maalim, M.P. – **Vice Chairman**
3. Hon. Gideon Konchella, M.P.
4. Hon. Joseph Lomwa, M.P.
5. Hon. Grace Kipchoim, M.P.
6. Hon. Aduma Owuor, M.P.
7. Hon. (Eng.) Stephen Ngare, M.P.
8. Hon. Omulele Christopher, M.P.
9. Hon. Ahmed Abbas Ibrahim, M.P.
10. Hon. Mathias Robi, M.P.
11. Hon. Simon Nyaundi Ogari, M.P.
12. Hon. Stephen Manoti, M.P.
13. Hon. Mishi Juma, M.P.
14. Hon. Omar Mwinyi, M.P.
15. Hon. (Capt.) Clement Wambugu, M.P.
16. Hon. K.K. Stephen Kinyanjui Mburu, M.P.
17. Hon. Johnson Manya Naicca, M.P.
18. Hon. Emmanuel Wangwe, M.P.
19. Hon. Barchilei Kipruto, M.P.
20. Hon. Edick Omondi Anyanga, M.P.
21. Hon. (Arch.) David Kiaraho, M.P.
22. Hon. Eng. John Kiragu, M.P.

ABSENT WITH APOLOGY

1. Hon. Ali Wario, M.P.
2. Hon. Chachu Ganya, M.P.
3. Hon. Cecily Mbarire, M.P.
4. Hon. Mukwe James Lusweti, M.P.
5. Hon. Peter Shehe, M.P.
6. Hon. Mark Lomunokol, M.P.
7. Hon. Suleiman Dori, M.P.

IN ATTENDANCE

- NATIONAL ASSEMBLY

- | | |
|--------------------------|-----------------|
| 1. Mr. Abdifatah M. Bule | Clerk Assistant |
| 2. Ms. Nuri Kitel | Clerk Assistant |
| 3. Ms. Mercy Wanyonyi | Legal Counsel |

MIN/DC-TPWH/2015/257

Preliminaries

The Chair called the meeting to order at 2:30 pm and opened it with word of prayer. The Chairperson presented the agenda as follows:-

1. Prayer
2. **Consideration and adoption of the following Reports:-**
 - (i) Report on the Petition by Hon. Jessica Mbali, MP on behalf of parents, teachers, pupils and stakeholders of Matangini Primary School on Ivingoni-Nzambani Ward in Kibwezi East Constituency on the impending relocation to sub-standard temporary structure
 - (ii) Report on the Petition by Hon. Sunjev Birdi, MP regarding alleged corrupt practices at the weighbridges
3. Any Other Business

Min/DC-TPWH/2015/258 Consideration and adoption of the following Reports:-

- (i) **Report on the Petition by Hon. Jessica Mbali, MP on behalf of parents, teachers, pupils and stakeholders of Matangini Primary School on Ivingoni-Nzambani Ward in Kibwezi East Constituency on the impending relocation of the school to sub-standard temporary structure**

The Committee considered and adopted the report unanimously as proposed and seconded by the Hon. Aduma Owuor, MP and Hon. Simon Nyaundi Ogari, MP respectively with following observations and recommendations:-

Observations

1. Matangini Primary School does not fall within the Mombasa-Nairobi Standard Gauge Railway (SGR) construction corridor. However, the Mange'elele Quarry which is being used by the SGR Contractor is located close to Matangini Primary School.

2. The SGR Contractor identified Mang'elete Quarry being the only source of Hardstone stones within Mtito Andei and Tsavo Area for good quality stones for the production of coarse aggregates.
3. The contractor entered into an agreement and signed a Memorandum of Understanding (MoU) on 30th March, 2015 with the School's Board of Management (BoM). The MoU included rehabilitation of the Matangini Primary School buildings such as construction of concrete floors, fitting of doors as well as windows to the classrooms. These works were conducted to the satisfaction of the School Board of Management.
4. Dust generated from the quarry found its way to the school and all efforts to address the dust menace became futile including the use of a Dust Screening/Suction Machine (DSM) as an additional component to the crusher. The DSM was installed in February/March, 2015. With the installation of the DSM dust emission from the quarry has reduced considerably. However, the noise from the crusher has contributed negatively to the school, making learning difficult to take place.
5. The Contractor agreed with the Matangini School Board of Management to relocate the school to temporary location away from the Mang'elete quarry site during the time the quarry will be in use. The BoM identified an area some 1.1 km away from the current Matangini Primary School location after the local Market Centre from Mtito Andei side. The temporary school compound is 8.0 Acres (same as the total area of the existing school) and has been leased for the period quarrying activities for the Mombasa-Nairobi SGR will be on-going at the Mang'elete Quarry.
6. Temporary Classrooms, Offices, Kitchen and Ventilated Improved Pit (VIP) Latrines have been constructed and were complete for the 2nd term school opening as from 4th May, 2015. An 8,000 liters capacity Plastic Water Tank with two (2) watering points (taps) has also been installed and can store rain water harvested from the new building structures. All the floors are concreted. To take care of heat from the perennial hot weather, all the walls have been fitted/lined with bright insulating materials, the wall and roof height raised and ceiling boards made of plywood fitted.
7. The temporary school has been fenced, with space for a standard playing field and is conducive for learning.

8. The Contractor also agreed to inspect and carry out any other necessary repairs in the existing school before pupils can be allowed back after quarrying activities.

Recommendations

1. The Committee recommends that the Contractor through the Kenya Railways Corporation should routinely maintain the temporary structures where the school has been relocated with a view to ensure that the school is conducive for learning.
2. The Contractor through the Kenya Railways Corporation to refurbish the original school once they are through with the quarrying activities at Mang'elete site.

II. Report on the Petition by Hon. Sunjev Birdi, MP regarding alleged corrupt practices at the weighbridges

The Committee considered and adopted the report unanimously as proposed and seconded by the Hon. Edick Omondi Anyanga, MP and Hon. Omar Mwinyi, MP respectively with following observations and recommendations:-

Committee Observations

- (i) Weighbridges on National roads are managed by Kenya National Highway Authority (KENHA as set in the Kenya Roads Act of 2007. Since January 2013, the management of the weighbridges has been contracted to SGS (K) Ltd, a renowned quality assurance company in the country.
- (ii) Overloading at weighbridges can only be determined through weighing at the weighing scales. All vehicles detained at weighbridges are detained for a reason and prohibition. Vehicles are detained when they have contravened section 55 and section 56 of the traffic act cap 403 and the detention is in accordance with section 105 and 106 of the same traffic act cap 403.
- (iii) All weighbridges on the Mombasa- Malaba route have been installed with High speed weigh in Motion (HSWIM) system, which works by weighing the vehicles while in motion and compliant vehicles are cleared without diverting to the weigh bridges. Only suspected overload vehicles are called and out of the called in vehicles, only the ones determined to be overloaded are detained so as to reduce delays at the weighbridges.
- (iv) All weighbridges are designated police stations and it is procedure in accordance with the traffic act cap 403, sections 105 and 106 and truck keys, driving license and any other necessary document detained by the Officer commanding station to

ensure safety and security for not only the detained truck but also the valuable cargo.

(v) The Principal Secretary for the Ministry of Transport and infrastructure confirmed that there is widespread corruption at the weighbridges across the country.

The Committee recommends that:-

- i. The Ethic and Anti-Corruption Commission should further investigate the corrupt practices at the weighbridges and recommend for prosecution of those culpable.
- ii. Officers manning weighbridges should adhere to the provisions of the Traffic Act and the Legal Notice no. 86 of May, 2013. The Committee established that there are no clear weighing specifications for special trucks and that all commercial vehicles are classified as per Legal Notice No. 93 of June, 2013. Special trucks are those that are not classified as per Legal Notice No. 93, and they can only operate on Kenyan Roads with an exemption permit as set out in Traffic Act and Legal Notice no. 86 of May, 2013.
- iii. Officers who have stayed/ been stationed at weighbridges spots for more than a year should be transferred.
- iv. The Ministry of Transport and infrastructure should establish health and other recreational facilities at the weighbridges.

MIN/DC-TPWH/2015/259 Adjournment

And time being 3.10 pm, the Chair adjourned the meeting and to be convened on 22nd October, 2015 at 10.00 am.

For HON FRANCIS CHACHA GANVA, MP

SIGNED.....

HON MAINA KAMANDA, M.P
(Chairperson)

DATE.....*19/11/2015*.....



THE NATIONAL ASSEMBLY

ELEVENTH PARLIAMENT - THIRD SESSION

PUBLIC PETITION

BY PARENTS AND STAKEHOLDERS OF MATANGINI PRIMARY SCHOOL
ON
IMPEDING RELOCATION TO SUB-STANDARD TEMPORARY STRUCTURES

I, THE UNDERSIGNED, on behalf of parents, teachers, pupils and stakeholders of Matangini Primary School in Ivingoni-Nzambani Ward in Kibwezi East Constituency,

DRAW the attention of the House to the following;

- i) THAT, aware that residents of Matangini are among development-conscious Kenyans who paved way for construction of the flagship Standard Gauge Railway across their land;
- ii) THAT, the railway line, which is being laid by the China Road and Bridge Company (CRBC) is earmarked to pass next to Matangini Primary School in Kibwezi East Constituency;
- iii) THAT, the CRBC has since put up a crusher within a distance of one (1) kilometer from the school, contrary to National Environment Management Authority (NEMA) regulations;
- iv) THAT, CRBC, had agreed to relocate the school to a quiet place nearby, only for the company to put up temporary *mabati* structures instead of constructing modern permanent structures that are habitable to pupils and teachers;
- v) THAT, the temporary structures to which CRBC intends to have the school relocated are not conducive for learning since the region experiences extremely high temperatures, which may interfere with learning in the *mabati* classrooms;

Approved by
SNA
29/4/15

Ms. S. Mwangi
Please
29/4/15

PUBLIC PETITION
BY PARENTS AND STAKEHOLDERS OF MATANGINI PRIMARY SCHOOL
ON
IMPEDING RELOCATION TO SUB-STANDARD TEMPORARY STRUCTURES

- vi) THAT, this is an infringement on the right of Matangini Primary School fraternity to enjoy a quiet and conducive learning environment as granted under Article 42 of the Constitution;
- vii) THAT, parents and stakeholders of Matangini Primary School whose good will caused them to allow the railway to traverse their land for public good are now at a risk of having the education of their pupils disrupted;
- viii) THAT, if the planned relocation of Matangini Primary School proceeds without safeguarding the rights of pupils, teachers, parents and stakeholders, there is the risk of losing their well-built facilities and being condemned to poor structures that are not conducive for learning;
- ix) THAT, that the pupils' inalienable right to education in a conducive environment can only be protected when the CRBC relocates the school to good structures or moves the crusher to another site;
- x) THAT, to the best of my knowledge, there is no pending case before any court of law in respect to this matter.

THEREFORE your humble petitioner PRAYS that the National Assembly, through the Departmental Committee on Transport, Public Works and Housing:

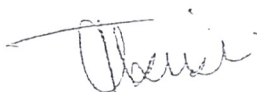
Intervenes with relevant authorities to ensure that the setting up and operations of a crusher less than one kilometer next to Matangini Primary School is halted until CRBC constructs permanent and quality structures to which the school will be relocated.

And your PETITIONERS will ever pray.

PRESENTED BY,

HON. JESSICA MBALU, MP
MEMBER FOR KIBWEZI EAST CONSTITUENCY

DATE: 28/04/2015





MINISTRY OF TRANSPORT AND INFRASTRUCTURE

MINISTERIAL STATEMENT REGARDING PUBLIC PETITION BY PARENTS AND STAKEHOLDERS OF MATANGINI PRIMARY SCHOOL ON IMPENDING RELOCATION TO SUB-STANDARD TEMPORARY STRUCTURES

Parents and Stakeholders of Matangini Primary School in Ivingoni-Nzambani Ward presented a Public Petition on Impending Relocation to Sub-Standard Temporary Structures requesting for a Ministerial Statement from the Chairman of the Departmental Committee on Transport, Public Works and Housing and raised the following issues:

- i) That, aware that residents Matangini are among development-conscious Kenyans who paved way for construction of the flagship Standard Gauge Railway across their land;
- ii) That, the railway line, which is being laid by the China Road and Bridge Company (CRBC) is earmarked to pass next to Matangini Primary School in Kibwezi East Constituency;
- iii) That, the CRBS has since put up a crusher within a distance of one (1) kilometre from the school, contrary to national Environment Management Authority (NEMA) regulations;
- iv) That, CRBC, had agreed to relocate the school to a quiet place nearby, only for the company to put up temporary mabati structures instead of constructing modern permanent structures that are habitable to pupils and teachers;
- v) That, the temporary structures to which CRBS intends to have the school relocated are not conducive for learning since the region experiences extremely high temperatures, which may interfere with learning in the mabati classrooms;
- vi) That this is an infringement on the right of Matangini Primary School fraternity to enjoy a quiet and conducive learning environment as granted under Article 42 of the Constitution;
- vii) That, parents and stakeholders of Matangini Primay School whose good will caused them to allow the railway to traverse their land for public good are now at a risk of having the education of their pupils disrupted;
- viii) That, if the planned relocation of Matangini Primary School proceeds without safeguarding the rights of pupils, teachers, parents and

stakeholders, there is the risk of losing their well-built facilities and being condemned to poor structures that are not conducive for learning;

- ix) That, the pupils' inalienable right to education in a conducive environment can only be protected when the CRBC relocates the school to good structures or moves the crusher to another site; and
- x) That, to the best of knowledge, there is no pending case before any court of law in respect to this matter.

Response to the Petition

Matangini Primary School does not fall within the Mombasa-Nairobi Standard Gauge Railway (SGR) construction corridor, as such it is not earmarked for relocation. However, the Mange'elete Quarry which is being used by the SGR Contractor is located close to Matangini Primary School. It is imperative to note that Mang'elete Quarry is an old Hardstone Source that has been used over the years including by Road Contractors during the Rehabilitation Construction of the Mombasa-Nairobi (A109) Road.

Following prospecting for Hardstone Sources: the SGR Contractor identified Mang'elete Quarry being an only source within Mtito Andei and Tsavo Area for good quality stone for production of coarse aggregates. As per National Environment Management Authority (NEMA) requirements, an Environmental Impact Assessment (EIA) was conducted a report prepared and submitted to NEMA who granted a specific License No. NEMA.EIA/PSL/597 dated 23rd September, 2014 for quarrying operations.

Before the SGR Contractor commenced quarrying activities at Mang'elete Quarry, the contractor entered into an agreement and signed a Memorandum of Understanding (MoU) on 30th March, 2015 with the School's Board of Management (BoM). The MoU included rehabilitation of the Matangini Primary School buildings e.g. construction of concrete floors, fitting of doors as well as windows to the classrooms. These works were conducted to the satisfaction of the School BoM. During a site visit on 4th May, 2015, the Deputy Head Teacher and another teacher confirmed their satisfaction with the improvement/rehabilitation works which the SGR Contractor has carried out.

At the time when the Contractor commenced quarrying activities at Mang'elete Quarry, there used to be several tall trees and other shrubs within the school compound in between the quarry face and the classrooms. The trees covered part of the school playing field and provided a shield to dust as well as noise. Later, the School Head Teacher requested the Contractor to help with his bulldozers and clear the areas covered by trees and shrubs so as to enable them extend the school playing field.

Following this, when wind flowed towards direction of the school, dust generated from the quarry found its way to the school. To address the dust menace, the Contractor imported a Dust Screening/Suction Machine (DSM) as an additional component to the crusher. The DSM was installed in February/March, 2015. With the installation of the DSM dust emission from the quarry has reduced considerably.

The only negative environment/social effect which remained was high noise levels when quarrying is on-going. To address this issue, the Contractor agreed with the Matangini School Board of Management that it is prudent to look for a temporary place away from the quarry site to temporarily relocate the school during the time the Mang'elete Quarry will be in use. The BoM identified an area some 1.1 km away from the current Matangini Primary School location after the local Market Centre from Mtito Andei side. The temporary school compound is 8.0 Acres (same as the total area of the existing school) and has been leased for the period quarrying activities for the Mombasa-Nairobi SGR will be on-going at the Mang'elete Quarry.

Temporary Classrooms, Offices, Kitchen and Ventilated Improved Pit (VIP) Latrines have been constructed and were complete for the 2nd term school opening as from 4th May, 2015. An 8,000 litre capacity Plastic Water Tank with two (2) watering points (taps) has also been installed and can store rain water harvested from the new building structures. All the floors are concreted. To take care of heat from the perennial hot weather, all the walls have been fitted/lined with bright insulating materials, the wall and roof height raised and ceiling boards made of plywood fitted. The Contractor also agreed to inspect and carry out any other necessary repairs in the existing school before pupils can be allowed back after quarrying activities. The temporary school, has been fenced, has space for a standard playing field and is suitable for learning.



Mr. James W. Macharia
AG. CABINET SECRETARY