

COUNTY ASSEMBLY OF NAKURU

THE HANSARD

Third Assembly (Second Session)

Tuesday, 17th October, 2023

Assembly Building

The House met at 3:30 PM

[The Temporary Speaker (Hon. William Mutai) In the Chair]

PRAYERS.

PETITION(S)

UNFAIR TAX REVENUE

The Temporary Speaker (Hon. William Mutai): There is a Petition, the Report of the Committee on Finance on Petition by Mr. Kennedy Mugo, a resident of Gilgil Sub-County. I want to request Hon. John Maritim, the Chairperson Committee on Finance to lay the Report.

Hon. John Maritim: Thank you Mr. Temporary Speaker, sir. This is a response to the Petition on Unfair Tax Revenue for Motorcycle Operators and the Business Community.

MANDATE OF THE COMMITTEE

Mr. Temporary Speaker, the Sectoral Committee on Finance is mandated to:

1. Overseeing granting and Administration of Donations and Grants
2. Approving Taxation Measures including interrogation and approving of the Finance Bill
3. Identifying and Advising on new Revenue Streams
4. Monitoring Implementation of the Finance Bill and Finance Raising Measures
5. Considering requests for borrowing of loans by the County Government including consideration of the relevant regulations.
6. Overseeing the Implementation of Ward Development Funds and other Funds as contemplated by Section 116 of the Public Finance Management Act 2012.

ACKNOWLEDGEMENT

Mr. Temporary Speaker, I take this opportunity to thank Members of this Committee for their commitment and contributions during the process of interrogation of the aforementioned Petition. On behalf of the Committee, it is my pleasure and duty to present the Report on the Findings of the Public Petition on Unfair Tax/Revenue Regime for Motorcycle Operators and the Business Community.

BACKGROUND AND PROVISIONS OF PUBLIC PETITIONS

Mr. Temporary Speaker, Public Petitions are provided for under Standing Order 198 of the County Assembly of Nakuru Standing Orders.

Pursuant to Standing Order 205(1) of the Nakuru County Assembly, the Speaker committed the Petition to the Committee on Finance for consideration.

Mr. Temporary Speaker, by the provision of Standing Order 205(2), the Committee on Finance received the Petition from Kennedy Mugo representing Boda-Boda Operators and the Business Community from Gilgil.

The Petitioners/Stakeholders had a Prayer that;

- I. The prohibitive Motorcycle Sticker Revenue Generation System requires payments even if a Motorcycle is not operational or utilised commercially.
- II. Stiffer penalties for late payment by any Motorcycle Operator even if he/she has not been in operation and his/her Motorcycle data are in the Revenue System.
- III. Payment of Firefighting Levies yet there are no services provided in case of fire emergency within Gilgil Sub-County.
- IV. Double taxation for business Licenses/Permits. This includes Trade Licenses, Liquor Licenses, Public Health Fees, Fire Inspection Fees, Advertisement Fees, and Operating Fees and they find it difficult to operate the business.
- V. The grievances raised above relate to Unfair Tax/Revenue Regime for Motorcycle Operators and The Business Community. Further, consider that the above measures have brought unsound relationships with members of the public against the Law Enforcement Department as well as the County Government Administration.

SUBMISSION BY THE PETITIONERS

The Committee upon receipt of the Petition, wrote to the Petitioners to ascertain the issues raised in the Petition. The Committee accorded the petitioners a fair hearing as provided for in the Constitution of Kenya.

The Petitioner (Mr. Kennedy Mugo) appeared before the Committee accompanied by the under-listed representatives: -

I.	Francis Kiarie	-	Boda-Boda Gilgil
II.	Badi Musembe	-	Gilgil Boda-Boda Chairperson
III.	Samuel Kiagichu	-	Kabatini Boda-Boda Chairperson
IV.	Dominic Nyakundi	-	Njoro Chairperson Boda-Boda
V.	Stephen Mwanda	-	Nakuru County Spokesperson
VI.	Samuel Munyiri	-	Nakuru County Chairperson Boda-Boda

Mr. Temporary Speaker, during the hearing, Mr. Mugo stated that;

1. Despite their efforts to earn an honest living and contribute to the Nation building, they are disturbed by the fact that the taxation regime is unjust and punitive;
2. Through deliberations in the Budget forums, they have tried to seek intervention from the Nakuru County Government without any success or way forward;
3. In compliance with the law and commitment to seeing the issues addressed by mutual dialogue, the petitioners have chosen to seek the intervention of the County Assembly of Nakuru and therefore the matters being raised herein are not currently pending before any court of law, or Constitutional or Legal Body by the said petitioners.
4. They are Nakuru County residents, they are obliged by Constitutional duty to fully participate in Governance processes as they seek better service delivery;
5. According to Article 201 (b) of the Constitution of Kenya, the Public Finance System shall promote an equitable society, in particular; the burden of taxation shall be shared fairly;
6. The PFM Act 2012 Section 132 (3) (b) (c) provides that any recommendation on revenue matters shall take into account the Principles of Equity, Certainty, and Ease of Collection; and consider the impact on development, investment, employment, and economic growth among other factors.

Mr. Temporary Speaker, the petitioner requested the Committee to consider the following:

1. THAT, the County Assembly Reviews and Revokes the punitive motorcycle revenue systems until a consensus has been reached by the relevant stakeholders.
2. THAT, only those who operate the Boda-boda business are the subject of the revenue collection.
3. THAT, the County Assembly amended the Finance Act to synchronise license charged on the bar owners to avoid elements of double taxation;
4. THAT, the County Assembly Finance Committee holds a dialogue forum with the Business Community, and motorcycle operators in Gilgil to find the most sustainable solution to the above issues

COMMITTEE OBSERVATIONS AND FINDINGS

Mr. Temporary Speaker, the Committee Observations and Findings are as follows:

1. The County Revenue System has a provision to suspend any payment in case the motorbike rider reports or informs the County of any mechanical problem affecting the motorbike and or the motorbike is not operational. In the absence of the said Report/Information the motorcycle rider will be deemed to be avoiding payment.
2. The stiff penalties are provided to discourage non-compliance. The County Government of Nakuru draws its charges from the Finance Act, 2019 which is subject to public participation, and members of the public are required to raise any objection if any.
3. Payment of Firefighting Levies; the charges are based on the Nakuru County Disaster Act, 2020. The levies contribute to OSR (Own Source Revenue) for the purposes of service delivery in addition to budgetary allocation for Fire Engines.
4. On double taxation, as asserted by the Business Community, the County is in the process of developing a unified Trade Regime which will result in issuing a Single Trade License in compliance with existing law through amendments in the Finance Bill, 2023.

COMMITTEE RECOMMENDATIONS

Mr. Temporary Speaker, arising from the Observations and Findings made, the Committee concludes that the Petition is merited and recommends that the County Government should FastTrack the enactment of The Nakuru County Finance Bill, 2023 in order to curb the bureaucracy in the issuance of the County Licenses.

Finally Mr. Temporary Speaker, on issues of Finance, we are the engine force for the growth of our County in Revenue Collection. Recently we were low in Revenue Collection but as a Committee we have come up with some measures that will sealing off all the loopholes that take away the revenues of our County. What we have discussed will be dealt with well and everything will be okay. Thank you Mr. Temporary Speaker.

The Temporary Speaker (Hon. William Mutai): Thank you the Chairman Finance, Hon. Maritim. And now Honourable Members, I will allow two or so comments. If there is any Member who would want to make a comment pursuant to the Standing Order 204 you are invited to make your comments. Hon. Alex.

Hon. Alex Mbugua: Thank you Mr. Temporary Speaker, let me start by giving my gratitude to the Committee on Finance for the good work they have done, and more for taking on a Petition that was brought to this House by that gentleman....

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Hon. Alex Mbugua: Mr. Temporary Speaker, the Bodaboda Industry just like many other industries has felt the effects of the rising cost of fuel, the rising cost of living, and as such, it is upon this Assembly to caution these people. When we are talking about double allocation or double taxation on these people because I have seen that is one of the things that the Petition is complaining about, it is good that the County Government of Nakuru works harmoniously with these people to ensure that these levies that have been implied on these people are too much on them.

Mr. Temporary Speaker, you realise that the County is not doing so well on Revenue Collection at this moment. Why are we not doing a good collection of these monies? This is because of a system whereby if you double tax people, majority of them will evade paying taxes. Most people are not paying taxes because they feel burdened. So, if we can have a system whereby everything works harmoniously, revenue will be generated within the County.

Mr. Temporary Speaker, I also urge the Finance Committee to bring in the Finance Bill 2023/24, so that we can bring a system whereby people are taxed in a way that the Government and in conforming to the laws of this land because at the moment, even as we await the next Budget, we do not know where we shall anchor the Budget because every Budget should be attached to the Finance Bill of a certain Financial Year.

Mr. Temporary Speaker, since we came to this Assembly, I think we have done a disservice to the people because of the levies that have been collected since the year 2020 before the COVID-19 pandemic, we are still working under a Bill that has passed with time. It is time, because I foresee sometime in the future, any resident moving to a Court of our land implicating that we are not operating as a County in a way that we are supposed to operate, yet today we have the power, we have the luxury to do all these things.

So Mr. Temporary Speaker, I wish to rise and support this resident, because he is by all accounts, he has the right to do so. Thank you Mr. Temporary Speaker.

The Temporary Speaker (Hon. William Mutai): Hon. Muraya

Hon. Joseph Muraya: Thank you Mr. Temporary Speaker, I also want to thank you for giving me this opportunity and I also like to commend my Committee through the Chairperson and through our Clerk for a job well done. What I want to say or add is that by today, the Bodaboda Operators are not being penalised by not having paid one or two months because we sat down with the Executive and with my Chairperson, we gave them advice that by so doing, we shall attract what Hon. Alex has said, of one person going to court and petitioning this Assembly for not having enacted or drafting a Finance Bill.

So Mr. Temporary Speaker, we have done our very best, and in the next few days, we shall be bringing the Finance Bill to this floor of the House so that Members can be aware that we have not just worked on the Petition but also working very much to make sure that we have the Finance Bill in this House and we shall all support it. Thank you Mr. Temporary Speaker, I do support.

The Temporary Speaker (Hon. William Mutai): Thank you, Hon. Members, for the comments that you have made. I want to put it very clear to the Committee through the Chair that pursuant to the Standing Order 206, you are supposed to respond to the petitioner by writing, and I believe you are going to do that one as soon as possible.

ADJOURNMENT

Hononourable Members, this House stands adjourned until tomorrow morning at 9.30 AM

The House rose at 3.50 PM