

COUNTY ASSEMBLY OF SAMBURU



THE HANSARD

Wednesday, 28th October, 2020

The Assembly met at the County Assembly chambers at 2:30 p.m.

Temporary Speaker, (Hon. Raisy Letura) in the Chair

PRAYER

PAPERS

The Chairperson Committee on Lands, (Hon. Lucas Lekwale): Thank you Hon. Speaker. Hon. Speaker, I would like to present to this Hon. House a report on the petition on irregular allocation of Shabaa hill, a report by the select Committee on Lands, Physical Planning, Housing and Urban Development.

Mr Speaker Sir, on 4th August, 2020, a public petition by residents of Shabaa Hill was tabled before the County Assembly and committed to the Sectoral Committee on Lands pursuant to Standing Order No. 210(1) of the Assembly Standing Orders. The petition was related to allocation of plots in Shabaa Hill and the ongoing process of picking of those plots.

Mr Speaker Sir, in conducting its investigations, the Committee met with key parties in relation to the petition, including: the petitioners and representatives of Residents of Shabaa Hill of which I believe some of them are in the public gallery, county surveyor and chief officer for lands. In addition, the Committee raised pertinent issues in relation to the petition at a consultative meeting with the County Executive Committee Member for Lands held on Tuesday 8th September, 2020.

Mr Speaker Sir, the Committee also reviewed relevant documents and memoranda from various government agencies and departments including the Ministry of Lands. The Committee findings, observations and recommendations arising from this process are contained in this report.

Mr Speaker Sir, the County Assembly Sectoral Committee on Lands is mandated, under the Second Schedule of the County Assembly Standing Orders, to consider all matters related to Housing, Land Survey, Mapping, Boundaries and Fencing.

Committee Membership

Mr Speaker Sir, I wish to just very quickly mention the Membership of the Committee:

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| 1. Hon. Lekwale Lucas | Chair |
| 2. Hon. Hassan Mohamed Asha | V/Chair |
| 3. Hon. Letura Raisy | Member |
| 4. Hon. Paul Wonyang | Member |
| 5. Hon. Kalapata Elizabeth | Member |
| 6. Hon. Christopher Lentukunye | Member |
| 7. Hon. Stefania Lanyasunya | Member |

Mr Speaker Sir, the Sectoral Committee on Lands wishes to thank the Offices of the Speaker and the Clerk of the County Assembly for their support during the process of considering the petition.

Mr Speaker Sir, the Sectoral Committee on Lands also wishes to thank the Member for Maralal Ward, Hon. Kiragu, for bringing the petition to the floor on behalf of residents of Shabaa Hill.

Mr Speaker Sir, it is now my humble pleasure and duty and privilege to table this petition report of the Sectoral Committee on Lands, to the House pursuant to Standing Order No. 210(2) of the County Assembly Standing Orders.

The County Assembly of Samburu received a public petition from the residents of Shabaa Hill which was tabled before the County Assembly and committed to the Sectoral Committee on Lands pursuant to Standing Order No. 210(1) of the Assembly Standing Orders on 4th of August 2020.

The committee was tasked to undertake hearing and investigation and table a report in the house within 60 days pursuant to the provision of County Assembly of Samburu Standing orders.

The genesis of this petition was related to a dispute between Samburu County Government and proposed Shabaa Group Ranch on the ownership of Shabaa Hill. The petition further disputes allocation of plots undertaken by the county department of lands in Shabaa Hill. They disputed allocation of plots based on an agreement with the county government and also on grounds of discrimination, abuse of office and conflict of interest.

In their prayers, the petitioners requested the County Assembly to do as follows Mr. Speaker:

- 1) That this Petition be dealt with immediately with view of the urgency of the matter and seriousness of the issues raised.
- 2) That all allotted plots from number 1 to 114 in Shabaa hill be revoked.
- 3) That a new survey and planning of Shabaa hill be conducted taking into consideration the settlements of the residents of Shabaa community members and other existing structures.
- 4) That all unoccupied land be sub-divided into plots and allocated to the members of the community.
- 5) That the Citizen right to public participation be upheld in dealing with this issue to avoid conflicts.

Mr. Speaker, the Committee invited the Petitioners to appear before it on 8th of September 2020 and the County Government department lands officials also appeared on 9th September 2020.

The committee further requisitioned documents from the County Department of Lands to assist in the dealing with the issue in a manner that is just and fair.

After hearing both parties, the committee makes the following preliminary observations and findings;

1. There was a boundary dispute between Maralal town and proposed Shabaa group ranch which led to non-registration of Shabaa as a group ranch. Shabaa is currently an adjudication section.

2. Mr. Speaker, the process of ending the dispute boundary dispute between Maralal town and proposed Shabaa group ranch was initiated by the County Department of Lands and Shabaa Community leaders.
3. The community agreed to end claiming of the disputed land on condition that the same is subdivided and allocated to them as plots.
4. There was no public participation undertaken on the process of planning and surveying of Shabaa Hill.
5. That there was massive conflict of interest and instances of abuse of office by the officers of the county government where they allocated themselves many plots.
6. There was differentiated treatment to the community by the department of Lands.
7. The process of advertisement, application and allocation as required by the law was not followed procedurally and marred with irregularities.

The committee also examined documents presented before it and arrived to a decision based on totality of evidence produced by both the parties in dispute.

Mr Speaker, I wish now to read the recommendations of the Committee or determination. In respect of the prayers made in the petition, the Committee made the following determinations and further observations:

1. Which is based on prayer 1: That this Petition be dealt with immediately with view of the urgency of the matter and seriousness of the issues raised.

Committee Response:

The Committee in respect of this prayer has conducted its investigations and confirmed that all of the matters raised in this petition are legitimate and in need of immediate attention; the committee was given 60 calendar days to report to the petitioners. That time-frame is important in order to come up with a comprehensive and detailed responses.

2. Prayer number 2, 3 and 4.

Committee Response:

The Committee in respect of this prayer has met with key interested parties in relation to the Petition including representatives of the Petitioners, the CEC Lands, CO Lands and the County Land Surveyor. In addition, the Committee has reviewed relevant documents and memoranda from various government agencies and departments including the Ministry of Lands.

The committee noted that there were irregularities in the whole process, and therefore directs the Department of Physical Planning, Lands, Housing to perform the following and submit a report to the County Assembly within 90 days;

1. The department in collaborative and participatory manner should conduct clear demarcations between town land, plot number RN11004 and Shabaa ranch so as to avoid speculations encroachment and conflict.
2. Shabaa ranch boundary plan should be completed as per Chief Land Registrar directions and department to assist them to acquire title deeds.
3. Those who were allocated more than one parcel of land at the initial offer stage should be directed to surrender for the purposes of distribution and ensuring equity, and I believe this recommendation should be taken in consideration with Shabaa residents.
4. Unplanned spaces within Shabaa- Loikas area should be planned and surveyed and injection with NLC. Priority be given to those who might have been adversely affected and yet have some ancestral claim.
5. Inventory of those who have encroached on the parcels that were allotted should be encouraged to vacate in a humane way and failure to adhere to such stipulations they will be vacated as per the relevant laws.
6. Going forward, in the event that there are land to be allocated more publicity should be done to reduce complains.
7. Survey of the parcels as per the plan should be completed for the benefit of the beneficiaries and of the community
8. That the Citizen right to public participation be upheld in dealing with this issue to avoid conflicts.

Committee Response:

The requirement for public participation is deeply rooted in the constitution and in Acts of parliament. This committee's role is to ensure that this fundamental right is observed by the county department of lands in any issue affecting and or otherwise affecting the people of Samburu County, in this case, in the planning and adjudication of Shabaa Hill section. Further, failure to observe this principle and requirement will render the whole process null and void. The committee upholds citizen right of public participation during the process of planning and allocation of plots in Shabaa hill section. That is our recommendation as a Committee and I thank you Mr. Speaker.

MCA Wamba East Ward, (Hon. Sirman Lekwale): Committee further requested documents from the County Department of Lands to assist in dealing with issues in a manner that is just unfair. After hearing both parties the Committee makes the following preliminary observations and findings;

- 1) There was a boundary dispute between Maralal town and the proposed Shabaa group ranch which led to nonregistration of Shaba as a group ranch.
- 2) Shabaa is currently an adjudication section.
- 3) The process of ending the boundary dispute between Maralal town and proposed shabaa group ranch was initiated by County Department of Lands and Shabaa community leaders.
- 4) The Community agreed to end claiming of the dispute land on a condition that the same is subdivided and allocated to them as plots.
- 5) There were no public participations undertaken on the process of planning and survey of Shabaa hills.
- 6) There was massive conflict of interest and instances of abuse of office by the officers of the County Government where they allocated themselves many plots.
- 7) There was a differentiated treatment to the community by the Department of Lands.
- 8) The process of advertisement, application and allocation as required by law was not followed procedurally and marred with irregularities.

- 9) The Committee examined the document presented before it and arrived to a decision based on totality and evidence produced by both parties in dispute.

Mr. Speaker, I now wish to read the recommendations of the Committee or determinations. In respect to the prayers made in the petition, the Committee made the following recommendations and further observations;

- 1) Based on prayer number one which says that “this petition be dealt with immediately with the view of urgency of the matter and seriousness of this issue raised.” The Committee’s response on this prayer as it conducted its investigations and confirmed that matters raised in this petition were legitimate and in need of immediate attention, the Committee was also given 60 calendar days to report to the petitioners. The time frame is important in order to come up with comprehensive and detailed response.
- 2) The Committee’s response to prayer number 2,3 and 4; In respect to these prayers as met with key interested parties in relation to petition including the representatives of the petition, petitioners, CEC Department of Lands, CO Department of Lands and the County Land surveyor. In addition, the Committee has reviewed the relevant documents and memoranda from various governmental agencies and Departments including the Ministry of Lands.
- 3) The Committee noted that there were irregularities in the whole process and therefore directed the Department of Physical Planning, Lands and Housing to perform the following and submit a report to the County Assembly within 90 days.
 - 1) The Department in a collaborative and participatory manner should conduct a clear demarcation between town land plot number RN11004 and Shabaa ranch so as to avoid speculations, encroachment and conflicts.
 - 2) Shabaa ranch boundary should be completed as per chief Land Registrar directions and the Department to assist them acquire title deeds.
 - 3) Those who were allocated more than one parcel of land at the initial offer should be directed to surrender for the purposes of distribution and ensuring equity.

- 4) Unplanned spaces between Shabaa and Loikas area should be planned and surveyed in conjunction with National Land Commission (NLC). Priority should be given to those who might have been affected and yet might have been adversely affected and yet have ancestral claim.
- 5) Inventory of those who have encroached on parcels that were allotted should be encouraged to vacate in human way and failure to adhere to such stipulations they should be vacated as per relevant laws.
- 6) Going forward, in event that there is land to be allocated more publicity should be done to reduce complaints.
- 7) Survey of the parcels as per the plans should be completed for the benefit of the beneficiaries and for the community.
- 8) The last prayer which was ‘Citizens’ right to public participation to be upheld in dealing with issues to avoid conflicts’; Committees’ response is; ‘the requirement for public participation is deeply rooted in Constitution and in Acts of parliament, this Committee’s role is to ensure that this fundamental right is observed by the County Department of Land in any issue affecting or otherwise affecting the people of Samburu County. In this case the planning and adjudication of Shabaa section. further, failure to observe this principle and requirement will render the whole process null and void. The Committee upheld the citizens’ right of public participation during the process of planning and allocation of plots in Shabaa hills section.

Mr. Speaker that is our recommendation as the Committee and I thank you Mr. Speaker.

Temporary Speaker, (Hon. Raisy Letura): Hon. Members, I think it is the discretion of the Speaker to grant Members a chance to ventilate on the report as tabled as per Standing Order number 210 (2) so Hon Members you are free to ventilate on a limited time if there is any member who has an issue to raise. Kindly assist the people at the public gallery with masks for those without. Hon. Kiragu.

MCA Maralal Ward, (Hon. Fred Kiragu): Thank you Mr. Speaker, I thank the Committee for the report. I am satisfied with it because the Committee saw the irregularities in the whole process. There was no public participation. The Committee also noted that there were those who had more land while there were those that had none at all. I agree with the report. Let us see what the Executive will do since they have been given 90 days to act upon that. I would not like to add at this time we will cross that bridge at that time, I support the report.

Specially Elected MCA, (hon. Osman Dube): Asante Mheshimiwa Spika. Nashukuru kuwa kamati limeona shida. Kila mmoja apate haki. Bila haki hatutaendelea. Ni vyema kamati lifanye haki. Unapoishi pahali kwa muda kisha unyanganywe baadae sio haki.

Specially Elected MCA, (hon. ZamZam Ismail): Thank you Mr. Speaker. I support the report. It was well done. The day were elected and nominated in this House the community gave us their voices. It is wrong for people to live as squatters in their own land. I hope for a better implementation on this report, thank you Mr. Speaker.

MCA Suguta MarMar Ward, (hon. Shadrack Lesoipa): Thank you Mr. Speaker. I stand to echo the Committee's recommendations. Having noted the concerns, I pray that the recommendations are taken into consideration with the minimum time set. The Committee should ensure that the parcels in question are dealt with and that it will not happen again. The Committee recommendations should be taken seriously by the department. I thank the Committee and that the recommendations are ensured.

Temporary Speaker, (hon. Raisy Letura): I communicate that the Clerk of the Assembly to forward immediately the committee's recommendations to the department to be acted on within 90 days and it is not much so that they start the work tomorrow. The Clerk to write to the public on the outcome of their prayers within 14 days so that the public can get their communication of the Assembly on the decision of the Committee within 14 days in writing. That is all on the Petition and we move on.

Hon. Members, the time being 5 minutes past four o'clock and there being no other business this Assembly now adjourns until Thursday 29th October 2020 afternoon at 2:30 pm.

