

REPUBLIC OF KENYA

COUNTY ASSEMBLY OF UASIN GISHU

THE HANSARD

Tuesday, 5th November, 2019

The House Met at the Assembly Chambers at 3.50 pm

[The Temporary Speaker (Hon. Sarah Malel) in the Chair]

PRAYER

NOTICE OF MOTION

POLICY TO REGULATE PARKING CHARGES BY OWNERS OF PRIVATE PREMISES

The Temporary Speaker (Hon. Sarah Malel): Hon. Kigen.

Hon. Kigen: Thank you, Madam Speaker. I beg to give notice of the following Motion:

Aware that the Fourth Schedule, Section 18(a) of the Constitution of Kenya provides for the function and power of County Government on County transport including County roads, street lighting, public road transport traffic and parking; **Further aware that** recent years have witnessed a marked increase in the number of private premises with well developed parking slots where visitors are charged parking fees when they park at the premises; **Concerned that** there are no regulations for private parking in the County which has resulted in exorbitant parking fees in some private parking in the County causing stressful situations to visitors who visit the premises to get services; **Acknowledging that** private owners may impose parking fees to visitors to deter mischievous motorists who visit the premises for simple purpose of parking their automobiles and proceeding to other premises: This County Assembly urges the County Government of Uasin Gishu to develop a policy to regulate parking charges by owners of private premises in the County to avert exploitation by owners of private premises through high parking fees when the general public visits such premises for services.

Thank you, Madam Speaker.

The Temporary Speaker (Hon. Sarah Malel): What is it, Honourable Talam?

QUORUM

Hon. Tallam: *(On a point of order)* Madam Speaker, looking at the way Members are seated in this House, I think we don't meet the quorum to transact business.

The Temporary Speaker (Hon. Sarah Malel): A very valid concern has been raised. Clerk, can you confirm whether we have the numbers to transact business in this House?

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(10 Members were present in the Chambers)

The Temporary Speaker (Hon. Sarah Malel): Thank you, Clerk. I now order that the quorum bell be rung for 10 minutes and I appoint Hon. Talam, since the Whip is not in, to whip the Members.

Hon. Talam: Honourable Speaker, I am the one who raised the quorum issue.

The Temporary Speaker (Hon. Sarah Malel): Order, Hon. Talam! I have given you an assignment to whip the Members.

(Applause)

(Quorum bell was rung)

[The Temporary Speaker (Hon. Sarah Malel) left the Chair]

[The Temporary Speaker (Hon. Amos Kiptanui) took the Chair]

The Temporary Speaker (Hon. Amos Kiptanui): Clerk.

Members Present – 16 (Sixteen)

Hon. Nicholas Talam (MCA Soy Ward), Hon. David Keitany (MCA Sergoit Ward), Hon. Eileen Kendagor (Nominated MCA), Hon. Sarah Malel (MCA Kimumu Ward), Hon. Ramadhan Ali (MCA Kiplombe Ward), Hon. Maria Kesumo (Nominated MCA), Hon. Joseph Korir (Ziwa Ward), Hon. Pius Kigen (MCA Tembelio Ward), Hon. Edward Yego (MCA Segero/Barsombe Ward), Hon. Francis Muya (MCA Langas Ward), Hon. Leah Menjo (Nominated MCA), Hon. Zipporah Maiyo (Nominated MCA), Hon. Joan Bitok (Nominated MCA), Hon. Samora Machel (Nominated MCA), Hon. Peter Chomba (MCA Huruma Ward) and Hon. Samuel Choge (MCA Kipsomba Ward).

The Temporary Speaker (Hon. Amos Kiptanui): Thank you. Next order!

MOTION

POLICY TO REGULATE PARKING CHARGES BY OWNERS OF PRIVATE PREMISES

The Temporary Speaker (Hon. Amos Kiptanui): Hon. Pius Kigen.

Hon. Kigen: Thank you, Honourable Speaker. I would like to move the following Motion:

Aware that the Fourth Schedule, Section 18(a) of the Constitution of Kenya provides for the function and power of County Government on County transport including County roads, street lighting, public road transport traffic and parking; **Further aware that** recent years have witnessed a marked increase in the number of private premises with well developed parking slots where visitors are charged parking fees when they park at the premises; **Concerned that** there are no regulations for private parking in the County which has resulted in exorbitant parking fees in some private parkings in the County causing stressful situations to visitors who visit the premises to get services; **Acknowledging that** private owners may impose parking fees to visitors to deter mischievous motorists who visit the premises for simple purpose of parking their automobiles and proceeding to other premises: This County Assembly urges the County Government of Uasin Gishu to develop a policy to regulate parking charges by owners of private premises in the County to avert exploitation by owners

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of private premises through high parking fees when the general public visits such premises for services.

Honourable Speaker, the Constitution on the Fourth Schedule gives the County the mandate to regulate and monitor charges on parking fees.

Hon. Speaker, you will recall that we don't have a policy guiding parking at private premises. The policy that we have and the act only relate to the parking at the normal and the usual parking slots in our roads within our municipalities or the urban cities.

Hon. Speaker, there has been a general concern from the members of the public who happen to come within our wards and they are expressing concern to the extent that they would have wished that the County Government prepares a policy to regulate such charges on private premises. The policy, among other things, will address areas like indicating charges. Before entering the premises, one should see and will be aware that there are charges that are levied and will also indicate the rate and how long you will be charged when you are within the premises. So that as you enter you be aware because of the signs indicated that the premises are not free.

The policy will also manage to compel the owners not to give warnings that the cars are parked at owners' risk. Such warning would not be adding weight especially when you have come to park your vehicle at the premises. The regulations will guide such warnings so that they will be responsible. We have had instances where vehicles are stolen within the precincts and also the big hotels. We have had people losing vehicles because it is not secure. Such a policy will go a long way in compelling the premises owners to ensure that vehicles parked in their premises are well guarded and safeguarded. The policy will also go a long way in ensuring the fee charged is reasonable. The policy will enable them to charge reasonable amount that will not be a concern to the clients. I would like to thank such premises owners who have ensured that vehicles are well parked.

This will assist in making our town look organised on the way vehicles have been parked. You will be surprised to get transit goods ferrying petroleum products parked near the estate or the roads and it is dangerous because it can cause danger. Such policy will go a long way in regulating this area and ensure that there is sobriety and the fees and charges are well organised.

I would ask honourable Leah Menjo to second this Motion.

The Temporary Speaker (Hon. Amos Kiptanui): Honourable Leah Menjo

Hon. Menjo (*Seconded by bowing*)

The Temporary Speaker (Hon. Amos Kiptanui): A Motion has been moved and seconded. I now propose the question.

(Question Proposed)

Ensuing Debate!

The Temporary Speaker (Hon. Amos Kiptanui): Honourable Peter Kiiru Chomba.

Hon. Chomba: Thank you, Mr. Speaker Sir. This is a very noble Motion but we would have also wanted the mover of the Motion to elaborate a little bit on the prayer of the Motion because on the private areas he is talking about, he should have mentioned to us if he is talking about the Catholic Church parking or the Tusksys parking and whether it is the residential parking where we park our won cars. Somebody can bring his car into my

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compound and the fee that I will charge might be higher. I know our Speaker now charges fee at his house for parking outside his compound. Apparently it should have also been good for us to know.

Mr. Speaker, Sir, having said that, we have the parking lot for Tuskys at Uganda Road, which for many years – having been privileged to be a Councillor in this town - the supermarket wanted to start charging for parking in that place but as Councillors of the Municipal Council of Eldoret, we passed a resolution that stopped them from charging a single penny. Their parking lot happens to be on a road reserve. Next to them is a public utility which is the Huduma Centre and apparently they are collecting fee which they should not be since it is going to the government as initially that was the post office. That is a public utility which, if anybody should be charging a fee for that place, then it should have been the Huduma Centre and not Tuskys supermarket. With this Motion brought by Hon. Pius, as an Assembly, we need to clearly put it to the Executive that whoever approved Tuskys to charge fee at a parking space in a road reserve was wrong. It needs to be reverted...

The Temporary Speaker (Hon. Amos Kiptanui): What is out of order, Hon. Muya?

Hon. Muya: Mr. Speaker, for me to resonate whatever he is talking about then, he needs to clarify which road reserve that is because I know that the parking area they are charging is within their premise and part of the Huduma Centre. Which is the road reserve so that I can get what he is talking about?

The Temporary Speaker (Hon. Amos Kiptanui): Thank you. Hon. Chomba, as you make your contribution, could you please elaborate so that Members may understand and differentiate between road reserve and private premise parking.

Hon. Chomba: As I had earlier said that we stopped the then supermarket that was there to begin charging fee and the place that I am talking about is a road reserve. As the Council then the resolution that we came up with allowed them to put up a fence but did allow them charge parking fee. The area right next to Uganda Road, Huduma compound and the front part of Tuskys where cars are parked facing Uganda Road, is a road reserve. If they should have any parking, it is the area next to their door - and are not more than five - so any charges that are made on the road reserve are supposed to be done by the County government of Uasin Gishu not Tuskys. It is my humble request to the Members, just as I had said earlier, that I fully support this Motion but the relevant Committee needs to sit down and get to know who approved the execution of charging fee at the Tuskys compound next to Huduma Centre where it should be free at the Huduma Centre. This is just like when you visit the County Commissioner's office or the Lands' Office, the parking space is free and why is someone charging parking fee at Huduma Centre as their personal property and it should be immediately stopped as Tuskys is collecting fee from a land that is not theirs. I support.

The Temporary Speaker (Hon. Amos Kiptanui): Thank you very much, Hon. Muya Member representing Langas Ward.

Hon. Muya: Mr. Speaker Sir, from the onset I want to make it clear that I am opposing the Motion with reasons and before that, as the Welfare Chair, I want to take this opportunity to congratulate Members for standing with one of their own Hon. Joan when she was having a *tumdo*. God bless you as you made me proud as your Welfare Chair.

I want to thank Hon. Pius Kigen for being observant but...

The Temporary Speaker (Hon. Amos Kiptanui): What is it, Hon. Sara Malel?

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Hon. Malel: Thank you, Mr. Speaker. I would like to understand the language that Hon. Muya has used to refer to whatever happened at Joan's place and yet the only languages I understand in this House are the national languages which are Swahili and English.

The Temporary Speaker (Hon. Amos Kiptanui): Hon. Muya you, are a senior Member and you understand the Standing Orders.

Hon. Muya: Thank you very much, Mr. Speaker. Indeed in our culture and the way of living around here, an engagement is called *tumdo*.

The Temporary Speaker (Hon. Amos Kiptanui): What is out of order, Hon. Ramadhan?

Hon. Werambo: Thank you, Mr. Speaker. As per our Standing Orders in this House a Member is only allowed to use one language which they begin their debate with. Let us not be confused and we seek for your protection.

The Temporary Speaker (Hon. Amos Kiptanui): Hon. Muya, could you please say what it was?

Hon. Muya: Thank you. I wanted to make it clear because the party made us proud and even we have been singing about the *tumdo*. *Tumdo* for your information is an engagement party and I am sorry if you did not understand.

Back to the Motion which is before us. If you keenly follow, it took me time to listen to you when you were reading through, for me to get the content that is in this Motion.

This is because even the Motion was not very clear when he was making his presentation because where there is reason, 'Concerned that they are no regulations for private parking in the county which has resulted in exorbitant parking fees in some private premises in the county causing stressful situation to visitors who visit the premises to get services.'

Mr. Speaker to me, I have like four places that I know they are charging: one, Zion Mall where even if I am not buying I prefer to pay for parking because my vehicle is secure and two, the Tuskys Supermarket along Uganda Road which for a long time I was the first one to be very negative about it; in fact we were with Honourable Chomba but of late I have come to live to it because there are no idlers who go to park there. There are enough parking spaces for us who are going to do our shopping and if I can do my shopping within my 30 minutes I do not pay. Therefore I think the other place that I know they are charging is the Sacred Heart Cathedral and most people who are employed in this town will prefer parking at the Cathedral because they find more secure than our normal parking. Another place - and I have already paid myself - is along the Shakers, where we have the gold because sometimes you might not find a parking place within town, until you can have a place where you feel the vehicle is secured though it is written, 'park at your own risk.' But that one is all over; even in our parking slot within the county where we pay; there are so many vehicles which have been stolen and we have not found or the county being held guilty.

Therefore, Mr. Speaker, I want to say that the idea might be used to intimidate our investors because I want to tell you, I have parked at the Cathedral for my own good. I have parked at Zion Mall for my own good, I have parked at Tuskys Supermarket for my own good, I have parked at Shakers for my own good. Therefore this is a business like any other. If you do not want to pay Ksh100 at the county parking slot, whether you are being asked to pay Ksh500 or whatever, I think we should not be intimidating. For example if you go to Zion Mall, you have been given the first 30 minutes to do your shopping, to visit where you...if you exit before the 30 minutes, you do not pay anything but if we pass this Motion - I have in this

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county as a councillor, as a Member of County Assembly (MCA), we have passed regulations in this House or in the council which later were misused. For example, there was a time we were talking about the trolleys in this town but surprisingly - and it is an Honourable who is our uncle here; Honourable Ramadhan who really complained but unfortunately most of his people were really affected by the crackdown. They were tossed here and there; they were denied to use the trolleys and by so doing, we denied some young men, some families from the livelihood.

Therefore, Mr. Speaker, it is a good thing but for Heaven's sake...

The Temporary Speaker (Hon. Amos Kiptanui): What is out of order, Honourable Chomba?

Hon. Chomba: Honourable Muya is talking about people dealing with trolleys. We are in this House to protect the rich not the poor.

The Temporary Speaker (Hon. Amos Kiptanui): Proceed, Honourable Muya.

Hon. Muya: Mr. Speaker, I am surprised and lack words. The same Member who is saying so, I want to agree in one way or another because since the trolleys were withdrawn in our ways, but because they were reintroduced in another way, his Ward was affected most. The insecurity, the so called *ngeta* (mugging) went up.

Therefore, Mr. Speaker, I was just giving an example.

Therefore, I would kindly request that Honourable Pius Kigen. I respect his mind, I respect him as a senior Member but many at times when we pass such resolutions, the implementing Arm, that is, the executive sometimes go overboard. Tomorrow you might see them forcing, for example, the Zion Mall owner to remove all those gadgets but to me, I have said that I am a living example. I have parked my vehicle inside there several times resulting in payment of more than Ksh200 because I feel it is more secure than outside. How many vehicles have we lost in our parking slots and how many vehicles have we lost in that parking inside? That is my argument.

Therefore, Mr. Speaker, what I am saying; let us see this as a business like any other. Before we come up with such a resolution, as a House, the committee concerned can call if it is a management of Tuskys. For you information, for example Tuskys, the ones who are managing the parking are not the ones who are not managing the Tuskys business. I have come to know that. In fact Tuskys is affected by the same because there were so many parking slots, therefore people resolved to park there but since they were reintroduced. But to me, for somebody who goes there specifically for shopping, you cannot use more than 30 minutes and if you exceed; if you can pay more is Ksh20 and at utmost Ksh50 and you are good to go and your vehicle is secure.

Therefore, Mr. Speaker, I would urge the Honourable colleague who came up with this idea before we subject them to another force, because by passing, the enforcement team or the other interested party like the one Honourable Chomba was complaining the other day and yesterday, will find their way to extort money from these people. I would request, can the relevant committee invite these people to have reasoning with them and tell them we are finding that here and there you are not doing the right thing. Otherwise by passing it as a Motion, it might be abused and therefore, Mr. Speaker, because the mind is good, I would urge that the Honourable Member through his wisdom, who brought this Motion, before maybe other Members because I know by me talking Honourable Members might have come

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my way and decide to go against; he might decide to withdraw it, Mr. Speaker, because it is a good mind and these people be invited to be talked to and be requested.

Otherwise, I request him to withdraw and if he does not withdraw I will do the needful. I am not intimidating but I was giving a direction. Thank you, Mr. Speaker Sir.

The Temporary Speaker (Hon. Amos Kiptanui): Thank you. What is out of order, Honourable Pius?

Hon. Kigen: But, Honourable Speaker, I will stand guided but indeed, it is the right of the Member to propose either to refer the Motion to the committee he is talking about because I am not a member in that committee than for me to withdraw the Motion because there are options in the Standing Orders.

The Temporary Speaker (Hon. Amos Kiptanui): Hon. Muya, I want to exercise my discretion to give you one minute to either confirm your position or you give the best way to deal this.

MOTION

RESOLUTION TO REFER MOTION TO COMMITTEE LEVEL

Hon. Muya: Thank you, Mr. Speaker. Indeed I am grateful for that Senior Honourable Member and at this juncture I want to take this opportunity to move a Motion that this noble Motion be reverted to the committee on Roads, Transport and Public Works so that it can be looked into and be deliberated better because there is a gain in this Motion than killing it. Therefore, I move that Motion and I call upon Hon. Jonathan to second me.

Thank you, Mr Speaker.

Hon. Ngetich: Thank you, Mr Speaker. I do second.

The Temporary Speaker (Hon. Amos Kiptanui): Thank you. A Motion has been moved and I now propose the question.

The Temporary Speaker (Hon. Amos Kiptanui): Honourable Sarah Malel.

Hon. Malel: Thank you, Honourable Speaker. I rise to oppose the transfer of this Motion to the committee responsible because we are legislators and we were elected to represent, legislate and also to do oversight. It cannot be that when propose a legislation or a regulation in this House, we instil fear that the executive may use those laws to infringe on the rights of the members we represent. Then we are failing on our part and hence we are not representing our people. How can we stand under our watch that the people we represent are being not taken very well in the executive and yet we represent them? Honourable Speaker, it has to remain ---

Hon. Chomba: Point of Order.

The Temporary Speaker (Hon. Amos Kiptanui): What is out of Order, Honourable Chomba?

Hon. Chomba: Hon. Speaker, is Honourable Malel trying to tell us that we normally act out of fear in this House and apparently we always assume that may be the executive is not going to implement it the way we want it to be done? The truth of the matter, Honourable Malel, is that they do not implement it the way we want it to be done and that is the request that we

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want in order to be done in the right way and once it get on the other side, there are no questions asked. I know your people in Kimumu are suffering, so you were the last person I thought could oppose it going back to the committee.

The Temporary Speaker (Hon. Amos Kiptanui): Honourable Malel, continue with your submission.

Hon. Malel: Honourable Speaker, my stand is not going to be diverted by anybody and I know I represent the people who are affected on daily basis on such matters with the executive side. what I wanted us to stamp the authority on is that we are the representatives of the people and we should not at any other point keep things in our minds that whatever we want to do any legislation here, the executive is not going to implement it the way we want; after all what is our work. If the executive is not implementing the resolutions of this House the way they are needed to be implemented, then what is our business in this House, Honourable Speaker?

I want to support that the regulations must be done and the executive must be compelled also to act according to the resolutions of this House because we are the representatives of the people and if there is any exorbitant rates outside there which the private parking areas are doing punitively, then it has to be relooked at or at any other time the way Honourable Muya has just requested it, be reverted and then be called for the talking. It is the right move, but for now I want us as this House to instil that authority that we can also do that oversight and check the excess of the executive on our people.

Otherwise, Honourable Speaker, I oppose and let the original Motion move on.

The Temporary Speaker (Hon. Amos Kiptanui): Honourable Ramadhan.

Hon. Werambo: Thank you, Mr Speaker. I stand to support the Motion that it goes back to the committee. The issue of this private premises taking the charges for parking, There are a lot of issues resulted to that. if you go to other developed towns you will get places where private places like Tuskys and Zion Mall, have got arrangement of taking parking fee and therefore let us know why the executive accepted because they might be paying a fee for that area to the executive and it might be budgeted increment on the side of revenue. So if we know the truth then the better and we cannot just judge today and say that we have brought the Motion and let parking charges cease.

We would not wish Uasin Gishu to left behind. We also want to move and be like other developing cities in Kenya and that is the way to go, but if they just did it on their own without consulting and agreeing with the county Government, then that is another thing. But for that I totally support the Motion to go back to the committee. Let us sit and discuss it with executive so that we see instead of making a decision today to go and tell the premises leave open. On the other side that one usually assists on the side of the security especially for those customers who visit these premises. These are not residential areas and I do not think there is any visitor who makes a visit and he is followed by the county Government to be charged and I believe the mover of the Motion meant Tuskys, Zion Mall or those places...

Temporary Speaker (Hon Amos Kiptanui): Honourable Ramadhan, are you sure the mover was specific? I want to believe this Motion was a general Motion.

Hon. Werambo: It is general but where is a private parking where one can complain that his visitors are being charged? We have visitors who come in this Assembly but they are not charged, but if the Assembly could have put a system of charging then they could be charged and so there must be a reason why it is at that status. So let us keep discussing; we are a

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government. This is an Assembly and the Executive. Let us discuss and get the way forward and then we go ahead.

I stand to support. Thank you.

The Temporary Speaker (Hon. Amos Kiptanui): Who do you want to inform? The House is properly informed. Now please, in one minute

Hon. Malel: Honourable Chair, thank you for giving me this opportunity. I want to inform this Honourable House that Honourable Alice one time brought a Motion, through the Department of Health, and it was reverted to the Department of Health. There are so many Motions which have been brought to this House and reverted to the committee level and yet we have not seen them being brought back to this House, Honourable Speaker.

The Temporary Speaker (Hon. Amos Kiptanui): What is out of Order, Honourable Jonathan?

Hon. Ngetich: Honourable Malel is confirming that our committees are not active and that our committees are weak. That is not the position of this House, Honourable Speaker. We are working as the committees, unless you do not attend these committee meetings; otherwise you are misleading this House.

The Temporary Speaker (Hon. Amos Kiptanui): Since there are no further deliberations, I now want to put the question that this Motion on the regulation of private parking be reverted to the relevant committee.

(Question put and agreed to)

ADJOURNMENT

The Temporary Speaker (Hon. Amos Kiptanui): Honourable Members, the Motion has been reverted to the relevant committee and since there is no other deliberation, this afternoon, this House stands adjourned until tomorrow at 9:30 am.

The House rose at 3:50 pm