

GOVERNMENT OF NAIROBI CITY COUNTY



THE NAIROBI CITY COUNTY ASSEMBLY

OFFICE OF THE CLERK

SECOND ASSEMBLY-FOURTH SESSION

NBI CA. PLC. 2020 / (64)

24th November, 2020

PAPER LAID

Pursuant to Standing Order 191, I beg to lay the following Paper on the Table of the Assembly, today Tuesday 24th November, 2020.

THE REPORT OF THE SECTORAL COMMITTEE ON TRANSPORT AND PUBLIC WORKS
ON INVESTIGATION INTO THE ALLEGED UNCONVENTIONAL CONSTRUCTION OF
A BRIDGE ALONG POKOMO LANE IN INDUSTRIAL AREA.

(Chairperson, Sectoral Committee on Transport and Public Works)

Copies to:
The Speaker
The Clerk
Hansard Editor
Hansard Reporters
The Press

GOVERNMENT OF NAIROBI CITY COUNTY



THE NAIROBI CITY COUNTY ASSEMBLY

SECOND ASSEMBLY
(FOURTH SESSION)

NOTICE OF MOTION

Hon. Speaker, I beg to give notice of the following motion:-

THAT, this Assembly Adopts THE REPORT OF THE SECTORAL COMMITTEE ON TRANSPORT AND PUBLIC WORKS ON INVESTIGATION INTO THE ALLEGED UNCONVENTIONAL CONSTRUCTION OF A BRIDGE ALONG POKOMO LANE IN INDUSTRIAL AREA, laid on the Table of the Assembly on Tuesday, 24th November 2020.

(Chairperson, Sectoral Committee on Transport and Public Works)

*Notice of Motion
given by Hon. James Mwa
on 24/11/2020*

[Signature]
24/11/20

COUNTY GOVERNMENT OF NAIROBI CITY



**NAIROBI CITY COUNTY ASSEMBLY
SECOND ASSEMBLY-FOURTH SESSION**

**REPORT
OF THE SECTORAL COMMITTEE ON
TRANSPORT AND PUBLIC WORKS
ON**

**THE COMMITTEE'S INVESTIGATION INTO THE ALLEGEDLY
UNCONVENTIONAL CONSTRUCTION OF A BRIDGE ALONG POKOMO
LANE IN INDUSTRIAL AREA**

Clerk's Chambers
City Hall Buildings
NAIROBI

NOVEMBER, 2020

BACKGROUND INFORMATION

Introduction

Sectoral Committee on Transport and Public Works received an email letter dated from Ms. Samar Al-Kindy who is a business lady operating along Witu Road, off Lusaka Road in Industrial Area. In the email text, she requested the Committee to intervene on a matter of illegal construction of a bridge across a water channel.

MEMBERSHIP OF COMMITTEE

The Sectoral Committee on Transport and Public Works comprises the following members:

- | | |
|--|------------------|
| 1) The Hon. James Mwangi Wambui, MCA | Chairperson |
| 2) The Hon. Jared Okoth Okode , MCA | Vice-Chairperson |
| 3) The Hon. Mark Mugambi Macharia, MCA | |
| 4) The Hon. Abdi Ibrahim. Hassan, MCA | |
| 5) The Hon. Geoffrey Ng'ang'a Mbuthia, MCA | |
| 6) The Hon. John Kamau Muthiga, MCA | |
| 7) The Hon. Joseph Komu Mwangi, MCA | |
| 8) The Hon. Peter Wanyoike Gitau, MCA | |
| 9) The Hon. Asli Mohammed Mahamud, MCA | |
| 10) The Hon. Anthony Ng'ang'a Gatune, MCA | |
| 11) The Hon. Osman Ibrahim Adow, MCA | |
| 12) The Hon. David Ayo, MCA | |
| 13) The Hon. Fredrick Njogu Njoroge, MCA | |
| 14) The Hon. Geoffrey Odhiambo Majiwa, MCA | |
| 15) The Hon. Husni Lawi, MCA | |
| 16) The Hon. Stazo Elijah Omung'ala, MCA | |
| 17) The Hon. Hafsa Mohamud Khalif, MCA | |
| 18) The Hon. Patricia Mutheu Musyimi, MCA | |
| 19) The Hon. Kennedy Odhiambo Oyugi, MCA | |
| 20) The Hon. Wilson Ongele Ochola, MCA | |
| 21) The Hon. Osman Abdi Khalif, MCA | |
| 22) The Hon. Mary Ariviza Mwami, MCA | |
| 23) The Hon. Mark Ndung'u Ng'ang'a, MCA | |
| 24) The Hon. Nicholas Okumu Ouma, MCA | |
| 25) The Hon. Evans Otiso, MCA | |

ACKNOWLEDGEMENT

The Sectoral Committee on Transport and Public Works wishes to thank the offices of the Speaker and the Clerk of the Nairobi City County Assembly for the support extended to it in the conduct of this site inspection visit.

Further, the Committee is thankful to the Secretariat for their contributions during and after the visit and compilation of this report.

Finally, I wish to convey my gratitude to the Members of the Committee. Your commitment during the investigation process that led to the conclusive compilation of this report.

Hon. Members,

On behalf of the Members of Sectoral committee on Transport and Public Works, it is my pleasant duty and privilege, to present the Committee's Report on investigation into the alleged unconventional construction of a bridge on Pokomo lane, in Industrial Area.

DATE..... 24.11.2020

SIGN.....

THE HON. JAMES MWANGI WAMBUI, MCA

THE CHAIRPERSON.

1.0 PREAMBLE

The Committee having considered the request for intervention from Ms. Samar Al-Kindy from Industrial Area on a matter of unconventional construction of a bridge, the Committee resolved to schedule a joint meeting with the aggrieved and the Director for Roads, Transport and Public Works from the Nairobi Metropolitan Services (NMS). The objective of the meeting was to enable the aggrieved clearly and properly explain to the Committee her concerns and to enable the Director give a response to the concerns. The Committee also conducted an assessment visit to the site for further collection of evidence.

1.1 FINDINGS OF THE COMMITTEE

1.1.1 Submissions of the Petitioner(Ms. Samar AL-Kindy)

The Petitioner stated that the Prayer in the Petition was representative of the concerns of the business people along Pokomo lane in Industrial Area.

The Committee heard that the Petitioner's company owns two unamalgamated pieces of adjacent plots along Witu Road and Pokomo lane. One of the plots has its gate along Pokomo land and the other can be accessed via Witu Road. She further informed the Committee that she interacted with a city hall Engineer who advised her to put the gate at the backside of the property near road reserve (Pokomo Lane side). Following this advice, her company constructed the gate and with permission from the County and on various dates, requested for approvals to construct a cabro-paved access road to their property via Pokomo Lane. This approval was granted in December 2019 at a fee of Ksh. 10,000 in 2019 and the paving done.

Thereafter, the County made a first attempt to have a bridge constructed to open up the missing link for use by other people and later they County made a second attempt to have the bridge constructed. She alleged that the project was not advertised and necessary approvals from National Government agencies lack and no public participation.

Further, the Petitioner stated that her main concern was that the County before handing her the approval to construct the cabro-paved road was aware in the plans that the bridge would be constructed but went ahead to grant her the approvals which, while implementing, she spent a lot of resources only for the County to come back barely six

months after the construction, to demand removal of the cabro to pave way for the construction of the bridge.

She stated that all through this, she has sought assistance from the County and National Government agencies but solution has not been forthcoming but the construction of the bridge has been ongoing. She later go in touch with Director who visited the site and was not supportive of construction.

1.1.2 Submissions of the Nairobi Metropolitan Services (NMS)

The Director roads acknowledged knowing the matter and having visited the site. However, he informed the Committee that the project was amongst others that were yet to be handed over to Nairobi Metropolitan Services (NMS) following the signing of the Deed of Transfer of Functions. He stated that this is the reason the inaction by NMS after the said visit. In view of the foregoing, the Director made an undertaking that once the handing over process is concluded, it will be possible to take a fair action in an attempt to resolve the issue amicably.

On his part, the Deputy Director roads informed the Committee that during his tenure at the County as the Chief Officer, he was aware of the project and the approval granted to the Ms. Samar AL-Kindy for the laying of cabro on the said stretch of road with specified conditions contained in the letter of approval. However, since the road is a public road and a storm drain cuts across it, it is the obligation of the government at any time to make necessary interventions in order to make it usable by all persons in the interest of the public. That is why the bridge project had to be done since it had been planned for and budgeted for and due process for construction followed. He also confirmed to the Committee that Ms. Al-Kindy had gone to court objecting to the project but the case was dismissed allowing the County to proceed with the project.

The Members deliberated on the matter and observed that it was unfair for the County to have given Ms. Samar Al-Kindy the greenlight to spend resources on constructing the road and to come back after a short period to claim to want to construct a road. It is also unfair to the contractor (M/s Noordin Enterprises Ltd) because the stalemate has interfered with completion time for the project.

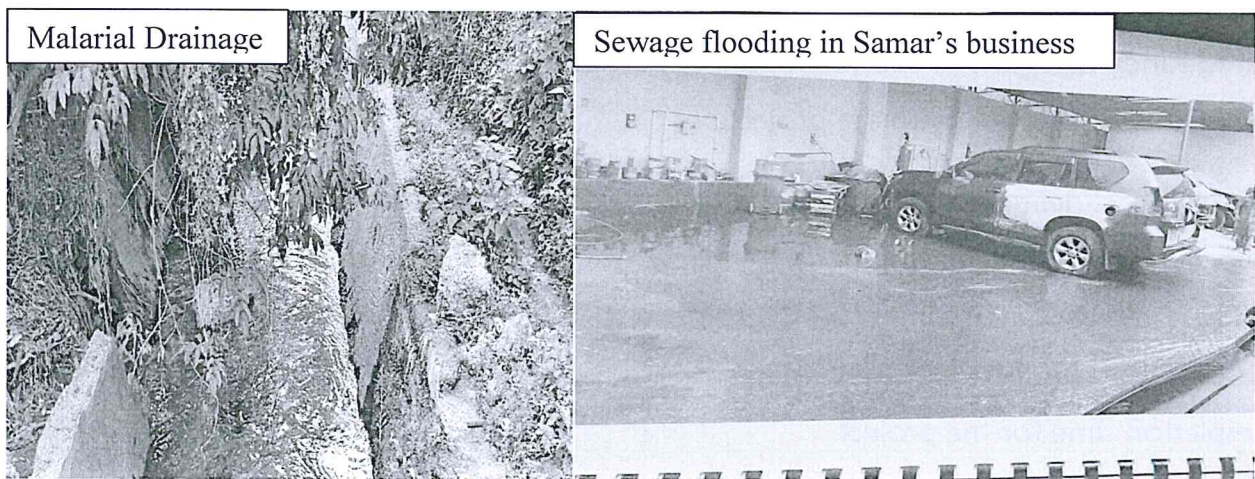
The Committee therefore resolved to conduct a site inspection visit to the site to gather more information for report writing. The Chair thanked the Petitioner and the contractor for attending the meeting and allowed them to leave. The meeting proceeded with the Director and his team.

1.1.3 Findings from the site visit

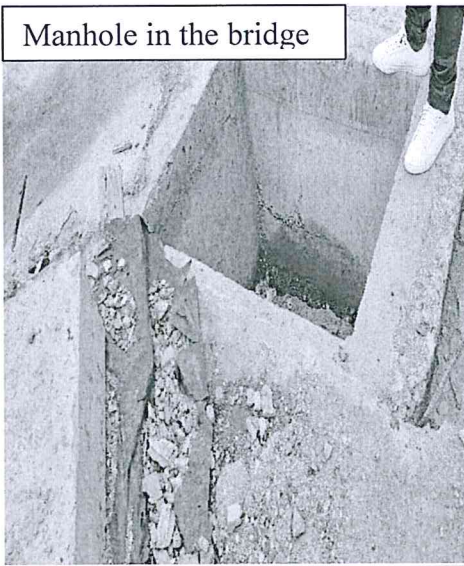
On 28th October 2020, the Committee conducted a site inspection to Witu Road in Industrial Area to assess the project and its impact on the surrounding area and its implications on the business of Ms. Samar AL-Kindy. During the assessment visit, the Committee observed the following:

- 1) That the said bridge project was constructed across Malarial Drain and along Pokomo Lane connecting Witu Road and Shimo La Tewa Road;
- 2) That the elevation of the bridge was way above the level of both Witu Road, Shimo La Tewa Road and all the buildings along Pokomo Lane;
- 3) That cabro laying had been done on a stretch from Witu Road up to the bridge by Ms. Samar Al-Kindy;
- 4) That picture evidence indicated that the open sewerage man hole constructed within the bridge over flows occasionally and spills waste into the business premises owned by MS. Samar Al-Kindy;
- 5) That other evidence collected from adjacent business owners near and around the bridge indicated that entrances to most buildings along Pokomo Lane would likely be affected if the road will be completed at the elevation of the bridge.

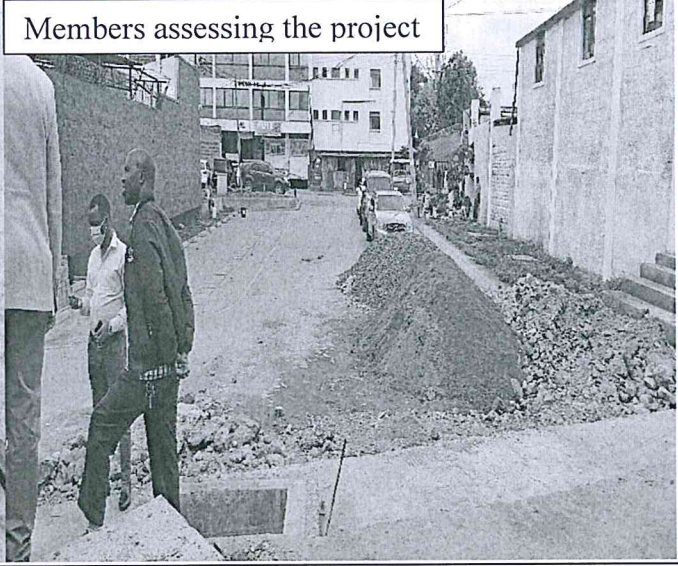
Picture evidence from the site and file



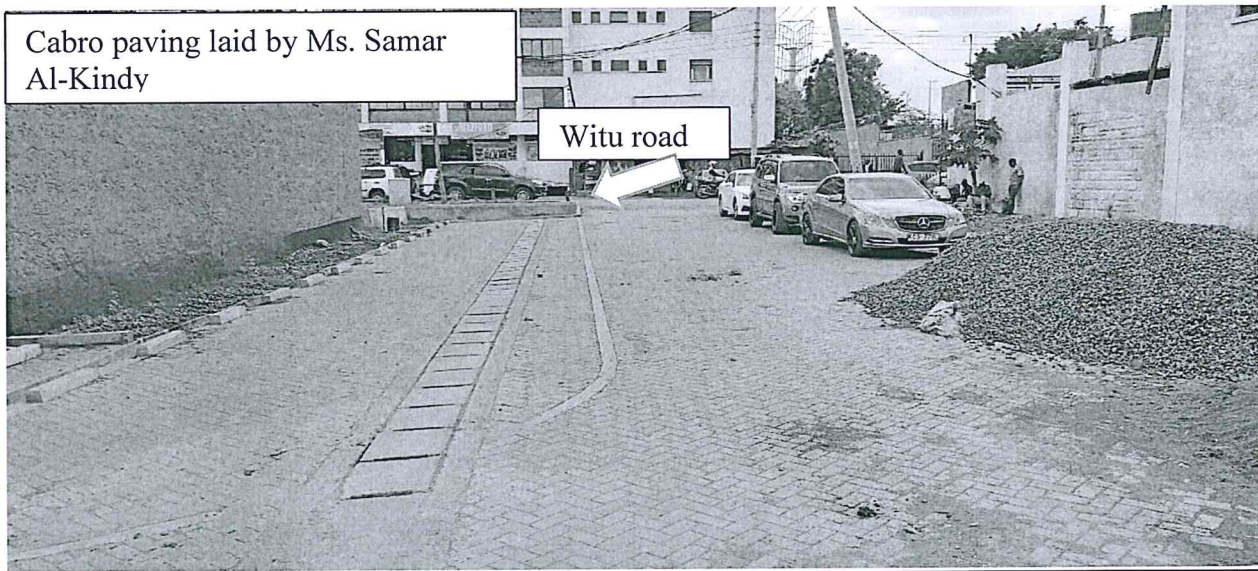
Manhole in the bridge



Members assessing the project



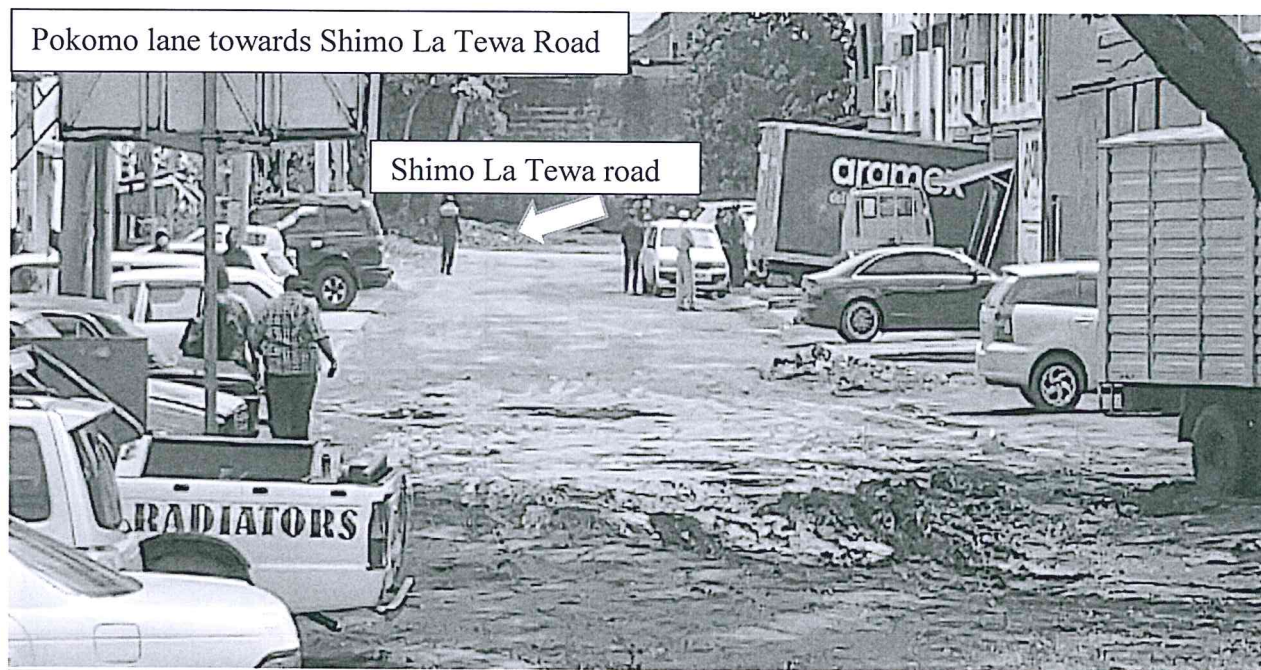
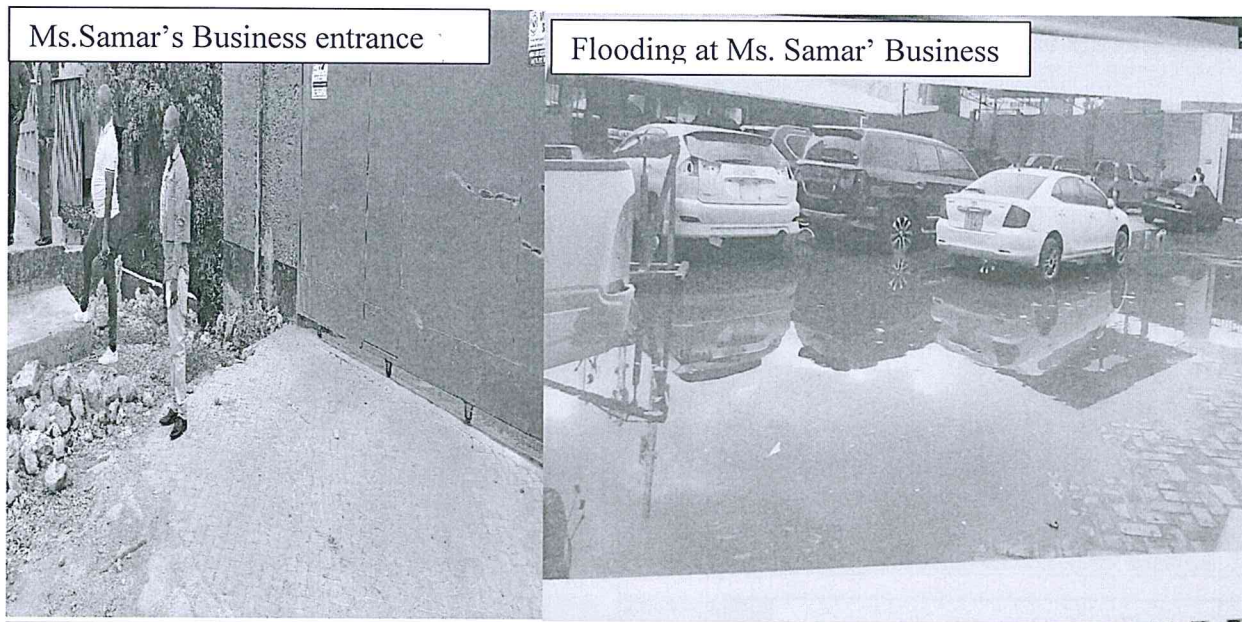
Cabro paving laid by Ms. Samar Al-Kindy



Witu road

The Pokomo Lane Bridge





1.2 OBSERVATIONS OF THE COMMITTEE

- 1) That the issue of the elevation of the bridge and its effects to the adjacent properties is purely technical and shall be left to be handled by the resident Engineer assigned to supervise the project;
- 2) That the current challenges presented by Impressions Advertisement is a normal temporary disturbance and a normal occurrence faced by properties near a project whenever construction works are ongoing;

- 3) That due process in planning, advertisement, award and implementation of the project was followed by the County Government and that the project in the best interest of all the users when completed;
- 4) That Ms. Samar Al-Kindy sought the approval (see copy of approval attached) from the County Government on 4th December 2019 to have the cabro paving done on a stretch of 43.0 meters from Witu Road up towards the river and the conditions set out therein, including a cautionary Clause that “ *you shall not seek any reimbursement from the Nairobi City County and works will be carried out entirely at your (Samar AL-Kindy’s) own cost*”
4. That Ms. Samar Al-Kindy, upon being dissatisfied with the project and responses from the various institutions she sought interventions from, filed a court case objecting to the implementation of the said project. The court dismissed the case(see copy of ruling attached)

1.3 RECOMMENDATIONS

Pursuant to the provisions of Standing Order 191, the Sectoral Committee on Transport and Public Works urges the Assembly to adopt this report of the Committee on investigation into the allegedly unconventional construction of a bridge along Pokomo Lane, in Industrial Area with the following recommendations:

- 1) That, M/s Noordin Enterprises Limited, the company contracted by the County to construct the bridge resumes work as soon as possible and expeditiously completes the works in readiness for the rehabilitation of Pokomo lane to motorable condition;
- 2) Ms. Samar Al-Kindy of Impressions Advertisement removes her cabro paving at the appropriate time as the Resident Engineer may direct, to enable completion of works on the said bridge and road;
- 3) That the County Government and by extension, the Nairobi Metropolitan Services (NMS) through the Resident Engineer and Nairobi Water and Sewerage Company, puts in place measures to ensure that the premises that are adjacent to the bridge, particularly, Impressions Advertising owned by Ms. Samar Al-Kindy, are not adversely affected by the aftermath of construction works, especially by way of flooding of storm water and sewage; and

- 4) That Ms. Samar Al-Kindy considers amalgamating her two properties so that both use the main gate on the side of Witu Road in the long term to avoid inconveniences caused by the works on the road and bridge.

MINUTES OF THE SITTING (VIRTUAL) OF THE NAIROBI CITY COUNTY ASSEMBLY
SECTORAL COMMITTEE ON TRANSPORT AND PUBLIC WORKS HELD ON 23RD
NOVEMBER 2020 AT 1:00 PM.

MEMBERS PRESENT

1. The Hon. James Mwangi, MCA
2. The Hon. Jared Okode Okoth, MCA
3. The Hon. Fredrick Njogu, MCA
4. The Hon. Mark Mugambi Macharia, MCA
5. The Hon. Mary Ariviza Mwami, MCA
6. The Hon. Osman Adow, MCA
7. The Hon. David Ayoi, MCA
8. The Hon. Peter Wanyoike, MCA
9. The Hon. Hafsa Khalif, MCA
10. The Hon. Geoffrey Majiwa, MCA
11. The Hon. Geoffrey Ng'ang'a, MCA
12. The Hon. Wilson Ocholla, MCA
13. The Hon. Nicholas Okumu, MCA
14. The Hon. Abdi I. Hassan, MCA
15. The Hon. Asli Mohammed, MCA
16. The Hon. Evans Otiso, MCA

MEMBERS ABSENT

1. The Hon. Antony Gatune, MCA
2. The Hon. Stazo Omung'ala, MCA
3. The Hon. John Kamau, MCA
4. The Hon. Osman Khalif, MCA
5. The Hon. Joseph Komu, MCA
6. The Hon. Patricia Mutheu, MCA.
7. The Hon. Mark Ndung'u, MCA
8. The Hon. Husni Lawi, MCA
9. The Hon. Kennedy Oyugi, MCA

SECRETARIAT

1. Mr. Inyundele Austin
2. Mr. Benedict Ochieng'

AGENDA

1. Preliminaries (Prayers and Adoption of the Agenda)
2. Tabling of requests to Statements
3. Consideration and adoption of Committee's report on Petition on alleged unconventional construction of a bridge in Industrial area by the County.
4. Any Other Business
5. Adjournment

MIN.0323/T&PW/NOV/2020: Preliminaries

The Chairperson called the meeting to order at 1.04 p.m. The Chairperson welcomed members present to the meeting and led members in a word of prayer. The agenda of the meeting was then adopted as proposed by Hon. Mary Mwami, MCA and seconded by Hon. Osman Adow. MCA.

MIN.0327/T&PW/NOV/2020: Tabling of requests to Statement

The Committee was informed that on 17th November 2020, the following Members requested for Statements from the Committee:

- 1) The Hon. Jeremiah Themendu, MCA regarding the stalled construction of Ngong River Bridge near Kayole Police Station on the way to Mihang'o Ward;
- 2) The Hon. Rose Ogonda, MCA regarding the drainage blockages and broken down roads in Kware Ward allegedly caused by heavy trucks of Kenya Builders and Concrete Company Limited and Seyeni Brothers & Company Limited operating in the area.

The Committee resolved that a letter be written to the Nairobi Metropolitan Services (NMS) requesting for responses to the statement requests for a timely reply to the Assembly.

MIN.0328/T&PW/NOV/2020: Consideration and adoption of Committee's report on Petition on alleged unconventional construction of a bridge in Industrial area by the County

The Chairperson informed the Committee that following the presentation of the draft report to the Committee in the previous meeting, the final report had been prepared for the Committee's consideration and adoption. Thereafter, the report would be Tabled in the Assembly.

The Chair led the Members in reading through the said report that contained the following recommendations:

- 1) That, M/s Noordin Enterprises, the company contracted by the County to construct the bridge resumes work as soon as possible and expeditiously completes the works in readiness for the rehabilitation of Pokomo lane to motorable condition;
- 2) Ms. Samar Al-Kindy of Impressions Advertisement removes her cabro paving at the appropriate time as the Resident Engineer may direct, to enable completion of works on the said bridge and road; and
3. That the County Government through the Resident Engineer and Nairobi Water and Sewerage Company puts into account the concerns of the business owners along

Pokomo Lane as regards the elevation and the ultimate effects of the project to their wellbeing as business owners.

However, the Committee raised a further issue on the recommendation number 3 noting that it left a lot of discretion to the resident engineer to decide the manner in which the interests of the business owners would be taken care of. The Committee argued that this may lead to no action being taken at all. Therefore, the Committee resolved that the recommendations reads as follows:

- 1) That, M/s Noordin Enterprises, the company contracted by the County to construct the bridge resumes work as soon as possible and expeditiously completes the works in readiness for the rehabilitation of Pokomo lane to motorable condition;
- 2) Ms. Samar Al-Kindy of Impressions Advertisement removes her cabro paving at the appropriate time as the Resident Engineer may direct, to enable completion of works on the said bridge and road;
- 3) That the County Government through the Resident Engineer and Nairobi Water and Sewerage Company puts in place measures to ensure that the premises that are adjacent to the bridge, particularly, Impressions Advertising owned by Ms. Samar Al-Kindy, are not adversely affected by the aftermath of construction works, especially by way of flooding of storm water and sewage; and
- 4) That Ms. Samar Al-Kindy considers amalgamating her two properties so that both use the main gate on the side of Witu Road in the long term to avoid inconveniences caused by the works on the road and bridge.

The report was thereafter adopted by the Committee having been proposed by the Hon. Wilson Ochola, MCA and seconded by the Hon. Mary Ariiza, MCA

MIN.0329/T&PW/NOV/2020: A.O.B

There being no other business and the time being Sixteen Minutes to 1:42p.m, the Chairperson adjourned the meeting.

CONFIRMED AS A TRUE RECORD OF THE PROCEEDINGS

	SIGN	DATE
CHAIRPERSON  <u>23.11.2020</u>

SECRETARY

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