

REPUBLIC OF KENYA



MANDERA COUNTY GOVERNMENT  
Dept. of Trade, Inv. and Industrialization  
27 MAR 2020  
**RECEIVED**  
County Chief Officer

**MANDERA COUNTY ASSEMBLY**  
**SECOND ASSEMBLY-FOURTH SESSION**

**REPORT ON THE PETITION TO THE COUNTY ASSEMBLY ON  
DEMOLITION OF BULLA JAMHURIA MARKET STALLS ALONG CLOTHS  
MARKET PERIMETRE WALL, IN MANDERA TOWN.**

**CLEK'S CHAMBER  
MANDERA COUNTY ASSEMBLY  
MARCH 2020**

OFFICE OF THE CLERK-COUNTY  
ASSEMBLY OF MANDERA  
27 MAR 2020  
P.O. BOX 408 - 70300  
MANDERA

*ETC*  
*Josiah*

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## **PREFACE**

The Trade, Industrialization and Cooperative Development committee is one of the sectoral Committees constituted by this County Assembly and draws its mandates from Mandera County Standing Order No. 193(5).

## **COMMITTEE MEMBERSHIP**

The Trade, Industrialization and Cooperative Development committee is comprised of the following Honorable Members:

- |                                 |                  |
|---------------------------------|------------------|
| 1. Hon. Adan Maalim Mohamed     | Chairperson      |
| 2. Hon. Ibrahim Ali Wariyow     | Vice-chairperson |
| 3. Hon. Halima Billow Omar      | Member           |
| 4. Hon. Shamsa Ibrahim Maalim   | Member           |
| 5. Hon. Abdi Hassan Ali         | Member           |
| 6. Hon. Ahmed Rashid Mohamed    | Member           |
| 7. Hon. Nasra Noor Mohamed      | Member           |
| 8. Hon. Alinoor Derow Abdullahi | Member           |
| 9. Hon. Nasra Hussein Adawa     | Member           |

## **MANDATE OF THE COMMITTEE**

Mr. Speaker Sir,

The committee on Trade, Industrialization and Cooperative Development derives its mandate from second schedule of the standing orders and Standing order 193 which provides for the functions of a Sectoral Committee and shall be to-

- (a) Investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned departments;
- (b) Study the programme and policy objectives of departments and the effectiveness of the implementation;
- (c) Study and review all county legislation referred to it;
- (d) Study, assess and analyze the relative success of the departments as measured by the results obtained as compared with their stated objectives;
- (e) Investigate and inquire into all matters relating to the assigned departments as they may deem necessary, and as may be referred to them by the County Assembly;
- (f) To vet and report on all appointments where the Constitution or any law requires the County Assembly to approve, except those under Standing Order 188(Committee on Appointments); and
- (g) Make reports and recommendations to the County Assembly as often as possible, including recommendation of proposed legislation

## **ACKNOWLEDGEMENT**

May I take this opportunity to thank Hon. Members for their input and commitment during Committee Deliberation and Compilation of this Report. I also take this opportunity to thank the Offices of the Speaker and office of the Clerk for their Support accorded to the Committee.

Finally, I thank the petitioners, the Department of Lands, Mandera Municipality and trade Department for honouring our invitations and responding to the prayers of the petitioners.

It is now my pleasant duty and privilege on behalf of the Committee to present

**REPORT ON THE PETITION TO THE COUNTY ASSEMBLY ON DEMOLITION OF BULLA JAMHURIA MARKET STALLS ALONG CLOTHS MARKET PERIMETRE WALL, IN MANDERA TOWN.**

  
**Hon. Adan Maalim Mohamed**

**CHAIRPERSON, TRADE, INDUSTRIALIZATION AND COOPERATIVE DEVELOPMENT COMMITTEE.**

**DATE**-----

23<sup>rd</sup> March - 2020

**ADOPTION OF THE REPORT**

We the committee of Trade, Industrialization and Cooperative Development do append our signatures against our names to this report to affirm the correctness of the contents and support for the report.

S/NO.	NAME	DESIGNATION	SIGNATURE
1.	Hon. Adan Maalim Mohamed	Chairperson	
2.	Hon. Ibrahim Ali Wariyo	V/Chairperson	
3.	Hon. Halima Billow	Member	
4.	Hon. Shamsa Ibrahim	Member	
5.	Hon. Abdi Hassan Ali	Member	
6.	Hon. Ahmed Rashid Mohamed	Member	
7.	Hon. Alinoor Derow Abdullahi	Member	
8.	Hon. Nasra Noor	Member	
9.	Hon. Nasra Hussein Adawa	Member	

## **INTRODUCTION AND BACKGROUND**

As defined in Standing Order No. **199** a **petition means a written prayer to the County Assembly by a member of the public requesting the County Assembly to consider any matter within its authority including enacting, amending or repealing any legislation.**

**It is therefore a request. It expresses point of view usually on matters of public policy and contains request for action(s) or in some cases not to take action.**

It is the right of individuals, organization, groups and any other stakeholder to petition the County Assembly on matters of interest. Petitions are processed according to the law and the laid down procedure and the general principles applicable to petitions are contained in The Mandera County Citizen Participation Act 2019 and Mandera County assembly Standing Orders.

In exercise of their right as enshrined in Articles 37 and 119 of the Constitution and sections 37 and 15 of Government Act no 17 of 2012 and in compliance with Standing Order no 200(1) (a), on Tuesday 3<sup>rd</sup> March 2020 the Office of the Clerk received a petition by traders doing Business in Bulla Jamhuria along the perimeter wall of Bulla Jamhuria Cloths Market on planned demolition of their stalls by Mandera Municipality. Having met the criteria on presentation of petitions as set out in Standing Order Nos. 200-203. The petition was tabled in the County Assembly as per Standing Order No. 200(1)(a) and it was committed the Trade, Industrialization and Cooperative Development committee and report back to the County Assembly within the sixty calendar day as clearly stated in Standing Order No 207(2).

## **THE LEGAL FRAMEWORK**

The procedure of petitioning the County Assembly is provided in Standing Order no. 200-209 and the Mandera County citizen participation Act 2019 which adequately guide the process.

## **CONSTITUTION OF KENYA 2010**

The right of citizens to petition public authorities is enshrined Articles 37 and 119 of the Constitution, 2010. In particular Article 37 provides that;  
**“Every person has a right, peaceably and unarmed, to assemble, to demonstrate, to picket and to present petitions to public authorities”**

## **COUNTY GOVERNMENT ACT NO. 17 OF 2012**

Section 15 (1), County Governments Act 2012, states that ***a person has a right to petition a County Assembly to consider any matter within its authority, including enacting, amending or repealing any of its legislation***

In addition, Section 88(1 & 2) makes provision for citizens’ right to petition and challenge. The said section provides that;

**“Citizens have a right to petition the county government on any matter under the responsibility of the county government**

**1) Citizens petitions shall be made in writing to the county government”**

Further, Section 89 of the same Act obligates us;

**“The County Government authorities, agencies and agents have a duty to respond expeditiously to petitions and challenges from citizens.”**

## **MANDERA COUNTY ASSEMBLY STANDING ORDERS.**

The manner in which petitions to the County Assembly are handled is provided for in Mandera County Assembly Standing Orders.

Standing order no. 200 (1) States that, a petition to the County Assembly shall be-

(a) Submitted to the Clerk by the petitioner and reported to the County Assembly by the Speaker; or



(b) Presented by a Member on behalf of a petitioner, with the consent of the Speaker.

(2) Notwithstanding paragraph (1) (b), a Member shall not be eligible to present a petition on his own behalf.

(3) The Clerk shall, within seven days of the date of receipt of the petition, review the petition to ascertain whether the petition meets the requirements of these Standing orders and of the law.

(4) Where the Clerk considers that a petition does not comply with paragraph (3), the Clerk may give such directions as are necessary to ensure that the petition is amended to comply with that paragraph.

(5) The Clerk shall, if satisfied that the petition meets the requirements under paragraph

(3), forward the petition to the Speaker for tabling in the County Assembly.

### **Committal of Petitions**

Standing order No. 207 indicates that;

***(1) Every Petition presented or reported pursuant to this Part, shall stand committed to the relevant Sectoral Committee.***

***(2) Whenever a Petition is committed to a Sectoral Committee, the Committee shall, in not more than sixty calendar days from the time of reading the prayer, respond to the petitioner by way of a report addressed to the petitioner or petitioners and laid on the Table of the County Assembly and no debate on or in relation to the report shall be allowed, but the Speaker may, in exceptional circumstances, allow comments or observations in relation to the Petitions for not more than twenty Minutes.***

***(3) The Clerk shall, within fifteen days of the decision of the County Assembly, in writing, notify the petitioner of the decision of the County Assembly on the petition.***

## **COMMITTEE SITINGS**

Following the tabling and committal of the petition, the committee embarked on delivering on its mandate. Although this coincided with the spread of pandemic COVID-19 in which few cases were discovered in Kenya, forcing the Government to give directive that banned gatherings and public grouping to be reduced while persons to keep social distance of 1 meter. Further, government institutions are to maintain skeleton staff. This means the committee had to balance the right of the petitioners by responding to their prayers in form of report to the County assembly within the stipulated time in the Standing order as alive to the fact on the effect of deadly Corona virus. Therefore, little time was at its disposal before the County Assembly is adjourned.

In light of the above circumstances the committee held five sitting where it engaged.

### **The petitioners represented by;**

- |                                 |             |
|---------------------------------|-------------|
| 1. Mr. Abdullahi Madnur         | - Chairman  |
| 2. Mr. Muhumed Sheikh Adan      | - Secretary |
| 3. Mr. Mohamed Maalim Abdullahi | - Member    |
| 4. Mrs. Faduma Mohamed Hussein  | - Member    |
| 5. Mrs. Quresha Jella Ahmed     | - Member    |

### **Lands Housing and Physical Planning Department**

- |                               |   |
|-------------------------------|---|
| 1. Mr. Adan Hussein Hassan    | - CEC Member-Lands, Housing & Physical Planning             |
| 2. Mrs. Suleikha Osman Maalim | - County Chief Officer, Housing and<br>a. Urban development |

### **Mandera Municipality**

- |                         |                             |
|-------------------------|-----------------------------|
| 1. Mr. Hassan Noor Adan | - Mandera Municipal Manager |
|-------------------------|-----------------------------|

## **Trade, Industrialization and Cooperative Development Department**

1. Dr. Mohamud Adan - Acting CEC Member, Trade, Industrialization and Cooperative Development
2. Mr. Osman I. Mohamed - County Chief Officer, Trade,

### **THE PETITION**

The petitioners submitted their petitions on the demolition of Market Stalls on the perimeter wall a long Bulla Jamhuria clothes market (copy of the petition is annexed)

In their petition, the petitioners alleged that;

1. The County Government is planning to demolish their 60 market stalls irregularly that were officially allocated to them in 2005 by the defunct Manderā Town Council
2. The County Government ignored the trader's ownership documents and rent receipt that shows they have been paying taxes for the past 32 years.
3. The traders engaged the county Government through the Department of Trade and Municipality to address the demolition of market stalls, eviction and relocation of traders and never received satisfactory response.

### **PETITIONERS' PRAYER**

In their submission to the County Assembly the petitioners' humble prayer is;

- a) ***To intervene and help us the 60 businessmen and women to be allowed to remain in our stalls and continue paying the revenue and building our county together***
- b) ***To sincerely intervene and get us an alternative strategic business park where we can establish our business for daily living as well as support our families by paying school fees, medical treatment and most importantly educating our children in Duksi and Madarasa***

## SUBMISSIONS ON THE PETITION

### ORAL SUMISSION BY THE PETITIONERS

In addressing itself to the issues raised by the petitioners, On Friday 6<sup>th</sup> March 2020 vide letter **REF No; MCA/TIICD/PET/1/VOL. 1(22)** the committee resolved to invite the following;

- |                                 |            |
|---------------------------------|------------|
| 1. Mr. Abdullahi Madnur         | Chairman,  |
| 2. Mr. Mohamed Maalim Abdullahi | vice chair |
| 3. Mr. Muhumed Sheikh Adan      | Secretary, |
| 4. Makai Issack Ibrahim         | Member,    |
| 5. Rukia Abey                   | Member,    |

However, in place of makai and Rukia

- |                                |         |
|--------------------------------|---------|
| 1. Mrs. Faduma Mohamed Hussein | Member, |
| 2. Mrs. Quresha Jella Ahmed    | Member, |

appeared on behalf of the said traders' in the market shades.

In the letter the petitioners were required to provide;

- Eviction notice served with
- Business permits / rent payment receipts
- Evidence of ownership
- Copies of identity cards

They appeared before the Committee on Thursday 12<sup>th</sup> February 2020 at 2.30pm. The petitioners provided all documents sought from them except eviction notice which they claimed was not given to them except verbal engagement (**sample attached**).

They produced 47 allocation letters issued to them on July 2005 by the then Mandra Town Clerk Mr. S.N. Musembi. When market stalls were rebuilt again and started its operation in 2005 and the authorities allocated them a 5-foot unit stalls shade to each trader. They are;

S/No.	NAME	ID/No.	SHADE NO.
1.	Makai Issack Ibrahim	0035062	29
2.	Adey Ali Farah	10028999	31
3.	Farhan Shaban Elmi	1192089	71
4.	Fatuma Mohamed Hussein	5070520	30
5.	Mohamed Eymoi	2461416	34
6.	Dekow Hassan Noor	25125945	69
7.	Rukia Gelle	2114417	65
8.	Lathan Ahmed Koriyow	23289897	41
9.	Manur Kala Yomow	13003379	26
10.	Mohamed Salat Ibrahim	9566207	66
11.	Muhumed Sheikh adan	20200437	47
12.	Fatuma Billow Issak	6395829	27
13.	Quran Muahmed Gabane	6394510	55
14.	Rukia Abey Ahmed	12426597	43
15.	Abbey Abdirahman Jirrow	11550882	60
16.	Dawit Hussein Liban	0016261	53
17.	Habiba Warsame Farah	24322084	58
18.	Ibrahim Alaso Hussein	21487851	35
19.	Makay Hassan Mahat	0193621	38
20.	Farah Ahd Hassan Omar	23141541	62
21.	Amina Maalim Issack	11193027	24
22.	Shariffa Useein	3350030	50
23.	Abdullahi Ahmed Adan	0015480	81
24.	Hamdi Yussuf Abdille	25096072	44
25.	Mahamud Sheikh Hassan	0015330	68
26.	Abdullahi Manur Mursal	10028682	76
27.	Mohamed Noor haji	26249482	70
28.	Abdullahi Mohamed Abdille	13330030	54
29.	Ebla Sheikh Mohamed	20135396	40

30.	Halima Muktar Ali	21641923	32
31.	Abdia Mohamud Muhumed	1131305	33
32.	Fatuma Abdi Madey	32401507	57
33.	Farhiya Issak Omar	28889577	23
34.	Adey Ali Farh	10028999	80
35.	Adan Eymoi Guyo	0014430	61
36.	Noor Guhat Hassan	14592351	45
37.	Hussein Sheikh Mohamed	2112910	78
38.	Sangaba Mohamed Adow	Copy not clear	39
39.	Hassan Dagane Madey	5964487	59
40.	Mohamed Abdishakur Ali	11551333	25
41.	Abdullahi Abdi Bulle	20838121	37
42.	Sirad Abdirahman Hassan	100298893	56
43.	Ahmed Guru Jimale	13330366	46
44.	Hassan Salad Ibrahim	10028548	49
45.	Daud Ali Kanyare	13331820	63
46.	Mohamed Maalim Abdullahi	0017781	79
47.	Fatuma Hussein Osman	5759259	42

***A sample copy of the allocation letters is attached.***

**SUBMISSION BY MR. ABDULLAHI MADNUR.**

The Chairman of the petitioners Mr. Abdullahi Madnur in his submission informed the committee that, they started operating the market in 1988 and was given to the traders by the defunct Mandera Town Council; they have been paying rents, rates and are possession of ownership documents which were issued to them 2005.

He said that on 6<sup>th</sup> February 2020 the Mandera Municipality informed them to vacate without prior notice. He explained that they had engaged the CECM for Trade, Chief officer Trade, Director Trade and Mandera Municipality on this matters and but have not given them satisfactory response. The authorities informed the traders that apart from 32 stalls in the market that is situated along the Bulla Jamhuri road, they will demolish all other stalls in the market and they

have no plan to relocate them. He concluded that the petitioners had no objection if the authorities decide to relocate the traders to other markets.

#### **SUBMISSION BY MR. MUHUMED SHEIKH ADAN**

The Secretary of the petitioners Mr. Muhumed Sheikh in his submission informed the committee members that the petitioners had been receiving endless threat of demolition of the market from Mandera Municipality. The Municipality without prior eviction notice and public participation/sensitization had put sign mark **X (copy attached)** on the stalls. The petitioners pleaded with the Municipality and Department of Trade to even relocate them to other available markets but it was not successful. Additionally; the Secretary of the petitioners had brought to the attention of the committee that the petitioners apparently presented to the authorities' evidence of ownership documents actual license/business permit, rent/rate payment receipt and copies of identification card of all the 60 stall owners that was given to them by the defunct Mandera town council.

#### **SUBMISSION BY MRS. QURESHA JELLA AHMED**

Mrs. Quresha Jella. a member of Bulla Jamhuri Cloth Market traders, also pleaded with the members that they depend the businesses for their livelihood including taking care of their families and paying their children school, *Madarasa* and *Duksi* fees. The petitioner requested the Hon members to consider their prayers. Mrs. Quresha also lamented that majority of businesswomen in the market are widows who are taking care of orphan children and they get their livelihood support from the proceeds of the business in the markets.

**ORAL SUBMISSION BY DEPARTMENT OF LANDS, HOUSING AND PHYSICAL PLANNING AND MANDERA MUNICIPALITY**

On Friday 13<sup>th</sup> March 2020 vide letter reference no; **MCA/TIICD/PET/1/VOL.1**

**(23)** the Committee invited

1. CECM for Lands, Housing and Urban Planning (Mr. Adan Hussein)
2. County Chief Officer responsible for Urban Planning (Ms Sulekha M Osman)
3. Mandera Municipality Manager (Mr Hassan Noor Adan)

They appeared before the Committee on Friday 20<sup>th</sup> March 2020 2.30pm and responded to the petition as follows;

**SUBMISSION BY MR. ADAN HUSSEIN HASSAN, CEC MEMBER-LANDS, HOUSING & PHYSICAL PLANNING**

The CECM in his submission informed the committee members that as urban planning Department they are not denying the existence of the stalls and the authenticity of the ownership documents. But the traders' shades are on road reserve. He clarified that when it comes to land ownership the government defined it and public land such as road reserve cannot be used to do business. The market stalls that the defunct Mandera Town Council had offered to the traders during that time are those stalls that are mapped within the parameters of the four-corner of the clothes market building. He said that he sympathizes with the traders and the allocation letter issued by the defunct Town Council was probably aimed at raising revenues. He further stated that with the advent of devolution urbanization has grown higher with lots of vehicles that is resulted by rural-urban migration and Mandera town been the headquarter, there is higher increase in population compared to other sub counties..

He shared with the committee a certified extract copy of the town plan showing the stalls in the road. He concluded by affirming that the traders are on the road and this has caused daily traffic jam and they must be relocated in the interest of all.

***(annexed)***



## **SUBMISSION BY MR. HASSAN NOOR ADAN, MANDERA MUNICIPALITY**

### **MANAGER**

The Mandera Municipality Manager Mr. Hassan Noor in his submission responded that the Municipality is not evicting Mandera Bulla Jamhuri Cloths' Market traders but are apparently evicting those traders who encroached the road and hindered movement along that area. The Manager, stated that he received a complaint letter from area Chief Mr. Alinoor Sheikh Ibrahim on 4<sup>th</sup> November 2019 requesting from the Municipality to open access of roads; of Ceynu Shamsi-Hirsifina-Busley stage road, Bulla Jamhuri Market road, Bulla Jamhuri-Ali Nafyar-Sheikh Ibrahim road and Haji Five to Maalim Aliyow Sambul road. The area Chief lamented that these roads are impassable and blocked the movement of people and vehicles and sometimes congestions of these roads lead to an accident **(attached)**.

The Municipal Manager informed the members that on 20<sup>th</sup> January 2020 he wrote letter to the County Chief Officer for Trade requesting to allocate space to the displaced traders. In the letter he stated that the Municipality wanted to start opening the access roads within the Central Business District from Monday 27<sup>th</sup> January 2020 with special focus on Meta-Meta Bus Stage, Khalalio stage, Musdalifa both from behind and front side access roads. He requested from office of CCO trade to carry out all the necessary due diligence in coordination with department of Roads and Transport like public participation/sensitization, providing an alternative space for traders, doing data capture of traders doing business on the road reserve and putting in place measures to cushion the government against possible litigations with the planned eviction **(attached)**.

Further, the Municipal Manager stated that the CCO Trade in his reply called for stakeholders meeting to deliberate on issue. The CCO of Trade called for the meeting and informed the stakeholders of the impending eviction while acknowledging the challenge of markets space since ESP market is earmarked for Bus-Park tenants.

He informed the members that, initially, the affected stalls owners were 33, then it rose to 63 and currently the authorities are planning to demolish around 80 stalls. He categorically emphasized that any market stalls/shades outside the four-corner of the market building will be demolished.

The Manager further stated that they engaged the traders through verbal communication and wrote a letter to the Ministry of trade requesting them to engage the traders and sensitize them of the imminent demolition of those market stalls. The manager also added that they also engaged Kenya Chambers of Commerce Mandera Chapter who represent traders. The Municipal manager acknowledged the existence of ownership documents by the traders but insisted that the traders are on the road and it is not feasible to continue doing business in the current location.

Finally, he submitted that the government is planning to tarmac the road and MADAWASCO authority had demarcated for water piping system along these roads which are currently occupied by the traders.

He concluded that the traders have to be relocated but the onus is on the Trade Department which is in charge of markets

**ORAL SUBMISSION BY TRADE, INDUSTRIALIZATION AND CO-OPERATIVE DEVELOPMENT**

On Thursday 19<sup>th</sup> March 2020 vide letter reference no **MCA/TIICD/PET/1/VOL.1 (24)**; invited;

1. Dr. Mohamud Adan - Acting CEC Member, Trade, Industrialization and Cooperative Development
2. Mr. Osman I. Mohamed - County Chief Officer, Trade,

**SUBMISSION BY DR. MOHAMUD ADAN, ACTING CEC MEMBER, TRADE, INDUSTRIALIZATION AND COOPERATIVE DEVELOPMENT**

The acting CECM for Trade Dr. Mohamud in his submission to the committee explained that the market structures were allocated to the traders by the defunct Mandera Town Council. Thereafter, there was a lot of changes in terms of development and growth of Mandera town. The growth of the town had necessitated the expansion of the roads. Development projects have negative and positive impact on the livelihood of the people, the positive part is that the population needs infrastructure developments such as roads and the negative aspect is the consequences of evicting the Bulla Jamhuria traders who have occupied along the Bulla Jamhuria road who make livelihood out that business. He stated that municipality had taken over some of the functions and they are playing their role by opening the impassable roads in CBD to facilitate the passage of vehicles fire engines and open the market and other social centres for the public and enhance delivery of service. He stated that they engaged the traders and conducted honest discussion with them. They are determined to address the plight of the traders by stopping the demolition of the stalls and give chance to dialogue so that amicable solution is reached.

The CECM also informed the committee that the Department of trade is in the process of relocating the traders though construction works in some markets have not been finalized.

He assured the Committee that the Department will strategize the way forward so that the traders do not suffer as result of the demolition of the market shades.

He said that he will further discuss with the Municipality and give first priority to the 32 stalls owners and the Ministry will also not leave anyone behind including the entire 60 stall owners and that they will do everything possible to manage the situation and treat all the traders equally.

Dr. Mohamud requested for two weeks to report back to the committee on whether to relocate the traders to either the new Youth Market or ESP market in Mandera town.

The chair asked the CEC to put the undertaking in writing and was given upto Monday 23<sup>rd</sup> March 2020, failure to which the committee will proceed with its report and make recommendation to the house.

#### **SUBMISSION BY MR. OSMAN I. MOHAMED, COUNTY CHIEF OFFICER, TRADE**

The County Chief officer of Trade Mr. Osman in his submission to the committee stated that according to the Department of Trade registry the actual number of stalls allocated by the defunct Mandera Town Council were 32 stalls and not 60 stalls as claimed by the petitioners. He added that the Department of Trade is in the process of verifying the actual owners of the 32 stalls. Apparently, of the total 157 market shades around the Clothes (Ba'aadle) market building, it is only 32 stalls that were on the road reserve. The CCO said that we are putting more effort in finding solution before evicting them.

He informed the committee that it was the Department of Trade that stopped the demolition of the stalls to give room for more consultative and Initially, they planned to relocate the traders to other markets such as new Youth Market and ESP market but unfortunately the plan was disrupted by pending court case that

was instigated by the Bus-Park stalls owners and in addition, the contractors at the new market have not yet finished the construction.

The CCO admitted that the issue of verifying the traders by physical count was challenging but he stated that reaction from the traders was clear that they are willing to be relocated. He further stated that the Department of trade has also engaged the Municipality and conducted stakeholders meeting to deliberate on issue and Trade department is carrying out verification exercise to confirm genuine traders.

## **COMMITTEE'S OBSERVATION**

Having heard from the Petitioners, the County Department of Lands, Housing and physical planning, Mandera Municipality and the County Department of Trade, Industrialization and Cooperative Development the committee made the following observations;

1. **THAT**, the planned eviction and demolition of the traders' market shade is executed by Mandera Municipality.
2. **THAT**, based on the oral submissions made and the lack of proof no eviction notice, sensitization and or public participation was done by either of the County Department trade or Mandera Municipality which contravened the Constitution and section 87 of the County Government Act 2012.
3. **THAT**, the market shades were allocated by the Defunct Mandera Town Council in 2005
4. **THAT**; the traders have valid business licenses and some have already paid for the year 2020.
5. **THAT**; the market shades are on the road and its reserve as evidenced by the certified copy of town plan presented by CECM lands and the petitioners are cognizant of this as seen in their prayer
6. **THAT**; the presence of traders in this location has caused traffic jam that will ultimately hinder service delivery and likely to cause accident
7. **THAT**; many residents generate living out of the market shades and destruction without proper process contravenes their right
8. **THAT**; Department of trade has not done proper registration and verification as requested by the Mandera Municipality and the 32 traders registered with them are those who voluntarily went to their offices to register, hence no proper record exist.
9. **THAT**; There are certain markets in Mandera town which are not used and utilized such as Youth Market, ESP
10. **THAT**; the trade department is willing to relocate the traders and the petitioners are ready too.

## **COMMITTEE'S DETERMINATION**

In respect of the prayers made in the petition and having made the foregoing observations, the committee must make appropriate relief in the circumstances of this petition. In so doing, it is alive to the provisions of the law that regulates public petition, in light of this the committee made the following determinations;

- a) **Prayer;** To intervene and help us the 60 businessmen and women to be allowed to remain in our stalls and continue paying the revenue and building our county together

### ***Committee's response;***

The committee in respect of this prayer has done investigation and observed that the traders (petitioners) are in the road and its reserve. Their continued presence will hinder service delivery to the residents of the town, interfere with sewer and water piping plan, and cause unnecessary traffic jam which may result in accident hence the issue of doing business in the market shade is untenable.

- b) **Prayer;** To sincerely intervene and get us an alternative strategic business park where we can establish our business for daily living as well as support our families by paying school fees, medical treatment and most importantly educating our children in *Duksi* and *Madarasa*

### ***Committee's response***

1. The committee in respect of this prayer has conducted investigation and confirmed that the County Department of Trade and Mandera Municipality did not conduct proper public participation/sensitization of stakeholders' engagement before embarking on the demolition plan and flouted the constitution and the statues relating to public participation therefore the committee recommends that the County Department of Trade and Mandera Municipality conduct proper stakeholders engagement for a period of **two (2) months** before relocating the traders. Effective from the date of adoption of this report as requested by them  
***(annexed)***

2. Further, the committee recommends that there shall be no demolition of the traders' market shades until the County Department of trade relocates them to convenient, strategic, secure and safe place where they can do their businesses.

In view of the foregoing the committee resolves that;

1. This report be dispatched to County Department of trade and Mandera Municipality for the purpose of conducting proper stakeholders engagement
2. This report be dispatched to the County Department of Trade implementing the relocation of the trader to convenient and safe location
3. This report be dispatched to the Acting CECM for trade so as to report back to the County Assembly on the implementation status within **sixty (60) days** of receipt of this report.