

COUNTY ASSEMBLY OF BUNGOMA

COUNTY ASSEMBLY DEBATES

DAILY HANSARD

WEDNESDAY 9TH MARCH, 2022

Morning Sitting

COUNTY ASSEMBLY OF BUNGOMA

HANSARD OFFICIAL REPORT

WEDNESDAY 9TH MARCH, 2022

The House met at 9:30 a.m.

(Mr. Deputy Speaker [Hon. Stephen Wamalwa] in the Chair)

PRAYER

PAPERS

REPORT BY PUBLIC INVESTMENTS COMMITTEE ON THE EFFICIENCY OF THE OPERATIONS OF THE NZOIA TREATMENT WORKS

Hon. Vitalis Nyongesa (Chair, PIC): Thank you, Mr. Speaker. I am on my feet to table a report of the Committee on Public Investments on the efficiency of the operations of NZOWASCO Treatment works.

Mr. Speaker: Honourable members, the report by the Committee on Public Investment on the efficiency of the operations of Nzoia Treatment works has been tabled and is the property of the House accordingly.

NOTICES OF MOTION

REPORT BY PUBLIC INVESTMENTS COMMITTEE ON THE EFFICIENCY OF THE OPERATIONS OF THE NZOIA TREATMENT WORKS

Hon. Vitalis Nyongesa: Thank you, Mr. Speaker. I give a notice of motion that this House adopts the report of Public Investment Committee on the efficiency of the operations of NZOWASCO treatment works.

Mr. Speaker: Honourable members, a notice having been duly issued by the Committee on Public Investment, I direct that this report be duly sent out to the Honourable members for consumption. It will form business on our Order Paper in the course of the week accordingly.

MOTIONS

REPORT BY THE SECTORAL COMMITTEE ON TOURISM, ENVIRONMENT, WATER AND NATURAL RESOURCES ON THE BUNGOMA COUNTY RIG POLICY

Hon. Frankline Simotwo (Chair, Tourism): Thank you, Mr. Speaker for granting me this time.

I have a report by Committee on Tourism, Water, Environment and Natural Resources on report on Bungoma County Rig policy.

PREFACE

On behalf of the members of the Committee on Tourism, Water, Environment and Natural Resources, it is my pleasure and duty to present to the House the Committee's report on the Bungoma County Water Drilling Rig Policy 2021

THE MANDATE OF THE COMMITTEE

The Sectoral Committee on Tourism, Water, Environment and Natural Resources is constituted pursuant to the provisions of Standing Order No. 196 of the County Assembly of Bungoma and executes its mandate in accordance with Standing order 196(5) which provides as follows:

- a) Investigate, inquire and report 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 analyse 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 185 (Committee on Appointments); and
- g) Make reports and recommendations to the County Assembly as often as possible, including recommendations of proposed legislation.

ACKNOWLEDGEMENT

The Committee is thankful to the Offices of the Speaker and the Clerk of the County Assembly for the logistical support accorded to it during the report writing as it executed its mandate.

I wish to express my appreciation to the Honorable Members of the Committee for their resourceful input that informed the content of this report. My sincere gratitude also goes to the members of the Secretariat for their dedication towards compiling this report.

It is therefore my pleasant duty and privilege, on behalf of the Sectoral Committee on Tourism, Water, Environment and Natural Resources to table this report.

INTRODUCTION

The Constitution of Kenya provides that it is a human right to have adequate clean water to every citizen. As per the Kenya population and housing census only 25.855% of the 1,670,570 persons in Bungoma access clean water

The inability of the County to meet its water demands necessitated the County Government to source for a water Rig for the expense on hiring was not cost effective.

The key goal of the policy is to effectively operationalize the county water rigs for increased access to water by the citizenry.

The formulation of the Bungoma County Water Drilling Rig policy was done by the department of Tourism, Environment, Water and Natural Resources. The Bungoma County Water Policy, 2021 was submitted to the County Assembly and was received and tabled.

THE ANALYSIS OF THE BUNGOMA COUNTY WATER DRILLING RIG POLICY

The chapter is on the Context and rationale for the Bungoma County water drilling Rig policy.

The chapter provides for the introduction and the Background information - The demand for water has been sky rocketing in the county due to the increase in population. The demand for County surface water hence has been the best alternative to try to scale up the water supply in the county.

The chapter also elaborates on the important legal instrument on which it is anchored on -which includes: The Constitution of Kenya-2010, The water Act-2016, The Environment Management and co-ordination Act (EMCA)-1999, The National Climate change Action plan 2018-2022,kenya vision 2030,the united nation sustainable goals (SDGs) amongst others.

The rationale of policy formulation is also well elaborated under the chapter which entails providing a policy mechanism to guide operations of the County Water Drilling Rig.

The chapter also has the drivers of the Bungoma County Water Drilling Rig Policy-This entails what the drilling rig a component and a package has-i.e. the test pumping, geotechnical equipment (Tetrameter and borehole camera) amongst others that greatly supports the entire drilling activities.

The chapter also has the process under which the policy was developed which was a participatory approach. It involved the National Environmental Management Authority (NEMA), The Kenya Wildlife Services(KWS),Victoria the County Attorney the County Assembly amongst others.

CHAPTER TWO

The chapter entails the policy framework which has the introduction, the goals-which is to operationalize the sustainable use of the County owned water rigs for increased access to water by the citizenry of Bungoma County.

The objectives the guiding principles of the policy include among others: To integrate sustainable operation framework for water machinery and equipment's into water sector's planning, decision-making, budget and implementation, Guide the use of the County owned water rig for enhanced exploitation of ground water sustainability amongst others

The chapter also has the guiding principles which amongst other are: professionalism. Siting, technology, procurement, construction, supervision, water quality testing, contract management amongst others.

CHAPTER THREE

The chapter is on the county water opportunities for water drilling rig and strategic policy interventions.

The chapter highlights the sustainable management of the Water Drilling Rig and associated equipment.

It involves the site identification and the strategic policy interventions, Revenue generation and strategic policy interventions. Operation and maintenance and strategic interventions.

CHAPTER FOUR

The chapter is on the policy implementation framework-Outlines the stakeholders-amongst them the department responsible for matters water and its roles over the rig, the regional actors and National actors too and their roles are elaborated

Requisite institution like NZOWASCO, NEMA, Water Resource Authority (WRA) and their roles are also spelt out.

The key actors are both at the County and National level. There are also non-state actors like the business community, CBOs and others

CHAPTER FIVE

The chapter provides monitoring, evaluation, reporting and review.

The department responsible for water services is given the provision to develop mechanism for recording and reporting activities in the County.

The review of the policy is provided a window for it to be done once after 5 years

The key gap in the policy is lack of reporting to the County Assembly. Amendments should be done to have it that policy is to have a reporting done and submitted to the County Assembly annually.

The following are key salient features of a policy framework which the Bungoma County Water Drilling Rig policy, 2021 is structured on:

- Be forward looking, that is, it must have a long term view of the problem and offer a long term solution.
- Benefit from the experience of others who have resolved similar situations.
- Seek new solutions to old problems by being clear on objectives and outcomes.
- Be based on a study or current analysis of the problem at hand.
- Offer an inclusive solution to all the segments of the community in which it would be implemented.
- Fit into the current policies being implemented by other agencies.
- Borrow from best practices and learn from implementation mistakes and successes elsewhere
- Must have an inbuilt communication strategy for dissemination to the public and all stakeholders.
- Should have evaluation and review mechanisms as one of its feature.
- Provide a pre-legislation impact assessment statement.

Policy framework should be based on the following key components of which also the Bungoma County Water Drilling Rig policy has effectively addressed;

- Introduction
- Situation analysis
- Challenges or problem/issues to be addressed
- Strategies for its implementation
- Actors/stakeholders including the roles and responsibilities
- Targeted audience and their role and obligations
- Monitoring and evaluation mechanism
- Review measures
- Provision of legal instrument for its operationalization.

COMMITTEE'S OBSERVATIONS

1. The reporting mechanism has not been well captured as there is need to have a yearly report done and submitted to the County Assembly.
2. The County water rig policy 2021 if well implemented will in a more elaborate way provide effective County water rig management to the benefit of the County citizenry

3. The policy is not self-executing and thus will require a legislation to operationalize it.
4. The policy complies with the Constitution of Kenya 2010, Public Finance Management Act, County Governments Act and other relevant legislations
5. The policy is capable of achieving measurable results in terms of implementation; operationally practicable and efficient to manage and enforce
6. The policy structure is as per the standard procedure of policy drafting
7. The policy is tailored to meet the needs of the County Government of Bungoma; it answers the questions and dilemmas in the provisions of water in the County.
8. The policy provides resources for formulation to the point of implementation including the personnel and specialized resources necessary for the full implementation.
9. The policy fits into the current policies being implemented by the National Government and other department of the county and other agencies.
10. The policy provides a mechanism of review in case of emerging issues
11. The policy has an in-built communication strategy for dissemination of information to the public and all stakeholders.

COMMITTEE RECOMMENDATIONS

1. That the policy be passed with the following amendments:

That paragraph 5.2 on reporting is amended by inserting the following words before the word “County” to read “there shall be quarterly Report in respects to the operations of the County Rig submitted to the County Assembly’.

That is the end of the report and I wish to call upon Hon. Sudi to second this report.

Hon. Isaiah Sudi: Thank you, Mr. Speaker. I would like to urge the House that we also come up with regulations so that the Rig Policy is operationalized to benefit the citizens of this county. I second the report.

Mr. Speaker: Honorable members, I will proceed and propose a motion for the House to debate. Honorable members, a motion has been moved and seconded, that this House adopts the report by the sector Committee on Tourism, Environment, Water and Natural Resources on the Bungoma County Rig Policy.

(Question proposed)

Hon. James Mukhongo: Mr. Speaker, I rise to support the report of the committee but I would like to bring to the attention of the committee that they need to pull up their socks by oversighting the executive. As much as they are informing this House that we must have some amendments within the policy, I am worried because what is there is not being utilized so well. There is a lot of bias. I was a member of this committee from the start of this second Assembly

but all of a sudden, I pulled out because of some reasons. The *waziri* who is the head of the department...

Mr. Speaker: Who?

Hon. James Mukhongo: The CECM

(Laughter)

I know that is where you were looking at...

(Laughter)

Is not competent! Even though at one time a motion was brought to this honorable House...

Mr. Speaker: You defended him...

Hon. James Mukhongo: We debated and I was one of the members who defended him, but I want to apologize to our Leader of Majority that what I did then, I knew I was a member of the government, then all of a sudden I found myself in the opposition. I am the one who allocated funds to buy that rig, up to now if you look at that list, it only touches South Kulusiru, Misikhu, you can now see, it is only for the members who are supporting the government, but some of us when we were oversighting, we thought we were playing our role, they refused to have just one borehole in my ward, but I am praying that this government goes home even tomorrow so that when we do some amendments, the coming government will adhere and do the needful without bias.

Hon. Jack Wambulwa: Thank you, Honorable Speaker. I am happy with the report as per the committee, but would like to reinforce what Hon. Mukhongo has just said. That indeed even if we are going to come up with this policy without making a follow up, this executive does not respect any law.

This issue of the rig, if I may put it to this house was never a proposal of the department. We came up with this proposal during our budget making and said the only way we can solve water problems in Bungoma is by having our own rig. As it stands now, it is unfortunate that we lost the Chief Officer - the Engineer who was in charge of water. We gave her in the last budget enough money to do water in every ward. At least one borehole in every ward, right now as we are talking, they are doing other boreholes in the wards that they had already done two boreholes without bothering about these other members I being included. You are aware of the school called *Libolina* for the physically handicapped and it is a school that I had proposed. It has no water at all and yet we have a rig of the County.

Do you know when they came the other day to Kimaeti ward, they decided to go and do a borehole that was proposed by the Governor? So I wonder if the Governor is the MCA of

Kimaeti Ward or there is other MCA to show the site where they were supposed to be doing the borehole. I also support by praying that this Government exits, so that we can implement this policy in a better way.

Mr. Speaker: Thank you, Hon. Wambulwa.

Hon. Martin Wanyonyi: Thank you, Mr. Speaker. I'm also beginning by supporting this policy and it is long overdue for us to have a policy that can be able to guide the implementation of the rig. I think as the previous Members have said, this County is having issues, not because we are lacking laws and policies but because of the people behind the implementation of those policies and laws.

While we support the enactment of these policies that can be of value to the people of Bungoma only if the current CECM and its administration are out of the office. That is the only way those policies can be meaningful to these people.

When you read Article 10, what this policy is trying to talk about to address the inequality on how this rig is being used, but these values are already in the Constitution that the ministry is not living true to these values. Even if we have a good policy, as long as Makheta is still in the office, this policy will not have any meaning and that is why I also join my friends in praying that this regime by 9th of August should go home, so that we can have a regime that will live true to the values and principles of Article 10. So I want to join my friends praying that they should go home, so that we have a regime that will finally see water in Ndivisi Ward and Webuye East as whole.

I know my friends are complaining that they should not go home because they are doing their second rounds in their Wards. Yes. Some third rounds but we are telling them that God is here and we serve a living God and even the people of Ndivisi are also tax payers and one time one day, we will see. I support.

Mr. Speaker: Hon. Martin, can that be constituted as a threat to her?

Hon. Martin Wanyonyi: I'm not threatening anybody but I'm saying that my good friend Hon. Mutiembu, she is already in her third party so I understand when she talks the way she is doing. I wish she could stabilize in one Party and face the people of Kulisiru.

Hon. Violet Makhanu: Thank you, Mr. Speaker. I also want to say something on the report and I'm here to support the report despite the fact that I came in a bit late when the report was almost at the end. I'm one of the disappointed members when it comes to matters of the rig that was bought to serve the people of Bungoma County.

As the MCA representing Mihuu, I'm supporting this Government and I've been in this Government for quite some time and imagine I'm even shocked that the rig is even going for

second rounds in other wards while it has never stepped in Mihuu. Not even once and I've never even seen it.

Death is so cruel; we lost a very competent lady in that department of water. This lady had really put the department of water to standard and things were really moving on well. We lost her and I don't know whether we had somebody who replaced her that is a bit competent. I even don't know the person who replaced Madam Lusaria. May her soul rest in peace.

The department of water has issues that unless something is done, it is quite unfortunate that we are ending, going back to the ground to hunt for votes but that is the department that will end with a lot of issues.

I remember when the CECM was being impeached on this floor of the House, I'm one of the MCAs who changed the last minute and disappointed my friends and said, and even told them that Makheti comes from my ward and therefore I'm going to defend him and ensure that he is not going to be impeached. Unfortunately, he didn't even say *asante*. He left it at that and even went and kept quiet and promised to do something in my ward, but nothing has been done in my ward up to date. I therefore don't know where this rig is going and where it is coming from.

If I was asked to give my opinion, I could say that that rig be put somewhere until after elections so that we give the direction and maybe come up with a programme on how it should be working in all 45 wards, other than moving around in a few wards at the expense of some of us, who are supporting this Government in ensuring that they are doing their work.

I'm so disappointed by this Government as a member who supports it and nothing is happening in my Ward. My good friends said somewhere that 'Khebusie.'

(Applause)

Mr. Speaker: Hon. Violet, I feel so sorry for you supporting the Government that does not even take care of your interests. Hon. Kawa, I think we gave out the cards. The tricky part is that even if you speak from here..... the problems of having more houses is not our problem. That is your problem. Hon. Majimbo proceed.

Hon. Henry Majimbo: Mr. Speaker, I rise to support the enactment of this policy and I have been asking myself, what is a policy? That is why I went to check with the mover and I have also been trying to understand what a policy is, and the Cambridge dictionary says, *a policy is a set of ideas or a plan of what to do in a particular situation that has been agreed to officially by a group of people*. The dictionary says a group of people. So we are here to pass this policy but with a lot of reservations especially for the executive which is renowned for not complying with any legal framework set by this House. I want to agree with the earlier speakers that the way the executive has handled the issue of the rig is really disheartening.

I don't know which set of ideas they have been using and I'm not shocked by some of our colleagues who are beneficiaries of this rig murmurings. They are rejoicing by maybe cursing us for saying what we are saying. But what I want to say that this Government should exit as early as yesterday for one good reason; it has performed below average on matters of Governance, marginalization and losing track of what the residents of Bungoma want.

Imagine Khalaba Ward is in the neighbourhood of the headquarter for department of water headed by CECM, Mr. Makheti and they have never even attempted to go on the ground and have a trial in matters of even saving on the resources that they have. Khalaba could be one of the Wards that could have benefitted from the trials when the rig was still new. It never happened.

They send officers to us, we gave them sites on where to drill the water but they never did anything. I am perturbed by the fact that we are passing this policy but how sure are we that the County executive will comply with the contents of this policy? If the other day we adopted a resolution of the House here in regard to Ksh. 112 Million from the KDSP meant for equipping of the 300 bed capacity. We passed resolutions here but what happens, they go away to advertise on the same appropriation but on different projects. They go ahead, they have done the evaluation and they want to award. So how sure are we that even passing this policy, they are going to comply with the contents of the policy. If they go against a resolution of this House on Budget making; Kshs. 112 million KDSP meant for the equipping of this 30 bed capacity.

The Assembly in its wisdom gives guidance and you disregard the guidance of the legislative arm of that government. Why should you put such a structure and there are no equipment? They have not come up to tell us where the equipment will come from. Under the appropriation that was done in the main budget and approved by this House, 112 million shillings was supposed to go towards the equipping of that facility. Then they will run round this county saying that they have constructed a 300 bed capacity without equipment. It is just a hall; you cannot expect pregnant mothers to deliver in a hall...

Mr. Speaker: Honourable members, let us use decent language. Hon. Sospeter let us have respect for our mothers. I have never heard that human beings calf down.

Hon. Henry Majimbo: Mr. Speaker, I want to request the Committee on Tourism, Water and Natural Resources through you chair that before we go *sine die*, let them submit a list of the beneficiaries. We want to know the wards that have benefitted from the rig. We can't be told wherever these guys go to radios, they say that they have drilled 200 boreholes in Bungoma County, when Khalaba is not a beneficiary and other wards like Chwele, Misikhu among others. We want the list before we exit this House, so that we go and tell the people how this government has marginalized other areas. You marginalized areas in drilling boreholes, giving bursaries and fertilizers and you want us to say *tano tena*, we can't go that direction.

Without any fear of contradiction, I'm for change on 9th of August; we must be on the forefront to change this regime. We must cast the spirit of violence out this County; we cannot allow a County government that is not alive to what people want. If you are not ready for change, then change will change you but on my side, I'm ready. I'm team KLM and I have no regrets. I'm going forward. If you are still on the other side, my friend this *tsunami* that is coming is going to sweep you guys. You must be ready not to be swept by the tsunami. The tsunami is coming. I support.

Hon. James Chesibok: Thank you, Mr. Speaker. I rise first of all to support the report...

Mr. Speaker: Honorable Members, let us have order.

Hon. James Chesibok: First, I support the report. Secondly, I'm surprised to see that colleague honourable members, it's like they are opening their eyes. When I came here in 2017, the Honourable members who are complaining today stood firm with the government but today they are complaining. This is the highest...

Mr. Speaker: Order members.

Hon. James Chesibok: This is hypocrisy of the highest order.

(Applause)

Mr. Speaker: Order honourable members. Hon. Chesibok, can you withdraw the words you have used because they are un-parliamentary. Withdraw the term.

Hon. James Chesibok: I withdraw.

(Applause)

Hon. Jack Kawa: Thank you, Mr. Speaker. Allow me appreciate the committee for good work. The report before us today though it has come late but it will guide us in future.

Secondly, what Hon. Majimbo said I'm worried because I'm not sure if the executive will implement. When you go to various offices you will find empty seats; the members of the executive are out in campaigns. Therefore, I'm not so sure if the report will be implemented.

Thirdly, and this is from my heart; we represent people and I'm a Christian; that we must also ask ourselves when did the rain start beating us? Because the said CECM comes from Webuye West where I come from and I stood on my feet because I was elected to represent people.

During the impeachment motion, I said Makhethi must go. Some of the members here pointed fingers at me.

(Applause)

When we start complaining, I wonder.

Hon. Franklin Simotwo (Chairperson, Tourism): Thank you, Mr. Speaker. I want to thank members who have given their sentiments as we proceed to adopt this report. I have heard the sentiments from the members which are critical and which need to be addressed. It is known that the executive in one way or another they have refused to be over sighted, the reason we have many challenges in departments. As chairperson of this committee, I have also not benefitted out of the rig. It means that something must be wrong. We are passing this report and want to echo the sentiments made by members of this House that various departments especially the water department and if you look at the general well-being of Bungoma, we have adverse problems that are water related which the department has failed to address.

They have the rig which could have assisted to solve many problems facing the people of Bungoma in respect to water; the department has failed to do that. As we speak, we have few areas which have benefitted from this rig.

In a nut shell, I also support that this government, if this is what they can deliver to the people of Bungoma, I support that we have a new government in the coming general elections.

Finally, I want to thank the members and the secretariat for coming up with this good report and I urge the House to adopt the report so that we move on as a County.

Mr. Speaker: Thank you, Hon. Simotwo for your reply to the motion.

The question in respect to the adoption of the aforementioned report was put and agreed to.

The ayes have it.

(Applause)

The report is adopted for forwarding to the relevant department for implementation. That was our last item on our Order Paper. We will adjourn and resume at 2:30 p.m. as per the calendar of the sittings of the House.

(House Adjourns)