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REPUBLIC OF KENYA



**BOMET COUNTY
THE COUNTY ASSEMBLY OF BOMET**

FIRST ASSEMBLY –FOURTH SESSION

WATER, ENERGY, ENVIRONMENT, FORESTRY AND
NATURAL RESOURCES COMMITTEE REPORT ON BOMET
COUNTY INTERGRATED SOLID WASTE MANAGEMENT
POLICY.

SESSIONAL PAPER NO.5 OF 2015 ON ENVIRONMENT AND NATURAL
RESOURCES

JANUARY, 2017

24 JAN 2017

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on 25/1/2017
G. [signature]*



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Annexures

- (i) Minutes of Water, Environment, Energy, Forest and Natural Resources Committee on the adoption of the report.*
- (ii) Bomet County Integrated Solid Waste Management Policy 2015*

ACRONYMS

CADP-----County Annual Development Plan

CIDP-----County Integrated Development Plan

CFA-----Community Forest Association

NEMA-----National Environment Management Authority

KFS-----Kenya Forest Services

CEAP-County Environment Action Plan

ISWM-Integrated Solid Waste Management

PPP-Public Private Partnership

Preface

1.1 Committee Mandate.

Mr. Speaker Sir, the Water, Energy, Environment, Forestry & Natural Resources Committee is constituted under the provisions of Standing Order to undertake such functions as provided for in the standing order no 193(5) which defines its functions. Furthermore, standing order 193(5) outlines the functions of a Sectoral Committee which are as follows:-

- 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 program 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. Make reports and recommendations to the County Assembly as often as possible, including recommendation of proposed legislation.

1.2 The subject areas on the committee

All matters relating to electricity, gas and energy reticulation, water conservation and sanitation services, implementation of specific national government policies on natural resources and environmental conservation, forestry, control of air pollution, noise pollution, other public nuisances and outdoor advertising.

1.3 Methodology

The Committee prepared this report after taking into consideration views and comments from relevant stakeholders and the general public. However, on 3rd December 2015 via a letter reference no. BC.25/15/3, the three policies including two other non-environmental policies were recalled by the then Acting County Secretary. The reason given for the decision to withdraw was that the policies

required some few changes to be made. However, it was overtaken by events since the papers had already been tabled and directed to the committee for necessary action and the committee proceeded in reviewing of the policies.

1.4 Public participation

Public participation forum was organised and conducted at St. Bakhita Catholic Church Conference Center in Bomet , thereby meeting Article 196 of the Constitution of Kenya, 2010, Sections 87(a), (b) and 115 (1) (b) (ii) and (iv) of the County Government Act 2012. These Public hearings and collection of views were held on 28th November 2016. This approach ensured the views and comments of members of the public and other key stakeholders were considered, prior to approval of the Policy. I admit that the members of the public generally registered their concern on the urgent need of the policy so that the missing gaps are addressed in relation to implementation of programmes and projects impacting wetlands.

1.5 Acknowledgment

Mr. Speaker Sir, On behalf of the committee on Water, Environment, Energy and Natural Resources I wish to recognize and appreciate in a special way the committee's steadfast dedication in analyzing, reviewing and subjecting it for public participation and stakeholder input. Gratitude is further extended to the members of staff who participated throughout the process including collection of views from the members of public and stakeholders in the county.

I am also aware that there are many individuals, groups or departments whom I have not named though they actively participated in one aspect or the other in the process. To all those involved, I would like to express my personal and committee's gratitude for the participation, assistance and contribution. We all acknowledge, and indeed we now shift our focus to, the greater challenge of ensuring that the executive implements the document in the latter spirit of its objectives and in accordance to the Assembly's resolutions and recommendations.

1.6 Membership and Ownership of the Report

Mr. Speaker Sir, It is therefore my pleasant duty and privilege, on behalf of the Committee to table this report and recommends it to the House to give their input prior to adoption of this report.

Signed.....

THE HON.EVALINE CHEPKEMOI

CHAIRPERSON: WATER, ENERGY, ENVIRONMENT AND NATURAL RESOURCES COMMITTEE

DATE..... 24/01/2017

We, honourable members of the Water, Energy, Environment and Natural Resources Committee, do hereby affix our signatures to this report to affirm our approval and confirm its accuracy, validity and authenticity:-

No.	Name	Position	Signature
1.	Hon. Evaline Chepkemoi	Chairperson	
2.	Hon. Beatrice Chebomui	V. Chair	
3.	Hon. Philip Korir	Member	
4.	Hon. Sammy Chelule	Member	
5.	Hon. Hellen Chepkirui	Member	
6.	Hon. Robert Bett	Member	
7.	Hon. Andrew Maritim	Member	

2.0 Legal and Institutional Framework on Policies

2.1 Background

Draft County sessional paper No.5 on integrated Solid Waste Management is a document that outlines a course of action that will be adopted and pursued by the County Government of Bomet in order to effectively collect, transport and dispose Solid waste in Bomet County. This Policy was necessitated by the fact that town centres are fast expanding characterised by rising population and growth of industrial activities.

There are various types of solid waste including municipal (residential, Institutional and Commercial), agricultural, and special (health care, household hazardous wastes, sewage sludge). Solid waste generated in towns, markets and urban areas of Bomet County (BC) is predominantly inorganic matters such as paper, plastics, polythene bags and old clothes in addition to organic waste food and vegetable peels. In the context of ISWM, waste is regarded both as a negative and as a useful material providing a potential source of income.

Waste management is the generation, prevention, characterization, monitoring, treatment, handling, reuse and residual disposition of wastes whether liquid or solid. The term usually relates to materials produced by human activity, and the process is generally undertaken to reduce their effect on health, the environment or aesthetics.

It is expected that the passage and approval of Bomet County Integrated Solid Waste Management Policy will pave way for the implementation of various strategies and actions, programs and projects aimed at disposing waste in a manner that is will be environmentally and hygienically sustainable.

The document was received at the Assembly on Tuesday 1st December 2015; subsequently it was tabled and committed to Water, Energy, Environment and Natural Resources Committee for consideration **on Wednesday 2nd December 2015**. The Committee was required to examine, take necessary action and present a report on the findings and recommendations for adoption by the Assembly in

line with **Article 185(4) of the Constitution** which states that a County Assembly may receive and approve plans and Policies for:-

- (a) the management and exploitation of the County's resources; and
- (b) the development and management of its infrastructure and institutions.

2.2 Standing Order 193(5) (b). One of the mandates of the County Assembly Sectoral Committee is to study the program and Policy objectives of ministries and departments and the effectiveness of their implementation.

2.3 Obligations in respect of the Environment

Article 69(1) of the Constitution emphasizes that the State shall-

- i. Ensure sustainable exploitation, utilization, management and conservation of the environment and natural resources, and ensure the equitable sharing of the accruing benefits;*
- ii. Work to achieve and maintain a tree cover of at least 10% of the land area of Kenya;*
- iii. Protect and enhance intellectual property in, and indigenous knowledge of, biodiversity and the genetic resources of the communities;*
- iv. Encourage public participation in the management, protection and conservation of the environment;*
- v. Protect genetic resources and biological diversity;*
- vi. Establish systems of environment impact assessment, environmental audit and monitoring of the environment.*
- vii. Eliminate processes and activities that are likely to endanger the environment*
- viii. Utilize the environment and natural resources for the benefit of the people of Kenya.*

Article 69(2) of the Constitution states that every person has a duty to cooperate with State organs and other persons to protect and conserve the environment and ensure ecologically sustainable development and use of natural resources.

Section 120 (3) part (h) of the County Government Act provides for the promotion of the economic, efficient, effective and sustainable use of resources, the recycling of waste and other appropriate environmental objectives.

2.4 Principles of citizen participation in Counties

According to the County Governments Act 2012 Section 87, Citizen Participation in County governments shall be based upon the following principles-

- (a) *timely access to information, data, documents, and other information relevant or related to policy formulation and implementation;*
- (b) *reasonable access to the process of formulation and implementing policies, laws and regulations, including the approval of development proposals, projects and budgets, the granting of permits and the establishment of specific performance standards*
- (c) *Protection and promotion of the interest and rights of minorities, marginalized groups and communities and their access to relevant information;*
- (d) *Legal standing to interested or affected persons, organizations, and where pertinent, communities, to appeal from or, review decisions, or redress grievances, with particular emphasis on persons and traditionally marginalized communities, including women, the youth, and disadvantaged communities;*
- (e) *Reasonable balance in the roles and obligations of county governments and non-state actors in decision making processes to promote to promote shared responsibility and partnership, and to provide complementary authority and oversight.*

3.0 Review objectives of the Policy

While examining and reviewing the policy, the following objectives informed criteria used in recommending the policy;

- i. To ascertain whether the submitted Policy was prepared in accordance with the law and whether it met the standards required of a policy.
- ii. To verify whether the policy seeks to address all the policy areas related to refuse removal, refuse dumps and solid waste disposal
- iii. To establish whether the strategies and plans proposed in the Integrated Solid waste Management Policy are derived from the CIDP and the targets of vision 2030 and the linkage in County Environment Action Plan and the National Waste Management Strategy of 2015.
- iv. To examine and sufficiently appreciate the challenges currently associated with solid waste collection and disposal in the County.
- v. To establish whether there is a relationship and linkages of challenges, issues, objectives and intervention measures aimed at effectively, efficiently and sustainably managing solid waste in Bomet County.
- vi. Establish whether the priorities and interventions/implementation tools in the policy have taken into account those espoused by the County Assembly through motions, resolutions and pronouncements.
- vii. Establish whether the policy aims to involve all the relevant stakeholders in the planning and implementation of the proposed intervention measures.

4.0 Committee findings and observations

While analysing the policy, the following specific observations were made on the document;

4.1 Strengths in the Policy

4.1.1 Linkages with Kenya vision 2030 targets and the National solid waste management strategy

Kenya aims to be a nation living in a clean, secure and sustainable environment by 2030. The policy is in line with the targets highlighted in the vision 2030 by encouraging reduction in pollution and waste management through design and application of economic incentives. For instance under 4.5 on Legal and institutional framework, the policy targets the involvement of private sector and proposes revenue raising opportunities and the formation of cooperatives among scavengers to engage in kerbside collection of certain types of recyclables. The policy also proposes to integrate national solid waste management strategy, a 15 year plan on issues relating to solid waste management.

4.1.2 Relation and linkage with County Integrated Development Plan

The policy is also in line with the programs and projects identified in the CIDP particularly on the need of acquiring land for solid waste dumping in Bomet Town and other uses, whose timeframe was within the first year. Waste disposal was a major issue that emerged in the CIDP as proposed by the following towns and smaller centres; Sotik town, Chemagel market, Silibwet Town, Longisa Market, Siongiroi Market, Kongasis Market, Sigor Market. Thereby putting in place and implementing this policy, those projects and programs on waste disposal sites would stand a chance of being implemented as part of policy instruments.

4.1.3 Response in relation to Assembly's Resolutions on solid waste management

The formulation of the policy itself and the priorities and interventions/implementation tools identified seeks to address the Assembly's

resolutions in form of a motion that was debated and approved by the honourable members in the year 2016 on the need to identify land that will serve as a dump site in Bomet County. For instance the Policy under item 6.5.1 vividly caters for the current crisis of waste dumping site in Bomet County, whereby item (b) states *“select new disposal sites to replace disposal sites that are close to full or that are improperly located”* while (c) states that *“identify possible regional disposal sites in view of the scarcity of available land in adjoining cities*. Though the later refers to cities, it may still apply to county shared boundary.

4.2 Weakness in the Policy.

4.2.1 Public participation

First, prior to submission of the County Integrated Solid Waste Management Policy to the Assembly, the executive department in charge did not fully comply with the legal requirements guiding policy formulation and approval. There was no evidence whatsoever in the document to show that Public participation and stakeholder involvement was done, which is a mandatory requirement in policy formulation as per section 87 (a) and (b) of the County Government Act 2012 and as one of the National values and principles of governance as enshrined under Article 10 of the Constitution. Though the policy mentioned stakeholder participation as one of its principles and even further identified stakeholders as one of the aspects of Integrated Solid Waste Management, however; there was a failure to involve them during policy formulation process. This was further evidenced during Assembly’s public participation, when key stakeholders such as WRUA, CFAs, NEMA and small scale traders raised concerns wondering why the County didn’t involve them in formulating the policy.

4.2.2 Targets of the policy

Despite the policy having listed learning institutions (Schools) among waste generators under annexure on feasibility studies and master plan, this policy

weakened itself when its vision narrowed down sustainability only to County towns, markets and urban areas forgetting that schools plays a role in waste generation and disposal.

4.2.3 Sewerage system

On item 4.3 the, situational analysis in the Policy did not bring out clearly the issue of sewerage system in town centres particularly the densely populated towns yet it is a challenge that has been elusive. Proper sewerage supply infrastructure system in these towns has been non-operational which poses and had been a health hazard issue in our County. Again, item 6.5 on the Strategy for a Sustainable Waste Disposal and Treatment System evades addressing a strategy for regular maintenance of sewerage infrastructure once it is operationalized.

4.2.4 Challenges associated with solid waste management

The challenges caused by solid waste generation, transportation, treatment and disposal are not clearly highlighted. The policy expresses only the rationale and priorities of the policy but it fails to candidly give the challenges associated with solid waste management which the policy is expected to address.

4.2.5 Classification and categories of waste

Though the policy has classified waste into (Municipal waste, agricultural and special waste), it failed to realized that e-waste is a current challenge which poses health risk not only to human but the entire biological system. For instance as the Country strives to attain milestone in the ICT sector, waste associated with such technological advances will accumulate for examples electronics piles up and some like phones has radioactive materials which if not handle will contribute to incurable illness like cancer.

4.2.6 Integrated Solid Waste Management flowchart

Fourthly, under the Integrated Solid Waste Management flowchart on page 10, there are numerous and conspicuous gaps which weakens the policy in the following ways;

- (a) The flow chart did not provide linkages between waste system elements, stakeholders, aspects and sustainability. In addition, there are no linkages among all the waste system elements.
- (b) As a stakeholder in Waste Management, National Government was excluded yet it plays a role in regulation of international trade through the importation of Industrial goods as provided for in under Section 94 (a) and (b) of the 2015 amended EMCA. In addition, Section 29 of the EMCA 2015 (1999 amended Act) establishes a County Environment Committee which serves as a nexus between National and County Governments in waste management. Section 40(3) and (5) of EMCA 2015 further expresses a direct link and role played by the National Government on guidelines and preparation of County Environment Action Plan. Section 41 B(1) of EMCA 2015, provides that NEMA which is a lead agency in waste management and disposal, is excluded yet it plays a role in monitoring compliance by National and County environmental action plans and has power to take any steps or inquiries necessary to determine if the plans are being complied with.
- (c) The introduction part of item 4.0 on Integrated Solid Waste Management mentioned that there are three aspects of ISWM but the flow diagram has four aspects listed as (stakeholder, waste system elements, sustainability and aspects). This is ambiguous and should be clarified.

4.2.7 Reference and Classification of waste

The fifth issue noted was under the classification of waste on **Table 2.1 Annex II**, whose information bears a foreign content from Countries like Lahore, Pakistan and Japan. The Committee felt that comparing such data may have been informational but this may not be necessary and instead since this policy will apply to Bomet County, such data could have been borrowed from cities in Kenya like Kisumu, Nairobi and Mombasa.

4.2.8 Implementation of solid waste management plan

The policy proposes that feasibility study will be done to understand the present solid waste management situation in terms of general specific features, waste generation to disposal, institutional arrangements, technical systems, social and environmental aspects. This is a major weakness in the policy since feasibility study should have been carried out prior to formulation of the policy as this could have documented in detail the current challenges, issues and situation of waste.

4.2.9 Waste management in rural set-ups

The policy is silent on how waste will be managed in the rural areas, though waste generation in rural areas is lower as compared to markets, towns, urban areas and institutions. It should be noted that sustainable waste management requires holistic approach and entail handling waste while at still at a manageable situation.

4.2.10 Guiding principles of Integrated Solid Waste Management Policy

While the policy has mentioned several key guiding principles of the policy, it failed to consider two other critical principles which are mandatory in the field of solid waste management. Precautionary principle and polluter pays principle form

the basis of responsibility and liability in hazards caused by reckless generation, use or disposal of solid waste. It is expected that this policy, after its approval, will be preceded by legislation, which shall be complied upon once enacted.

4.2.11 Annexure in the policy

The policy has annexed vital information which could have been a key part and parcel of the Policy statement and policy intervention options. The information in the annexure should be a continuation of the policy to avoid loss of coherency in understanding the policy.

4.2.12 Feasibility Study of Solid Waste Management situation in the County

The policy proposes under item 7.5 that the formulation of an implementation plan will start with feasibility studies to understand the present Solid Waste Management situation in terms of general special features, waste generation to disposal, institutional arrangements, technical systems, social and environmental aspects. It is ironical to come up with a policy without having a background on the challenges in which policy is expected to solve and therefore feasibility study to cater all the information related to solid waste must be carried out first.

5.0 Summary comments and views submitted by members of the public

Mr Speaker Sir, as stated earlier, public participation forum was held in St. Bhakita Hall Bomet. The following comments were made by the members of the public;

- i. That the County Government should initiate solid waste collection and management at household level and in learning institutions
- ii. That the County Government should establish dump sites in all major towns within the county
- iii. That the policy making should involve all stakeholders in waste collection including those who generate solid waste
- iv. That the Nyongores, Amalo and Sisei rivers WRUA management plans should be integrated and implemented jointly with solid waste management system.
- v. That proper planning of urban centres and towns in the County should fast-tracked and that the solid waste management should be incorporated in the planning system
- vi. That sensitization programmes on solid waste management hierarchy should be conducted so that the stakeholders may have an insight understanding of the issues.

6.0 Committee Recommendations

Mr Speaker Sir, based on the strengths and weaknesses which were informed by the criteria under review objectives, **we as the committee do reject** Bomet County Integrated Solid Waste Management Policy 2015. However, though we truly desire to put in place measures aimed at properly and sustainably managing waste, this Policy shall **only be approved** once the following recommendations are incorporated in the Policy.

- i. There was no proof of public participation and stakeholder involvement in the formulation of the County Integrated Solid Waste Management Policy 2015 who play a direct role in generation of solid waste. Therefore, the department of public health and Environment should carry out public participation among all the stakeholders as this will ensure all the current issues and challenges related to waste generation, collection, transportation, treatment and disposal are fully addressed.
- ii. The policy should prioritise and consider the installation of proper sewerage supply infrastructure system in the two towns (Bomet and Sotik). Where these infrastructure is non-operational, it should be operationalized to ease collection, treatment and disposal of sewage sludge in the County.
- iii. Learning institutions (Primary, Secondary, Colleges and Universities) should be involved in the programs on waste management since they play a role in waste generation. This will ensure sustainability in solid waste management since these are groups who play significant roles in creating awareness and sensitization on risks associated with improper waste disposal.
- iv. The policy should adopt the **7R** waste management as a strategy and not the **3R (Reducing, Recycling and Reusing)** strategy being proposed in the policy. The **7R (Reusing, Recycling, Reducing, Refusing, Rethinking, Repairing and Refilling)** approach is holistic and seeks to ensure efficient waste disposal.
- v. The challenges and issues the policy seeks to address should be clearly highlighted. In addition, the issue of collection and disposal of e-waste was not identified as a challenge yet this is the major cause of pollution and diseases.
- vi. The Integrated solid waste management flow chart should be revisited and the relationships among the listed waste system elements, stakeholders, aspects and sustainability should be addressed. Furthermore, one of the key stakeholders (National Government) should be included since it plays significant role in waste regulation as espoused in the Kenya's National Solid

Waste Management Strategy 2014 which is a 15 year waste management plan.

- vii. Feasibility study should be carried out first before policy formulation. This will enable the concerned party to understand the present Solid Waste Management situation in terms of general special features, waste generation to disposal, institutional arrangements, technical systems, social and environmental aspects.
- viii. Precautionary principle and polluter pays principle forms the basis of responsibility and liability in hazards caused by reckless generation, use or disposal of solid waste and therefore should be included among the listed guiding Principles of the Policy.
- ix. The information on classification of waste in **Table 2.1 Annex II** which bears foreign content from Countries like Lahore, Pakistan and Japan. The policy drafter should have borrowed such data from the cities in Kenya like Kisumu, Nairobi and Mombasa. This is because challenges associated with solid waste from these Cities can be benchmarked on and lessons learnt can be borrowed.
- x. The County Master Plan and County Environment Action Plan should be availed to the Assembly for adoption. Once this is done zoning of various sections of the County would be done based on the Plans and it would be easier to determine and predict the environmental requirements of each zone, this would further simplify management of Solid waste in Bomet County.