

BCA/ WEEFNR/ 03/2017/09.

REPUBLIC OF KENYA



BOMET COUNTY
COUNTY ASSEMBLY OF BOMET

FIRST ASSEMBLY –FOURTH SESSION

WATER, ENERGY, ENVIRONMENT, FORESTRY AND NATURAL
RESOURCES COMMITTEE REPORT ON THE BOMET COUNTY
COORDINATION POLICY ON ENVIRONMENT AND NATURAL
RESOURCES 2015

SESSIONAL PAPER NO.6 OF 2015 ON ENVIRONMENT AND NATURAL
RESOURCES

JANUARY, 2017



Table of Contents

Preface	v
1.0 Background.....	v
1.2 Committee Mandate.	v
1.3 The subject areas on the committee.....	vi
1.4 Methodology.....	vi
1.5 Public participation	vii
1.6 Acknowledgment	viii
1.7 Membership and Ownership of the Report	Error! Bookmark not defined.
2.0 Legal and Institutional Framework on Policies	1
3.0 Review objectives of the Policy	3
4.0 Findings and Observations.....	4
4.1.1 Policy linkage with Vision 2030	4
4.1.2 Relationship with County Integrated Development Plan.....	4
4.1.3 Response in relation to Assembly’s passed Resolutions.....	4
4.1.4 Relation and linkages in challenges, Policy Areas, statements and interventions.....	5
4.1.5 Climate change issues	5
4.2 Weakness in the Policy	5
4.2.1 Public Participation	5
4.2.2 Role of local communities and non-state actors in Environmental conservation	6
4.2.3 Bye-laws versus County legislation.....	6
4.2.4 Non extractive use of forest-based products.....	6
5.0 Summary of comments and views submitted by members of the public	7
6.0 Committee Recommendations.....	8

Annexures

- (I) Minutes of Water, Environment, Energy, Forest and Natural Resources Committee on the adoption of the report.*
- (II) Copy of The Bomet County Coordination Policy on Environment and Natural Resources Sessional Paper No.6 of 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

WRUAs-Water Resources Users Associations

Preface

1.0 Background

Environment and Natural Resources Policy sessional paper No.6 is a document that outlines a course of action that will be adopted and pursued by the County Government of Bomet in order to sustainably protect, maintain a highly clean Environment and ensure sustainable exploitation of natural resources within Bomet County. Environment include the physical factors of the surroundings of human beings including land, water, atmosphere, climate, sound, odour, taste, the biological factors of animals and plants and the social factor of aesthetics and includes both the natural and the built environment. Natural resources, according to the Constitution refers to the physical non-human factors and components, whether renewable or non-renewable, including—Sunlight, surface and groundwater, forests, biodiversity, genetic resources, rocks, minerals, fossil fuels and other sources of energy.

The document is expected to spur sustainable protection of Environment as well as address challenges associated with use of natural resources. This Policy shall inform the basis of planning and the implementation of projects and programmes that may have an impact on environment generally in the county.

It is expected that the passage and approval of Bomet County Policy on Environment and Natural Resources will pave way for the implementation of various strategies and actions aimed at restoring and rehabilitating an already degraded Environment and depleted natural resources as well as maintaining their natural state.

The Policy 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**.

1.2 Committee Mandate.

Mr. Speaker Sir, the Water, Energy, Environment & 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 as being:

Furthermore standing order 193(5) states the functions of a Sectoral Committee 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.

1.3 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.

1.4 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, this Policy was among the five policies that 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.

1.5 Public participation

Public participation forum was organised and conducted at St. Bakhita Catholic Church Conference Centre 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 catered for, 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 Environment and natural resources.

1.6 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 letter and spirit of its objectives and in accordance to the Assembly's resolutions and recommendations.

1.7 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.

Signed.....

THE HON.EVALINE CHEPKEMOI

CHAIRPERSON: WATER, ENERGY, ENVIRONMENT AND NATURAL RESOURCES COMMITTEE

DATE.....18/Jan/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 Article 185(4) of the Constitution 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.

2.4 Principles of citizen participation in Counties

County Government 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 the whether it met the standards required of a policy.
- ii. To verify whether the policy seeks to address all the policy areas related to Environment and Natural Resources for instance solid waste management, forests, water, soil erosion, wildlife/biodiversity etc.
- iii. To establish whether the strategies and plans proposed in the Environment and Natural Resources Policy are derived from the CIDP and the targets of vision 2030 and the linkage between it and the County Environment Action Plan.
- iv. To examine and appreciate the challenges being faced currently by environment and natural resources within the County and at County-borders.
- v. To establish whether there is a relationship and linkages of challenges, issues, objectives and intervention measures aimed at conserving and preserving environment and natural resources.
- 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 Findings and Observations

While analysing the policy, the following specific observations were noted by the Committee.

4.1 Strengths of the Policy

4.1.1 Policy linkage with Vision 2030

The policy meets part of the vision 2030 targets by addressing environmental degradation in the county mainly contributed by human activities such as deforestation, improper waste disposal and quarrying activities. Since the policy, in its objective, majorly targets to protect environment and natural resources, restore, rehabilitate and minimize human activities that effect the environment in the cause of exploitation of natural resources. This approach will improve quality of environment thereby reducing and minimizing diseases brought about by poor and unhygienic state of environment.

4.1.2 Relationship with County Integrated Development Plan

The policy is also in line with the programs and projects identified in the CIDP particularly on improvement of sewerage systems and proper waste management mostly in urban areas of the county, those projects and programs would stand a chance of being implemented as part of policy instruments. The Policy has also recognized the need to incorporate County Environment Action Plan as part of strategy in addressing environment issues.

4.1.3 Response in relation to Assembly's passed Resolutions

The formulation of the policy itself and the priorities and interventions/implementation tools identified seeks to address the Assembly's resolutions through a statement that was raised by one of the Honourable members in early 2013 pertaining measures that have been put place and plans the County Department of Environment and Natural Resources to address the severe Environmental pollution and over exploitation of natural resources County. Also in 2016, the Assembly, during its session debated and approved a

motion pertaining the need to identify land that will be used as a dumping site. Others include proposal to generate revenue from forestry based products like timber, charcoal, honey and herbal medicine, though the motion was rejected.

4.1.4 Relation and linkages challenges, Policy Areas, statements and interventions

The policy is comprehensive, with the identified challenges clearly aligned with the policy areas, policy statement and policy intervention measures and all are coherently addressed.

4.1.5 Climate change issues

The policy seeks to address and respond to modern environmental climatic issues for instance climate change that has been associated with food insecurity, drought and decline in water availability and quality.

4.2 Weakness in the Policy

4.2.1 Public Participation

Prior to submission of the Environment and Natural Resources Policy no. 6 of 2015 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 the Constitution of the Republic of Kenya on the issue of public participation. By not conducting public participation, the County did not comply with section 87(a) and (b) of the County Government Act 2012 and the National values and principles of governance as enshrined under Article 10 of the Constitution. Though the policy has mentioned public participation among its principles and further identified several stakeholders, there was a failure to involve them during formulation process. This was further evidenced during Assembly's public participation, when key stakeholders such as WRUA, CFAs, NEMA and

small scale farmers raised concerns wondering why the County didn't involve them in formulating the policy.

4.2.2 Role of local communities and non-state actors in Environmental conservation

The first strategy under policy area on monitoring and evaluation weakened the policy when it failed to include local communities and non-state actors operatives in the county, in monitoring of environmental conservation programs. It should be understood that all stakeholders play an important role in monitoring of impacts emanating from projects and programs .In addition, monitoring framework on implementation of the policy is not provided for.

4.2.3 Bye-laws versus County legislation

Uses of *“May”* and *“Bye-laws”* in the policy statement was not appropriate and instead *“will”* and *“ county legislation”* could have been used.

4.2.4 Non extractive use of forest-based products

The policy also failed to incorporate the use of non-extractive use of forest resources for instance beekeeping and ecotourism as strategies of conserving and protecting forest resources since these are sustainable and non-destructive.

5.0 Summary of comments and views submitted by members of the public

Mr. Speaker Sir,

As stated earlier, public participation forum was held in St. Bakhita Catholic Church Conference Centre in Bomet.

1. The members of the public appreciated the County department of Environment for formulating the policy since the environmental challenges have been largely ignored for too long.
2. The policy should also factor in the following threats to environment
 - (a) Legal suits from the public and private sector as this halt efforts in conservation and protection of environment.
 - (b) Overlapping mandates which causes conflicts over environmental conservation.
 - (c) Inadequate political goodwill
3. Other opportunities in the environment sector is existence of new constitution, an environment court and international conventions, treaties and protocols through which funds can be sourced as well as joint global conservation efforts can be spearheaded.
4. The policy failed to realise in its strengths that there is substantive legislations on environment especially the existence of EMCA 2015. In addition the policy failed to acknowledge the existence of operational offices both at National and County level and this makes easier the implementation of environmental roles and responsibilities.

6.0 Committee Recommendations

Mr Speaker Sir, the Committee hereby **approves** County Coordination Policy 2015 on Environment and Natural Resources, sessional paper No.6 **BUT WITH** the following recommendations;

1. The department of Environment should provide evidence of Public participation and stakeholder involvement 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 enshrined under Article 10 of the Constitution. The policy mentioned public participation among its principles and further identified several stakeholders such as WRUA, CFAs, NEMA and small scale farmers yet the County didn't involve them in formulating the policy.
2. The local communities living in the county and non-state actors should be included in monitoring of environmental conservation programs. This is because all stakeholders play an important role in monitoring of impacts emanating from projects and programs .In addition, monitoring framework on implementation of the policy should be provided.
3. There is need to take proactive measures such as educating and sensitisation of the local population on matters pertaining the environment and should be developed as a culture and habit.
4. Non-extractive use of forest resources for instance beekeeping and ecotourism as strategies of conserving and protecting forest resources should be encouraged and implemented since these are sustainable and non-destructive approaches. Therefore these should form part of the County government policy statement.

5. The use of the terms *“May”* and *“Bye-laws”* in the policy statement was not appropriate .It should be deleted and instead substituted thereof with the words *“will”* and *“county legislation”* respectively.
6. The department of Public Health and Environment should submit to the Assembly County Environment Action Plan for adoption in accordance with Section 40(1) of EMCA 2015.
7. The comments and views from the members of the public and the stakeholders, from which the Committee received, should also be considered in the Policy.