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GOVERNMENT OF NAIROBI CITY COUNTY



THE NAIROBI CITY COUNTY ASSEMBLY

OFFICE OF THE CLERK

SECOND ASSEMBLY-THIRD SESSION

NBI CA. PLC. 2019 / (058)

7<sup>th</sup> August, 2019

PAPER LAID

Pursuant to Standing Order 191 (6), I beg to lay the following Paper on the Table of the Assembly, today Wednesday 7<sup>th</sup> August, 2019.

THE REPORT OF THE SECTORAL COMMITTEE ON WATER AND SANITATION ON THE CONSIDERATION OF SESSIONAL PAPER NO. 3 OF 2018 ON THE WATER AND SANITATION SERVICES POLICY.

(Chairperson, Sectoral Committee on Water and Sanitation)

Copies to:  
The Speaker  
The Clerk  
Hansard Editor  
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The Press

*Handwritten:* Paper laid by  
Hon. Paul Kiguathi  
on 7/8/19  
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NAIROBI CITY COUNTY



Paper laid  
by Hon.  
Paul Kinyathi  
on 7/08/19  
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07/08/19

NAIROBI CITY COUNTY ASSEMBLY  
SECOND ASSEMBLY - THIRD SESSION

REPORT OF THE SECTORAL  
COMMITTEE ON WATER AND SANITATION

ON

THE CONSIDERATION OF THE SESSIONAL PAPER NO. 3 OF 2018 ON THE  
WATER AND SANITATION SERVICES POLICY.

Clerks Chambers  
Nairobi City County Assembly  
City Hall Buildings  
Nairobi

AUGUST 2019

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## 1.0 PREFACE

Mr. Speaker,

The Sectoral Committee on Water and Sanitation is established under Standing Order 203, and its mandate amongst others, as outlined under Standing Order 203 (6) is 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 analyse the relative success of the departments as measured by the results obtained as compared with its 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) 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 recommendation of proposed legislation.*

### Committee Membership

the Committee comprises the following Members:-

1. Hon. Kados Paul, MCA - Chairperson
2. Hon. Leah Naikanae, MCA - Deputy-Chairperson
3. Hon. Mark Mugambi, MCA
4. Hon. Elias Otieno, MCA
5. Hon. John Kamangu, MCA
6. Hon. Waithera Chege, MCA
7. Hon. Peter Wanyoike, MCA
8. Hon. Elizabeth Nyambura, MCA
9. Hon. Charles Thuo, MCA
10. Hon. Peter Wahinya, MCA
11. Hon. Anthony Kiragu, MCA
12. Hon. Naftaly Ogola, MCA
13. Hon. Emily Waithaka, MCA
14. Hon. Rose Ogonda, MCA
15. Hon. Michael Ogada, MCA
16. Hon. Ruth Ndumi, MCA
17. Hon. Lawrence Odhiambo, MCA
18. Hon. Catherine Okoth, MCA
19. Hon. Peter Imwatok, MCA

The Committee exercises oversight role on the work and administration of the Water and Sanitation Sub Sector.

In accordance with the Third Schedule of the Standing Orders, the Committee is mandated to consider all matters relating to: - *“Water and Sanitation Services; water distribution, regulation, marketing and sewerage services”*

Mr. Speaker,

The Sessional Paper No.3 of 2018 on the Water and Sanitation Services Policy was tabled in the County Assembly on Tuesday 4<sup>th</sup> December, 2018 for approval in accordance with Section 8(1) (e) of the County Governments Act, 2012. The Sessional paper was thereafter committed to the Sectoral Committee on Water and Sanitation for consideration and report to the Assembly.

Mr. Speaker,

During the period 14<sup>th</sup> to 21<sup>st</sup> February, 2019, the Committee together with the sector held a workshop where Members were briefed on the content and objectives of the Policy. It's worth noting that the County Executive and the Committee have since met severally to discuss the contents of this crucial policy document.

Mr. Speaker,

Nairobi City County is the Capital City of Kenya, and has been globally recognized among the most dynamic innovative resilient Cities. It is also a strategic economic commercial hub of East and Central African and several connections to the rest of the World. Further, Water is a social and economic good. It is also a constitutional right. However the demand for water has increased in response to increased population and economic activities, leading to shortfall in access to water and sanitation which is attributed to inadequate development and management of water sources; weak co-ordination of water resource management strategies for wetlands, water towers, land reclamation and rehabilitation; inadequate rain harvesting and storage; climate change variability; and inadequate funding. Hence the need to intensify rehabilitation and extension of water and sanitation infrastructure in the City. Notwithstanding that Kenya is a water deficit country (650 cu meters per capita against the global benchmark of 100 cu meters per capita). The formulation of the Water and Sanitation Services Policy is seen as a right step towards providing guidelines and framework for efficiency in water resource management; ensures security and integrity of water and sanitation systems; and defines institutional structures to effectively implement. The goal is to facilitate equitable, adequate and quality access to water and sanitation services.

The Policy gives effect to Article 43(1) (b) & 43(1) (d) of the Constitution of Kenya 2010, which provides that access to reasonable standards of sanitation & clean safe water in adequate quantities, is an economic & social right to every person.

Mr. Speaker,

The Fourth Schedule of the Constitution of Kenya, 2010, has devolved the provision of Water and Sanitation Services to County Government.



The Water Act, 2016, has aligned the institutional framework for Water and Sanitation Services to the Constitution.

With the projected increase in the City population, the demand for water and sanitation services is set to increase and hence the need to intensify rehabilitation and extension of water and sanitation infrastructure in the City.

To achieve this, the County Executive is required to work closely with other stakeholders as provided in the Water Act. The key stakeholders include National Government, Cross County Governments, catchment and riparian communities, regulatory agencies, development partners and the private sector.

It is for this reason that the Nairobi County in conjunction with the Nairobi City Water and Sewerage Company came up with the Water and Sanitation Services policy to guide the County in effective provision of quality Water and Sanitation Services to the City residents and forwarded to the County Assembly for approval.

In view of this, the County organized a consultative forum with the County Assembly Water and Sanitation Committee as well as Nairobi City Water & Sewerage Company Ltd to deliberate on the content of the Draft Policy during the period between 14<sup>th</sup> to 21<sup>st</sup> February, 2019.

Mr. Speaker,

Upon scrutiny of the Sessional Paper No.3 of 2018, the Committee is cognizant to the fact that the formulation of this document will provide guidelines on the management of water and sanitation services within Nairobi City County. It further provides the framework for efficiency in water resources management; ensure security and integrity of water and sanitation systems; and defines institutional structures to effectively implement policy. The goal is to facilitate equitable, adequate and quality access to water and sanitation services.

Mr. Speaker,

The Constitution of Kenya 2010 (Section 62) defines water resources as public land ("*all rivers, lakes and other water bodies as defined by an act of parliament*"). In this respect, therefore, water is a public resource to be managed by the National Government in trust for the people of Kenya. The Constitution (Fourth Schedule) however, allocates the responsibility of the provision of water and sanitation services to the County Government. In the event, the management of the water resources and the provision of water and sanitation services is a shared responsibility of the national and County Governments.

Mr. Speaker,

This policy and legislative frameworks should be seen in the context of Vision 2030, particularly the social pillar, which seeks "*to ensure water and improved sanitation availability and access to all by 2030*". Related to this is the internationally agreed

sustainable development Goal No.6: “*ensure access to water and sanitation for all by 2030*”. Specific targets to address this SDG include access to equitable, safe and affordable drinking water for all; access to adequate and equitable sanitation; increased water use efficiency; and protection and restoration of water related ecosystem.

Mr. Speaker,

The Committee finds the Policy a bold step towards addressing the Water and Sanitation challenges that have confronted the City and restore the City to its lost glory. The Committee finds that it is in the interest of Nairobi City County that the County Assembly approve the Nairobi City Water and Sanitation Services Sessional Paper No.3 of 2018 so that its implementation can commence forthwith and guide in giving birth to Nairobi City County Water and Sanitation Services Bill, 2018.

Mr. Speaker,

I am grateful to the Members of the Committee who committed their time to scrutinize the Sessional Paper. Special thanks to the Office of the Speaker, Office of the Clerk and the Committee secretariat for their support. The Committee also extends its appreciation to the County Executive and Nairobi City Water and Sewerage Company Ltd for working together with stakeholders and acknowledges their efforts in developing the Policy. On behalf of the Committee, I now have the honor and pleasure to present this Report on the consideration of the Sessional Paper No.3 of 2018 on Water and Sanitation Services to this Assembly for adoption.

Thank You.

SIGNED ..... DATE.....

Hon. Paul Kiguathi Kados, MCA



## 2.0 INTRODUCTION

Mr. Speaker,

- 2.01. The Sessional Paper No.3 of 2018 on Water and Sanitation Services Sessional Paper was tabled in the County Assembly on Tuesday 4<sup>th</sup> December, 2018 for approval in accordance with Section 8(1) (e) of the County Governments Act, 2012.
- 2.02. The Sessional paper was thereafter committed to the Sectoral Committee on Water and Sanitation for consideration and reporting to the Assembly. The Committee met various stakeholders over the period to scrutinize the policy.
- 2.03. The Constitution of Kenya 2010, The County Government Act 2012 and The Water Act 2016 form the legal basis anchoring on the Nairobi City County Policy on Water and Sanitation Services 2018 on The Nairobi City County Water & Sanitation Services Act 2016.
- 2.04. The Constitution of Kenya provides for principles that guarantee provision, utilization and management of Water resources as contained in Articles 10, 43, 62 and 232. The Fourth Schedule distributes functions whereby the National government is in charge of the usage of international waters and water resources and devolves the provision of water and sanitation services to county governments.
- 2.05. It should be noted that Water and Sanitation are also public health issues. Globally, it is estimated that 2.4 million deaths (4.2 per cent of all deaths); and 80 per cent of all illness, could be attributed to unreliable water sources and poor sanitation. This challenge is more prevalent in developing countries. In Kenya, poor sanitation costs Kshs. 27.0 billion each year in terms of lost production, diseases control and illness treatment. Recent episodes of cholera outbreaks have been recorded in the County. These outbreaks occur mainly in the low income areas where the standards of sanitation are low.
- 2.06. The policy promotes the principles of the devolved system of government as anchored in the Constitution. The policy takes into account the legislative frameworks for devolved government, specifically, the Urban Areas and Cities Act, 2011; County Governments Act, 2012; and the Inter-Governmental Relations Act, 2012.
- 2.07. Pursuant to Article 196 of the Constitution of Kenya, the Committee was able to write to various stakeholders for their written memorandum on the 9<sup>th</sup> of April 2019.

### 3.0 ANALYSIS OF THE WATER AND SANITATION SERVICES SESSIONAL PAPER.

Mr. Speaker sir,

The Committee having scrutinized the policy established the following: -

1. The specific objectives of this Policy document are to:
  - i) provide for the legal framework for the implementation of sections 10 (a) and 11 of Part 2 of the Fourth Schedule of the Constitution and Article 43 (1) (b) and (d) to Ensure equitable and continuous access to clean and adequate water
  - ii) Promote the conservation, preservation and efficient management and use of water
  - iii) Provide for the development and maintenance of the County's infrastructure for water and sanitation services Support
  - iv) Promote the shared responsibility of all persons residing and or carrying on business within the County for the conservation, prudent use and management of water; while promoting inter-agency and inter government collaboration in protecting the interests of consumers of water and sanitation services within the County.
2. Based on certain national values and principles of governance, which transcend all aspects of public decision making in Kenya, including the making of public policies, the National policy frameworks for social and economic development; and the global best practice in the Management of Water and Sanitation services, Chapter four of the Policy seeks to outline principles of Water and Sanitation Services. Concisely, it outlines the following principles amongst others to be observed in the policy; -
  - i. The policy promotes the national values and principles of governance as enshrined in Section 10 of the Constitution of Kenya, 2010. Embedded in the policy are principles of human dignity, equity, social justice, inclusiveness, human rights, non-discrimination and protection of the marginalized members of society.
  - ii. The policy upholds the constitutional right to clean and safe water in adequate quantities (Section 43); and promotes progressive realization of this right (Section 21)
  - iii. The policy promotes the constitutional mandate of the National and County Government for sustainable management of water resources and effective provision of water and sanitation services. In this respect, the policy operationalizes the distinct and complimentary roles of the National and County Governments in water sector service delivery.
  - iv. The policy derives from the National policy framework for social and economic development, specifically, Vision 2030, the Medium Term Plan of Vision 2030 and the Water Act, 2016. It adopts the principles of universal access to water and sanitation as provided in the global Sustainable Development Goals.
  - v. This policy is aligned to the National and County Institutional and regulatory frameworks for water and sanitation services; and recognizes the important role of



cross-county institution, the private sector and communities in water resources management and services delivery.

- vi. The policy promotes integrated approach to the provision of water and sanitation services. This integration recognizes the need to align water and sanitation infrastructure to the other county planning frameworks, to create a clean and compact City.
  - vii. This policy provides a framework for the provision of water and sanitation services in low income areas; and promotes inclusive and equitable provision of water and sanitation services through socially responsible commercialization of services.
  - viii. The policy promotes partnership between different stakeholders in the management of water resources; and in the provision of water and sanitation services. This partnership is strengthened through structured stakeholder dialogue mechanisms.
  - ix. The policy recognizes the important role of the private sector in social and economic development. In this respect, the policy promotes private sector investments through investor friendly legal framework, including public private partnerships,
  - x. The policy promotes innovative strategies for resource mobilization in support of infrastructure development. These includes equity participation, commercial loans and strategic investment in specific projects. Ring fencing of service provision revenue is embedded in the policy to ensure sustainable service delivery.
3. Chapter 5 of the Policy adopts a holistic and integrated approach to the management of the Water and Sanitation Services. Given the complexity of the sector, the policy is structured into ten themes and includes:
- (i) Water Resource Management and the role of Nairobi City County (NCC);
  - (ii) Institutional frameworks for the water and sanitation services;
  - (iii) Regulatory frameworks for the water and sanitation services;
  - (iv) Provision of water and sanitation services in Nairobi City County;
  - (v) Service provision in low income areas;
  - (vi) Mobilization and utilization of funds for the provision of water and sanitation services;
  - (vii) Private sector investment in water and sanitation services;
  - (viii) Stakeholder engagement and participation;
  - (ix) Water assets management and transitional arrangements;
  - (x) Governance of Nairobi City Water and Sewerage Co. Ltd.
4. Chapter six of the policy speaks on other issues surrounding the Water resource management and the role of Nairobi City County. The key highlights under this section are:-

- 4.1 National and County Governments have distinct but complimentary roles in the management of water resources. And as such, the primary role of the National government is to protect and conserve water catchment areas; safeguard the integrity of the water ecosystems; develop policy on water resource management; and co-ordinate policy implementation.
- 4.2 County Governments are partners in water conservation and protection. This role is coordinated through Basin Water Resources Committees, Water Resources Users Association and Cross-county Joint Committees. The Inter-Governmental Relations Act, 2012, provides for the establishment of cross-county joint committees should these be necessary to further the interests of devolution. And as such, County Governments have the important role of ensuring conservation of the water environment in riparian areas to avoid soil erosion and water source pollution. Further, The County Governments are responsible for the provision of water and sanitation services within their areas of jurisdiction. This entails the abstraction, production, storage, and distribution of water; and the management of wastewater and sanitation services.
- 4.3 Complimentary roles of the National and County Governments in water resources management calls for policy coherence and alignment in sector management. Nairobi City County will therefore align this policy to national policy frameworks for water resource management, including the Water Act, 2016. In effect, therefore, planning for water and sanitation management will be integrated into the National Government plans for water resource management, environmental conservation and ecosystem management.
- 4.4 Most of the Water used in Nairobi City County is abstracted from the aberdares, in the Counties of Murang'a, Nyandarua and Kiambu. And as such, the partnership with these Counties is therefore essential to ensure sustainable supply of water into the City County. This partnership is envisaged in the Inter-Governmental Relations Act, 2012; and the Water Act, 2016. Water transmission through the riparian communities in these counties is also a cross-county relations issue. The communities, however, will require incentives to engage in sustainable land management practices within the riparian areas; and ensure the integrity of water supply infrastructure. It is therefore necessary for the City County to set aside a specific budget to sustain cross-county partnerships.
- 4.5 Wetlands are important sources of Water. Other sources are ground water acquirers, boreholes, rain water and storm water. And as such, there is need to map all sources of water in the City County. The resultant water resources maps will inform the investment plans to harness and manage water from different sources.
- 4.6 Management of Water and Sanitation services could potentially have adverse effect on climate change. The Climate Change Act, No. 11 of 2016, defines climate change as a change in the climate system which is caused by significant changes in the concentration of greenhouse gases as a consequence of human activities. And as



such, this policy will therefore promote efficient management of water and sanitation services in line with the provision of the National Climate Change Action Plan and the Climate Change Act, 2016.

- 4.7 Nairobi City County Urban Agriculture Promotion and Regulation Act No. 4 of 2015 allows urban farming. This is subject to compliance with existing laws. To prevent water borne diseases, farming should not be carried out near sewer lines. Neither should sewer water be used for urban irrigation. Urban irrigation should take into account the priority accorded to water for human consumption.
- 4.8 Water and Sanitation services are part of the overall systems infrastructure within the city county. And as such, this calls for integrated approach to planning and management of water and sanitation services in relation to other services infrastructure, which means that water and sanitation infrastructure should be aligned to other county infrastructure, particularly roads, housing development and storm water drainage. In addition, the development of water and sewerage infrastructure should be integrated to create a clean and “compact” City. This calls for alignment of water and sewerage systems infrastructure. There is also the need to harmonize infrastructure development standards. For example, while this policy promotes rain water harvesting from residential buildings, the building by-laws are against this initiative.
- 4.9 Integrating the provision of water and sanitation services within the systems infrastructure will require a multi-sectoral approach to planning and development of the City County. In effect therefore planning for roads, housing and riparian development; and related approval process, will require a multi-sectoral management unit within the planning department of the City County Government.
- 4.10 The policy on the provision of water and sanitation services in Nairobi City County will be informed by the context of water resource management as discussed in the preceding sections. The policy will address the delineation in the roles of National and County Governments; partnership in the management of water resources; and planning and management of water and sanitation services. The over-riding goal of this policy is improved access to safe, reliable and quality water and sanitation services to the residents of Nairobi City County.
- 4.11 This Chapter gives Policy statements on Water Resource Management.
- 4.11.1 *Nairobi City County will be an effective partner in water resource management. And as such, NCC will partner with the National Government, Government agencies, County Governments, development partners, communities and the private sector in the conservation and protection of catchment areas; and the promotion of sustainable land management practices among the riparian communities. The county government will allocate a specific budget for this purpose. The County Government will be an active member of the Basin Water Resources Committees and the cross-county catchment management committees;*

- 4.11.2 NCC will adopt an integrated approach to planning, development and management of water and sanitation services. This integration will be at two levels, viz: water resource management and the service delivery. At the water resource management level, planning will recognize the multi-sectoral nature of the water sector. In effect, planning will be integrated into national government plans for water resource management; environmental conservation and management; and ecosystem management. It will therefore be necessary to align the County Integrated Development Plan to the national policy frameworks.
- 4.11.3 At the water and sanitation services provision level, integration will recognize the inter-linkage between water and sanitation services; the physical infrastructures in roads and housing; spatial planning; and land use planning. In addition, the development of water and sanitation infrastructure, particularly the sewerage system, will be integrated into the development of water distribution infrastructure; and the management of wastewater.
- 4.11.4 NCC will adopt a holistic approach to the provision of water and sanitation services. In effect, NCC will plan and manage the whole water cycle from abstraction, production, storage, treatment, distribution and wastewater management. This is informed by the need to provide quality service to customers;
- 4.11.5 Wetlands are important sources of water. Other sources of water are boreholes, groundwater aquifers, rainwater harvesting and storm water management. Storm water could be used for industrial and other non-human consumption purposes. Nairobi City County will map all sources of water within the county; and develop investment plans for utilization of this resource;
- 4.11.6 NCC will provide guidelines for mainstreaming climate change response, adaptation and mitigation measures in the management of water and sanitation services in line with the National Climate Change Action Plan and the Climate Change Act, 2016. NCC will ensure effective implementation of these guidelines;
- 4.11.7 Nairobi City County will integrate flood control measures and drainage systems within the land use-planning framework. The objective is to harness storm water for ground re-charge and increase the amount of water available for non-human consumption;
- 4.11.8 NCC will provide guidelines for use of water in urban farming. Urban farming will not be allowed near sewer lines. Neither will use of sewer water be allowed in urban farming. The guidelines for the use of water in urban farming will be provided in the NCC Water and Sanitation Services Act, 2016, and will be aligned to the NCC Urban Agriculture Promotion Regulation Act, No. 4 of 2015;
- 4.11.9 Waste water treatment and re-use is an important source of water. NCC will encourage, through fiscal and other incentives, the re-use of treated wastewater, for non-human consumption;
- 4.11.10 NCC will establish a multi-sectoral management unit within the Planning Department to co-ordinate the approval process on all aspects of infrastructure planning and development;



- 4.11.11 *The Director of Water and Sanitation will ensure that water and sanitation plans are integrated into the county development planning frameworks; and that these plans are reviewed annually.*

5. Chapter 7 of the policy provides for institutional framework for Water and Sanitation Services;

The following are the policy statement on the Institutional framework for water and sanitation services;

*5.1 NCC will work within the institutional framework developed in the Water Act, 2016; and will develop a legal mechanism to anchor this partnership;*

*5.2 NCC will provide leadership in the establishment of the cross-county joint committee should this be necessary for effective provision of water and sanitation services within the city county.*

*5.3 As provided in Section 77 of the Water Act, 2016, NCC will establish County Water Service Providers (WSPs). For this purpose, Nairobi City Water and Sewerage Co. Ltd, is considered the County WSP;*

*5.4 NCC recognizes that there are other WSPs currently providing services in some parts of the county. In consultation with these WSPs and stakeholders; and as a transitional measure, NCC will create legal frameworks where these WSPs will transfer their assets to NCC or continue rendering service as agents of NCWSC. In the latter case, NCWSC will monitor the service provision by the WSPs to ensure that they conform to standards set by NCC and WASREB;*

*5.5 NCC will set water and sanitation service tariffs, having regard to guidelines approved by the Regulator; and the social and the economic conditions prevailing in the county;*

*5.6 The provision of water and sanitation services has been delegated to Nairobi City Water and Sewerage Co. Ltd. To ensure effective and efficient provision of services, NCC will enter into a detailed service delivery protocol with NCWSC. The protocol will ensure that water and sanitation management standards are effectively implemented; promote private sector investments in the water and sanitation sector; promote stakeholder participation in policy planning and implementation; and produce and disseminate up to date data and information, as per WRB guidelines.*

*5.7 NCC will strengthen the capacity of the County Directorate of Water and Sanitation to ensure that the Directorate is able to effectively manage the sector through the delegated process; and effectively monitor the quality of service delivered by NCWSC and other WSPs against defined standards.*

6. Chapter 8 of the Policy is related to Regulatory framework for water and sanitation sector, and as such, the followings are the policy statement on the Regulatory framework;

*6.1 NCC will establish WSPs (NCWSC) and develop standards of service delivery in line with guidelines set by WASREB;*

- 6.2 *NCC will set tariffs in the provision of water and sanitation services, within guidelines approved by the Regulator;*
- 6.3 *NCC will enforce compliance with water and sanitation provision standards;*
- 6.4 *NCC will promote and enforce laws and regulations to ensure efficient and sustainable use of water resources.*

7. Chapter 9 of the Policy parleys of Provision of Water and Sanitation Services in Nairobi City County, and as such, the following are the policy statement on the same;

- 7.1 *In line with Water Act, 2016, NCC will take operational responsibility for all water and sanitation service infrastructure in the county. This will include service infrastructure for abstraction, production, storage and distribution of water; and sanitation infrastructure, including the sewerage system;*
- 7.2 *NCC will develop an integrated strategy for water and sanitation services in line with the Integrated Urban Development Masterplan for the City County. This will take into account the infrastructure development currently under implementation by AWSB in the Context of the Masterplan for Developing New Water Sources for Nairobi City County and 13 Satellite Towns. The medium and long term plans in this Masterplan will be reviewed for their consistency with the County Integrated Urban Development Master plan;*
- 7.3 *In line with the principles of devolution, NCC will ensure that the management of water and sanitation services is decentralized to sub-counties and wards;*
- 7.4 *Solid waste management is an integral component of sanitation services. It is also a public health and environmental management issue. NCC will therefore manage solid waste management in line with the provisions of Nairobi City County Environmental Policy; and NCC Solid Waste Management Act No.5 of 2015;*
- 7.5 *NCC will develop a framework for investment in sewerage infrastructure on the basis that this investment will be recovered from the developers, in the long term. NCC will also develop a legal framework to allow on-site treatment plants in urban and peri-urban areas; and will provide incentives for deployment of innovative technologies for this purpose;*
- 7.6 *Given the substantial and urgent resources required to meet the demand for water and sanitation services, in the short and medium term, NCC will develop a prioritized Investment Plan and Programmes to improve service delivery infrastructure. The objective in the short term will be to make available a minimum of 6 cu meters of clean and safe water to each household in the city county per month;*
- 7.7 *NCC will ensure that NCWSC comply with the approved national standards for the management of Non-Revenue Water. The company will establish a dedicated Non-Revenue Water Management Unit for this purpose;*
- 7.8 *NCC will legally empower NCWSC to effectively provide water and sanitation services. To guide operational efficiency, NCC will develop performance standards*



- which will be monitored on a regular basis. This will encourage the use of service delivery technologies to reduce Non-Revenue Water; and improve the quality of customer service. Performance will be included in the service delivery protocol between NCC and NCWSC;*
- 7.9 NCC will ensure that standards embedded in the service provision protocol with NCWSC are approved by WASREB. These include standards for utility management and assets development;*
  - 7.10 Considering that the status of water and sanitation in the metropolitan urban areas could negatively impact the public health of city residents, NCC will empower NCWSC, through the Nairobi City County Water and Sanitation Services Act, to provide water and sanitation services in these areas, in the long term;*
  - 7.11 NCC will enforce environmental standards in the provision of water and sanitation services. In this respect, NCC will ensure that waste water disposal and sewerage discharge to downstream rivers comply with the applicable public health standards;*
  - 7.12 Security of water installations is a strategic safety issue for the country. NCC will partner with national government to develop and implement a strategy to safeguard these assets. A legal and institutional framework to facilitate this partnership will be developed. NCC will gazette all water installations and facilities to enhance their security. NCC will also engage the National Land Commission to ensure that land and leeways required for infrastructure development are secured through a Gazette Notice;*
  - 7.13 NCC will ensure that the pricing policy for water and sanitation services will cover the full cost of service provision; and make a contribution to the investment needs of the services infrastructure;*
  - 7.14 NCWSC will establish a research and development unit to ensure that technological, operational and utility management practices are always aligned to global best practice;*
  - 7.15 NCC will in collaboration with the National government, NCWSC will put in place a disaster management system to handle all water, and sanitation related emergencies. This system will be aligned to the provision of Nairobi City County Disaster Management Act;*
  - 7.16 NCC will develop and implement guidelines to improve access to water and sanitation services for persons with disability. These will be aligned to the national and county legal framework for persons with disability.*
- 8. Chapter 10 provides for Water and Sanitation Service provision in the low income areas, and the followings are the Policy statement on the same;*
    - 8.1 NCC will harmonize the provision of water and sanitation services among different players in the low-income areas. Appropriate law and regulations will be enacted for this purpose.*

- 8.2 *To achieve harmony and orderly development of water and sanitation services, NCC will integrate the planning and provision of services in the low-income areas into the water and sanitation service strategy. These, in turn, will be linked to the Integrated Urban Development Master plan;*
  - 8.3 *NCC will promote private investments in the low-income areas to support development and delivery of water and sanitation services. Appropriate incentives will be provided for this purpose. These will be anchored in the City County Water and Sanitation Act;*
  - 8.4 *NCC will mobilize and support community based organizations (CBOs) to provide a framework for orderly development and maintenance of water and sanitation infrastructure. These institutions will also be supported to implement community policing mechanisms to enhance access to water rights in the low income areas;*
  - 8.5 *NCC will ensure that integrated planning for water and sanitation services; and the implementation of services infrastructure, is not hindered by the land tenure system in place. The approach is to expand the service infrastructure irrespective of land ownership. This approach to development will be anchored in the NCC Water and Sanitation Services Act, 2016;*
  - 8.6 *NCC will subsidize the provision of water and sanitation services in the low-income areas to ensure progressive realization of rights for access to water and sanitation as mandated under Section 43 of the Constitution.*
9. Chapter 11 provides for Resource mobilization for Water and Sanitation Services in Nairobi City County, and the followings are the Policy statement on the same;
- 9.1 *NCC will enact laws and regulations to guide private investments in the water and sanitation services. This legal framework will enable the private sector to invest at all levels of the water and sanitation value chain (production, transmission, storage and treatment, distribution and wastewater management). The law will provide fiscal and other incentives to promote private sector investments in the sector;*
  - 9.2 *NCC will engage the national government to fund strategic investments in the water and sanitation sector;*
  - 9.3 *NCC will enact a favorable legal and regulatory framework to support private sector investments in the provision of water and sanitation services. NCC will also ensure that the governance practices in NCWSC are appropriate to attract private investments in the water and sanitation sector. it will be necessary, however, to ensure that private sector participation in sector investments take into account the legitimate interests of the wider public;*
  - 9.4 *NCC will allocate a specific budget to support infrastructure development in the water and sanitation sector. This will be allocated from the development budget and will not exceed 10 per cent of the county relevant budget;*



- 9.5 *NCC will approve a levy, not exceeding 20 per cent of the monthly water bill, to support service delivery in low income areas; and to expand the county sewerage infrastructure;*
  - 9.6 *NCC will establish a Water and Sanitation Services Development Fund. The monies generated through the water and sanitation development levy will be deposited into this Fund. The Fund will be managed as provided in Section 104 and 116 of the Public Finance Management Act, 2012; but will include relevant stakeholders in the governance structure. This levy will take into account the provisions of Section 109 of the Water Act, 2016, in which WASREB is empowered to impose a sewerage levy. The total levy charged within this policy and legal mechanism will take into account the economic circumstances of the water and sanitation services consumers;*
  - 9.7 *NCC will ensure that NCWSC has the capacity and competence to access funds from the Water Sector Trust Fund. These funds are provided under Section 116 of the Water Act, 2016, and are available for investment in low income areas;*
  - 9.8 *NCC will ensure, through legal and regulatory provisions, that water use efficiency and reduction in Non-Revenue Water are embedded in the management of water and sanitation services. similarly, NCC will ensure that service delivery projects are streamlined to avoid duplicated efforts;*
  - 9.9 *NCC will provide autonomy to NCWSC to “ring-fence” water and sanitation services revenue for re-investment in the sector. This is in line with the provisions of Water Act, 2016;*
  - 9.10 *Resources mobilization at NCC should be understood in the context of sourcing funds, managing funds and accounting for these resources. NCC will therefore strengthen the capacity at the Directorate of Water and Sanitation to effectively access and manage funds from different sources. NCC will also ensure that NCWSC has the necessary capacity to mobilize development resources.*
10. Chapter 12 provides for Private sector investments in the Water and Sanitation sector, and the followings are the Policy statement on the same;
- 10.1 *NCC will enact laws to allow private sector investments in the water and sanitation sector;*
  - 10.2 *NCC will implement at county level the provisions of Public Private Partnership Act, 2013; and develop regulations to guide the implementation of the Act;*
  - 10.3 *NCC will provide incentives to the private sector to invest in water and sanitation services. These will include fiscal incentives; subsidies, particularly in support of service provision in low-income areas; and access to land and roads infrastructure.*
11. Chapter 13 provides for stakeholder engagement and participation with the Policy statement on the same, as; *NCC will develop a structured mechanism for stakeholder*

*engagement and participation in the water and sanitation services. This mechanism will be anchored in the Nairobi City County Water and Sanitation Services Act, 2016.*

12. Chapter 14 provides for water Assets management and transition arrangements, and the following are the policy statement on the same;

12.1 *Under the Regulations made by the Cabinet Secretary; and in collaboration with AWSB and NCWSC, NCC will develop a Transition Plan to guide the management of the water and sanitation assets as provided in the Water Act, 2016;*

12.2 *NCC will identify and earmark existing and potential land required for water and sanitation services. This will be registered in the name of the National Land Commission on behalf of NCC;*

12.3 *NCC will cause land identified and earmarked for water and sanitation services to be vested on Nairobi City Water and Sewerage Company for the purpose of service delivery;*

12.4 *NCC will transfer ownership of the existing water and sewerage services infrastructure to NCWSC for service delivery, within clearly defined operational standards;*

12.5 *NCC will facilitate the transfer of water and sewerage services assets from AWSB to Nairobi City Water and Sewerage Company Ltd as provided in Section 153 of the Water Act, 2016;*

12.6 *NCC will transfer other water services related assets to NCWSC, to be held in trust for the public;*

12.7 *NCC will develop a legal framework vesting on NCWSC water and sanitation assets developed by the private sector and communities.*

13 Chapter 15 provides for Governance of Nairobi City Water and Services Co. Ltd, and the followings are the Policy statement on the same;

13.1 *NCC will restructure the governance of the NCWSC to allow private sector investment in the company; and provide for their representation on the board of the company;*

13.2 *NCC will ensure that NCWSC is commercially viable and financially sustainable; and that the company will be able to attract private investments;*

13.3 *In partnership with NCC, NCWSC will develop the Governance Charter of the company. The Charter will provide guidelines on the leadership, governance, management and operational integrity of NCWSC. The provisions of the Government Charter will take into account the national standards on governance specified by WASREB;*

13.4 *NCC will develop a framework for assessing existing debts in the books of NCWSC; and provide guidelines on the write-off of unrecoverable debts;*

13.5 *NCWSC will present half-yearly reports to NCC for adoption by the City County Assembly.*



14. Chapter 16 summarizes the policy implantation framework, and as follows;
- 14.1 *The legal framework for policy implementation is the Nairobi City County Water and Sanitation Services Act, 2016, and related regulations;*
  - 14.2 *NCC will strengthen the capacity of the Directorate of Water and Sanitation to ensure that structures, systems, competence and resources are available to co-ordinate policy implementation;*
  - 14.3 *Within NCC, the institution responsible for policy implementation is the Department of Environment, Energy, Water, and Sanitation. The Department will ensure that planning for water and sanitation services is integrated into other city planning frameworks;*
  - 14.4 *The over-all oversight for policy development and implementation is the responsibility of the CEC member for Environment, Energy and Water and Sanitation. The Chief Officer is responsible for policy planning and implementation co-ordination, while the Director of Water and Sanitation is responsible for all operational aspects of policy implementation;*
  - 14.5 *The capacity of the Directorate of water and sanitation will be strengthened to ensure that this policy is effectively implemented. Similarly, the capacity of NCWSC will be strengthened to enhance service delivery and customer service;*
  - 14.6 *It will be necessary to establish a robust Monitoring and Evaluation system to ensure effective implementation of policy. This system will be linked to a acknowledge management capability to capture lessons learned and disseminate performance information. For this purpose, a Monitoring and Evaluation Unit will be established within the Directorate of water and sanitation; and will be linked to a similar system within NCWSC.*

#### Provisions for Shared Management of Water & Sanitation Services

The Water Act 2016 provides for the regulation, management and development of water resources, water and sewerage services and for other connected purposes. The Water Act 2016 aligns the water sector with the constitution's objective of devolution. The Act recognizes that water related functions are a shared responsibility between the National and County Governments.

The Water Act 2016, gives priority to use of abstracted water for domestic purposes over irrigation and other uses. Other key provisions in the Constitution that touch upon water include: affirmative action programs to ensure water for marginalized groups; the responsibility of the national government for management of the water resources and definition of national versus county public works.

#### The Role of other Water Sector Players in Shared Management of Water & Sanitation Services

The Water Act 2016 has established institutions at National, Regional and Local levels providing space for public and private sector participation. At Local (County) level, the

water players target the consumers and users to ensure service provision for Water consumption and use. Regional level institutions mandate is to ensure Water service provision while the National Level institutions provide regulatory framework and policy formulation. The Act has redefined roles and responsibilities of different actors/players/institutions as follows;

1. The Water Tribunal (National Level): The Water Tribunal shall deal with disputes, hear and determine appeals at the instance of any person or institution directly affected by the decision and shall also consider alternative dispute resolution.
2. The Water Sector Trust Fund (WSTF) (National Level): WSTF is for the purposes of Water Sector Financing in order to provide conditional and unconditional grants to counties, in addition to the Equalization Fund and to assist in financing the development and management of water services in marginalized areas or any area. Source of funds for the WSTF mandate include funds from national budget, county government, equalization fund, donations and grants, among others
3. The National Water Storage Authority (NWSA) (National Level): NWSA is responsible for development and management of national public water works for water resource management and flood control.
4. Water Services Regulatory Board (WSRB) (National Level): The constitutionally guaranteed right to water and the need to protect consumers provides a strong basis for the national regulation and monitoring of water and sewerage services. This is critical to protect the interests and rights of consumers from exploitation and to set minimum national standards. WASREB holds the mandate to approve tariffs, monitor and enforce water services standards and issue licenses to Water Service Providers.
5. Water Resource Authority (WRA) (National Level): The objective of the WRA is to protect, conserve, control and regulate use of water resources through the establishment of a national water resource strategy. In addition, the WRA is responsible for formulation and enforcement of standards, procedures and regulation for the management and use of water resources; policy development; planning and issuing of water abstraction permits; and setting and collecting permits and water use fees.
6. Water Works Development Agencies (WWDAs) (Regional Level): The Water Act 2016 defines national public water works as water works whose water resource is cross county in nature, financed out of the national government share of national revenue and intended to serve a function of the national government. These may include assets such as water storage and water works for the bulk distribution of water services. Furthermore, it specifies that development and management of national public works will be undertaken by the WWDAs whilst county public works will be a responsibility of the respective county. The national government has the responsibility of supporting county governments to perform their respective duties.
7. Basin Water Resources Committees (BWRCs) (Regional Level): BWRCs will manage catchments, facilitate establishment of Water Resource User Associations and play an advisory role to the WRA. The county government will have a representative in the BWRC whose water resources rest within the county government's geographical jurisdiction.
8. Water Services Providers (WSPs) (Local Level): WSPs are now the responsibility of county governments who have the mandate to provide water services. WSPs are



responsible for provision of water services within the area specified in their licenses and development of county assets. Currently, WSBs sign service level agreements with WSPs and the regulator issues licenses to WSB. Under the new Water Act 2016, WSPs must apply again for new licenses to WASREB.

9. Water Resources User Association (WRUAs) (Local Level): The Water Act 2016 provides for establishment of WRUAs, which are community based associations for collective management of water resources and resolution of conflicts concerning the use of water resources. The BWRC may contract WRUAs as agents to perform certain duties in water resource management.

### Compliance with National Policy, Statutes & Standards

The Nairobi City County Policy on Water and Sanitation Services 2018 guided by The Nairobi City County Water and Sanitation Services Act 2016, read simultaneously with The Water Act 2016 conforms to National Policy, statutes and standards.

The proposed policy promotes the constitutional mandate of the National and County Governments for sustainable management of water resources and effective provision of water and sanitation services. The policy safeguards the distinct and complimentary roles of the national and county governments in water sector service delivery.

The proposed policy is aligned to the National and County institutional and regulatory frameworks for water and sanitation services and recognizes the important role of cross-county institutions, the private sector and communities in water resource management and service delivery.

### Key features that confirms compliance:

- Proposed Policy proposes to establish County Water Service Providers (WSPs), as provided in Section 77 of the Water Act, 2016. Nairobi City County has appointed the existing Nairobi City Water and Sewerage Company (NCWSC) Limited that was established under the Companies Act, 2015 to be the County WSP.
- The Proposed Policy focuses on mainstreaming affirmative action programs to ensure water for marginalized groups. Specific responsive provision (9.15) shall address the persons with disabilities to provide with preferential access to public services. In, particular, Persons with Disabilities Act, 2003, currently under review, provides the legal framework for dealing with persons with disability.
- The proposes policy entrenches the spirit of decentralizing management and delivery of water services (9.16) to the lowest units possible by proposing to ensure management to sub-counties and wards as required by the County Government Act, 2012.

- The proposed policy target to provide water and sanitation services to low income areas as provided for by the Water Act 2016, (Section 94) special provisions with respect to rural areas not commercially viable in order to ensure law does not deprive any person or community of water services on the grounds only that provision of such services is not commercially viable case for slums in Nairobi County.
- The Proposed Policy protects Water Asset Management & transition in line with the Water Act, 2016 (Section 83), provides that a county owned water service provider shall hold county or national public water services assets on behalf of the public. Similarly, Section 153 (1) provides that assets, liabilities and rights acquired by Water Service Boards will be deemed to have been acquired by the county water services provider (NCWSC), case for Athi River Water Services Board (AWSB).
- The proposed policy provides for county and cross-county partnership to water resource management as provided for by the Water Act 2016 (Section 153). The county government seeks to be a strategic active member of the Basin Water Resources Committees and the cross-county catchment management committees.
- The proposed policy recognizes the importance of stakeholder engagement and public participation as key factor for success and smooth implementation. As a constitutional requirement, the policy conforms to the Water Act 2016, section 139.

#### 4.0 CONSIDERATION OF MEMORANDA

In accordance with the Article 196 of the Constitution, Section 115 and Section 87 of the County Government Act, 2012, the County Assembly wrote to stakeholders with a view to invite submissions of the written memoranda on Nairobi City County Water and Sanitation Service Policy 2018 on Tuesday, 9th April, 2019 and be forwarded to the Office of the Clerk by Thursday 18<sup>th</sup> April, 2019.

The Committee received written memoranda from the following stakeholders amongst others; -

- i. Water Sector Trust Fund (WSTF);
- ii. Water Services Regulatory Board (WASREB);
- iii. African Population & Health Research Center (APHRC);
- iv. Civil Society Organizations (CSOs).

The issues raised in the memoranda are hereby annexed.

Stakeholders Views to Proposed Water & Sanitation Policy.

Water Sector Trust Fund (WSTF)



Submitted Memoranda containing comments, areas of concern and remarks with proposed recommendations. WSTF observations centered on brief amendments to the policy pointing out corrections of errors to some words, recognition of non-revenue water contribution to shortfall in accessing rights for water and the need for amending the policy to make provision for treatment of waste water faecal sludge. WSTF observation and recommendation of the proposed policy contravening water Act 2016 section 117 (2) by the county proposing a levy (11.10) not exceeding 20% of monthly bill to support service delivery in low income areas, contravenes the Water Act 2016 Section 117 & 113.

There is need for amendments to policy statement on resource mobilization 11.10 (v & vi) to conform the institutional and regulatory framework provided for by the Water Act 2016.

#### Water Services Regulatory Board (WASREB)

WASREBs memoranda contains comments for amending policy provisions on Water and sewerage coverage to factual updated data, the need for expanding/inclusive consideration of categories of operators and amending procedure for setting tariffs for WASREB approval. The comments raised geared towards incorporating WASREBs corporate governance guidelines, need for the policy responsiveness to water safety plan as a worldwide effective way of sustaining supply of safe drinking water to the public. The need for identifying water and sanitation services compliance with Constitution of Kenya, 2010 Article 43 (d). WASREB envisages commercially viable and financially sustainable company to attract private investment through stakeholder partnership.

There is need for consideration of comments and recommendations for amendments to the proposed policy for compliances with the law, national policy and standards.

#### African Population & Health Research Center (APHRC)

APHRC memorandum highlights on the need for policy identifying and recognizing players in field of research for evidence-backed policy making and implementation, proposes inclusion of sanitation rights aspects, the need for harmonization of data on sewer coverage in the county of Nairobi case of informal settlement that provides for 60% of residents. APHRC points out the need for budgetary shifts with special attention to Water and Sanitation (WASH) as a sector. On-site sanitation systems are public health hazard and thus untreated sewer water should not be used for urban irrigation farming.

There is need for incorporating views, comments and observations by APHRC to improve on the quality of specific areas for the proposed policy.

#### Civil Society Organizations (CSOs)

The Civil Society Organizations memorandum points out the need for the policy providing the current water and sanitation trends/state in Nairobi county, proposed policy giving limited attention to hygiene. The CSOs propose for more recognition of community groups, civil society and social enterprises as players in water and sanitation. Notably, the CSOs observe that public participation was not widely covered. The CSOs proposed radical

changes to alter appointment of Nairobi City Water and Sewerage Company (NCWSC) as the only County Water Service Provider (WSPs) and the policy to establish more WSPs.

The CSOs while analyzing the policy provision for appointing WSP read section 7.7 (iii) 'in isolation as 7.7 (iv) recognizes that there are other WSPs currently providing services in some parts of the county. This is contained in the Water Act 2016 that provided for existing water service providers to continue operating. Therefore, in consultation with these WSPs and stakeholders and as a transitional measure, NCC will create legal frameworks where these WSPs will transfer their assets to NCC or continue rendering service as agents of NCWSC.

## 5.0 COMMITTEE OBSERVATIONS

Mr. Speaker sir,

The Committee in its process of considering the Policy observed as follows: -

1. That the Policy was developed by the County government as a response to various perennial challenges facing Nairobi City County such as Water problem, poor Sanitation Services and Water and Sewer line burst amongst others.
2. That even though the city's population and size has grown in leaps and bounds since the city's establishment, such growth has not been checked with adequate planning. The unregulated growth has led to many challenges within the city, key among them being Water and Sanitation.
3. The Water and Sanitation Situation in Nairobi has continued to worsen. Like most cities in developing countries, the water and sanitation situation in Nairobi City is characterized by acute shortage of Water and Sanitation lines due to increase in population. The last official population was taken in 2009 and at that time, the population was 3,138,369. That number has since grown to approximately 3.5 million. The metro area has over 6.5 million residents. This "Green City in the Sun" has a history dating back to 1899 and continues to grow as rural residents make their way to this big City for employment opportunities. Nairobi has for years managed the Water sector formally through the local Authority and now the County Government through Nairobi City Water and Sewerage Company Ltd.
4. The problems facing the Nairobians are largely a natural consequence of the colonial legacy and the extent policy and regulatory frameworks that have been in place. In view of the foregoing, and the worn out of Water and Sanitation pipes, there is an urgent need for Water and Sanitation Service Policy.
5. That the Policy was developed through a comprehensive stakeholder participation and therefore most concerns of the stakeholders are addressed.
6. Should the Nairobi City County Assembly adopt such a policy, Nairobi will not only be the first County to engage on this issue on a purposeful policy level, but will also provide the first Water and Sanitation Service Policy framework in the Country at both national and County Levels.
7. That if the Policy is adopted challenges affecting the City shall effectively be addressed. However, this shall require Commitment by all the stakeholders. The



County Assembly should play the watchdog role over the projects while the County Executive must adhere to, and implement the plan by committing to the policy and seeking support from other development partners.

## 6.0 RECOMMENDATIONS

Mr. Speaker sir,

The Committee recommends that in accordance with Section 8(1) (e) of the County Governments Act, 2012 and provisions of Standing Order 191(6): - that;

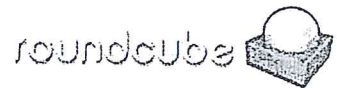
This Assembly approves the Sessional Paper No. 3 of 2018 on the Water and Sanitation Service Policy with the following recommendations; -

1. That present and future projects of the Water and Sanitation program be done within the framework of the Water and Sanitation Service Policy and the recommendations of this report.
2. That the County Executive ensures that all the Joint Venture Agreements/Contracts that were entered into without the presence of a policy are aligned to the provisions of the Sessional Paper No.3 of 2018 on Water and Sanitation Service Policy.
3. That the County manage their own projects and not allow them to be absorbed under the National program, since it is the County that understands the areas that need attention, and that, the County should allocate funds to cater for the same.
4. That the County government submits to the Assembly within 60 days of adopting this report, a Bill establishing a Water and Sanitation Authority, amongst other proposal contained in the Policy.
5. That the policy document be amended as proposed by various stakeholders captured above.





Subject **SUBMISSION OF MEMORANDA ON NAIROBI CITY COUNTY WATER AND SANITATION SERVICE POLICY**  
 From Thomas Nyangau <Thomas.Nyangau@waterfund.go.ke>  
 To clerk@nrbcountryassembly.go.ke <clerk@nrbcountryassembly.go.ke>  
 Date 2019-05-02 07:16



- MEMORANDA ON NAIROBI CITY COUNTY WATER AND SANITATION SERVICE POLICY 2018.pdf (~399 KB)

Dear Sir/ Madam,

Following your letter reference NCAA/SC-WS/CORR/2019/19, requesting our attention to the policy, please attached please find the review comments on the memoranda on Nairobi City County Water and Sanitation Service policy 2018.

Best Regards

Thomas Nyangau | Manager, Urban Investments  
 Water Sector Trust Fund (WSTF, WaterFund)  
 Email: [Thomas.Nyangau@waterfund.go.ke](mailto:Thomas.Nyangau@waterfund.go.ke)  
 Web: [www.waterfund.go.ke](http://www.waterfund.go.ke)

1<sup>st</sup> Floor, CIC Plaza I, Mara Road, Upper Hill  
 PO Box 49699 – 00100 Nairobi, Kenya  
 Tel.: +254 (20) 2720696, 2729017/8



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*d/c  
 inform the  
 Committee  
 P. N. N. D.  
 CIA  
 2/5/19*

*C-A- Water  
 Table is to Committee  
 for consideration.*

*May 2/5/19*





**WaterFund**

Financing the Water Sector

**WATER SECTOR TRUST FUND**

REVIEW OF THE MEMORANDA ON NAIROBI CITY  
COUNTY WATER AND SANITATION SERVICE POLICY

2018

**April 2019**



The following are the comments or areas of concern that were identified in the policy.

1. In item 2.8: It is worthy to mention the impact of Non-Revenue Water (NRW) in contributing to the shortfall in access rights for water in Nairobi.

2. In Item 6.11 (V). The term aquivers to be changed to aquifers.

3. In item 10.7: Water and Sanitation Services Provision in the Low Income Areas

This item deals with the policy statements with respect to provision of water and sanitation services to low income areas in Nairobi.

**Recommendation:**

A policy statement on the adoption of innovative on-site technologies in the treatment of waste water and faecal sludge is missing. **Therefore, it's recommended this be included.**

4. Item 11.10; Policy Statements on Resource Mobilization.

Policy 11.10(v) - There is a recommendation of a Levy of not exceeding 20% of the monthly water bill, to support service delivery in low income areas; and to expand the county sewerage infrastructure:

**WSTF Remarks:**

This Policy statement is in contravention to the provisions of Water Act 2016, Part V (WATER SECTOR TRUST FUND) Clause 117, Subsection (2) that reads "*The Cabinet Secretary may, by Regulations following public consultation prescribe a levy to be paid by consumers of piped water supplied by licensed water service providers, the proceeds of which shall be paid into the Fund established under section 113*".

Therefore, WSTF brings to the attention of NCC that the role resource mobilization including charging levies is the mandate of the WSTF as per the Water Act 2016.

# Water Services Regulatory Board

5th FLOOR, NHIF BUILDING, NGONG ROAD P.O. Box 41621-00100 GPO NAIROBI, KENYA Tel: +254(0)202733561  
 Email: info@wasreb.go.ke Website: www.wasreb.go.ke

Ref: WASREB/LEGAL/582 VOL. V (27)

To Office of the Clerk  
 Clerks Chambers  
 County Assembly  
 City Hall Building  
 P.O. Box 45844-00100  
**NAIROBI, KENYA**

*Inform the  
 Committee &  
 expedite the  
 process.  
 J. J. J. 23/4/19*

Date: 18<sup>th</sup> April 2019



## RE: WASREB SUBMISSION OF MEMORANDA ON NAIROBI CITY COUNTY WATER AND SANITATION SERVICE POLICY 2018.

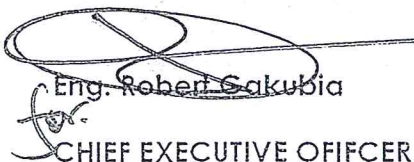
We thank you for your letter dated 9<sup>th</sup> April 2019 referenced NCCA/SC-WS/CORR/2019/13.

### WASREB COMMENTS ON NAIROBI COUNTY WATER AND SANITATION POLICY- 2018

Page Number	Item	Comment
6	2.7	Update: national water coverage 57%, sewerage coverage NCC- 50%
7	(4.2)	Include also Article 43(b) in the Constitution .....the right to reasonable standards of sanitation.
13	(7.1)	Correct to: Ministry of Water and Sanitation.
14	7.7(iv)	Expand '..... other unregulated and unknown WSPs currently providing services in some parts of the county..... 'to include the following category of operators: <ol style="list-style-type: none"> <li>1. Community water systems</li> <li>2. Gated community water providers</li> <li>3. Infrastructural /Housing Development Company Water Projects</li> <li>4. Private/ Individual Boreholes</li> <li>5. Non-Governmental Organization (NGO) water projects</li> </ol>
14	7.7(v)	Recast to: NCC will propose water and sanitation services tariff, having regards to guidelines approved by the regulator and the social and the economic conditions prevailing in the county for evaluation and approval by Wasreb
16	8.5	Add. (v) NCC will enforce the governance standard at NCWSC to be in line with Wasreb corporate governance guidelines.



18	9.10	Add immediately after 9.10. a section on Water Safety plan to read as: ' Water Safety plan is a comprehensive risk assesment and risk management approach that encompasses all steps in the water supply system form catchment to point of consumption.....' This is recognised worldwide as most effective way of sustaining supply of safe drinking water to the public.
19	9.16	Add: NCC will ensure that a comprehensive risk management approach in the water supply system management from catchment to point of consumption in the day to day management of NWSC as per water safety planning guidelines issued by Wasreb and in compliance to article 43(d) of CoK.
20	9.16 iv	Add ...and use innovation and modern tecchnology to realise the economic value of waste water and treated sludge for energy production and other emerging economic uses.
23	10.7	Add as the first statement :NCC will ensure all water operators in low income areas are brought into regulation and provide safe and sustainable services
30	1.5	This section should be more prescriptive based on the operational performance of the NCWSC as the county is the one to provide the vision for the WSP; Currently it is technically insolvent due to poor decisions in leadership and management as shown in the various reports provided by Athi WSB and WASREB ;the incomplete transfer of assets affects its financial strength ; the rapid increase in staff numbers over the last four years contrary to sector efficiency standards.
31	15.6 i	Add as i ....As per national standards NCC will restructure the governance of WSP to allow it to become an efficient and economical operator .
31	15.6 ii	In ii rephrase the NCC will ensure that a turnaround strategy is adopted that will establish it as a commercially viable and financial sustainable company that will be able to attract private investments
31	15.6 v	NCC will create capacity within itself to effectively monitor compliance with the sector standards by NCWSC and collaborate with other stakeholders to enforce the regulatory framework.

  
 Eng. Robert Sakubia  
 CHIEF EXECUTIVE OFICER

C-A- Water  
 Table for consideration  
 and reparing by the Committee  
 Monday  
 D.C.  
 23/4/15

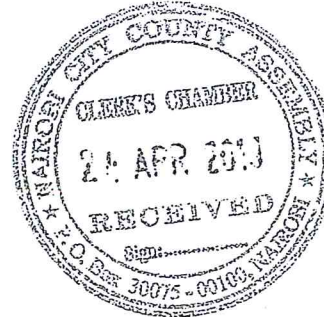


African Population and  
Health Research Center

Your ref: NCCA/SC-WS/CORR/2019/16.

Office of the Clerk, Clerk's Chambers  
County Assembly, City hall Buildings  
P O Box 45844-00100  
Nairobi, Kenya.

April 18, 2019



*Handwritten note:*  
d/c  
To form the  
committee  
g.p.c.  
24/1

# MEMORANDUM ON NAIROBI CITY WATER AND SANITATION SERVICE POLICY 2018

We are in receipt of your letter dated April 9, 2019 inviting the Africa Population and Health Research Center to submit view to the Sectoral Committee on Water and Sanitation on the Nairobi City County Water and Sanitation Service Policy 2018. We appreciate this opportunity provided for under the constitutional provision for public participation to present our written views and recommendations as outlined below (corresponding sub-clause numbering included):

1.4 Recognition of partners working in research for evidence-informed policy making and implementation is vital for future budgetary allocations and requests for technical support even as NCC and NCWSC plan to put in place robust monitoring and evaluation systems.

2.5 Key to include the Kenya Environmental Sanitation and Hygiene Policy (KESHP) and its KESH Strategic Framework as the national policy and framework, that anchor the sanitation sector.

2.7 and 9.3 There is need to harmonize all existing reports on sewer coverage for NCC. In this report, it is stated at 30 per cent. The Nairobi Shit Flow Diagram (SFD, 2018) developed through a collaborative effort with all stakeholders, settled at the figure 40%.

4.10 Clarity on percentage for development, and disaggregated percentages for water and sanitation for the ring-fenced financing of service provision revenue. This would enable better targeting for sustainable service delivery.

6.7 Frame to read 'untreated' sewer water should not be used for urban irrigation for farming, as provided for under the NCC Urban Agriculture Promotion and Regulation Act No. 4 of 2015.

7.7 The acknowledgement in 6.8 of the existing non-integrated approach for non-alignment in water and sanitation infrastructure with housing planning and development, a situation most severe in Urban Low Income Areas, it would be important to see NCC's WSP i.e. NCWSC broaden provision of sanitation services to include Non-Sewered Sanitation services in the short and medium term as an incremental public health intervention towards full sewer coverage.

7.7 (vi) and 9.3. The service delivery protocol between NCC and NCWSC would benefit from specific standards for sanitation that address the current and likely, medium-term existence of over 60% (source : Nairobi Shit Flow Diagram, 2018) on-site (Non-Sewered Sanitation) solutions. For example, Sewage and Fecal Sludge Management (FSM) Ordinance modelled on Kampala City's, and Uganda's

Transforming lives in Africa through research

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*Handwritten note:*  
C.N. Water  
To form the committee  
To conduct study of 1999  
Water use data is for  
the year 1999





African Population and  
Health Research Center

Standards for treated Fecal Sludge for Safe Reuse and Disposal. The latter would also guide what can be used in urban farming, even as sewerage generation is expected to increase (S.3).

9.8 On-site sanitation systems are identified as a public health hazard but they are a critical containment option for underserved populations, especially in urban low income areas. NCC's proposed investment in lateral sewer connections as part of water and sanitation infrastructure development would do well to reference its planning with successes in areas e.g. Brazil's favelas (informal settlements) where the housing developments are starkly different from Nairobi's.

9.16 (v) NCC's development of a legal framework to allow on-site treatment plants in urban and peri-urban areas is a welcome idea. Consideration should be given to Waste Water Treatment Plants (WWTPs) as well as Fecal Sludge Treatment Plants (FSTPs).

10.1 60%, not 40% of Nairobi residents reside in informal settlements. Data source?

10.3 With the understanding that private sector is thriving in ULiAs and ASAL areas in WASH services provision due to national and local governments' (being their mandate) to do the same, there is a serious need to omit or reframe this: 'It is understood that development partners now prefer private sector oriented approach to service delivery in low income areas' as well as '...benefit from the commercial orientation of development partners.' Private sector actors or social enterprises may simply be more adept at resource mobilization and compelled to higher accountability for resources provided by funding agencies hence the perceived 'preference'.

10.7 (iv) Build in aspect of sanitation rights as well as water rights to CBOs' mobilization and support towards community policing mechanisms for orderly development and maintenance of water and sanitation infrastructure.

11.0 and 13.0 From historical budgetary documents, the NCC would do well to prioritize WASH as a sector, especially using the fact that a majority of its population resides in urban informal settlements. This should link back to budgets for preventive health- disease control and illness treatment. Public participation submissions supporting the same should also be used to back up the drive for budgetary allocation to the WASH sector.

We look forward to detailed oral deliberations should this be possible.

Blessing Mberu, PhD  
Head, Urbanization and Wellbeing Unit  
African Population and Health Research Center

*Transforming lives in Africa through research*

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## Memorandum

# The Nairobi City County Water and Sanitation Service Policy 2018

Submitted to Nairobi City County Sectoral Committee on  
Water and Sanitation

BY

WASH CSO stakeholders.

Submitting Organizations

1. Hakijamii
2. Kewasnet
3. Umande Trust
4. Pamoja Trust
5. KWAHO

*CA Water  
Forwarded to the Committee  
for consideration.  
HAKIJAMII  
23/4/19.*

*D/C  
Kindly deal  
for CCA  
18/04/19*

For any clarifications Contact: Collins Liko on 0729060051 or email: [collins@hakijamii.com](mailto:collins@hakijamii.com) on behalf of the stakeholders.





9. The language used is suggestive and not obligatory. The policy document should document the commitment to action for the sector. The use of auxiliary verbs Should and could must be replaced with “Will and Shall”
10. The policy fails to define what sanitation or make policy provisions to the various aspects of sanitation other sewerage. Before the table of content, there must be a page to provide for the definition of terms. The policy should define and describe sanitation, recognize onsite sanitation and make policy provisions for it.
11. The policy should separate water and sanitation in terms operations and governance.
12. Waste water management and storm water harvesting are not clearly articulated even though it is a big challenge in the county. A clear mechanism must be put in place and articulated in the policy to address these issues.
13. The policy erroneously presupposes the role of the county government and the service provider as inter-changeable. The policy should clearly separate the roles and outline as per the law the County government’s key role of oversight on all service providers.
14. NWSC should not be specifically named in policy. Rather, the policy should recognize the administrative arrangements, roles and place of service providers, and allow County legislation to translate that into specific actors. Further one service provider cannot play an oversight role over other service providers established under the same law unless operating under the license of that named service provider.
15. All specific reference to the Nairobi City County Water and Sanitation Act should be expunged in the policy. Instead, as a precursor document to the Act, the Policy should anticipate that legislation will be put in place to operationalize the various aspects of the policy.

#### **Specific comments as per sections**

**2.5** Under section 2.5, the policy makes reference to the National Water Policy 2013. Such a document does not exist. It should be replaced with The Draft National Policy 2018 as the current document, but also note that this is a document under review and whose provisions may still change.





In fulfilment of the legal provision for public participation in decision making processes including the formulation of laws and policies, the above-mentioned organizations would like contribute to the development of the Draft Nairobi City County Water and Sanitation Service Policy.

#### **General Observations on the draft policy**

1. Chapter 1 -5 of the policy is deficient in clear policy statements of intent. They are long narratives that fail to mention or provide clear policy direction strategically.
2. The policy document must be alive to current water and sanitation state in Nairobi as well as the future needs. The language used in large parts of the document only refers to the future ambitions without consideration of the present. The tense should be amended to present continuous tense.
3. The policy is silent on Hygiene. It is important that the policy provides an indication of where this aspect of sanitation is domiciled within the county structures for easy sector coordination.
4. 1.2 Under section 1.2, reference has been made to the County Water and Sanitation Service Provision Act of 2016. The Committee should not refer to the County Act 2016 in the development of the Policy 2018 because legally and logically the policy should precede the Act.
5. 1.4 mentions the various partners and stakeholders. The section failed to mention community groups, civil society and social enterprises as critical stakeholders-this should be added.
6. Whereas the draft policy purports wide public participation, stakeholders felt that they were not meaningfully involved in the development of this policy.
7. Section 3.2 should speak broadly to the significance of public participation and available mechanisms and platforms available for effective participation. Chapter 3 and 13 fails to make any reference to the County Public Participation Act or the mechanism therein, or proposed, for enabling effective public participation in the sector.
8. Chapter 3 and 13 needs to be merged. They speak about the same issues.





2.7 This section has focused on giving statistics and highlighting achievements rather than the challenge that needs to be addressed. Essentially water and sanitation challenges in Nairobi are humongous especially with urbanization and population increase. Ambitiously this paragraph needs to focus on the obligation to protect, respect and fulfill the sanitation demands in Nairobi. This should be looked at in view of the people that do not have access to these services especially in low income areas.

**3.1 Public participation:** The paragraph should end at section 196. The chapter is reporting back instead of being strategic in terms of the available effective framework for public participation. The policy under this section should highlight the various models, mechanisms, platforms that are useful for the sector to utilize in realization of meaningful public participation. It is imperative that there is a clear stakeholder engagement framework to this effect.

4.0 the entire chapter should focus on explaining the principles under 4.1 below in detail. In addition, the following principles can apply.

- **Polluter Pay Principle:** Any entity whose activities affect the quality of water resource should bear the cost of restoration and abatement, and in an equitable manner to encourage innovation in control water pollution.
- **Respect for human rights:** Every sector player shall act in a manner that protects, respects and fulfils the human right to water and sanitation. Every Kenyan has a right to clean and safe water in adequate quantities, and to reasonable standards of sanitation. The management and use of water resource should take into account the needs and rights of riparian communities as well as guaranteeing access rights to other users for surface and ground water.
- **Public participation and stakeholder engagement:** (article 174c) Measures should be put in place to ensure that those to be affected either positively or negatively by any water activities are involved in the decision-making processes. Key stakeholders should also be consulted in the processes. It is imperative that there is a clear stakeholder engagement framework.





- **Ring fencing:** Revenues generated from charges, fees and tariffs water should be used for the purpose promoting water activities only.
- **User pay principle:** the recognition of water resources as an economic and social good, and the application of the most efficient pricing model to ensure full cost coverage while meeting the social, economic and environmental costs
- **Respect for human rights:** Every sector player shall act in a manner that protects, respects and fulfils the human right to water and sanitation. Every Kenyan has a right to clean and safe water in adequate quantities, and to reasonable standards of sanitation. The management and use of water resource should take into account the needs and rights of riparian communities as well as guaranteeing access rights to other users for surface and ground water.

**4.1 Guiding principles:** there must be a clear definition of the terms used under 4.1 i.e. human dignity, equity, social justice, inclusiveness, human rights, non-discrimination, protection and marginalized as shown in the above example

**6.4** The issue of incentives: The statement is vague. The county must set up a conservation fund to support the community led initiatives in riparian areas.

**7.0** We propose an addition of roman (viii) with the following statement: “The water service provider may employ where applicable delegated management models that involve organized groups, social enterprises and/or the private sector actors”.

**8.5 (i)** We propose the deletion of (NWSC) in the statement. The county can establish more than one WSP and it should not just be NWSC. As it is, the policy curtails the county from establishing other WSPs.



(ii) NCC does not have a mandate of setting and monitoring of water and sanitation tariffs. The process for tariff setting is defined within Water Act, and regulated via the Water Services Regulatory Board. That statement should be deleted.

9.16 (vii) The Policy should address the broader issue of non-revenue water in principle and state the mechanisms that it proposes to help address the issue. The issue of NRM is bigger than NWSC hence the company cannot single handedly manage it

(viii) The issue should be broad to capture other service providers facing the same issues. We propose the deletion of NWSC in the statement.

10.1 This section quotes 40 % as the population residing in the informal settlements in Nairobi. This figure is misinformed and may misguide the county planning processes. The estimated population of Kenyans living urban informal settlements in Nairobi is 60%.

10.2 Water sector coordination should be done by the county government and not the WSP. NWSC cannot coordinate partners based on the premise that the partners do not address the same issues.

10.4 This paragraph must be unbundled to provide an explanation of how the policy envisions redress for the issues for example by empowering community-based organizations to effectively provide water and sanitation services legally.

10.7 (vi) The county must ensure equity in water and sanitation service provision. Subsidizes alone will not ensure access for all in light of the current inequalities, but rather continue making it difficult and expensive especially for communities in low income areas.

11.10 (iv) On budget. The policy should be addressing the broader issue of investment and budget allocation but not specifying the extent of the amount to be allocated. A policy is a guiding document and not a law in itself.

(v) It is not the mandate of the county to set tariffs

(vii) Remove the term Nairobi Water from the statement

(ix) Remove NWSC from the statement.

(x) It should be a direct policy statement and not an explanation of what will happen.





**12.3** Water is not a commercial product, in the context of the Water Act, but rather a social and economic good. Commercial viability thus cannot be the primary basis against which the government gives incentives and subsidizes but rather the need to fulfill obligations (Contradicts 12.3 (iii)).

**13.2 On customer survey.** This should be merged with 3.2 as one of the structured ways for public participation but not absolute. However, the issue of customer satisfaction is a mandate of the service provider and should not be included in the policy. The policy however should address the broader issue of respecting, protecting and fulfilling the rights to water and sanitation.

**14.0 Asset management:** With the high levels of vandalism, illegal connections in Nairobi, the policy must address itself to these issues. There needs to be a policy statement and strategy within the policy to address these issues. The county must set up framework/guidelines to guide private led extensions and connections to both water and sanitation infrastructure. This will address public exploitation by private service providers. To manage assets; the county must establish water and sanitation monitoring committees (Delegated management model to be reintroduced). Nairobi.

**15.0** Chapter 15, The issue of Nairobi water should be looked at broadly with a view to establishing a metropolitan city water provider. (This should be removed from the policy document)

**16.1.** The policy cannot recognize the Water Act. This policy foresees the development of a county water act in conformity with the provisions of this policy.

**17.0** Policy Implementation Plan; it should be updated to 2019.





MINUTES OF THE 47<sup>TH</sup> SITTING OF THE NAIROBI CITY COUNTY ASSEMBLY SECTORAL COMMITTEE ON WATER AND SANITATION HELD ON TUESDAY 6<sup>TH</sup> AUGUST 2019 AT 12:00 NOON AT COMMITTEE ROOM NO. 12 COUNTY ASSEMBLY BASEMENT, CITY HALL BUILDINGS.

PRESENT

- |                                 |                      |
|---------------------------------|----------------------|
| 1. Hon. Paul Kados, MCA         | - Chairperson        |
| 2. Hon. Leah Naikanae, MCA      | - Deputy Chairperson |
| 3. Hon. Emily Waithaka, MCA     |                      |
| 4. Hon. Rose Ogonda, MCA        |                      |
| 5. Hon. Peter Imwatok, MCA      |                      |
| 6. Hon. Ruth Ndumi, MCA         |                      |
| 7. Hon. John Kamangu, MCA       |                      |
| 8. Hon. Peter Wanyoike, MCA     |                      |
| 9. Hon. Elizabeth Nyambura, MCA |                      |
| 10. Hon. Naftali Ogola, MCA     |                      |
| 11. Hon. Lawrence Otieno, MCA   |                      |
| 12. Hon. Catherine Okoth, MCA   |                      |
| 13. Hon. Peter Njau, MCA        |                      |

ABSENT

1. Hon. Elias Otieno, MCA
2. Hon. Waithera Chege, MCA
3. Hon. Mark Mugambi, MCA
4. Hon. Charles Thuo, MCA
5. Hon. Antony Karanja, MCA
6. Hon. Michael Ogada, MCA

SECRETARIAT

- |                     |                   |
|---------------------|-------------------|
| 1. Mr. Mohamed Abdi | - Clerk Assistant |
|---------------------|-------------------|

AGENDA

1. Prayers and Adoption of Agenda
2. Confirmation of previous minutes – 43<sup>rd</sup> and 45<sup>th</sup> sittings
3. Matters arising
4. Tabling of Request for an interactive joint session for Committee on Water, Energy, Forestry, Environment and Natural Resources Committee by Muranga County Assembly.
5. Adoption of Committee report of the Sessional Paper No. 3 of 2018 on the Water and Sanitation Services Policy.
6. Any Other Business
7. Adjournment and date of next meeting.

#### MIN. 222/SC-WS/AUGUST/2019 – PRELIMINARIES

The meeting was called to order at 12:10 pm. And begun by a word of prayer said by the Hon. Peter Wanyoike.

The Chairperson took members through the agenda of the sitting and adopted after being proposed by Hon. John Kamangu and seconded by Hon. Peter Wanyoike.

#### MIN. 223/SC-WS/AUGUST/2019 – CONFIRMATION OF PREVIOUS MINUTES

The minutes of the 43<sup>rd</sup> sittings that were held on Tuesday 23<sup>rd</sup> July, 2019 were read by Hon. Peter Wanyoike and proposed by Hon. Emily Waithaka, seconded by Hon. Catherine Okoth as true record of the proceedings.

The minutes of the 44<sup>th</sup> sittings that were held on Wednesday 24<sup>th</sup> July, 2019 were read by Hon. Peter Wanyoike and proposed by Hon. John Kamangu, seconded by Hon. Lawrence Otieno as true record of the proceedings.

#### MIN. 224/SC-WS/AUGUST/2019 – MATTERS ARISING

There were no matters arising

#### MIN. 225/SC-WS/AUGUST/2019 – TABLING OF REQUEST FOR AN INTERACTIVE JOINT SESSION FOR COMMITTEE ON WATER, ENERGY, FORESTRY, ENVIRONMENT AND NATURAL RESOURCES COMMITTEE BY MURANGA COUNTY ASSEMBLY

The Committee considered the above mentioned request by Muranga County Assembly for an interactive joint session for Committee on Water, Energy, Forestry, Environment and Natural Resources Committee on Friday 9<sup>th</sup> – 10<sup>th</sup> August, 2019, However, upon consideration, the Committee resolved to request for rescheduling of the said joint interactive session to be held from Wednesday, 14<sup>th</sup> – 15<sup>th</sup> August, 2019.

#### MIN. 226/SC-WS/AUGUST/2019 – ADOPTION OF COMMITTEE REPORT OF THE SESSIONAL PAPER NO. 3 OF 2018 ON THE WATER AND SANITATION SERVICES POLICY.

The Committee considered the Committee report of the Sessional Paper no. 3 of 2018 on the Water and Sanitation Services Policy that was tabled on the floor of the County Assembly on Tuesday 4<sup>th</sup> December, 2018 for approval in accordance with Section 8(1) (e) of the County Governments Act, 2012. The Sessional paper was thereafter committed to the Sectoral Committee on Water and Sanitation for consideration and report to the Assembly.

To this end, the Committee upon consideration observed the following:

1. That the Policy was developed by the County government as a response to various perennial challenges facing Nairobi City County such as Water problem, poor Sanitation Services and Water and Sewer line burst amongst others.
2. That even though the city's population and size has grown in leaps and bounds since the city's establishment, such growth has not been checked with adequate



planning. The unregulated growth has led to many challenges within the city, key among them being Water and Sanitation.

3. The Water and Sanitation Situation in Nairobi has continued to worsen. Like most Cities in developing Countries, the Water and Sanitation situation in Nairobi City is characterized by acute shortage of Water and Sanitation lines due to increase in population. The last official population was taken in 2009 and at that time, the population was 3,138,369. That number has since grown to approximately 3.5 million. The metro area has over 6.5 million residents. This “Green City in the Sun” has a history dating back to 1899 and continues to grow as rural residents make their way to this big City for employment opportunities. Nairobi has for years managed the Water sector formally through the local Authority and now the County Government through Nairobi City Water and Sewerage Company Ltd.
4. The problems facing the Nairobians are largely a natural consequence of the colonial legacy and the extent policy and regulatory frameworks that have been in place. In view of the foregoing, and the worn out of Water and Sanitation pipes, there is an urgent need for Water and Sanitation Service Policy.
5. That the Policy was developed through a comprehensive stakeholder participation and therefore most concerns of the stakeholders are addressed.
6. Should the Nairobi City County Assembly adopt such a policy, Nairobi will not only be the first County to engage on this issue on a purposeful policy level, but will also provide the first Water and Sanitation Service Policy framework in the Country at both national and County Levels.
7. That if the Policy is adopted challenges affecting the City shall effectively be addressed. However, this shall require Commitment by all the stakeholders. The County Assembly should play the watchdog role over the projects while the County Executive must adhere to, and implement the plan by committing to the policy and seeking support from other development partners.

Finally, the Committee resolved to adopt the aforementioned report as proposed by Hon. Lawrence Otieno seconded by Hon. Elizabeth Nyambura with the following resolutions:

1. That present and future projects of the Water and Sanitation program be done within the framework of the Water and Sanitation Service Policy and the recommendations of this report.
2. That the County Executive ensures that all the Joint Venture Agreements/Contracts that were entered into without the presence of a policy are aligned to the provisions of the Sessional Paper No.3 of 2018 on Water and Sanitation Service Policy.
3. That the County manage their own projects and not allow them to be absorbed under the National program, since it is the County that understands the areas that need attention, and that, the County should allocate funds to cater for the same.



4. That the County government submits to the Assembly within 60 days of adopting this report, a Bill establishing a Water and Sanitation Authority, amongst other proposal contained in the Policy.
5. That the policy document be amended as proposed by various stakeholders.

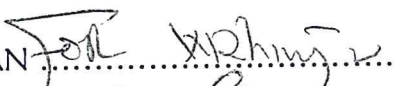
MIN. 226/SC-WS/AUGUST/2019 - ANY OTHER BUSINESS

The Chairperson informed the Committee that he is planning to meet with officials from consortium (Caritas Swaziland, WSUP), who are doing some projects in Mukuru slums and are also planning to undertake in Kibera Slums, tomorrow at 10.00am concerning the Water and Sanitation Policy and Bill. Further that they were to discuss how the Committee could help them in discharging their mandate visa viz the Committee's mandate.

MIN. 227/SC-WS/AUGUST/2019 - ADJOURNMENT AND DATE OF THE NEXT MEETING

There being no other business and the time being 12. 40 pm the Chairperson adjourned the Meeting. The date of the next meeting was set as 7<sup>th</sup> August, 2019.

CONFIRMED AS TRUE COPY OF THE PROCEEDINGS

CHAIRMAN 

DATE 06/08/19

SECRETARIAT 