

Wednesday, 13th June, 2018 COUNTY ASSEMBLY OF SIAYA DEBATES

REPUBLIC OF KENYA

SIAYA COUNTY ASSEMBLY

THE HANSARD

Second County Assembly – Second Session

Wednesday, 13th June, 2018

The House met at the County Assembly Chamber at 9.30 a.m.

[The Deputy Speaker (Hon. Odongo) in the Chair]

PRAYER

COMMUNICATION FROM THE CHAIR

INVITATION TO GOT RAMOGI CULTURAL FESTIVAL

Hon. Deputy Speaker: I would like to read the following letter from the Governor's Office.

“Invitation to the second Got Ramogi Cultural Festival and Reunion 2018: The County Government of Siaya together with stakeholders is organizing the second Got Ramogi Cultural Festival and Reunion 2018 whose aim is “*Duoguru Dala nyikwa Ramogi Ajwang*” to mean “Come back home descendants of Ramogi Ajwang” and is to be held between 28th – 30th June, 2018 at Got Ramogi

The following activities are lined up for the event, cultural extravaganza, symposium, exhibition, fish eating night, cultural fashion show, Got Ramogi boat race, Got Ramogi night. On behalf of the County Government of Siaya I would like to take this opportunity to cordially invite you to attend and celebrate this festival with us welcome to Siaya welcome to the land of heroes. Yours faithfully, His Excellency Governor Cornel Rasanga Amoth”

We have received an invitation from the Governor's office as has been read. All are invited.

STATEMENT

RESPONSE TO STATEMENT REQUEST BY HON. ARINGO

Hon. Odinga: I beg to give the following Statement response on behalf of Chairperson of Committee on Roads, Public Works, Transport and Communication as was requested by Hon. Aringo, MCA West Sakwa.

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An environmental complaint was received by the department vide a letter referenced 6th April 2018 referenced SCA/CORR/C.EXEC/18 VOL.XI – 2 from the County Assembly. The issues raised by Hon. Maurice Aringo MCA West Sakwa Ward seeking a clarification of the following:

1. Whether the County Government is aware of soil being quarried and ferried by trailers with foreign number plates and that the roads were seriously damaged
2. Whether the soil contained some mineral deposits. If the soil contained mineral deposits what mineral it was and who authorized the extraction
3. Whether the extraction was being done through loud explosions which were affecting the residents especially the children in the nearby schools. The extraction had left deep gulleys which posed danger to domestic animals and human beings. Had the National Environmental Authority approved the extraction and if so what were the remedial actions?
4. Whether the County Government is getting any cess revenue for the extraction of the soil.

Findings: The extraction site is located in Othach village approximately 3kms off Kambajo center along Bondo Usenge route. It is on a piece of land privately owned by Mr. George Owino Odhiambo approximately 40 years old and of contact 0718616015. The open quarry extends a radius of approximately 32 meters and has an average depth of 1.5 meters

According to the information we obtained from the neighbours the quarry works could have started in late 2017. The site was chosen after a neighbor Francis Kongodi took rock samples from the site to Nairobi in a company which he works.

The quarrying is done using explosives during the day and the chunks of rocks crushed using hired local labour. The blasters are hired from Misoro Quarry in West Uyoma. Our team established that during the blasting the neighbouring residents are often asked to keep away from the vicinity.

A neighbor Mr. Joseph Obiero Warega also raised complaints on the use of explosives in the area. The explosives had caused cracking of his house thus compromising its stability. Complaint was also raised due to the fact that Othach Primary School is close by and thus the blasting remains hazardous and the pupils.

Our team established that the owner of the site is normally paid according to the number of lorries collected but the amount was not disclosed.

The crashed rock is then transported using lorries with both Kenyan number plates which then transfers the mined soils ostensibly to Awasi, Nairobi and possibly to Uganda. The roads used were also damaged.

It is not yet known the use to which the soil is used and whether it contains minerals of economic value. The frequency of harvest and the lorry trips depends upon the amount crashed. At the time of visit there were no activities on site due to the current heavy rains experienced in the country.

Licensing and revenue generation: From the records available at the concerned County Department there is no evidence for the application of the mining activity and equally no evidence of revenue paid to the county.

The Fourth Schedule Part 2 of the Constitution of Kenya 2010 lists the functions and powers of the County Government. These includes; the implementation of specific national government policies on natural resources and environmental conservation including soil and water conservation and forestry

According to the Environmental Management Coordination Act 2015 cap 387, to undertake mining activities there must be an environmental impact assessment where also public participation is necessary. This was not the case at the said site. There is also no evidence of NEMA approval

According to the Siaya County Finance Act 2016, page 37 royalties are to be paid for the following natural resources sand, murram, ballast, hardcore, and limestone/quarry waste.

Recommendations: The mining company/land owner should be issued with a restoration order from NEMA to stop the activities immediately. The team which visited the site comprised of the County Director NEMA who has taken up the matter for further necessary action. Thank you, Mr. Deputy Speaker, Sir.

Hon. Deputy Speaker: Thank you, Member for Lands I now ask Hon. Aringo if he is satisfied with

Hon. Aringo: Thank you, Mr. Deputy Speaker, Sir. When I was I was called Chief Abudi I have carried the name to this House.

I am happy that my concern, that of the people of West Sakwa and our neighbours from Yimbo were genuine. In my Statement I sought to know on behalf of the people whether the County Government was aware that the soil was being extracted from our area. It has been confirmed that the County Government was not aware therefore the mining was being carried out illegally.

I also sought to know whether the soil that was being extracted had some minerals and if it had what mineral was it. That is what the committee did not confirm but I am sure that nobody can just from Awasi, (that is the nearest place where the soil was being taken) to pick soil from Kambaji in West Sakwa which is not of value. I believe that soil has some minerals in it and it would be good for the County Government to know what mineral it is.

We also sought to know whether the explosives that were used were causing harm to both the people and livestock. It has been confirmed. One neighbor, Mr. warega complained that the explosives were causing damage to his house.

We also sought to know whether the County Government was receiving revenue from the soil which was being extracted. It has been confirmed that it was illegal and the County Government was not getting any revenue out of the good exercise.

I am satisfied with the recommendations. I don't know whether it has been taken because actually since then whether they were satisfied with the recommendations that the owner should

be issued with a restoration order from NEMA to stop the activity immediately. Mr. Deputy Speaker, I am satisfied!

Hon. Deputy Speaker: Thank you, Hon. Aringo. Is there any other Member with contribution in regards to that statement request?

Yes, Hon. Willis!

Hon. Ochieng’: Thank you, Mr. Deputy Speaker Sir, for having given me this chance. I want to thank the Hon. Member who has brought this request to this House. As much as the Hon. Member who requested this statement is accepting the responses here there is one element that we have not be told in this response, Mr. Deputy Speaker, Sir, and I think that as much as they are stopping this people from mining they should also give us hope that they are going to test the soil and find the type of mineral that are available in such soil.

The Member should also tell us the negative impacts that this mining could have cost the neighboring communities. So you should advice if we can dig deeper into the activity and know more for example the type of mineral available in that given soil, a question that has not been answered up to now. So the two issues should be given priority as well as clarity so that we the Members and the executive should know what is happening.

Hon. Deputy Speaker: Yes, Hon. M .

Hon. M: Thank you, Mr. Deputy Speaker Sir, I also want to emphasis to the Hon. Member not to rest this case unless probably he has received an official communication letter showing that they have stopped doing that because they can say they have stopped yet quietly behind his back they are continuing.

Hon. Deputy Speaker: Yes, Hon. Booker.

Hon. Booker: Thank you, Mr. Deputy Speaker Sir, allow me to speak as an explosive expert. Fast of all you have to know the signs of explosives that it is not allowed to use explosives anyhow. Before you use an explosive you fast need to look at the demography of the field for example you cannot just come and use explosives before understanding the demography of that certain area and that is why even the military only test their explosives in area where there are no people.

I therefore, urge the Member not to rest this case because now you are telling this House that you are satisfied with the answer, are you going to compensate that person whose house has been brought down in one way or another? Again, we don’t know the quantity of explosive that was used therefore we are not aware of the medical complications that it may bring to the people leaving around that given area which even the Hon. Member may not be aware of.

So I just urge the Hon. Member to investigate further because the type of explosive used may be so dangerous such that when it is collected through rain water it poses serious health risks given that we have water shortages in Siaya County and especially Bondo. Therefore, this case can only rest when the Hon. Member is sure that all the people as who have been affected have been compensated adequately. Thank you.

Hon. Deputy Speaker: Yes, Hon. Oriaro.

Hon. Oriaro: Thank you, Hon. Chair, once a matter is in the House and being debated on is no longer a property of that specific Member to debate it. To add flesh to that the Environmental and Management Act talks of undertaking report on environmental impact assessment that any investor has to come up with that report engaging experts in the list approved by NEMA. Initially you had to pay NEMA to approve or consider such a report. Report is done by any of the experts where by the investor contracts the experts and when such a report is out it has to be comprehensive, public participation ital.

So I am saying that the fees to NEMA is now days easy and it is in that report that shall tell the world everything before any undertaking has taken place. Because with that report the County Government can now seek the need of granting license, physical planning license, public health license ital. so before any investment undertaking is initiated all approvals must be done.

My advice is that the House now needs to resolve on this matter because the way it was represented by the Hon. Member and which is the concern of even other colleagues that more is to be done. This is to be done by a way of Motion bringing on board specific persons as well as entities to investigate into this matter.

That would be the best way forward because a Member is not an expert. We have to bring NEMA on board and we even have to bring that very investor who is doing this extraction because if he did it minus license as stated here then he has to be surcharged.

Issues of knowing the kind of minerals contained in that soil can also be initiated by County Government by bringing on board the minerals department, it is not just environmental impact assessment, now days they talk of strategic environmental impact assessment. It involves many things comprehensively even sociological approach to it and even the gains that in the end may be enjoyed by the communities.

You know in the past people just talked of accept this investment it will bring job employment. Employment as we know now days the world has gone scientific whereby we use machines and therefore, a machine can do a job which even ought to be undertaken by 1000 people. So you don't just say that it will bring employment etc.

That is why strategic environmental impact assessment alongside environmental impact assessment is very key. So this matter ought to be picked up by a specific Committee and by a way of even a Motion, Members resolve on specific areas that require our attention because just as the Member said explosion! It has to be and that is why even those are some of the things that ought to be aligned in the environmental impact assessment and those other criteria attributable to it because this explosion may be having extensive effects even interfering with the geology of that place as well as physical infrastructure. It can even interfere with the geo-hydrological aspect of that area and can even trigger massive radiation. All these issues must be captured appropriately Mr. Deputy Speaker Sir, thank you.

Hon. Deputy Speaker: Thank you, Hon. Oriaro. I think the Member representing the chair of Roads have heard the deliberations of the House that the Report is not to the satisfactory of the Members and I hope you will take that back to the Committee on Roads.

MOTION
ADJOURNMENT

Hon. Deputy Speaker: Hon. Members, there being no any other business can we be upstanding for adjournment? Hon. Members the House stands adjourned until today June, 13th 2018 at 2.30 p.m. in the chamber.

The House rose at 11.18 a.m.