

## COUNTY ASSEMBLY OF SAMBURU



### THE HANSARD

Tuesday, 25<sup>th</sup> April, 2023

**The Assembly met at the County Assembly chambers at 2:30 p.m.**

*Temporary Speaker, (Hon. Lemoosa Jonathan), in the Chair*

### PRAYER

## **STATEMENTS**

### **Response to Statements**

**Temporary Speaker,** (Hon. Jonathan Lemoosa): Hon. Members, it is notified that the following Statements are due for response today Wednesday, 25<sup>th</sup> April, 2023 at 2:30 PM Pursuant to Standing Order No. 45 (c); Statement No. 020/2023 from the Chair, Committee on Environment, Water and Natural Resources regarding the drilling and equipping status of the Lorrok Onyekie borehole for the financial year 2021/2022 and Nairimirimo water extension, requested by the Majority Leader, Hon. Christopher Lentukunye, MCA Wamba North.

**Member, Committee on Environment,** (Hon. Asha Mohammed): Hon. Speaker, I beg to read the response from the department. The following is the departmental response to the statement requested by the County Assembly of Samburu inquiring on the status of the Lorrok Onyekie borehole for the financial year 2021/2022;

Lorrok Onyokie borehole was among the many boreholes that were earmarked to be drilled and equipped in the said financial year. The proposed borehole site is situated within the Lorrok Onyokie village at Wamba North Ward, Samburu East Sub-County.

The site having been surveyed and its hydrogeological survey report produced where it was recommended for a depth of 200m, procurement process was undertaken and on 30<sup>th</sup> March, 2022, contract Agreement was signed as the then CO Mr. Sam Nakope signed on behalf of the Employer and the Director Water & Sanitation Mr. Robert Chacha witnessed. Ahamed Burale signed for the contractor and Mr. Haji witnessed the signing for the contractor. During procurement, the said borehole was grouped with other two boreholes namely Raraiti and Lkisin borehole thus forming a lot. Immediately after signing the contract, the contractor started to mobilize drilling machineries with an aim of commencing the actual drilling works.

On the material day when the contractor was to commence the drilling works at Lorrok-Onyokie there was no accessible road thus the Rig could not access the proposed and pegged drilling site. This was long after the contractor tried to navigate all possible routes and means but seemed dangerous to the crew and machineries. The contractor rather brought to the attention of the

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water office on the impossibilities of accessing the site and requested the department to make urgent intervention of ensuring their smooth site reach. In response, the contractor claim the CO office requested him to proceed to the next proposed site of Lkisin or Raraiti as the office sort out the issue of site accessibility.

The contractor finished drilling the other two water sites and on his return still the site was still inaccessible thus not worked on but still the department insisted that plans on the tail end of the relevant department to ensure an access road is opened up.

On seeing the financial year coming to an end the contractor floated a request of being paid but the office insisted its possible but with minus Lorrok Onyeki work but the contractor humbly requested the office to initiate the payment process as he commit himself to accomplish the pending works before the closure of the financial year ends for he feared the works becoming pending bill.

He was requested to do a committal letter dated 20<sup>th</sup> April, 2022 which he did and gave the then CO. (Please refer to the attached contractor's committal letter). As the days passed the financial year ended but still the access road was not yet done and it was during this time that the campaign euphoria was at the apex.

### Statement clarification

Question 1: The budget allocated to the Lorrok-Onyeki water project

Department response: The approved budgetary allocation for the borehole was Kshs. 5,500,000 but the contractor was awarded the contract work at Kshs. 5,313,708.

Question 2: Completion status of Lorrok-Onyeki water project.

Department response: The borehole under question has not been done to date but the contractor has continuously assured the department that his Rig is currently finishing the drilling works at Samburu North. He will proceed straight to Lorrok-Onyeki to commence the drilling works for the company to honor the committal letter it wrote to the department.

Question 3: Completion certificate if any of the project mentioned.

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Department response: In view of the above explained cause of establishment of the certificate, It's worth noting that as per the procurement best practice the contractor raises the payment certificate and forwarded it with payment invoice requesting for payment and based on the committal assurance letter and by his concern of the first approaching financial year closure he humbly requested the office so initiate payment as he awaits the access road opening that he accomplish the works.

The Directorate staff were called by the CO then and requested to sign the certificate for the payment process to commence but we were assured that voucher will not go beyond IB (Internet Banking) stage before the pending works were completely done. Unfortunately, that assurance was not honored for the contractor was nevertheless paid.

It's worth noting that before the certificate is signed, work done need to be ascertained by an adhoc committee members chaired and lead by the Director Water. The team is supposed to undertake Inspection and Acceptance of the work done and dully fill the Inspection and Acceptance form, and then this is followed by the Director as the head of the directorate and lead members of the Inspection and Acceptance adhoc committee certifies and approve work done due for payment at the payment certificate. He also certifies through signing the payment voucher that the work has been done satisfactorily completed and is due for payment. That's when the CO appends his signature and the payment voucher starts the payment process to its finality. (Attached is the payment certificate copy for your information).

Question 4: When is the contractor going to commence the works?

Department response: The contractor is currently undertaking borehole drilling works at Samburu North and he has assured the department end of this month he will have completed the remaining works and has insisted that once he finishes the works he will proceed straight to Lorro-Onyokie borehole which he has promised upon reaching the site the Rig will not leave the said site without accomplishing the entire contracted pending works.

Question 5: The name of the Project's Contractor?

Department response: The Awarded contractor is Mnazi Engineering Limited, PO BOX 2004-80108 KILIFI. Attached are the copies for your information.

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Departmental Commitment Statement: As a department mandated to ensure water related works are done well to the satisfaction of the County do hereby assure the Hon. House that the department will not relent or rather relax in ensuring that all the awarded works are accomplished as stated and the value for money achieved at all times and we are highly looking forward to ensure that the borehole in question is attended to as soon as possible; that is our profound commitment. Thank you for your continuous cooperation and support that you have tirelessly accorded the Department.

Yours sincerely Rose Lekalesoi –CEC Water, Environment, Natural Resources and Energy.

**Temporary Speaker,** (Hon. Lemoosa Jonathan): Thank you Hon. Asha. I now call upon the Majority Leader Hon. Lentukunye for his input and response to the statement response.

**The Majority Leader,** (Hon. Lentukunye Christopher): Thank you Mr. Speaker Sir, I stand here as MCA Wamba North not as the Majority Leader. Mr. Speaker I think the Chairperson or the CEC are not serious on this matter.

Mr. Speaker I think you also indicated that these are two different projects but the CEC just responded to one question hence showing that she is either not serious or not willing to give information to the question that pertains to the subject matter.

Mr. Speaker as you can see from the responses, these projects have not been done and as per the documents the contractor has been paid. Mr. Speaker the excuses that the contractor has given for him to commence the work is not only an irregularity but also criminal in nature.

Mr. Speaker the Chairperson should be serious and interrogate the question asked. There is a question that was deliberately not answered; that is Nairimirimo water extension, Mr. Speaker I understand that the same project was also paid for but not completed.

Mr. Speaker public funds have been used to pay people or rogue Contractors who just collude with County Officers to embezzle public funds. Mr. Speaker the Chairperson should take the question back to the Department to be answered comprehensively.

Mr. Speaker there is also another borehole that I need it to be incorporated, the borehole was also done by the same Contractor; the borehole was drilled but water was not found and from the

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information we have which is subject to confirmation is that that dry borehole drilling was fully paid for both drilling and equipping, Mr. Speaker equipping of a dry borehole is not a wise use of public funds.

Mr. Speaker I urge the Chair to return the question to the concerned Department and incorporate the status of Ndikir Nayokie borehole that was budgeted for with the other two boreholes. Mr. Speaker I am not satisfied with the response and I urge this House to treat this matter as urgent because the statement was sort long time ago and the Department has taken long to respond to the statement, just as the saying goes “justice delayed is justices denied” thank you Mr. Speaker.

**MCA Angata Nanyokie Ward**, (Hon. Leshimpiro Paul): Thank you Hon. Speaker. Hon Speaker I think we are discussing a statement from the Executive and they are very confident by saying they paid the contractor the whole amount and no borehole was drilled and equipped and they are do not have a problem with that and the contractor is going around promising them that he is coming.

Hon. Speaker, if you look at this document, the last time they took the IB for payment was May, 2022 it is now one year and the contractor has been given another role of drilling and equipping more boreholes in the County hence there is no regard given to the previous history of the Contractor who has not completed previous contracts given but fully paid.

Mr. Speaker I presume that even the 1% retention fee that they took from the Contractor must have been paid again. I do not know what it means because in this County Government this time I do not know what is right and what is wrong because naturally what is right is assumed to be wrong and what is wrong is taken as right.

Mr. Speaker it is not in good faith that the Committee should just give a deaf ear and only listen to what the Department is saying but it should rather take an action for such discrepancies practiced by the Contractor and the Executive.

Mr. Speaker, we look forward that besides waiting for another response from the Department we want to see the seriousness of the Committee to go on and investigate on what took place not only for the mentioned boreholes but also other boreholes. I remember sometime I was made to clear a road of more than one kilometer using my own money for a borehole that I presume it

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was supposed to be have been in Elbarta Ward but the Contractor left without drilling a borehole in Elbarta Wrad and Angata Nanyokie Ward. There is a lot of malpractices between the Contractor and the Department, we need the Committee to take a serious audit of what took place and how they are going to resolve that problem, thank you.

**MCA Elbarta Ward,** (Hon. Leitoro Jeremiah): Thank you Hon. Speaker. I stand in support of Hon. Lentukunye MCA Wamba North.Hon. Speaker it is very unfortunate that contractors are paid for the work they have not done.

Hon. Speaker, I think the House remembers that I raised the same concern few weeks ago, Lesoit water project was paid for but not done. Hon. Speaker I understand that the Contractor hails in Samburu North. I went to Lesoit Naibor two days ago and the Contractor was not there. Hon. Speaker I hope Lesoit Naibor water project will be done before the drill rig is moved from Samburu North to Samburu East to clear on Hon. Lentukunye's project. We are not here to sanitize issues, we as the Members have to stand by the truth when things are done wrongly.

We were elected to do oversight role and it is our duty to make sure that these projects reach our people. We have the Implementation Committee and it is high time that the Members of this House and the Committee Members ensure that all these projects are done. These issues are raising eyebrows on the Mnazi contractor and the department of Water, we need to investigate on what is happening between the contractor, this Company and the Executive; we might be talking of one or two projects yet there may be many projects paid and not done.

I urge the Hon. Members that we are not witch hunting anyone here but only doing our oversight role which is our job. Some of us are not working based on the opposition, we are here to stand by the truth and the truth shall set us free, thank you Mr. Speaker.

**Temporary Speaker,** (Hon. Jonathan Lemoosa): Very well Hon. Jeremiah Leitoro.

**MCA Suguta MarMar Ward,** (Hon. James Leleruk): Thank you Mr. Speaker. I give my contributions on the Statement as a Committee Member; most things will go wrong if we cannot straighten matters and provide remedy. The issue we see here is the Executive gives a lump sum or a group of projects to one person like a contractor of a borehole which is not fair. This prompts room for the County Government to pay yet not all the work is done. I am not aware if

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we have the Monitoring and Evaluating team in our County Government so that before the payment is done to rectify this issue they must go and visit those sites and sign the projects so that it is not an issue that it is the work of the Assembly to go and confirm and maybe the work has not been done.

I am aware that we intend to visit all the boreholes in this County to see if they are all functioning because already two issues have been raised by the Members for Elbarta and Wamba North, it is true that payments have been made and the contractors agree that they will come and finish the work. When will this work start? As an Assembly and through your guidance we need directions on the way forward so that we deal with this issue once and for all, thank you.

**Temporary Speaker,** (Hon. Jonathan Lemoosa): Very well Hon. James Leleruk. I can read from the mood of the House that much of the inputs from the Members is concluded and therefore I would wish to have Hon. Lentukunye to give...though I have read from your fore mentioned Statement that you need it to back to the Sectoral Committee and bring back the much-required information, is that in order?

**MCA Wamba North Ward,** (Hon. Christopher Lentukunye): It is in order Mr. Speaker but allow me to give something on the same that it is very clear in our Order Paper that we are expecting to have this Statement today, among the projects in question only one has been attempted which is the Lorrok Onyeki borehole; the second project is Nairimirimo water extension and that is my biggest worry, why has the CEC just decided not to attempt the other one? My other question is what is the departments plan now that the contractor was paid? What will they do as the department to ensure that this work is done?

The other issue is on that which the clerk has also highlighted that there is another borehole that was drilled but no water was found and from reliable sources the borehole was drilled, no water found yet the contractor was paid for both drilling and equipping, that is the answer I expect from the department, thank you Mr. Speaker.

**Temporary Speaker,** (Hon. Jonathan Lemoosa): Thank you Hon. Christopher.



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**Specially Elected MCA**, (Hon. Asha Mohammed): Thank you Mr. Speaker. As a Member of the Committee, the Assembly needs to facilitate the Members to go and see these boreholes kindly, thank you Mr. Speaker.

**MCA Wamba North Ward**, (Hon. Christopher Lentukunye): That is not agreeable Mr. Speaker because from the department's response it is clear that this borehole was not drilled and it is indicated that it was paid and by going around it is an intention to not give information to this House. The Committee should go to the CEC for Water and get the information, the records are available. There is nothing more that you will find in the bushes. Get this from me as the Hon. Member.

*(Point of Order by Hon. Asha and Hon. Leleruk)*

**MCA Suguta MarMar Ward**, (Hon. James Leleruk): Mr. Speaker the Point of Order is that the Member wants us to confirm if indeed what he is saying is true. I cannot come here and...

**Temporary Speaker**, (Hon. Jonathan Lemoosa): Okay I have understood you Hon. James.

**Specially Elected MCA**, (Hon. Jane Nakunyi): Mr. Speaker I respond to what Hon. Lentukunye said that we as the Committee on Water need evidence based on firsthand information, we need to visit the site, we do not need to reject the Committee to visit the site.

**Temporary Speaker**, (Hon. Jonathan Lemoosa): I think that even before the Hon. Christopher takes leave to answer then I will give the direction on this, I have really listened the Hon. Member reading the Statement and the concerned Hon. Member for Wamba North and the Hon. Jeremiah and the rest of the Members, it is evidently clear that of course from the Statement read by the Chair some omissions were very clear.

If you can refer to the Statement even though faint asked or requested by the Hon. Christopher Lentukunye there were some boreholes and not only Lorok Onyekie but others like Raraiti and nothing much has been given meaning the Committee did not have much time or they did not read the Statement sought by the Member which is wrong. We cannot also stop the Committee from going around but before that we should have the full Statement with evidence like we have now seen payment of vouchers which is an evidence that the department did pay unfinished or work that has not started.

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We also have evidence on commitment done on the 20<sup>th</sup> April 2022 from the Mnazi Engineering Limited but what Hon. Paul Leshimpiro said that commitment normally takes less than a year and when we say that this was taken on 20<sup>th</sup> April 2022 and yet we are here on the 25<sup>th</sup> April 2023, there is no contract or commitment that is not reviewed on one financial year, they need some review, it is obvious. There is need for worry for the Hon. Member for Wamba North. The mover wants to input something and he is at liberty because we need humble ways to account for public funds.

**MCA Wamba North Ward,** (Hon. Christopher Lentukunye): Thank you Mr. Speaker once again but before the Committee visits these areas where the projects need to be purported to done let the Committee Chairperson give the information first. Let them answer the Nairimirimo Water Extension Project, get information regarding that projects. Secondly, they should get information regarding Ndikir Nanyekie Water Project and then from there the Committee can...

*(Hesitation)*

**Temporary Speaker,** (Hon. Lemoosa Jonathan): Yes, the honorable majority leader and representing Wamba North Ward. You a right actually. I could give the direction that

1. The committee, before you move because you are at liberty to move, you should have a full statement or status of the project from the department because if you say you want to leave tomorrow, you only have one fact, one statement on one borehole; Lorrok Onyekie. There is this other one which actually which actually the majority leader wants to know. So my direction is, another statement should be done by the clerk.

He should do a statement in conjunction with the representative of Wamba North to restructure anew. But of course there is Raraiti, Nairirimo and this Lorrok Onyokie. He needs to know the status of the three boreholes, not just two. If the committee will go out having the status for only one borehole they will have missed the point. So why don't we consolidate all the evidence and all the facts on what the Wamba North representative wants to know?

Hon. Chris what are you questioning?

**MCA Wamba North Ward,** Hon. Lentukunye Christopher): Nairimirimo water extension, Ndikir Nayekie borehole, and Lorrok Onyekie just to confirm. I can as well confirm that...

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**Temporary Speaker,** (Hon. Lemoosa Jonathan): No. let them confirm from the department. I think we are now putting some records straight. Clerk, I think you have listened carefully to what he needs to understand. My direction is, could the committee humbly meet not even presenting the statement alone, with giving the statement, then you can invite the department official, the CO and in this case very important persons here the procurement officer and the accountant of the department.

Since we cannot go directly that way, you will invite the CEC, the CO and their team to your meeting with the new approach or from the representative of Wamba North. Having done that you will now have facts on the three projects in question. This can now be submitted in the house. Having listened to what they will give, if actually the Ward Representative will be satisfied then I think it is okay. If he will question the credibility of the information, then the committee can move out and investigate when we actually have facts.

They will say whether it is completed or not. With those facts they can move out now. Clerk please this is the direction I want to give; just take that direction but when now the statement which we shall also ask the Chairperson, when do you think you will finish this work and submit or table the statement? From there we will now say the next course of action. Hon. Asha I don't know whether this is giving some sense because I thought maybe when you take the three you invite your sectoral committee, they will give the facts, you table then we know the next course of action. I don't know whether I am making sense please. Chair, Water, is it really giving some sense in it? Please, Hon. Lemartile Francis.

**MCA Wamba West Ward,** (Hon. Lemartile Francis): Thank you, Hon. Speaker. Hon. Members, maybe because I was not here when the statement was read and it seems there were a lot of queries about the statement then I beg honorable members for enough time because as we know by next week we are traveling. There was a meeting so I do not think whether next week will be possible because we have a meeting in Nairobi for all MCAs.

**Temporary Speaker,** (Hon. Lemoosa Jonathan): Honorable Chair, with all due respect the Standing Order Number 87 of this House says we do not anticipate debate in the House. You have read and are aware of the bone of contention from the member for Wamba North in this

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House. Let's not anticipate where we are going. Actually the nature of the question is, when do you think you can explore and table?

**MCA Wamba West Ward**, (Hon. Lemartile Francis): mr. Speaker I preomise to table the response on Tuesday 9<sup>th</sup> May at 2:00pm.

**Temporary Speaker**, (Hon. Lemoosa Jonathan): 2:30pm? 9<sup>th</sup> May at 2:30pm it is. The honorable majority leader that also represents the Wamba North Ward, the Chair Water Committee proposed that he will interrogate the whole issue and come up with findings on 9<sup>th</sup> MAY 2023 at 2:30pm. Is that okay with you?

**MCA Wamba North Ward**, (Hon. Lentukunye Chris): Not okay, Mr. Speaker. From tonight it will be three weeks. I do not know what the Chair will be doing from tomorrow till 9<sup>th</sup> May just to give information. I think this is just a matter of a phone call to the CEC asking for information. There is nothing hard here, Mr. Speaker. So, going to 9<sup>th</sup> May is a deliberate move to deny the people of Wamba North services.

**Temporary Speaker**, (Hon. Lemoosa Jonathan): Hon. Chair the mover is objecting the proposed date of 9<sup>th</sup> May 2023. From now till the 9<sup>th</sup> is it three weeks?

**MCA Specially Elected**, (Hon. Mohammed Asha): It is two weeks.

**Temporary Speaker**, (Hon. Lemoosa Jonathan): One thing Hon. Chair, let's not rush because we do not want some answers which are unsatisfactory. We will still request the mover ...let's not move with haste.

**MCA Wamba West Ward**, (Hon. Lemartile Francis): Hon. Speaker if I go to see the department wealsohave to give them time; at least a week from now then on the 9<sup>th</sup> I think it will be okay, Honorable Members, unless...the time is two weeks, not three.

**Temporary Speaker**, (Hon. Lemoosa Jonathan): I could plead with the mover who is actually a member of this House why don't we agree with the proposed date of 9<sup>th</sup> May such that we have quality, informative answers from the committee. I could suggest maybe they take the statement then they will give them time to interrogate themselves to get some facts then they will invite the committee to have that verbal information rather than just coming to

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read and maybe they have chaired a...I could plead with you. Wamba West Ward MCA I think two weeks is prudent.

**MCA Wamba North Ward**, (Hon. Lentukunye Chris): I think it is okay, Mr. Speaker.

**Temporary Speaker**, (Hon. Lemoosa Jonathan): I think we need credible information. Now that Chair we have pleaded with the member for Wamba North Ward, please take your time, try to have from the department credible information or facts, such that when we come to the House, we would really know whether something was amiss. From the statement there is something kidogo ambayo we are not like...so Chair, please. Agreed?

**MCA Wamba West Ward**, (Hon. Lemartile Francis): Yes.

**Temporary Speaker**, (Hon. Lemoosa Jonathan): Thank you. Honorable members I now take this...I think the Honorable members allow me now refer the statement sought by Hon. Lentukunye Christopher member for Wamba North Ward, to be restructured to have more information as he has sought and be tabled in this House on Tuesday the 9<sup>th</sup> of May 2023 at 2:30pm. It is so directed. Thank you.

Honorable members I think you will allow me kidogo nitoke nje because of what we are doing. Maybe those of us who will have time maybe, niliona Honorables Kagiri na Nakinyi wamekimbia nje. Mzee wetu Hon. Loloju amekuwa na accident, I don't know. Maybe if we'll have time tunaeza enda hospitali. fafadhali. Thank you so much. Honorable members the time being 3:33pm and there being no other business this House now adjourns till Wednesday the 26<sup>th</sup> April 2023 at 9:00 am. Thank you.