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tabled by the Vice-Chairperson of the Committee (Hon. Khaniri) on 28/03/2017

Rt. Hon. Speaker
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THE SENATE

STANDING COMMITTEE ON LAND AND NATURAL RESOURCES

ELEVENTH PARLIAMENT- FIFTH SESSION

REPORT ON THE PETITION MADE TO THE SENATE BY RESIDENTS OF ISIOLO COUNTY ON THE LEASING OF BUFFALO SPRINGS AND SHABA GAME RESERVES BY THE ISIOLO COUNTY EXECUTIVE

Approved
Speaker
28 MARCH, 2017

CLERK'S CHAMBERS
THE SENATE
PARLIAMENT OF KENYA
NAIROBI

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LIST OF ACRONYMS AND ABBREVIATIONS

1.	CEC	County Executive Committee Member
2.	CSO	Civil Society Organizations
3.	EACC	Ethics and Anti-Corruption Commission
4.	FIGARE	Friends of Isiolo Game Reserves
5.	Hon.	Honourable
6.	M.P.	Member of Parliament
7.	NRT	Northern Range Trust
8.	PAIC	Public Accounts and Investments Committee
9.	Sen.	Senator
10.	WTL	Waso Trust Land

PREFACE

1. The Standing Committee on Land and Natural Resources was constituted on Thursday 27th February 2014 during the Second Session of the Eleventh (11th) Parliament pursuant to the provisions of Senate standing order 208.

2. The Committee is mandated, under the Second Schedule of the Senate Standing Orders, *to consider all matters related to lands and settlement, environment, forestry, water resource management and mining.*

3. In executing its mandate, the Committee oversees the Ministries of:

   a) Lands and Physical Planning;
   b) Environment & Natural Resources;
   c) Ministry of Water & Irrigation; and
   d) Mining.

4. The Committee comprises the following Members:

1.	Sen. Lenny Kivuti, M.P.	- Chairman
2.	Sen. George Khaniri, M.P.	- Vice Chairperson
3.	Sen. Christopher Obure, M.P.	- Member
4.	Sen. Dawnson Mwazo, M.P.	- Member
5.	Sen. Henry Ndiema, M.P.	- Member
6.	Sen. Isaac Melly, M.P.	- Member
7.	Sen. Liza Chelule, M.P.	- Member
8.	Sen. Martha Wangari, M.P.	- Member
9.	Sen. Boy Juma Boy, M.P.	- Member (Deceased)

5. The Secretariat of the Committee comprises of the following:

1.	Ms. Mwanate Shaban	- Clerk Assistant
2.	Mr. Kefa Omotia	- Principal Research Officer
3.	Mr. Leonard Koech	- Legal Officer
4.	Mr. Joseph Muriuki	- Audio Officer
5.	Ms. Sarah Rukwaro	- Serjeant At Arms

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ACKNOWLEDGEMENT

Mr. Speaker Sir,

The Committee acknowledges the valuable time and considerable effort made by the stakeholders who provided information that has made the preparation of this report possible.

I wish to express my gratitude to the Office of the Speaker and the Clerk of the Senate for facilitating all the actions that led to the production of this report.

I also wish to extend my appreciation to Senator Fatuma Dulo, Nominated Senator from Isiolo County who has been with us throughout the entire process.

Mr. Speaker Sir,

It is now my pleasant duty, pursuant to Standing Order 225 to table the report of the Standing Committee on Land & Natural Resources, in relation to the Petition on the Leasing of Buffalo Springs and Shaba Game Reserves by the Isiolo County Executive.

SIGNED..... **DATE**2/3/2017.....

SEN. GEORGE KHANIRI, M.P.
VICE CHAIRPERSON,
STANDING COMMITTEE ON LAND & NATURAL RESOURCES

CHAPTER ONE: INTRODUCTION

1.1 Background

Pursuant to Article 119 (1) of the Constitution and the Senate Standing Orders No. 220 (1) (b), Senator Bonny Khalwale, M.P., Senator for Kakamega County, presented a Petition on behalf of the Residents of Isiolo, on the Leasing of Buffalo Springs and Shaba Game Reserves by the Isiolo County Executive on 5th June, 2016.

The Petition was approved by the Speaker on 28th June, 2016 and thereafter committed to the Standing Committee on Land and Natural Resources on 12th July, 2016.

The Committee held consultative meetings with the Petitioners, the Isiolo County Assembly Members, the Isiolo County Executive as well as the Ethics and Anti-corruption Commission officials; and received documents from the same.

The Minutes of these sessions as well as the documents and evidences presented to the Committee are annexed to this report.

1.2 The Petition

The Petition drew the attention of the Senate to the following issues:

1. THAT, Article 62 (g) and 63 of the Constitution of Kenya delegated the responsibility of protection of the game parks/ reserves and natural resources to the County Governments;
2. THAT, the Executive organ of Isiolo County Government expressly violated the Constitution by leasing Buffalo Springs and Shaba game reserves by putting up an advert for "Call for Expression of Interest" in the Daily Nation Newspaper of 24th May, 2016 without public participation in the entire process, ursurping the County Assembly and stakeholders' consultation that has been established in pursuance of the Constitutional benchmarks;
3. THAT, these game reserves are the permanent asset to the local community since time immemorial; they are the pride and natural heritage of the County. They contribute 90% of the local revenue during the defunct Isiolo County Council regime and are therefore the backbone of the County;
4. THAT, Section 75 of the Wildlife Conservation and Management Act, 2013 advocates for recognition of the rights and privilege of communities living

adjacent to conservation and protected areas in decision-making and determination on the matter of conservation and management of the wildlife resource;

5. THAT, the County Government has allegedly leased these reserves for a period of 25 years to a foreign non-governmental organization called African Parks Networks which has failed miserably in several African Countries and much worse without consulting local community, stakeholders and residents of Isiolo County; further noting with concern that such move tantamount to blatant breach of due process of the law;
6. THAT, the matter is alive before the Isiolo County Assembly and it has not yet been ceased off by the Assembly to its logical conclusion; and,
7. THAT; the process of leasing did not adhere to the Public Procurement and Disposal Act.

The Petitioners prayed that the Senate:-

1) Compels the Public Accounts and Investments of Isiolo County Assembly to table the report of their findings within three weeks; and,
2) The Isiolo County Government to stop any further transaction on the lease of the said game reserves.

The Petitioners added more prayers during their meeting with the Committee and these were:-

3) That the Committee and the Senate carry out an all-inclusive audit over the foregoing as a matter of public urgency;
4) That the Committee and the Senate carry out comprehensive audit of all the players in the matter including the Northern RANGE Trust (NRT) organization, African Parks Organization and other relevant entities for the purposes of safeguarding the public interest, particularly in Isiolo County;
5) That the Senate ensures that the Isiolo County government stops its unilateral approach in stakeholder engagements;
6) That the Senate ensures that the county government and all its entities observe the rule of law and compliance with the laws as herein above stated; and
7) That the Senate grants any other remedy as it deems fit and justifiable.

The full petition as received by the Senate is attached as Appendix 1 to this report.

CHAPTER TWO: PRESENTATIONS TO THE COMMITTEE

This section contains the deliberations that the Committee made and the presentations that were made by the Petitioners and other stake holders; and the documents received by the Committee.

2.1 Committee Deliberations

The Committee first considered the Petition on Leasing of the Buffalo Springs and Shaba Game Reserves by the Isiolo County Executive on Wednesday 12th October, 2016 at its 85th sitting (minutes are attached as Appendix 2A); where it resolved to extensively deliberate on the matter on Wednesday 19th October 2016.

At its 87th Sitting, the Committee resolved to meet with the Petitioners, the Isiolo County Assembly, the Ethics and Anti-Corruption Commission Officials and the Isiolo County Executive (minutes are attached as Appendix 2B).

2.2 Meeting with the Petitioners (Residents of Isiolo County)

The Committee met the Petitioners on Tuesday 25th October, 2016. The delegation from Isiolo was led by Counsellor Hussein Abduba, the Chairman of the Friends of Isiolo Game Reserves (FIGARE). He stated that Mr. Liban Golicha, the Chief Executive Officer of Waso Trustland Project will make the submissions on behalf of the Petitioners and the residents of Isiolo as a whole. The minutes of the meeting between the Committee and the Petitioners, as well as the list of the delegation from Isiolo that participated in the meeting are attached as appendix to this report as Appendix 2C.

Mr. Golicha started by acknowledging the committee's invitation and appreciated the considerations by the Committee. He added that the petitioners present were representatives of Isiolo communities drawn from the local civil society organizations (CSO's), Friends of Isiolo Game Reserves (FIGARE) and the Waso Trust Land (WTL) of which he was the Chief Executive Officer. He further explained that the WTL was a registered local non-government organization working on issues of public interest, among them, land and natural resources; while FIGARE is a creature of a lobby group against the said lease plan by the County Government.

Mr. Golicha further noted that Isiolo County was home to diverse ethnics and cultures, and that the natural heritage and resources of the County individually and collectively belongs to the communities and People of Kenya. Isiolo was also known for its unique habitat found in the County's three famed Buffalo Springs, Shaba and Bisan Adi game reserves.

He mentioned that brokers like Northern Rangeland Trust (NRT), attracted by the Isiolo's place in Vision 2030's National Development Programme, were disguising themselves as conservationist and were purporting to establish community based conservancies with the aim of taking over the community land. This, he claimed, was at the expense of vulnerable pastoralist communities in the region.

He raised the following concerns:

1) That the now defunct Isiolo County Council used to raise about 300 million Kenyan shillings annually; and the amount used to support the running of the Council and other development projects;
2) The County Government had failed to utilize the opportunities of devolution and failed to invest in the sector, and had negatively affected the revenues from the Game reserves;
3) The County Government had instead leased its most treasured County asset – the Game Reserves; and this it had done to African Parks Management Organization -a firm with suspect track record; through a flawed procurement system that was unilateral, shrouded in secrecy, and lacked public participation;
4) That the Petitioners through the WTL had tried to reach the Executive to comment on the deals between the NRT, and African Parks Management Organization and the Executive which included several benchmarking trips organized by NRT, but the Executive had not responded to the same;
5) That Hon. Hassan Guyo Shano, a Member of the County Assembly raised a statement in the County Assembly of Isiolo but the County Executive Committee Member (CEC) in charge of Tourism, Mr. Suleiman Shunu did not provide sufficient information;
6) That the County Executive due to public pressure on the issue, organized three stakeholders' forums hurriedly, but did not into account the views of FIGARE and its partners;
7) That the County Government gave two reasons for leasing of the Park; Insecurity and Lack of Marketing. This looked unreasonable from the petitioner's view because fencing will interfere with the normal animal movement and breeding patterns; while lack of Marketing did not refer to Isiolo due to its history;
8) That the Isiolo Game reserves had been known to generate good revenue before; they should even generate more now under the management of County government which has the resources; and
9) That the African Parks Management had not performed well in other countries; it was therefore not the best option for the County.

Mr. Golicha summarized the petitioner's concerns as follows:-

1) The County government had in this regard illegally and ignorantly disregarded the requirements of the public procurement laws as was explicit through the authorities attempt to single source; instead of the requisite competitive bidding envisaged in a contract of such nature. The Executive also launched a misleading and faulty public advert on the same in attempt to dupe the public thereby abusing legal procedures;
2) The County Government arrogantly failed to observe public participation in total breach of constitutional and other legislative requirements, and had continuously ignored the public cries for attention;
3) The county government officials arrogantly abused public office and the public trust as bestowed on public officers contrary to Article 6 of the Constitution and other relevant statutes. The Isiolo County Government had blatantly and arrogantly remained indifferent and insensitive to the public as exhibited by their disregard for public inquiries and information; and
4) The County Government had breached the right to public information in the Public Information Act that ensures to avail public information within the reach of the public for scrutiny through continuous sabotaging the public to access information regarding the said lease by the Executive;

He concluded by making the following prayers to the Senate:

1) That the Committee and the Senate treat the matter as urgent;
2) That the Committee and the Senate carry out an all-inclusive audit over the foregoing as a matter of public urgency;
3) That the Committee and the Senate carry out comprehensive audit of all the players in the matter including the NRT organization, African Parks Organization and other relevant entities for the purposes of safeguarding the public interest, particularly in Isiolo County;
4) That the Senate immediately halts the County Government of Isiolo from proceeding with the said deal until proper consultations and engagements over the same have been made;
5) That the Senate ensures that the Isiolo County government stops its unilateral approach in stakeholder engagements;
6) That the Senate ensures that the county government and all its entities observe the rule of law and compliance with the laws as herein above stated; and
7) That the Senate grants any other remedy as it deems fit and justifiable.

Mr. Golicha's formal presentation is attached as Appendix 2D to this report.

Supplementary remarks by the Petitioners

Other petitioner present also supported Mr. Golicha and added the following points:

1) The County Government inherited about 75 game rangers – multi-disciplinary force called the Tourist Protection Unit; but only about 40 are in the Parks currently. The rest have been redeployed to guard houses and offices of the County government executive; and,
2) That the game reserves are the single most important asset that Isiolo County has; and it should therefore be managed appropriately.

The Committee noted that the prayers of the petitioners had increased from the submission that had been received in the House. The Committee therefore resolved to add the new prayers to the initial prayers.

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2.3 Meeting with the Isiolo County Assembly Members

The Meeting between the Committee and the County Assembly of Isiolo took place on Wednesday 2nd November 2016. The Committee noted that the Clerks of the Isiolo County Assembly, Mr. Mr. Salad Boru turned up alone without the Chairpersons of the concerned committee. The minutes of the meeting are attached to this report as Appendix 3A.

The Clerk started by saying that the issue of the game reserves is a very emotive matter and the Assembly had about it through the grapevine and outlined the chronology of events as follows:

- The matter was formally brought before the Assembly on 28th February, 2016 when Hon. Hassa Guyo Shano requested for a statement from the Chairperson Tourism, Trade and Cooperative committee on alleged contractual management agreement of Buffalo and Sarova Shaba game reserves entered between the County Government of Isiolo and African Parks Management. The response was required within seven days. The Hansard is attached as Appendix 3B to this report.
- The statement response dated 03/03/2016 was issued on the floor of the County Assembly by Chairperson, Tourism, Trade and Cooperative Committee on 3rd March 2016. This is attached as Appendix 3C to the report.
- The County Assembly was not satisfied with the response and tasked the PIC/PAC Committee to inquire into alleged contractual management agreement and bring a report to the County Assembly (3C).
- On 2nd June, 2016, Hon. David Lemantile moved a motion urging the Executive to suspend with immediate effect from the date of the motion, the bid to enter into contractual management agreement of Buffalo and Sarova Shaba game reserves due to lack of public participation and until Public Accounts and Investments Committee (PAIC) completes its assignment and bring a report to the County Assembly (Attached as Appendix 3D).
- On 3rd June, 2016, Friends of Isiolo Game Reserves petitioned the County Assembly to concerning the intention of Isiolo County Government to lease out Buffalo and Shaba game reserves with prayers to stop the process with immediate effect (Attached as Appendix 3E)
- On 10th June, 2016, the PAIC Committee launched its enquiry into the matter by inviting County Executive Committee and Chief Officer for Tourism and County Secretary. The Committee also programmed to invite the petitioners and head of supply management.

- On 10th October, 2016, the PAIC Committee sought for additional time which was granted.
- By 13th October, 2016, the PAIC Committee has prepared a draft report from the information so far gathered while they set an appropriate date to invite the petitioners and head of procurement.

It was noted with concern that the Member of County Assembly who had accompanied the Clerk had still not turned up for the meeting, thereby implying that the Assembly was not giving the matter at hand the importance it deserved.

2.3 Meeting with the Ethics and Anti-corruption Commission (EACC) Officials

The Meeting took place on Thursday 3rd November, 2016 from ten am in Parliament Buildings. The EACC was represented by the Vice Chairperson, Ethics and Anti-Corruption Commission - Ms. Sophia Lepuchirit and the Deputy Chief Executive Officer, EACC - Mr. Michael Mubea. The minutes of the meeting are attached as Appendix 4A to this report. The EACC confirmed that:

- They had received complaints from the public and the matter was being handled by the Isiolo EACC office;
- They had received part of the documents from the Isiolo County Executive but a bigger part has still not yet been received;
- They had written a letter to the Isiolo County Secretary, requesting for him to release documents but the County Secretary referred them to the CEC member to respond; and,
- They feel that the allegations are credible and warrant investigation. The investigations are ongoing and that the EACC will fast-track its work on the Isiolo petition
- In 6th July, 2016, the EACC requested the County government of Isiolo to put everything on hold;
- Currently there are twenty people from the Isiolo County Government who have been charged in court.

The Committee received a letter from the EACC that served as an interim report. The letter is attached as Appendix 4B to this report.

2.5 Meeting with the Isiolo County Executive

The Meeting took place on Tuesday 8th November, 2016. The minutes are attached as Appendix 5 to this report. The CEC in Charge of Tourism Culture and Social Service, Mr. Suleiman Guyo came with his legal officer and other officials to the meeting

- Mr. Suleiman Guyo, the CEC thanked the Committee for their invitation. He then went on to say that the County government had not leased any game reserve and that the reserves were still under the management of the County government.
- He poked holes in the petition stating that the signature of the petition does not match the petitioner's signature in the actual petition. He also mentioned that the petitioners happened to be from the same clan and were related. He added the issue of gender and commented that the petition did not address the gender issues.
- He continued by saying that the concerns in the petition had been reported to the Ombudsman, the EACC and now the Senate.
- He gave a brief history of the contention in the game reserves stating that when the Isiolo County government came in, the reserves were a battlefield with warring clans fighting and killing wild animals.
- The County government wrote to the National Government seeking for support and they requested the General Service Unit to secure the area.
- Insecurity had also caused a lot of anxiety in the area; affecting investments – since currently four out of the six hotels in the area had closed down.
- There was also a lot of poaching of indigenous species and there was no wildlife corridor since people had built blocking the animals from moving across the reserves;
- The putting of a resort town in Isiolo in Kenya's vision 2030 and the pipeline had attracted clamor for land in Isiolo;
- There was a lot of pilferage going on in the parks; with the county investing about 200 million annually and making only about 56 million in revenues.
- The County government felt that there needed to be separation of park management from County management for efficient management of the parks. The County government was therefore looking for partnerships due to the challenges on expertise and resources. The County executive maintained that this was still a business idea in the consultation process. They confirmed that they had talked to African Parks Network.
- The County Executive responded that they received a statement from the County Assembly of Isiolo which they responded to and that the Assembly was satisfied with the answer.

- About the letter from EACC, The County Executive said that they were not aware of any letter from the EACC and that the EACC only made general enquiries and took documents from the Executive.
- On the petitioners concern of lack of public participation, the Executive said that they had gone with the Committee of Tourism for a study tour in Malawi and that they had held various forums on local stations to publicize the public private partnerships which received overwhelming support. The County government confirmed that they issued an expression of interest but because of the nature of the tender, they received only one bid – the African Parks Network. They were currently in the process of retendering.
- The County executive says that has collected an average of 56 million in revenue and admitted that the amount had been going down largely due to insecurity.
- He concluded by stating that politics was the main issue but also fights on pastures and pilferage were undermining the County government's efforts since some herders want the park to die so that they could take over.

CHAPTER THREE: OBSERVATIONS & RECOMMENDATIONS

3.1 Committee Observations

1. It is important to first note that the function and power to lease the game reserves is a prerogative of the county executive as enshrined in the Constitution. Article 179 of the Constitution vests executive authority in the county to the county executive committee. Section 34 of the County Government Act, 2012 expressly provides that the county executive committee shall exercise executive authority. This authority shall however be exercised in accordance with the Constitution and other relevant national and county legislation.

2. Article 227(1) of the Constitution sets out the principles of the process of procurement of public goods and services in Kenya, i.e. it should be fair, equitable, transparent, competitive and cost effective. Procurement for the management services sought by the county executive of Isiolo is covered under procurement of service as provided for under section 115 of the Public Procurement and Asset Disposal Act, 2015 where procurement of services or advisory services are classified as being predominantly intellectual in nature.
   The procedure for this type of procurement is as follows —
   a) A request for a proposal is issued or a procuring entity may request proposal through advertising or invite expression of interest (EOI);
   b) Notice for EOI will be advertised in the relevant government portal and at least one daily newspaper of nationwide circulation;
   c) Opening of proposals;
   d) Evaluation of applications for the EOI according to the set out criteria and shortlisting;
   e) Determination of qualified persons;
   f) Requests for proposals to qualified persons;
   g) Evaluation of proposal;
   h) Successful proposal;
   i) Negotiations for contract requirement; and
   j) Successful best and final offer.

3. The allegation raised in the petition is that the process was marred by elements of fraud and misrepresentation on the part of the Isiolo county executive in as far as the advertisement on the newspaper is concerned as well as the sourcing of African Parks Network. Evidence of the advertisement has been adduced to the effect that there was mischief in the manner in which the advertisement was

placed in the newspaper with reference to the contacts and more so the flawed manner in which African Parks Network was engaged to offer the sought out service by the county executive of Isiolo without due process of law.

4. Article 69(1) (d) of the Constitution provides that the state shall encourage public participation in the management, protection and conservation of the environment. Section 75 of the Wildlife Conservation and Management Act makes it a requirement for parties to have due regard to the privileges of communities living adjacent to conservations and protected areas. To this regard the petitioners have clarified that indeed their views on the question of leasing was not given due consideration given their assertion that African Park Networks got the twenty five year lease even though it was categorized as incompetent.

   The Committee notes that indeed the public participation conducted by the Executive was not adequately done.

5. This petition is based on the ground that there were gaps on the due process of the law that could prejudice the community in as far as the procurement for the two game reserves are concerned and the contention is largely drawn from the importance of the two resources which are a primary source of revenue for the community.

6. On the face of the petition it is very clear that substantial questions have been raised that need to be addressed. Therefore substantive and procedural questions to this regard will best be resolved through an investigation of the entire procurement process.

3.2 Committee Recommendations vis a viz the Prayers sought

1) That the Committee and the Senate treat the matter as urgent;
The Senate Committee treated the matter as an urgent matter of county interest.

2) The Committee also directs the Ethics and Anti-Corruption Commission to conclude its investigations and submit a report within two months.
The Committee now directs the Ethics and Anti-Corruption Commission to conclude its investigations and submit a report to the Senate and the Isiolo County Executive and County Assembly within two months of adoption of this report.

3) *That the Committee and the Senate carry out an all-inclusive audit over the foregoing as a matter of public urgency; that the Committee and the Senate carry out comprehensive audit of all the players in the matter including the NRT organization, African Parks Organization and other relevant entities for the purposes of safeguarding the public interest, particularly in Isiolo County;*
Whereas the Senate is vested with the Constitutional mandate to protect the interests of the counties and also has powers similar to those of a high court to call for evidence, section 9(1)(h) of the Public Procurement and Asset Disposal Act, 2015 mandates the Public Procurement Regulatory Authority with the function of investigating and acting on procurement and asset disposal complaints from procuring entities, tenderers, contractors or the general public.

The Committee therefore directs the Public Procurement Regulatory Authority to initiate comprehensive investigations over the lease of the two game reserves as raised in the petition against the Isiolo county government executive and submit a full report to the Senate, the Isiolo County Executive and the Assembly within two months of adoption of this report.

4) The Committee recommends that the County Public Accounts and Investments Committee of the Isiolo County Assembly concludes on the matter and submit a report to the petitioners and the Senate within two weeks of adoption of this report.

5) *That the Senate immediately halts the County Government of Isiolo from proceeding with the said deal until proper consultations and engagements over the same have been made;*
The Committee recommends that the Executive of the County Government of Isiolo halts the process under contention subject to the conclusion of the proposed investigations as per the Committee's communication to the County Executive and County Assembly.

6) *That the Senate ensures that the Isiolo County government stops its unilateral approach in stakeholder engagements;*

The Committee recommends that the Isiolo County Executive and Assembly uphold public participation in accordance with Article 196 of the Constitution failure to which their transactions and decisions on the subject matter are guaranteed to be rendered null and void.

Hon. Speaker
The petitions is in order.
You may approve to enable
Sen. Khalwale present
Orders
22/06/16

THE SENATE

INTERNAL MEMO

Approved
Speaker
28/6/16

TO: Director, L & P Services

FROM: Second Clerk Assistant

DATE: 20th June, 2016

RE: PETITION BY RESIDENTS OF ISIOLO COUNTY ON THE LEASING OF BUFFALO SPRINGS AND SHABA GAME RESERVES BY THE ISIOLO COUNTY EXECUTIVE.

.....

I have reviewed the captioned petition, and confirm that it complies with the Petition to Parliament (Procedure) Act (No. 22 of 2012) and Senate Standing Orders on the form of a petition, save that there are some documents annexed to the petition. It is proposed, to ensure the petition complies with Standing Order 223(k), that the said annexures be struck out.

It is further noted that the matters subject of the petition are pending before the Isiolo County Assembly, as well as the Ethics and Anti-Corruption Commission (EACC) which is investigating the matter. In practice, the Senate has previously not declined to consider such a petition, save for instances where the matter is pending before a court of law and would be *sub judice*. In the present case, the petitioners state that the County Executive has disregarded an earlier directive of the County Assembly for the leasing process of the two game reserves to be deferred, thus their decision to refer the matter to the Senate.

It is therefore proposed that the petition be admitted, noting the Senate's mandate under Article 96 of the Constitution, and also the urgency of the matter. The petition is therefore forwarded for approval and presentation.

Enclosed also is a draft letter addressed to the petitioners, as well as a draft presentation summary for the Speaker.

Charles Munyua
Second Clerk Assistant

THE SENATE
RECEIVED
20 JUN 2016
DIRECTOR LEGISLATIVE AND PROCEDURAL SERVICES

PETITION TO THE SENATE BY RESIDENTS OF ISIOLO COUNTY CONCERNING LEASING OF BUFFALO SPRINGS AND SHABA GAME RESERVES BY THE ISIOLO COUNTY EXECUTIVE.

[After the Order for Petitions is read, Sen. (Dr.) Khalwale will rise and present the petition before the House, pursuant to Standing Order 220(1)(b) and 225(2)(a)]

1. Honourable Senators, pursuant to standing order 226, I shall now allow comments, observations or clarifications in relation to the petition for not more than thirty minutes.

[after comments by Senators]

2. Honourable Senators, pursuant to standing order 227(1), the Petition stands committed to the relevant standing committee, in this case the Standing Committee on Land and Natural Resources.

3. In terms of standing order 227(2), the Committee will be required, in not more than sixty days from the time of reading the Prayer, to respond to the Petitioner by way of a Report addressed to the Petitioner and laid on the Table of the Senate.

Petition presented by Sen. (Dr.) Khaniare on 05/06/1

THE SENATE
RECEIVED
16 JUN 2016
DIRECTOR LEGISLATIVE & PROCEDURAL SERVICES

REPUBLIC OF KENYA

THE SENATE CLERK'S OFFICE
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15 JUN 2016
P.O. Box 41842 - 00100, NAIROBI

DLPS
Please deal.
16/06/16

Charles
Please deal.
20/06/16

PARLIAMENT OF KENYA

THE SENATE-FOURTH SESSION, 2016

PETITION

LEASE OF TWO GAME RESERVES BY ISIOLO COUNTY GOVERNMENT

Hon. Speaker,

Hon. Speaker Sir, I wish to present a Petition on behalf of residents of Isiolo County pursuant to *Article 37 or 119* of the Constitution of Kenya and the Senate **Standing Orders No. 220, 223** and aware that *Article 62 (g) and 63* of the Constitution delegated the responsibility of protection of the game parks/reserves and natural resources to the County Government; I will read the Petition and then give a very brief background to the problem.

WE, the undersigned;

Residents of Isiolo County, representing various non-governmental organizations, quasi-governmental organizations, pastoralists, conservationists, environmentalists' and other stakeholders wish to state that in the public interest that we formally lodge this petition concerning the lease of Buffalo Springs and Shaba game reserves by Isiolo County Government.

We humbly draw the attention of the House to the following;

1. The Constitution of Kenya 2010 reposes all sovereign authority in the people of Kenya.
2. The people of Kenya have delegated legislative authority to Parliament as the representative of the people. That delegation is not absolute and can be exercised by the people simultaneously.
3. The Executive organ of Isiolo County government expresslyviolated the Constitution by leasing Buffalo Springs and Shaba game reserves by putting up an advert for "*Call for Expression of Interest*" in the "**Daily Nation Newspaper**" of 24th May, 2016 without public participation in the entire process, usurping the County Assembly and stakeholders consultation that has been established in pursuance of the Constitutional benchmarks.

THAT;

*These game reserves are the permanent asset to the local community since time immemorial; it is the pride and natural heritage of the County. It contributes 90% of the local revenue during the defunct Isiolo County Council regime and therefore it is the backbone of the County.

THAT:

(a) The matter of leasing both Buffalo Springs and Shaba Reserves was brought to the attention of the County Assembly for thorough scrutiny and ventilation by **Hon. HassanGuyo Shano** through request for a statement early this year. ***(Appendix i-Request* for Statement)**

(b) That the written response by the County Executive Committee for Tourism was not satisfactory and it failed to convince Members of the Assembly because it was too shallow and hollow. In a nut shell the response is devoid of substance and merits. ***(Appendix ii-Response by Isiolo CEC for Tourism)***

(c) After lengthy deliberations, it was resolved that the matter be referred to the Public Accounts and Investment Committee of the Assembly for further investigations and report back to the Assembly with a comprehensive findings within stipulated time line which did not materialize till today. (***Appendix iii-Order Paper and Hansard report)***

THAT;

Section 75 of the Wildlife Conservation and Management Act, 2013advocates for recognition of the rights and privileges of communities living adjacent to conservation and protected areas in decision-making and determination on the matter of conservation and management of the wildlife resource; noting with concern that the County Government has allegedly leased these reserves for a period of 25 years to a foreign Non-Governmental Organization called **African Parks Networks** which has failed miserably in several African Countries and much worse without consulting local community, stakeholders and residents of Isiolo County; further noting with concern that such move tantamount to blatant breach of due process of the law. ***(Appendix iv- History of African Parks Network)***

THAT:

Section 87 of the County Government Act, 2012 provide that; Citizen Participation in county governments shall be based upon the following principles—

(a) Timely access to information, data, documents, and other information relevant or related to policy formulation and implementation;

(b) Reasonable access to the process of formulating and implementing policies, laws, and regulations, including the approval of development proposals, projects and budgets, the granting of permits and the establishment of specific performance standards;

to develop the administrative capacity for the effective exercise of the functions and powers and participation in governance at the local level.*(Appendix- v- Letter by Transition Authority dated 9th September, 2015)*

THAT:

(1) The matter is alive before the Isiolo County Assembly and it has not yet been ceased off by the Assembly to its logical conclusion;
(2) There was no civic education and public participation conducted by the Executive arm of the County government on the issue of game reserves which has monumental significance and far-reaching ramifications on the people of Isiolo County;
(3) The County government blatantly violated all the tenets of the Constitution by putting up paid advert on 24th May 2016 which had fake and defective contacts disregarding the very fundamental law of our land and other relevant statutes. This was outright violation of Public Procurement and Disposal Act.*(Appendix vi- Advert for Call for Expression of Interest)*
(4) We tried to establish the express authenticity of the provided contacts which all proved to be fake and shadowy; the email read **isiolocountygovernment@ and the phone number provided was 540-721-421-347.** We have established beyond reasonable doubt that no such number exist anywhere in the world. Moreover, all Kenyan telephone number start with +254. Therefore, this boils down to another game of musical chairs by the willy nilly operatives at Isiolo county government.
(5) Whatever the intention, the full page advert that could cost upward of KSh. 450,000 may just be a waste of tax payers money because interested organizations may not get through with the fake address. Be that as it may, the advert was predetermined and more less it is just a public relation exercise because the County Government had already engaged *AFRICAN PARKS NETWORK* and therefore the tendering process was fundamentally flawed and with the intention of single sourcing it. This means other interested actors, local investors and stakeholders have been deliberately locked out!*(Appendix vii- Communique between African Parks Network and Isiolo Count Resident)*

THAT:

According to Public Procurement and Disposal Act, section 78 provides that;
(1) The procuring entity shall prepare a notice inviting interested persons to submit expressions of interest.
(2) The notice inviting expressions of interest shall set out the following —
(a) The name and address of the procuring entity;
(b) A brief description of the services being procured and, if applicable, the goods being procured;
(c) The qualifications necessary to be invited to submit a proposal; and
(d) An explanation of where and when expressions of interest must be submitted.

County to lease out two game reserves

ISIOLO

By ALI ABDI

The county government is planning to lease out two of its game parks to a private company.

In an expression of interest (EOI) advertisement in local dailies, the government said it wants to engage the services of a competent organisation to manage Buffalo Springs and Shaba national reserves.

The services required include financing, development, operations and management of the two parks on contractual basis.

"The county government now invites eligible non-profit making organisations to indicate their interest in providing the services," reads the advertisement.

Interested organisations must provide evidence of having carried out similar successful ventures and availability of skilled workers, among other conditions.

The deadline for submission of the EOI is June 10.

Buffalo Springs measures 131 sq. km while Shaba has an area of 254 sq. km. If it succeeds in its plan, the county will make Kenya the eighth country in Africa to lease out management of its game parks to a private firm.

The plan by the administration to lease the game parks became public in May last year but was vehemently opposed by local residents and the civil society who argued that they were not been consulted in coming up with the decision.

FENCE RESERVE

Governor Godana Doyo, Assembly Speaker Muhammed Tubi and Tourism Executive Suleiman Shumu had earlier entered into talks with African Parks to lease the management of the two animal sanctuaries.

The three visited Malawi to tour Majete Game Park that is managed by African Parks and expressed satisfaction with the company's "ultra-modern wildlife conservation a management" work.

In an earlier interview Shumu said that the adminis tration wants help to fence t game reserves and make the secure, streamline their ma agement and to market the globally.

Following the new dev opment, Operation Save Isi Game Reserves, a lobby gro under Waso Trust and Proj (WTP) that was formed i last year, yesterday vowed move to court to stop the pl

The 18-member lot group is led by Hussein Abd ba, a former chairman o delimet County Council o olo and WTP CEO Liban G icha.

"The administration h failed to manage our na ral resource by coming with this plan. Our fear is t next time they will even le the management of the en county," said Mr Abduba.

"They (the county o cials) have already deci whom to lease the parks and we will move to court stop them because the re dents are against the wh thing," Mr Golicha s

> "Our fear is that next time they will even lease the management of the entire county- Russein Abduba

Isiolo > Doyo denies claims regarding game reserves

EACC probes county over leasing of parks

Procurement rules not followed in efforts to contract management services, says investigator

BY VIVIAN JEBET
@vivianbeah
vjebet@ke.nationmedia.com

The anti-corruption agency has launched investigations into the alleged leasing of Buffalo Springs and Shaba game reserves by the county government.

The Ethics and Anti-Corruption Commission (EACC) is also investigating why the regional government placed a "questionable" expression of interest advert in local dailies last month on contracting management services from a competent non-profit organisation.

EACC upper eastern Kenya boss Ignatius Wekesa yesterday said the administration did not follow public procurement procedures as stipulated by the law.

He added that the advert had misleading information.

"The county government might have skewed the process to suit particular firms. The advert had inaccurate information. The email address given is incomplete. One cannot get through using the telephone number indicated. That's why we have instituted investigations," said Mr Wekesa.

The commission boss further said the leasing plans must be stopped to allow the commission to make an inquiry into the matter.

The EACC will also look into allocations for the tourism sector following claims by the public that the funds had been misused.

> "The county government might have skewed the process to suit particular firms. The advert had inaccurate information."
> **Ignatius Wekesa, EACC upper eastern Kenya boss**

Last week, Governor Godana Doyo denied claims that his administration is leasing the reserves, saying only the parks' management will be changed.

A lobby, Friends of Isiolo Game Reserves, has petitioned the county assembly to play its watchdog role by directing the executive to make public any contractual agreements made regarding the leasing plans.

"We ask the assembly to intervene and stop the county government from proceeding with the plans until a request in our petition is heard," said Mr Hussein Abduba, former chairman of the county council, now defunct.

Last week, the assembly asked the executive to stop further advertisements until public forums on the matter are conducted.

At the same time, land and procurement corruption cases are the most reported in counties in upper eastern Kenya.

Mr Wekesa said there is a high number of land-related cases in Meru, Isiolo, Marsabit, Samburu and Tharaka-Nithi counties.

ISIOLO COUNTY GOVERNMENT

SELECTION OF MANAGEMENT CONTRACTING PARTNER
ISIOLO COUNTY GOVERNMENT, IN THE REPUBLIC OF KENYA
MANAGEMENT CONTRACTING OF BUFALO SPRINGS AND SHABA GAME RESERVES
MANAGEMENT CONTRACTING SERVICES

CALL FOR EXPRESSION OF INTEREST (EOI)

The county government of Isiolo intends to engage a competent organization under the terms of management contracting of buffalo springs and shaba game reserves assignment/services as below.

The services include development, financing, operations and management of the two parks by the selected organization

The County Government now invites eligible non-profit making organizations to indicate their interest in providing the services. Interested organizations must provide information indicating that they are qualified to perform services (brochures, descriptions of similar assignments, experience in similar services, conditions, availability of appropriate skills among the staff, etc.). Organizations may associate to enhance their qualifications.
Organizations will be selected in accordance with the procedures set out by the county government procurement standards and rules.

Interested organizations may obtain further information at the address below (head of the of the procurement and supply chain management, isiolo town) from 0800-1700 office hours.
Expression of interest must be delivered to the address below by 10th June 2016.

THE COUNTY SECRETARY
ISIOLO COUNTY GOVERNMENT
P.O BOX 36-60300 ISIOLO
tel: 540-721-421-347
e-mail: isiolocountygovernment@

respective host countries with individuals, institutions and companies, that are willing to become involved in the work of African Parks. Currently these affiliate organizations include:

1. Stichting African Parks Foundation, Netherlands;
2. African Parks Foundation of America;
3. African Parks Foundation (UK)

The following parks are managed by African Parks Network:
(a) Liuwa Plain National Park, Zambia (since August 2003)
(b) Majete Wildlife Reserve, Malawi (since March 2003)
(c) Garamba National Park, Democratic Republic of Congo (since November 2005)
(d) Bangweulu Wetlands , Zambia (since October 2008)
(e) Akagera National Park, Rwanda (since December 2009)

The following parks were once managed by African Parks Network, but failed miserably for various reasons (known to them). African Parks Network stopped managing these parks:
A. Omo National Park, Ethiopia (January 2006 to 2008)
B. Nechisar National Park, Ethiopia (February 2004 to 2008)
C. Dungonab Bay Marine National Park, Sudan (July 2005 to October 2008)
D. Sanganeb Atoll Marine National Park, Sudan (July 2005 to October 2008.

It is absurd that what is happening was really manufactured crisis because we are selling the soul of Isiolo county with few pieces of silver and at a throw price for that matter. This is absolute manifestation of abuse of office. Nonetheless, due process of the law was not followed by the government of Isiolo County.

It is my prayer that the esteemed House of Senate of the Republic of Kenya would deeply investigates comprehensively this matter and halt the entire process regarding the lease of these community resources.

Yours Sincerely,

ID. NO. 0367421
Telephone. 0720251899

Adan Jirma Duba

FRIENDS OF ISIOLO GAME RESERVES

10th May, 2016

The Clerk Senate,
Parliament Buildings,
P. O. Box 41842 - 00100,
Tel: (254-2) 2221291 or 2848000,
NAIROBI, KENYA
Email: csenate@parliament.go.ke
Website: www.parliament.go.ke

RE: BRIEF HISTORY ABOUT AFRICAN PARKS NETWORK-MATTERS ON LEASE OF ISIOLO GAME RESERVES

The African Parks Network is said to be a registered a not-for-profit company that takes on total responsibility for the rehabilitation and long-term management of national parks and other protected areas, in public-private partnerships with African Governments. And yet is alleged that the draft agreement between APN and Isiolo County Government elaborately indicates that African Park Network (APN)will get 75%, the local Conservancy will get 15% while Isiolo County Government will only get a paltry 10% of the sum total of revenue collected from both Shaba and Buffalo Springs for the next 25 years of the lease period.

That those conversant with the operations of African Parks Networks allude that they combine world-class conservation practices with business expertise which is a total distortion of facts as reported by the Executive organ of Isiolo County Government. They allegedly place emphasis on achieving the financial sustainability of the parks, principally through tourism and associated private enterprise which also serve as a foundation for economic development and poverty reduction which is not only a pipe dream but a wishful thinking to hoodwink the people of Isiolo County.

The African Parks Network was founded in the year, 2000 as a not-for-profit organization by a group of self-proclaimed conservationists;
a. MavusoMsimang;
b. Dr Anthony Hall-Martin;
c. Michael Eustace;
d. Peter Fearnhead; and
e. The late Paul Fentener van Vlissingen, who were said to be concerned about the decline of many of Africa's national parks .In just nine years, African Parks has taken on responsibility for the management of 5 protected areas in four different countries.

African Parks Network is registered as a Company under Section 21 of the Companies Act of South Africa and its Head Office is in Johannesburg. African Parks' CEO is Peter Fearnhead. Each park is managed by a separate legal entity, registered in the host country. These legal entities are mostly established by African Parks Network for the purpose of implementing an agreement with the Government for the management of a specific national park.
African Parks Network is supported by a number of affiliate organizations established in key donor countries. Their primary role is to facilitate the establishment of partnerships in their

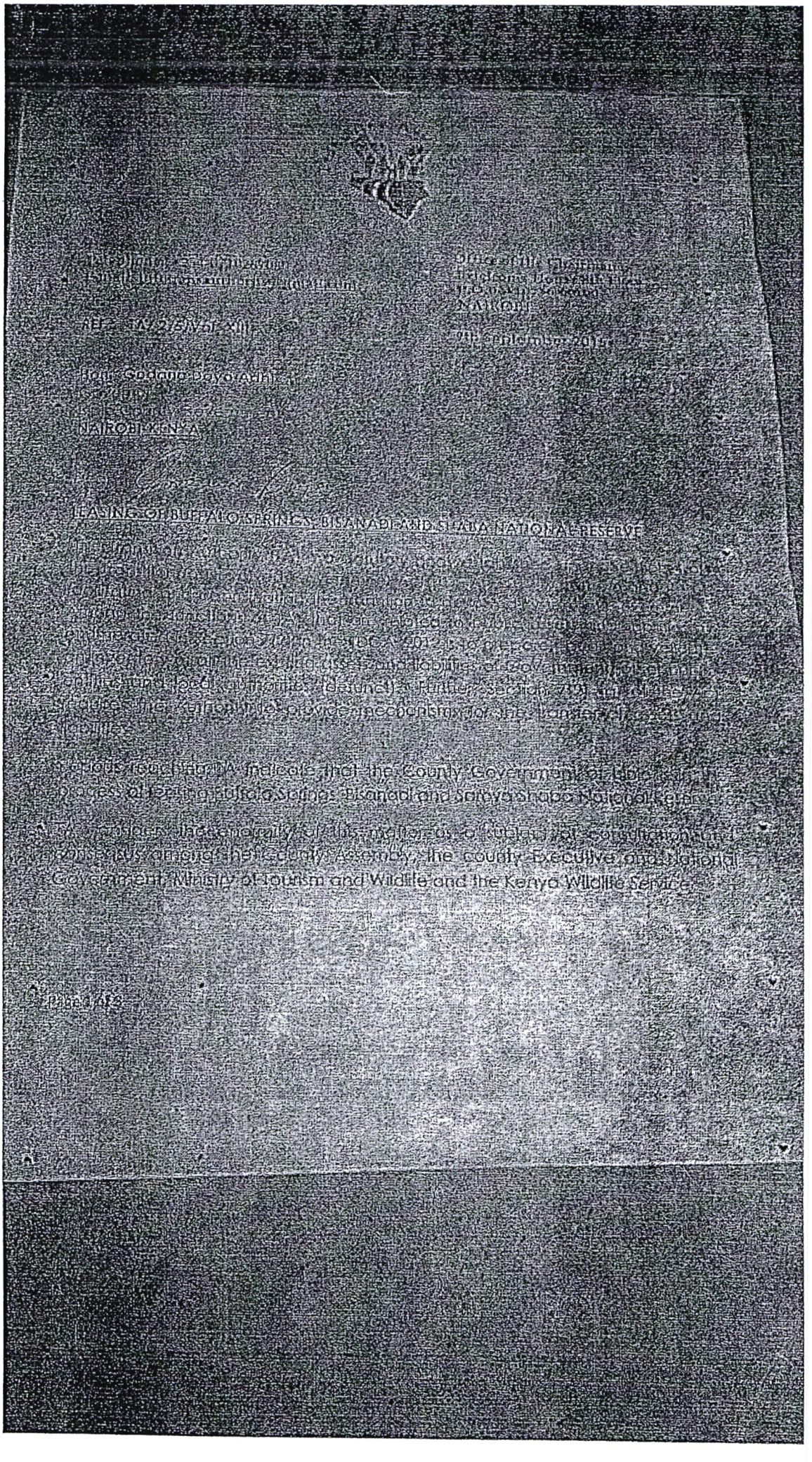
KINUTHIA WAMWANGI EBS
CHAIRMAN

Copy to:

HE. William Samoei Ruto, EGH
Deputy President of the Republic of Kenya and Cabinet Minister
Office of the Deputy President
Harambee House
P.O. Box 74123-00200
NAIROBI

Ms. Anne Waiguru, OGW
Cabinet Secretary
Ministry of Devolution and Planning
NAIROBI

Mrs. Phyllis Jepkosgei Kipng'ok Kandie
Cabinet Secretary
Ministry of East African Affairs
Commerce and Tourism
Cooperative Bank House
NAIROBI



RE: PETITION TO PARLIAMENT UNDER ARTICLES 37 AND 119 OF THE CONSTITUTION , PETITION TO PARLIAMENT (PROCEDURE) ACT AND STANDING ORDERS 220, 223 OF THE SENATE ON THE LEASE OF TWO GAME RESERVES BY ISIOLO COUNTY GOVERNMENT

Name of petitioners:	Address	ID/Passport No.	Signature
Ali Ibrahim	438 – Isiolo	21224046	[signature]
Fugicha Huka	P-O Box 351 Isiolo	30776991	[signature]
Omar Guyo	P.O Box 3 Isiolo	2843734	[signature]
WARIO ABDULLAHI	588 ISIOLO	27572376	[signature]
Adan Abdi	P.O Box 126 Isiolo	26000571	[signature]
Ahmed Ibrahim	432 – 60300 Isiolo	27834099	[signature]
ADDO HAJI	P.O Box 207 Isiolo	24336328	[signature]
Gaddapa Shanif	355 – Isiolo	26768545	[signature]
Ali Hussein	P.O Box 351 Isiolo	2336328	[signature]
HUSSEIN ADO	Box 126 Isiolo	8672736	[signature]
Jimmo Osman	P.O Box 126 Isiolo	27812491	[signature]
Yunus A. Kimathi	511 Isiolo	2480244	[signature]
Chris Dubo	P.O Box 82	23407169	[signature]
Salad Dadacha	P.O Box 40 Isiolo	32845337	[signature]
Hassan dima	Box 56 Isiolo	20848869	[signature]
TARI K. DIDA	284 – 60507	27020544	[signature]
ABDIKADIR HUSSEIN	P.O Box 56 Isiolo	24516021	[signature]
Ali Mohamed Jirma	P.O Box	2451631	[signature]
Mohamed Suleiman	533 – Isiolo	23909156	[signature]
HASSAN ABSI GUYO	P.O Box 494 Isiolo	2347590	[signature]
IBRAHIM A. WAKO	Box 467 Isiolo	22492433	[signature]
NURA GUYO	92 – 60300	32885439	[signature]
Hassan Mohamed	86, Isiolo	25831901	[signature]
HALKANO DIDA	Box 96 Isiolo	2373570	[signature]
Mohamed Godicha	895 Isiolo	25008693	[signature]
HASSAN MOHAMED	Box 40 Isiolo	23501649	[signature]
Rashid Gibo	Box 36 Isiolo	23378648	[signature]
GUYO ADAN GUYO	P.O. Box 253 Isiolo	27614630	[signature]
Dasir ADAN KINI	# 642 Isiolo	28884058	[signature]
YUSUF OLLO	P.O Box 207	21708134	[signature]

RE: PETITION TO PARLIAMENT UNDER ARTICLES 37 AND 119 OF THE CONSTITUTION , PETITION TO PARLIAMENT (PROCEDURE) ACT AND STANDING ORDERS 220, 223 OF THE SENATE ON THE LEASE OF TWO GAME RESERVES BY ISIOLO COUNTY GOVERNMENT

Name of petitioners:	Address	ID/Passport No.	Signature
Hussein Ali Abduba	PO BOX 40 ISIOLO	0080814	[signature]
Adan Sirma Duba	P.O BOX 276 ISIOLO	0862421	[signature]
DAUD ABDI JILLO	P.O BOX 40 ISIOLO	0079382	[signature]
ISMAIL GALMA	BOX 533 ISIOLO	13887757	[signature]
Daud Tari Abkula	738-6300 Isiolo	0076233	[signature]
Jarso Haro	BOX 687 ISIOLO	0212304810	[signature]
MOHAMED NOOR JAFFAR	72, ISIOLO	22346570	[signature]
MOHAMED GODANA G	P.O BOX 3 ISIOLO	0077546	[signature]
Ahmed Abdullahi	P.O BOX 403 ISIOLO	25078778	[signature]
Adan Mohamed	565 ISIOLO	21406377	[signature]
ABDIRIZACK DAUD ABDI	BOX 3 ISIOLO	25004401	[signature]
MUSA JILLO SHANDEY	P.O BOX 687 ISIOLO	21501530	[signature]
ABDIKADIR HACADE	BOX 36 ISIOLO	128781428	[signature]
Abdulmajid Hussein Ali	P.O BOX 207 ISIOLO	22994185	[signature]
Ali Rashid Ali	P.O BOX 807 ISIOLO	24006998	[signature]
IBRAHIM AHMED	191 ISIOLO	26612185	[signature]
GODANA ROBA	P.O BOX 542 ISIOLO	20076600	[signature]
Hussein Goonosa	# 325 ISIOLO	20645350	[signature]
Abdirizack Osman	BOX 376 ISIOLO	23371729	[signature]
Mohamed Sherka Duba	P.O BOX 238 ISIOLO	22846146	[signature]
Ali Abdullahi	18017 (00500)	21195305	[signature]
MOULID ISSACK	34 GARBATULLA	28911496	[signature]
JAMALE IBRAHIM	P.O BOX 351 ISIOLO	27864937	[signature]
FUNAN SORA BOJI	PO BOX 34 GARBATULLA	9695147	[signature]
NURIA ISAACK	P.O BOX 34 GARBATULLA	22453087	[signature]
SARAD IBRAHIM	PO: BOX 351 ISIOLO	29302120	[signature]
HASSAN ADAN	P.O BOX 1, GARBATULLA	25937831	[signature]
Rufo SORA	P.O BOX 276 ISIOLO	29014196	[signature]
ROBA WAKO	P.O BOX 37 ISIOLO	25103333	[signature]
Suleiman Quleo	BOX 72 ISIOLO	23371729	[signature]
ABDIRIZACK TACHE WAKO	216-60300 ISIOLO	29830949	[signature]
Abdirizack Jaffar	93-60300 ISIOLO	30876115	[signature]
Hussein Tari Abkula	473 ISIOLO	22699357	[signature]
Mohamednoor Osman	BOX 3 ISIOLO	23401456	[signature]
ANTHONY NJUGUNA	517 - ISIOLO	29941054	[signature]
Abdikadir Ali	P.O BOX 351 ISIOLO	22577575	[signature]
Hirikano Boru	BOX 266 ISIOLO	22775199	[signature]
Adan Ibrahim	256 ISIOLO	13433934	[signature]

THAT:

Isiolo residents right to public participation on the lease of the Buffalo Springs and Shaba game reserves be upheld and the Senate;:

(a) Direct the Executive arm of Isiolo county government to provide members of the public with sufficient information pertaining the extent and the impact of the lease of these game reserves to enable them fully and meaningfully participate in providing their input;

(b) The relevant Departmental Committee of the Senate must undertake a countywide process of seeking the public views in regard to the lease of the game reserves.

(c) We demand an immediate halt of the lease process of the reserves, discussions, negotiations, consultations and agreement in any matter whatsoever is deemed as ***ultravires*** and against public interests;

(d) We further aver that leasing of these game reserves will seriously prejudice national security interest, conservation and biodiversity interest, tourism and wildlife management interests and all that pertaining to public good and welfare of our County; and

(e) In conclusion, we the people of Isiolo do hereby through this petition pray that theHonourable members of the Senate shall stand up and be counted on the right side of the history.

And your PETITIONER(S) will ever Pray.

HON. BONI KHALWALE

SENATOR, KAKAMEGA COUNTY,

DATED: 15/06/16

SIGNATURE: .....

- Friends of Isiolo Game Reserves
- Waso Trust Lands Project
- Resources Advocacy Programme
- Merti Integrated Development Programme
- Mission of Hope
- Friends of Nomads International
- Pastoral Women Forum
- Northern Voice Trust

(3) The procuring entity shall advertise the notice inviting expressions of interest in at least two daily newspapers of nation-wide circulation.

THAT:

(I) Pursuant to the provisions of the Anti-Corruption and Economic Crimes Act, 2003, A person is guilty of an offence if he/she uses his/her officer to improperly award a benefit to him/herself or another person.The public service is a public trust.

(II) Authority assigned to a public officer must be exercised in a manner that promotes integrity and the best interest of the people. Public service must also demonstrate respect for the people and bring dignity and honour to the public officer Members of the public expect public officer to render selfless service based solely on the public interest.

(III) This is demonstrated by honesty in the execution of public duties, accountability to the public in decision making, discipline and commitment in service to the people. Therefore, a public officer should do his or her best to discharge these duties in line with the Constitution. When a public officer does anything that is contrary to these expectations, he or she commits a breach of trust.

THAT:

The Executive arm of the county government has deliberately subjected public affairs of the Isiolo community to unending circus and game of musical chairs for umpteenth time.

THAT:

To best of our knowledge this matter has been initiated by the Executive wing of Isiolo County government and can only be mitigated by the relevant committee of the Senate.

THAT:

To best of our knowledge there is no matter before the courts or any other legal constitutional body on the responsibility of Isiolo County government to facilitate public participation regarding the lease of Buffalo Springs and Shaba game reserves.

THEREFORE your humble petitioner(s) Pray that the Senate;;

THAT:

This Petition be dealt with immediately in view of the urgency of this matter and seriousness of the issues raised.

THAT:

The Hon. Speaker of the Senate invoke his mandate and duty to compel the Public Accounts and Investments of Isiolo County Assembly to table the report of their findings within three weeks and direct Isiolo County Government to stop any further transaction on the lease of the said game reserves.

MINUTES OF THE 85TH MEETING OF THE STANDING COMMITTEE ON LAND AND NATURAL RESOURCES HELD ON WEDNESDAY, 12TH OCTOBER, 2016 IN THE CPA ROOM, GROUND FLOOR- MAIN PARLIAMENT BUILDINGS FROM 10.00 AM.

MEMBERS PRESENT

1. Sen. Lenny Kivuti, M.P. - **Chairperson**
2. Sen. George Khaniri - **Vice Chairperson**
3. Sen. Christopher Obure, M.P. - Member
4. Sen. Liza Chelule, M.P. - Member
5. Sen. Martha Wangari, M.P. - Member
6. Sen. Boy Juma Boy, M.P. - Member
7. Sen. Isaac Melly, M.P. - Member

MEMBERS ABSENT WITH APOLOGY

1. Sen. Dawnson Mwazo, M.P. - Member
2. Sen. Henry Ole Ndiema, M.P. - Member

SENATE SECRETARIAT

1. Ms. Mwanate Shaban -Clerk Assistant
2. Mr. Leonard Koech -Legal Counsel
3. Ms. Sarah Rukwaro -Serjeant At Arms

IN ATTENDANCE

1. Mr. Daniel Lokeno Lotopot - Clerk Assistant, West Pokot County
2. Ms. Lydia Katialem - Clerk Assistant, West Pokot County
3. Ms. Damaris Safari - Clerk Assistant, Kilifi County
4. Mr. Mwalili Kachiezy - Clerk Assistant, Kilifi County

MINUTE SEN/SCLNR/495/2016: PRELIMINARIES

The meeting was called to order at 10.16 a.m. by the Chairperson followed with a word of prayer. The Chair acknowledged the presence of the Clerks from the Counties who were on attachment at the Senate, and welcomed them to the meeting.

MINUTE SEN/SCLNR/496/2016: ADOPTION OF AGENDA

The agenda of the meeting was adopted as shown below after being proposed by Sen. Martha Wangari and seconded by Sen. Isaac Melly as follows;
Prayer

1. Preliminaries;
2. Adoption of the Agenda;
3. Confirmation of Previous Minutes;
4. Matters Arising from the Previous Minutes;

5. **House Keeping; Legislative Business before the Committee;**
   a) **Pending Statements;**
   b) **Pending Petitions;**
   c) **Physical Planning Bill:**
   d) **Correspondence by Committee; and**
   e) **Consideration and Adoption of the COP 21 Report.**
6. Any Other Business; and
7. Adjournment.

MINUTE SEN/SCLNR/497/2016: CONFIRMATION OF PREVIOUS MINUTES

The Confirmation of the minutes of the 84th meeting of the Senate Standing Committee on Land and Natural Resources held on Friday, 9th September, 2016 in the Baraza Conference Room at the Panafric Hotel, from 7.30am, was postponed to the next sitting.

MINUTE SEN/SCLNR/498/2016: MATTERS ARISING FROM THE MINUTES

This agenda item was also shelved to the next sitting.

MINUTE SEN/SCLNR/499/2016: HOUSEKEEPING

a) Pending Statements;

The Committee was informed that the House was waiting for response to five statements and supplementary response to two statements as follows:

NO	SUBJECT OF THE STATEMENT	REQUESTED BY	REQUESTED FROM	DATE REQUESTED	REQUEST FOR DEFERMENT	DATE DUE	DATE ISSUED
1.	Statement regarding the status of possession of land titles or land lease certificates by public schools	Sen. George Khaniri	Chairperson, Standing Committee on Lands and Natural Resources	10th February, 2016	24th February, 2016 2nd March, 2016 9th March, 2016 16th March, 2016	24th February, 2016 2nd March, 2016 9th March, 2016 15th March, 2016 22nd March, 2016	23rd March, 2016 Comprehensive statement to b issued on 14th Apri 2016
2.	Statement regarding the management of community and public land in Machakos County	Sen. Johnson Muthama	Chairperson, Standing Committee on Lands and Natural Resources	1st March, 2016	15th March, 2016 23rd March, 2016 29th March, 2016 12th July, 2016	15th March, 2016 22nd March, 2016 24th March, 2016 30th March, 2016 12th April, 2016 19th July, 2016	
3.	Statement regarding the construction of Badasa Dam in Marsabit County	Sen. Hargura Godana	Chairperson, Standing Committee on Lands and Natural Resources	15th March, 2016		22nd March, 2016	23rd March, 2016 Further Statement c 14th April, 2016
4.	Statement regarding humn-wildlife conflict around the Kigio Wildlife Conservancy in Gilgil, Nakuru County	Sen. Martha Wangari	Chairperson, Standing Committee on Lands and Natural Resources	15th March, 2016	23rd March, 2016 30th March, 2016	22nd March, 2016 5th April, 2016 12th April, 2016	
5.	Statement regarding compensation of land owners along the standard gauge railway line.	Sen. Kioko Mike Sonko	Chairperson, Standing Committee on	23rd March, 2016	7th June, 2016 8th June,	6th April, 2016 8th June, 2016 9th June, 2016	

			Lands and Natural Resources		2016 6th July, 2016 12th July, 2016	12th July, 2016 19th July, 2016	
6.	Statement regarding construction of Pokot cement company	Sen. (prof.) Lonyangapuo	Chairperson, Standing Committee on Lands and Natural Resources	13th April, 2016	27th April, 2016	27th April, 2016 28th April, 2016	28th April, 2016 Committee to visit site of construction and report to the House
7.	Statement regarding management of forests in Taita-Taveta County	Sen. Dan Mwazo	Chairperson, Standing Committee on Lands and Natural Resources	28th April, 2016		12th May, 2016	
8.	Statement regarding mining of ballast by a Chinese company COVEC in south Maragoli	Sen. George Khaniri	Chairperson, Standing Committee on Lands and Natural Resources	9th June, 2016	4th October, 2016	23rd June, 2016 5th October, 2016	

The Committee was also informed that it had received responses to all the above mentioned statements and that the Statement by Sen. Johnson Muthama on the management of community and public land in Machakos County may come up in the House in the afternoon.

The Committee reviewed the response from the Ministry of Lands, Housing and Urban Development and the National Land Commission and instructed the Secretariat to come up with a brief on the two responses to table in the House.

b) Pending Petitions;

The Committee was updated on the two petitions before it (timelines and remarks), and Members resolved as follows;

	ACTIVITY	TIMELINES	SECRETARIAT REMARKS	COMMITTEE RESOLUTIONS
1.	PETITION: Alleged Erroneous Placement by the Survey of Kenya of the Changara Location in Busia County – by Rodgers W. Manana on 14th March, 2016	The Petition is already time barred.	-The Committee has received a response from the Ministry. -The Petitioner has requested to meet the Committee. -The Committee needs to conclude on the Petition	1) The Secretariat to write a letter to the Ministry of interior seeking guidance on the boundary issue as per the advice of the Ministry of Lands, Housing and Urban Development. 2) The Committee to meeting the Petitioners on Tuesday 18th October, 2016 at ten am.
2.	PETITION: The Leasing of Buffalo Springs and Shaba Game Reserve by the Isiolo County Executive – by Residents of Isiolo County on 12th July, 2016	The Petition is already time barred.	The Secretariat has prepared a brief to enable the Committee decide on the way forward.	1) The Committee to meet the Petitioners on Wednesday 19th October 2016 at ten am.

c) Physical Planning Bill:

The Chairman reminded the Members that the Committee had tabled a report in the House on the Physical Planning Bill. The Report was scheduled for the Committee Stage of the House on Tuesday 11th October, 2016 and the Committee's report had ten amendments. Sen. Mutula Kilonzo Junior had proposed over 60 amendments to the Bill. The Speaker had ruled that the Chair should move the amendments on Wednesday, 12th October 2016.

Members were further informed that the whole Bill contained 87 clauses; and that Sen. Mutula Kilonzo's proposals had already been considered by the Committee during the public participation stage of the Bill. The Committee had approved some of his amendments and rejected some.

The Legal Counsel took the members through on some of the amendments raised by Sen. Mutula and the justification for the Committee rejecting some of them.

The Committee resolved that:

1) All Members of the Committee should be in the House in the afternoon to defend the Committee Report, and that the Secretariat should avail each member with a copy of the tabled report on the Physical Planning Bill;
2) The Chairman to hold discussions with Sen. Mutula to explain to him about the Committee's resolutions to his Amendments;
3) The Secretariat to prepare moving notes for the Chair; taking into account the areas where the Committee made decisions to protect the interests of the counties.

d) Correspondence by Committee

	DATE	TITLE	AUTHOR	SECRETARIAT REMARKS	COMMITTEE RESOLUTIONS
1.	11 Oct, 2016	Report of the Parliamentary Delegation to the 2015 Annual Helsinki Parliamentary Seminar	Dr. Agnes Zani	For Committee's information	The Committee noted the report.
2.	23rd Sept, 2016	UN Climate Change Conference in Marrakech, Morocco – Invitation Letter	State Department of Environment, Ministry of Environment and Natural Resources	Chairman and Sen, Martha Wangari to represent the Committee	Confirmed that Chairman and Sen. Martha Wangari to represent the Committee in the Meeting
3.	20th Sept, 2016	Request for a Joint Meeting with the Senate Standing Committee on Land and Natural Resources	Nandi County Assembly	Committee to decide on when to meet the Committee	The Secretariat to invite the Nandi County Assembly members for a meeting on either 18th or 19th of October, 2016
4.	11th Aug, 2016	Progress on Meeting Resolutions	The Council of Chairpersons, County Wildlife Conservation and Compensation Committee	For Committee's Information.	Noted. The Secretariat to write to the CS and PS, Environment and Natural Resources and remind them of the timelines of the resolutions of the last meeting they had with the Committee.
5.	4th Aug, 2016	Research Publications	The National Land Commission	For Committee's Information	Noted
6.	9th June, 2016	Request to the Committee to come up with A Bill for Air Quality Control Measures, Noise and vibrations	Harrison Mlamba	For Committee's consideration	The Secretariat to develop a concept paper for the Committee in their discussions with the Executive in coming up with the Bill.

7.	8th June, 2016	Petition in rejecting a section of the Omnibus Land Amendment Bill that is in the National Assembly	National Land Commission – Nyeri County Land Management Board	The matter is in the National Assembly.	Noted. The matter has been overtaken by events.
8.	10th May, 2016	Historical Land Injustices Billl	National Land Commission to Sen. Mutula Kilonzo	Committee to consider	The Committee noted that in the Omnibus Bill, they had included a clause that the National Land Commission would consider the issue case by Case. The Secretariat was tasked to come up with a concept note on the issue.

e) Consideration and Adoption of the COP 21 Report

The Committee unanimously adopted the Paris COP 21 Report.

MINUTE SEN/SCLNR/536/2016: ANY OTHER BUSINESS

The Committee noted the brief on the outcomes of the CITES COP 17 meeting that was held in Johannesburg, South Africa from 23rd September, 2016 to 5th October, 2016 and requested for a full report in two weeks' time.

MINUTE SEN/SCLNR/537/2016: ADJOURNMENT AND DATE OF NEXT MEETING

There being no other business, the meeting was adjourned at 12.45 pm and the date of the next meeting was set to Tuesday, 18th October, 2016, at 10.00 am.

SIGNATURE.....

(CHAIRPERSON: SEN. LENNY KIVUTI, M.P.)

DATE..... 19/10/2016

MINUTES OF THE 74TH MEETING OF THE STANDING COMMITTEE ON LANDS AND NATURAL RESOURCES HELD ON THURSDAY, 16TH JUNE, 2016 AT KICC, 3RD FLOOR, ROOM 304 FROM 10.00 AM.

MEMBERS PRESENT

1. Sen. Lenny Kivuti,M.P. - Chairperson
2. Sen. George Khaniri - Vice Chairperson
3. Sen. Christopher Obure, M.P. - Member
4. Sen. Henry Ole Ndiema, M.P. - Member
5. Sen. Boy Juma Boy, M.P. - Member
6. Sen. Liza Chelule, M.P. - Member

MEMBERS ABSENT WITH APOLOGY

1. Sen. Martha Wangari, M.P. - Member
2. Sen. Isaac Melly,M.P. - Member
3. Sen. Dawnson Mwazo, M.P. - Member

SENATE SECRETARIAT

1. Ms. Brenda Ogembo -Clerk Assistant
2. Ms. Mwanate Shaban -Clerk Assistant
3. Mr. Kefa Omoti -Principal Research Officer
4. Mr. Leonard Koech -Legal Counsel
5. Ms. Sarah Rukwaro -Serjeant At Arms

MINUTE SEN/SCLNR/435/2016: PRELIMINARIES

The meeting was called to order at 10.30 a.m. by the Chairperson followed with a word of prayer.

MINUTE SEN/SCLNR/436/2016: ADOPTION OF AGENDA

The agenda of the meeting was adopted after it was proposed by Sen. Obure and seconded Sen. Ndiema as follows;

Prayer

1. Preliminaries;
2. Adoption of the Agenda;
3. Confirmation of Minutes;
4. Matters Arising from the Previous Minutes;
5. **Review of Submissions for the Forest Conservation and Management Bill, 2015 (National Assembly Bill No. 49 of 2015),**
6. **Briefing from Legal Counsel on;**

a. **Community Land Bill (National Assembly Bill No. 45 of 2015)**
b. **Land Laws (Amendment) Bill (National Assembly Bill No. 55 of 2015)**

7. **Business before the Committee**
   a. **Statements**
   b. **Petition**
8. Any Other Business;
9. Adjournment and Date of Next Meeting.

MINUTE SEN/SCLNR/437/2016: CONFIRMATION OF MINUTES

1) Minutes of the 73rd Meeting of the Standing Committee on Lands and Natural Resources held on Tuesday, 14th June, 2016 At KICC, 3rd Floor, Room 304 from 10.00 am were confirmed as the true record of the proceedings after being proposed by Sen. Obure and seconded by Sen. Ndiema.
2) Minutes of the 72nd Meeting of the Standing Committee on Lands and Natural Resources held on Tuesday, 14th June, 2016 At KICC, 3rd Floor, Room 304 from 11.00 am were confirmed as the true record of the proceedings after being proposed by Sen. Chelule and seconded by Sen. Obure.

MINUTE SEN/SCLNR/438/2016: MATTERS ARISING FROM THE PREVIOUS MINUTES

Members resolved to postpone this minute item to the next meeting so that they may be able to deal with the substantive agenda before the Committee.

MINUTE SEN/SCLNR/439/2016: REVIEW OF SUBMISSIONS FOR THE FOREST CONSERVATION AND MANAGEMENT BILL, 2015 (NATIONAL ASSEMBLY BILL NO. 49 OF 2015)

The Legal Officer took the members on some of the amendments that had been received from the public during the public hearing held on Thursday 2nd June, 2016. Members were informed that the Secretariat had received an email containing 71 amendments from the Council of Governors.

The Committee resolved that the Secretariat should analyse the amendments and compare them to what was received during the public hearing and combine them into one document which the Committee will review in the next meeting on Wednesday 22nd June, 2016. The Secretariat was also tasked to email the soft copy of the COG document to the Members.

MINUTE SEN/SCLNR/440/2016: BRIEFING FROM LEGAL COUNSEL ON COMMUNITY LAND BILL (NATIONAL ASSEMBLY BILL NO. 45 OF 2015) & THE LAND LAWS (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 55 OF 2015)

The Committee was informed that the two bills had been rejected during a sitting in the House on 15th June, 2016. The Committee could therefore not proceed with the review of the Bill and the holding of the public hearing.

The committee meeting with the Ministry of Lands and Urban Development; and the National Land Commission and the National Land Alliance was put on hold as the Committee waited for further direction from the Leadership of the House.

MINUTE SEN/SCLNR/441/2016: BUSINESS BEFORE THE COMMITTEE

A) Statements

The Committee was informed that a letter had already been sent to the Ministry of Mining requesting for a statement on mining of ballast by COVEC in Vihiga county.

The Secretariat was tasked to bring the statement schedule and all the responses that the Committee has received to the next meeting.

The Secreteriat was also asked to follow up on Sen. Mike Sonko's statement regarding the compensation of land owners along the Standard Gauge Railway.

B) Petitions

The Committee was informed that the Secretariat were waiting for an official response from the Ministry of Lands on the Changara petition. Members were also informed that the Petitioners wanted to meet the Committee. The Committee resolved to meet the petitioners after receiving the response from the Ministry.

MINUTE SEN/SCLNR/442/2016: ADJOURNMENT AND DATE OF NEXT MEETING

There being no other business, the meeting was adjourned at 12.00 noon and the date of the next meeting was set to Wednesday 22nd June, 2016 at ten am.

SIGNATURE.....

(CHAIRPERSON: SEN. LENNY KIVUTI, M.P.)

DATE.....22/6/2016.....

MINUTES OF THE 65TH MEETING OF THE STANDING COMMITTEE ON LANDS AND NATURAL RESOURCES HELD ON TUESDAY, 17TH MAY, 2016 AT KICC 3RD FLOOR ROOM NO. 304 FROM 11.00 A.M.

MEMBERS PRESENT

1. Sen. Lenny Kivuti, M.P. - Chairperson
2. Sen. George Khaniri, M.P. - Member
3. Sen. Christopher Obure, M.P. - Member
4. Sen. Boy Juma Boy, M.P. - Member
5. Sen. Liza Chelule, M.P. - Member

MEMBERS ABSENT WITH APOLOGY

1. Sen. Dawnson Mwazo, M.P. - Member
2. Sen. Henry Ole Ndiema, M.P. - Member
3. Sen. Isaac Melly, M.P. - Member
4. Sen. Martha Wangari, M.P. - Member

SENATE SECRETARIAT

1. Ms. Mwanate Shaban -Clerk Assistant
2. Mr. Kefa Omoti -Principal Research Officer
3. Mr. Leonard Koech -Legal Counsel
4. Ms. Sarah Rukwaro -Serjeant At Arms
5. Mr. Kizito Ouma -Pupil

MINUTE SEN/SCLNR/385/2016: PRELIMINARIES

The meeting was called to order at 11:30 a.m. and there followed a word of prayer by the Chairperson.

MINUTE SEN/SCLNR/386/2016: ADOPTION OF AGENDA

The agenda of the meeting was adopted with amendments after it was proposed by Sen. Juma Boy, MP and seconded by Sen. Chris Obure, M.P. as follows;

Prayer

1. Adoption of Agenda;
2. Election of Vice Chairperson of the Committee;
3. Matters Pending:
   a) The Natural Resources (Classes Of Transactions Subject To Ratification), Bill 2015 (National Assembly Bill No. 54 Of 2015):
      i) The Comparison between the Bill and the Natural Resources Benefits Sharing Bill, and
      ii) Analysis and Review of the Bill.
      iii) Setting the Public Hearing Date
   b) Secretariat brief on the Changara Location Petition
   c) The EALA Bill
4. Review and Consideration of date of public hearing on the Forest Conservation and Management Bill, 2015;
5. Any Other Business;
6. Adjournment and Date of Next Meeting.

It was resolved that the consideration of draft report on the COP 21 Paris Climate Change Conference held in December, 2015 be shelved to the next meeting and that the Secretariat should send soft copies for members' review.

MINUTE SEN/SCLNR/387/2016: ELECTIONS OF A VICE CHAIRPERSON

Sen. George Khaniri was elected as the Vice Chairperson of the Standing Committee on Lands and Natural Resources after being proposed by Sen. Chris Obure and seconded by Senator Juma Boy. There were no contrary opinions.

MINUTE SEN/SCLNR/388/2016: CONFIRMATION OF MINUTES

The Minutes of the sixty fourth meeting held on 3rd May, 2016 were was postponed to the next meeting due to lack of quorum of members present during the 64th meeting.

MINUTE SEN/SCLNR/389/2016: MATTERS ARISING FROM THE MINUTES- PENDING MATTERS

Ex. MINUTE NO. SEN/SCLNR/371/2016: CONSIDERATION OF PETITION ON ERRONEOUS PLACEMENT OF CHANGARA LOCATION IN BUSIA COUNTY

The Committee was informed that an official response had been received from the Ministry of Lands, Housing and Urban Development on the request for maps and records of Changara Location. The Principal Researcher, Mr. Kefa Omoti briefed the Committee on his analysis of the maps.

An analysis of the maps provided by the Principal Secretary revealed the following:

1) The Kenya Counties Map indicates that indeed Changara Location is in Busia County
2) A 1997 District map for Bungoma indicates that Changara is in Busia. This is supported by the Teso District Map drawn in the same year (1997), capturing Changala Location as part of Teso District which was later joined to Busia District to form Busia County.
3) A 1988 District map for Busia indicates Changara to be in Bungoma
4) An undated Bungoma District map, probably prepared in 1996 (since it contains Mount Elgon District that was later elevated into a District in 1997) also shows Changara to be located in Bungoma
5) The Districts and Provinces Act (1992) provides a detailed description of the then Bungoma Boundary. The features mentioned in the boundary section affecting Changara include- a point on Malakisi River approximately 1.6KM North-west of Bitobo School, a tributary of River Malakisi named Kisawiyi, a hill known as Mwaliye among others. Unfortunately, the details described in the Act are not visible on the Malakisi topographical map.

Observations

Apparently, before 1997 Changara Location was part of Bungoma District. It is probable that in 1997 during the rush for creation of new administrative units in Kenya, Changara Location was hived off from Bungoma District and together with other Locations formed Teso District. When the Constitution of Kenya (2010) was promulgated, the Director of Surveys might have erroneously joined Teso District to Busia District to form the present Busia County.

Way Forward

1) Since it is not clear what informed the placement of Changara Location in Teso District in 1997, it is necessary to seek the involvement of the Ministry of Interior and seek to review minutes and documentation of deliberations that might have facilitated the inclusion of Changara in Teso
2) The features indicated in the District and Provinces Act in respect to Changara need to be confirmed on the ground. It is necessary therefore to commission a trained Surveyor to the Committee secretariat to confirm the same.

Committee Resolutions:

The Committee to write to the Cabinet Secretary, Ministry of Lands in regards to the Petition and ask the CS to confirm whether Changara is in Busia or Bungoma based on the Description of Boundaries of 1992.

Ex. MINUTE NO. SEN/SCLNR/372/2016: BRIEF ON THE ANALYSIS OF THE NATURAL RESOURCES (CLASSES OF TRANSACTION SUBJECT TO RATIFICATION) BILL AND THE NATURAL RESOURCES BENEFIT SHARING BILL, 2014

In the Comparison, the Legal Officer acknowledged that there were similarities between the Bill and Sen. Zani's Natural Resources Benefit Sharing Bill, 2014.

However, he said that the National Assembly Bill gives effect to Article 71 of the Constitution which deals with agreements relating to Natural Resource; while Sen. Zani's Bill focuses on Benefit Sharing.

On the analysis of the Natural Resources (Classes of Transaction subject to Ratification) Bill, he said that it was a constitutional bill that gave the powers of all agreements and memos to the office of the Cabinet Secretary in charge of natural resources. All administrative transactions also fall under the CS.

Senators Concerns

1) The bill did not seem to have provisions for delegated authority at County level and Forests and Water are already devolved
2) Anything below Kshs. 50 Billion will not be reported to Parliament

Committee Resolutions

- The legal officer to pick out the salient issues on the Bill that contradict with devolution and also to find out the gaps in the Bill.
- The Public Hearing of the Bill will be undertaken on Thursday, 2nd June, 2016 from 11.00 am

Ex. MINUTE SEN/SCLNR/374/2016 AOB – EALA

The Legal Officer was requested to give an advisory on the legal position for EALA on making laws for member countries and what are the implications especially when the laws contradict the Member state laws. He was given a week to come up with the advisory.

MINUTE SEN/SCLNR/390/2016: BRIEFING ON THE FOREST CONSERVATION AND MANAGEMENT BILL, 2015 & SETTING THE PUBLIC HEARING DATE

The Legal Officer took the Committee through the Forest Conservation and Management Bill, 2015. He mentioned that it is a Constitutional bill which gives effect to Article 69 of the Constitution and has to be effected by August 2016.

He acknowledged that the Bill had similarities with the Kenya Forest Act which stands repelled.

The Bill's mainly touched on:

1) Forest Management Structures
   i) National Forests Management Services;
   ii) The Kenya Forest Service which is a body corporate managed by a board; and
   iii) Funds of the Kenya Forest Service.
2) Actual conservation process which included arboretums, reinforcements and the devolution of authority and responsibility to county departments involved in natural resources
3) Community Participation – the Bill promoted transparency and accountability.

Committee Resolutions

- The Committee resolved to undertake the public hearings of the Forest Conservation and Management Bill on Thursday, 2nd June, 2016 from 9.00 am.
- Due to time constrains, the Committee decided to do the public hearings in Nairobi.

MINUTE SEN/SCLNR/391/2016: ANY OTHER BUSINESS

There was no other business.

MINUTE SEN/SCLNR/392/2016: ADJOURNMENT AND DATE OF NEXT MEETING.

Having concluded the business as set out in the agenda, the meeting was adjourned at 1.10 p.m. until Tuesday, 31st May, 2016 at 11:00 a.m.

SIGNATURE.....

(CHAIRPERSON: SEN. LENNY KIVUTI, M.P.)

DATE.....14/6/2016.....

MINUTES OF THE 64TH MEETING OF THE STANDING COMMITTEE ON LANDS AND NATURAL RESOURCES HELD ON TUESDAY, 3RD MAY, 2016 AT KICC 3RD FLOOR ROOM NO. 304 AT 11.00 A.M.

MEMBERS PRESENT

1. Sen. Liza Chelule, M.P. - Member (Chairing)
2. Sen. Isaac Melly, M.P. - Member
3. Sen. Martha Wangari, M.P. - Member

MEMBERS ABSENT WITH APOLOGY

1. Sen. Lenny Kivuti, M.P. - Chairperson
2. Sen. George Khaniri, M.P. - Member
3. Sen. Dawnson Mwazo, M.P. - Member
4. Sen. Christopher Obure, M.P. - Member
5. Sen. Boy Juma Boy, M.P. - Member
6. Sen. Henry Ole Ndiema, M.P. - Member

SENATE SECRETARIAT

1. Mr. Njenga Njuguna -Director, Committee Services
2. Ms. Mwanate Shaban -Clerk Assistant
3. Mr. Charles Ngatia -Clerk Assistant
4. Mr. Leonard Koech -Legal Counsel
5. Mr. Kefa Omoti -Principal Research Officer

MINUTE SEN/SCLNR/376/2016: PRELIMINARIES

The meeting was called to order at 11:30 a.m. and there followed a word of prayer by Sen. Liza Chelule, M.P, the Acting Chairperson.

MINUTE SEN/SCLNR/377/2016: ADOPTION OF AGENDA

The agenda of the meeting was adopted after it was proposed by Sen. Martha Wangari, MP and seconded by Sen. Isaac Melly, M.P. as follows;

Prayer
1. Adoption of Agenda;
2. Confirmation of Minutes of the 63rd Meeting held on 26th April, 2016;
3. Matters Arising from the Previous Minutes;
4. Election of Vice Chairperson of the Committee;
5. Consideration of date of public hearing on the Forest Conservation and Management Bill, 2015;
6. Consideration of draft report on the COP 21 Paris Climate Change Conference held in December, 2015;

7. Any Other Business;
8. Adjournment and Date of Next Meeting.

MINUTE SEN/SCLNR/378/2016: CONFIRMATION OF MINUTES

The Minutes of the sixty third meeting held on 26th April, 2016 were confirmed as the true record of the proceedings after they were proposed by Sen. Isaac Melly, M.P. and seconded by Sen. Liza Chelule, M.P.

MINUTE SEN/SCLNR/379/2016: MATTERS ARISING FROM THE MINUTES

Ex. MINUTE NO. SEN/SCLNR/371/2016: CONSIDERATION OF PETITION ON ERRONEOUS PLACEMENT OF CHANGARA LOCATION IN BUSIA COUNTY

The Committee was informed that no official response had been received from the Ministry of Lands, Housing and Urban Development on the request for maps and records of Changara Location. The Committee resolved to give one week to the MOLHUD to provide the maps.

Ex. MINUTE NO. SEN/SCLNR/372/2016: BRIEF ON THE ANALYSIS OF THE NATURAL RESOURCES (CLASSES OF TRANSACTION SUBJECT TO RATIFICATION) BILL AND THE NATURAL RESOURCES BENEFIT SHARING BILL, 2014

The Legal Officer acknowledged that the directorate had previously done an analysis on the Bill and had come up with a decision that the two Bills were not as similar as they looked at a glance. The Officer promised to give a full report of the comparison clause by clause on Tuesday 10th May, 2016 during the meeting.

Ex. MINUTE SEN/SCLNR/374/2016 AOB – EALA

The Committee was informed that Standing order 235 (3) of the Senate Standing Orders state that "Whenever the Clerk receives copies of record of relevant debates of the meetings of EALA, or copies of Bills introduced into the EALA and Acts of the EAC, the Clerk shall forward such record of debates, Bills or Acts of the Community to the relevant Committee.

The Legal Officer therefore advised the Committee that the piece of legislation needs to follow the due process and be received by the Clerk first before any other action.

MINUTE SEN/SCLNR/380/2016: ELECTION OF VICE CHAIRPERSON OF THE COMMITTEE

This Agenda item was shelved due lack of adequate quorum to conduct the election.

MINUTE SEN/SCLNR/381/2016: CONSIDERATION OF DATE OF PUBLIC HEARING ON THE FOREST CONSERVATION AND MANAGEMENT BILL, 2015

The Committee resolved to undertake two public hearings; one in Nairobi and another in the County where the forest people live. The Committee chose 17th May, 2016 as the date of the public hearing for Nairobi.

The Legal Officer was tasked to prepare a brief on the Bill.

MINUTE SEN/SCLNR/382/2016: CONSIDERATION OF DRAFT REPORT ON THE COP 21 PARIS CLIMATE CHANGE CONFERENCE HELD IN DECEMBER, 2015

Members resolved to postpone this agenda item to the next meeting due to lack of enough quorum to consider the report.

MINUTE SEN/SCLNR/383/2016: ANY OTHER BUSINESS

There was no other business.

MINUTE SEN/SCLNR/384/2016: ADJOURNMENT AND DATE OF NEXT MEETING.

Having concluded the business as set out in the agenda, the meeting was adjourned at 11:58 p.m. until Tuesday, 10th May, 2016 at 11:00 a.m.

SIGNATURE.....

(CHAIRPERSON: SEN. LENNY KIVUTI, M.P.)

DATE.....14/6/2016.....

MINUTES OF THE 63RD MEETING OF THE STANDING COMMITTEE ON LANDS AND NATURAL RESOURCES HELD ON TUESDAY, 26TH APRIL, 2016 AT KICC 3RD FLOOR ROOM NO. 304 AT 11.00 A.M.

MEMBERS PRESENT

1. Sen. Lenny Kivuti, M.P. - Chairperson
2. Sen. George Khaniri, M.P. - Member
3. Sen. Dawnson Mwazo, M.P. - Member
4. Sen. Henry Ole Ndiema, M.P. - Member
5. Sen. Liza Chelule, M.P. - Member
6. Sen. Isaac Melly, M.P. - Member

MEMBERS ABSENT WITH APOLOGY

1. Sen. Christopher Obure, M.P. - Member
2. Sen. Boy Juma Boy, M.P. - Member
3. Sen. Martha Wangari, M.P. - Member

SENATE SECRETARIAT

1. Mr. Charles Ngatia -Clerk Assistant
2. Ms. Mwanate Shaban -Clerk Assistant
3. Mr. Leonard Koech -Legal Counsel
4. Ms. Sarah Rukwaro -Serjeant-At- Arms

MINUTE SEN/SCLNR/368/2016 : PRELIMINARIES

The meeting was called to order at 11:10 a.m. and there followed a word of prayer by Sen. George Khaniri, M.P.

MINUTE SEN/SCLNR/369/2016 : ADOPTION OF AGENDA

The agenda of the meeting was adopted after it was proposed and seconded by Sen. Liza Chelule, M.P. and Sen. Isaac Melly, M.P. as follows;

Prayer
1. Adoption of Agenda;
2. Confirmation of Minutes of the 60th, 61st and 62nd Meetings held on 12th and 13th and 19th April, 2016 respectively;
3. Matters Arising from the Previous Minutes;
4. Brief on the comparison between the Natural Resources (Classes of Transaction subject to Ratification) Bill and the Natural Resources Benefit Sharing Bill;

5. Adoption of report on Petition on heavy blasting and dust from a quarry near Taru Trading Centre in Kwale County;
6. Any Other Business;
7. Adjournment and Date of Next Meeting.

MINUTE SEN/SCLNR/370/2016: CONFIRMATION OF MINUTES

1) The Minutes of the sixtieth meeting held on 12th April, 2016 were confirmed as the true record of the proceedings after they were proposed by Sen. Liza Chelule, M.P. and seconded by Sen. Dawnson Mwazo, M.P.

2) The Minutes of the sixty first meeting held on 13th April, 2016 were confirmed as the true record of the proceedings after they were proposed by Sen. Dawnson Mwazo, M.P and seconded by Sen. Isaac Melly, M.P.

3) The Minutes of the sixty second meeting held on 19th April, 2016 were confirmed as the true record of the proceedings after they were proposed by Sen. Liza Chelule, M.P. and seconded by Sen. Henry Ndiema, M.P.

MINUTE SEN/SCLNR/371/2016: MATTERS ARISING FROM THE MINUTES

Ex. MINUTE NO. SEN/SCLNR/358/2016: REVIEW OF THE REPORT ON THE PETITION ON OLMOROGI LAND IN KAJIADO COUNTY

The Committee was informed that the report on the Petition on Olmorogi land in Kajiado County was ready for tabling in the Senate and was even listed on the order paper for the day.

Ex. MINUTE NO. SEN/SCLNR/363/2016: CONSIDERATION OF PETITION ON ERRONEOUS PLACEMENT OF CHANGARA LOCATION IN BUSIA COUNTY

The Committee was informed that a communication had been done to the Principal Secretary in the Ministry of Lands, Housing and Urban Development requesting for maps and records of Changara location since 1963 and after 1992 but the Committee had not received any response yet.

MINUTE SEN/SCLNR/372/2016: BRIEF ON THE ANALYSIS OF THE NATURAL RESOURCES (CLASSES OF TRANSACTION SUBJECT TO RATIFICATION) BILL AND THE NATURAL RESOURCES BENEFIT SHARING BILL, 2014

The Legal Counsel took the Committee through a brief comparison of the two bills as follows:

THE NATURAL RESOURCES (Benefit Sharing) BILL, 2014	THE NATURAL RESOURCES (Classes of Transactions Subject to Ratification) BILL
APPLICATION	
Clause 3 of this Act applies with respect to the exploitation of- (a) petroleum; (b) natural gas; (c) minerals; (d) forest resources, (e) water resources; (f) wildlife resources; and (g) fishery resources. All the above are natural resources within the meaning exploitation as envisaged under Article 71 of the Constitution. The Benefit Sharing Authority under clause 6 has the general mandate of coordinating the exploitation of any other natural resource by notice in the Gazette.	Clause 3 is giving effect to Article 71 of the Constitution which appears on Part 2 of Chapter 5 of the Constitution exploitation of any natural resource of Kenya i.e. agreements relating to natural resources that require ratification by Parliament.
	The classes of transaction set out in the schedule to be ratified by Parliament pursuant to clause 4 of the Bill include: Crude oil & natural gas, minerals, water resources, underground water, wildlife, forests, genetic material and genetic resources.
ADMINISTRATION	
Under clause 7 the Authority shall be managed by a Board with a chairperson at its helm.	The Cabinet Secretary assumes the general administrative arrangements of all mining related activities, conducts due diligence and preparation of regulations of the subject matter.

Clause 18 (1) establishes the position of the Director-General who shall be the chief executive officer of the Authority and secretary to the Board.	
Under clause 24 the Authority shall impose royalties and fees and obligations of the affected organization under any existing County Benefit Sharing Agreement with the local community.	
The Bill stipulates financial provisions which consists of funds to the Authority i.e. all monies that will accrue for lawful functioning of the Authority. The Bill however strictly precludes itself from being a money bill.	

The Legal officer concluded that the two bills were similar but requested for another one week to undertake a thorough clause-by-clause analysis of the bills and report back to the Committee.
The Committee granted the request.

MINUTE SEN/SCLNR/373/2016: ADOPTION OF REPORT ON PETITION ON HEAVY BLASTING AND DUST FROM A QUARRY NEAR TARU TRADING CENTRE IN KWALE COUNTY

Members were informed that the recommendations of the Committee on the report of the Petition had been included.

The Committee considered the report and adopted the report for tabling in the Senate after it was proposed and seconded by Sen. Isaac Melly, M.P. and Sen. Henry Ndiema, M.P. respectively.

MINUTE SEN/SCLNR/374/2016 : ANY OTHER BUSINESS

The Committee was informed that the East African Legislative Assembly (EALA) had drafted a Bill referred to as *The East African Community Sectional Properties Bill, 2016* and had scheduled and invited the public of the East African Community Member States for public participation on the Bill.

The Committee was further informed that the Bill, if enacted, would conflict with Kenyan laws.

The Secretariat was tasked to seek information on how legislative Acts by EALA are domesticated and implemented by the Member States and present a report to the Committee in the next meeting.

MINUTE SEN/SCLNR/375/2016 : ADJOURNMENT AND DATE OF NEXT MEETING.

Having concluded the business as set out in the agenda, the meeting was adjourned at 11:45 p.m. until Tuesday, 3rd May, 2016 at 11:00 a.m.

SIGNATURE.....

(CHAIRPERSON: SEN. LENNY KIVUTI, M.P.)

DATE.....3/05/16.....

MINUTES OF THE 62ND MEETING OF THE STANDING COMMITTEE ON LANDS AND NATURAL RESOURCES HELD ON TUESDAY, 19TH APRIL, 2016 AT KICC 3RD FLOOR ROOM NO. 304 AT 11.00 A.M.

MEMBERS PRESENT

1. Sen. Dawnson Mwazo, M.P. - Ag. Chairperson
2. Sen. Christopher Obure, M.P. - Member
3. Sen. Henry Ole Ndiema, M.P. - Member
4. Sen. Liza Chelule, M.P. - Member

MEMBERS ABSENT WITH APOLOGY

1. Sen. Lenny Kivuti, M.P. - Chairperson
2. Sen. George Khaniri, M.P. - Member
3. Sen. Boy Juma Boy, M.P. - Member
4. Sen. Isaac Melly, M.P. - Member
5. Sen. Martha Wangari, M.P. - Member

SENATE SECRETARIAT

1. Mr. Charles Ngatia -Clerk Assistant
2. Ms. Sarah Rukwaro -Serjeant-At- Arms

MINUTE SEN/SCLNR/361/2016 : PRELIMINARIES

The meeting was called to order at 11:30 a.m. and there followed a word of prayer by the Ag. chairperson.

MINUTE SEN/SCLNR/362/2016 : ADOPTION OF AGENDA

The agenda of the meeting was adopted unanimously with amendments as follows;

Prayer

1. Adoption of Agenda;
2. Consideration of Petition on erroneous placement of Changara Location in Busia County;
3. Consideration of date of Public Hearing on the Natural Resources (Classes of Transaction subject to Ratification) Bill;
4. Consideration of draft report on Petition on heavy blasting and dust from a quarry near Taru Trading Centre in Kwale County;
5. Any Other Business;
6. Adjournment and Date of Next Meeting.

MINUTE SEN/SCLNR/363/2016: CONSIDERATION OF PETITION ON ERRONEOUS PLACEMENT OF CHANGARA LOCATION IN BUSIA COUNTY

The Committee was informed that there was a Petition committed to the committee on erroneous placement of Changara location in Busia County.

The Committee deliberated on the matter and observed that Petition was not about conflict over boundary but rather the erroneous placement of the location in the map.

The Committee resolved that the secretariat obtains maps of Changara location since 1963 and after 1992 so as to determine the rightful placement of the location.

MINUTE SEN/SCLNR/364/2016: CONSIDERATION OF DATE OF PUBLIC HEARING ON THE NATURAL RESOURCES (CLASSES OF TRANSACTION SUBJECT TO RATIFICATION) BILL

The Committee was informed that the Natural Resources (Classes of Transactions Subject to ratification) Bill, 2015 had been read a First Time in the Senate on Thursday 14th April, 2016 and referred to the Committee for consideration.

The Committee observed that the Bill may have provisions that are similar to those in the Natural Resources Benefit Sharing Bill.

The Committee resolved that the Secretariat undertake an analysis of the Natural Resources (Classes of Transactions Subject to ratification) Bill, 2015 and the Natural Resources Benefit Sharing Bill for presentation so that Committee can make a determination on how to proceed with the Bill.

MINUTE SEN/SCLNR/365/2016: CONSIDERATION OF DRAFT REPORT ON PETITION ON HEAVY BLASTING AND DUST FROM A QUARRY NEAR TARU TRADING CENTRE IN KWALE COUNTY

The Committee was informed that Kenya Railways Corporation had provided the Information the Committee had requested.

The Committee was informed that Kenya Railways Corporation had provided the following information;

1. A team was appointed from Kenya Railways, TAEC supervision consultant and CRBC the contractor and the local community (Taru Environmental Committee and Nyumba Kumi members), to undertake assessment and verification of the affected households. This activity was undertaken from 22nd to 24th March, 2016. A draft report was prepared

and thereafter the local community was invited to review the same for verification. A further assessment of people who could not be traced during the first assessment was carried out from 4th to 6th April, 2016;

2. A summary of the draft assessment report is presented below.

S/NO	ITEM	NUMBER
1.	Households Assessed and valued	**169**
2.	No information. Not identified during assessment	**9**
3.	Out of range (Across SGR corridor/Not in Taru)	**9**
4.	Already Compensated by Section 1	**18**
5.	Repeated names	**4**
6.	Same household/family	**12**
7.	Tenants	**5**
8.	No effect. No cracks seen	**1**
	TOTAL	**227**

3. As at 18th April, 2016 101 households have signed claim agreements with the Contractor and given their bank details for compensation. Some 2 government offices to wit; police station and chief's office have been affected and arrangements are ongoing to repair the same.

4. A valuation report of the compensation indicating the property and amount to be compensated for the 227 profiled residents.

The Committee considered the draft report on the Petition and made the following observations and recommendations;

1. Compensation process for damage of property arising from the quarrying activity had begun was going on;
2. The quarrying activity should proceed but be carried out in a controlled manner that does not affect the community; and
3. The entity that is undertaking the quarrying activity should rehabilitate and/ or restore the degraded environment immediately it finalizes its operations in a given area.

The Committee resolved that enforcement of rehabilitation of quarries that are no longer in use throughout the country should be enforced by the relevant authorities.

MINUTE SEN/SCLNR/366/2016 : ANY OTHER BUSINESS

The Ag. Chairperson informed the Committee that he had twelve issues that he wanted the Cabinet secretary for Environment, Natural resources and Regional

Development Authorities to respond to concerning grazing in Tsavo East & West National Parks.

MINUTE SEN/SCLNR/367/2016 : ADJOURNMENT AND DATE OF NEXT MEETING.

Having concluded the business as set out in the agenda, the meeting was adjourned at 12:01 p.m. until Tuesday, 26th April, 2016 at 11:00 a.m.

SIGNATURE.....

(CHAIRPERSON: SEN. LENNY KIVUTI, M.P.)

DATE.....26/4/2016.....

THE SENATE

STANDING COMMITTEE ON LAND AND NATURAL RESOURCES.

GUEST ATTENDANCE LIST

PURPOSE: MEETING WITH PETITIONERS ON LEASING OF GAME RESERVES BY COUNTY EXECUTIVE **DATE:** 25/10/2016.

VENUE: COMMITTEE ROOM 4

	NAME	ORGANIZATION	DESIGNATION	CONTACT TELEPHONE & EMAIL	SIGNATURE
1	CLLR. OMAR JIRMO	FIGARE	ORG SEC.	0723245156	
2	Lucy.V. Nyaguthii Kamisi	CJPC (ISIOLO)	Project Officer.	0726432828	
3	CLLR. HUSSEIN ABDUBA	Friends of Isiolo / Game Reserves	CHAIRMAN	0726 270 861	
4	IDLE HASSAN	Friends of Isiolo Game Reserve	MEMBER	0726078624	
5	ANAB KASIM	FIGARE	V. Chair	0726717180	
6	Godana Molu	FIGARE	Member	0711159 271	
7	Hassan Balla	FIGARE	Treasury	0712830 455	
8	JARSO HALKANO	WASO TRUST LAND	Treasurer	0720664808	
9	Liban Golicha	Waso Trustland	CEO	0725 016 982 libangolicha@yahoo.com	
10	HABIBA ADAM	Halcha W. Group	Chair Lady	0720 111977	
11	IBRAHIM A WARIO	FIGARE	Secretary	0726172918	

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THE SENATE

STANDING COMMITTEE ON LAND AND NATURAL RESOURCES.

GUEST ATTENDANCE LIST

PURPOSE: MEETING WITH ISIOLO COUNTY ASSEMBLY ON A PETITION BY RESIDENTS OF ISIOLO COUNTY ON THE LEASING OF BUFFALO SPRINGS & SHABA GAME RESERVES BY THE COUNTY EXECUTIVE **DATE:** 2/NOVEMBER/2016.

VENUE: CPA ROOM, MAIN PARLIAMENT BUILDINGS

	NAME	ORGANIZATION	DESIGNATION	CONTACT TELEPHONE & EMAIL	SIGNATURE
1	SALAD BORU	ISIOLO C. ASSEMBLY	CLERK	0722819026 abadakib65@gmail.c	
2					
3					
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THE SENATE

STANDING COMMITTEE ON LAND AND NATURAL RESOURCES.

GUEST ATTENDANCE LIST

PURPOSE: MEETING WITH EACC ON THE ISIOLO PETITION **DATE:** 3 NOV 2016

VENUE: CPA ROOM MAIN PARLIAMENT

	NAME	ORGANIZATION	DESIGNATION	CONTACT TELEPHONE & EMAIL	SIGNATURE
1	Sophia Lepuchirit	EACC	Commissioner V.C.	0792-419 994	
2	Michael Mubea	EACC	D/CEO	mmubea@integrity.go.ke	
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THE SENATE

STANDING COMMITTEE ON LAND AND NATURAL RESOURCES.

GUEST ATTENDANCE LIST

PURPOSE: Meeting With Isiolo County Executive on Isiolo Petition on Leasing of Game Reserves. **DATE:** 8 Nov 2016

VENUE: Committee Room 5, First Floor Main Parliament Buildings

	NAME	ORGANIZATION	DESIGNATION	CONTACT TELEPHONE & EMAIL	SIGNATURE
1	Ibrahim M Adano	Isiolo County Govern	Director	adanoibrahim@gmail.com	[signature]
2	LILIAN KIRUJA	"	Legal Advisor	liliankiruja@gmail.com	[signature]
3	Suleman Lenyo	" "	CEC - Tourism	Sulemanshunug@yahoo.com	[signature]
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PRESENTATION TO THE SENATE COMMITTEE ON LAND AND NATURAL RESOURCES ON THE PLAN BY ISIOLO COUNTY GOVERNMENT TO LEASE BUFFALO SPRINGS AND SHABA GAME RESERVES TO A PRIVATE INVESTOR; AT THE NATIONAL SENATE ON 25TH OCTOBER 2016.

BY:

WASO TRUSTLAND PROJECT (WTL) AND FRIENDS OF ISIOLO GAME RESERVES (FIGARE) ON BEHALF OF ISIOLO CITIZENS

Presented By: Mr. Liban Golicha

Cell Phone: +254 725 016 982

Email: libangolicha@yahoo.com

BACKGROUND INFORMATION

Following the electronic communication by the National Senate Committee on 17th October 2016, inviting us for appearance before this committee today the 25th October 2016, pertaining to the planned leasing of Isiolo game reserves pursuant to our relevant petition dated 3rd June 2016 as was subsequently presented to the house by Hon. (Dr) Bonny Khalwale on 5th of July 2016; We on behalf of Isiolo residents wish to appreciate this Honourable Committee and the National Senate for deserved consideration of our petition though long overdue.

Before this honourable committee is the representative of Isiolo communities drawn from the local Civil Society Organizations (CSOs); FIGARE and Waso Trustland (WTL) which has been hitherto at the forefront of the said petition. WTL is a registered local Non Governmental Organization working on issues of public interest with a particular bias on Land and Natural Resources management among others for about two decades; whereas FIGARE is a creature of a lobby group against the said lease plan by the County government of Isiolo after lengthy consideration and engagements by the relevant stakeholders of public interest as convened by WTL. These crucial stakeholders includes but not limited to outstanding personalities with rich experience in local running of the defunct Isiolo County Council, the communities neighbouring the game reserves, the beneficent community based groups, local elders and opinion leaders among others.

In this regard, it's fundamental for this committee to note, the diversity of these community representatives before it, as was practicably convenient. It is noteworthy that, Isiolo County is a home to diverse ethnics and cultures and that the natural heritage and resources of the County individually and collectively belongs to the communities and the people of Kenya. Reasons which the representative team tried to assume the face of the County, as is practicably possible in the circumstances to air the communities concerns before this honourable committee.

Isiolo with a land mass of 25,605 KM2 and population of 143,294 (according to 2009 National demographic Census), is predominately home for Boran, Turkana, Meru, Somali and Samburu communities which hugely practices pastoralism as way of livelihood.

The region is known for rich indigenous natural resources ideal for unique wildlife habitats found in the county's three famed Buffalo Springs, Shaba and Bisan Adi game reserves with an estimated area coverage of 131, 254, 607 square KMs respectively. These unique treasurers has made the region one of the best tourist destinations in the country after the great Massai Mara and tourism being lifeline of the area during the reign of the defunct county council according to its then local revenue generations.

These unique flora and faunas of the area has notably been its recent undoing due to emerging interest amassed in the region through state initiated development and other speculative scrupulous organizations claiming to be conservationist and development entities. These includes mandarins attracted by the state owned Vision 2030 project targeting the region and Northern Rangeland Trust (NRT) that known for disguising as conservationist; hence purporting to establishing "community based conservancies" through which it propagates self centered expansionist strategy targeted to take over community land

at the expense of vollunerable pastoralist communities whose daily livelihoods is directly dependent on the natural resources.

In this regard, we the petitioners has established that the said NRT was a deal broker and anticipated beneficiary through prozy partner organization by the name African park which has been continuously mentioned in the unilateral engagement with the County Government Executive to take over the said two reserves, hence confirming our suspicions on the viability of entire deal for the public of Isiolo; notwithstanding the flouting of legal procedures enshrined in the constitution and other relevant laws prerequisite for the project of this nature.

Reasons wherefore; we draw the attentions of this honourable committee to the relevant issues and concerns as shall be briefly stipulated here below;

SUMMATION OF THE ISSUES/CONCERNS

Under the management of defunct Isiolo county Council, Isiolo reserves was known to generate good revenue sometimes to the tune of 300 million annually, which was used to sustain the council in terms of paying remunerations to personnel, management support, undertaking development projects in addition to local authority brasseries to need students among others. Actually, the county boasts a good number of its elites as product of its celebrated local authority bursary kit drawn from the revenues generated by these game reserves. These includes notably personalities like the current Speaker of Isiolo County Assembly and County Executive Committee Member for Tourism among others; who ironically spearheading the process of discharging out this treasured public asset to private investor. All these were managed on the backdrop of meager external support from the Local Authority Transfer Fund (LATF) with a little human resources and technological capacity against a stead financial support from the National Government that avails capable human resources and reliable technologies.

In spite of this institutional advancement brought forth by devolution, the county government of Isiolo has apparently failed to utilize these opportunities in revamping some of its crucial sectors like tourism but instead brought down the hard earned success stories of Isiolo defunct county council by failing to competently invest in the development of local game reserves which is the nucleus of tourism sector. The lack of investment in the sector was by design to depict a picture of failing institution in need of dire interventions, a claim engineered to justify the executives' egocentric intention of giving out the reserves to private entity through their purported Lease and/or Management Contracting.

The whole intentions given by the county government as reasons to give out the reserves and general development surrounding the plan is unfounded, baseless and suspicious in the sense that;

- The County government's initiative in the said deal has been highly shrouded in secrecy. The process was advanced in the same state of affairs wherein the county authorities made various international bench making visits across the continent before the matter came into public limelight during the business viability assessment visits by the officials of African Parks Management Organization where still responsible county offices came out in denial to the deceit of the public *(Ref. EP.17)*

- The nature and conducts of the entities involved during the bench marking and feasibility assessment by the said African Parks Management Organization has been brokered and facilitated by the Northern Rangeland Trust (NRT) as clearly visible through the conspicuous presence of NRT's Director and private proprietor of Lewa Down conservancies. The said Director of NRT and proprietor to the Lewa Down conservancies has been a pivotal middle linkage between the County authorities and African Parks while actively facilitating the engagement of the parties including being the sole entity present during the formative meetings and subsequent assessment visit by the African Parks which is highly suspicious considering the dubious dealings of NRT as aforementioned herein. *(Ref. EP 19)*

- Upon learning of the foregoing WTL commenced inquisitive correspondences with the executive to shed light on the same but nothing came forth. Nevertheless the organization proceeded to raise a red flag on the issue on a national print and electronic media, the allegation the County authorities denied unequivocably through the print media and instead framing the organization as a rumour monger. *(Ref. EP 4,EP 3,EP 14)*

- WTL further organized a stakeholders forum on the issue inviting all invaluable entities and personalities to engage and ventilate the matter at length. The invitees was inclusive of relevant community based groups, elders, opinion leaders, representatives of communities neighbouring parks, experienced former civic leaders, County assembly legislators and the County executive. Three County assembly legislators turned up led by the former chair of the tourism house committee under whose reign the process was commenced by the County government though the same was absconded by the executive despite prior invitation to the forum, an attempt to disregard and sabotage the issues at stake. The stakeholders having sufficiently informed grasped the gravity of the matter and formed a consolidated lobby group in support of WTL's efforts that culminated to the birth of FIGARE as a focused entity against the matter which later petitioned the county assembly to halt the whole exercise until the procedures are followed. *(Ref. EP 16, EP 21, EP 2)*

- The county executive though arrogantly disregarding our inquiries, engagements and/ or invitations went public on defensive frenzy soon after our stakeholders forum through local radio stations on the guise of clearing the air on the matter. H.E the Governor and his tourism Executive Committee member frisked the matter under the carpet by overly personalizing and politicizing the issue thus further dividing the public along political lineage whilst diverting them from the real issues of public concern, the governor was indeed quoted on record arrogantly claiming to even sell the two game reserves leave alone leasing it. These and other audio coverage by the local radio stations is testimonial proofs of the County Government's arrogant and insensitive conducts and that this honourable committee may invoke its legal powers to access it from those media houses if it deems fit and appropriate. The said media stations are Baliti, Angaf, Isiolo and Star FMs.

- Hon. Hassan Guyo Shano, the assembly member present during the above stated stakeholders forum took to the flow of the County assembly demanding for the statement from the relevant tourism department on the matter. The executive committee member for tourism one Mr. Suleiman Shunu again characteristically

evaded several attempts by the county legislature to get the response only to indifferently present a shoddy and hollow statement which is devoid of the sort out information on the issue. *(Ref. EP 5, EP 8*)

- That the executive in shrugging off the incessant public pressure organized what seemed like a stakeholders forum which was never so as the critical stakeholders were still uninvited and their contributions ignored. FIGARE and partners nevertheless participated in the forum to air its displeasure with the matter *(Ref. EP 1)*

- The reasons given by the county government as to what has led them to ideas of leasing the parks were unfounded and unrealistic. These because the claimed idea of fencing the park will completely hinder the required animal movement which is critical in its life circle including breeding while the insecurity issues being mentioned too was worse in 2005/06 when in process of running from the drought herders took control of the parks as highlighted then by Jicho Pevu but later the situation was managed through home grown intervention. In the same note, they mentioned lack of marketing, which we believe is overly exaggerated as the region is known as home for world renowned conservationist George Adamson and Joy Adamson who raised Elsa the lioness in Shaba national reserve; besides some award winning movies like Born Free and Walk with Lion were acted within Isiolo reserves. The existing situations against their claim make the whole thing suspicious. *(Ref. EP 18, EP 15)*

- That the Isiolo game reserves have been known for generating good revenue under the management of defunct Isiolo County Council and it's ridiculous that with all available finance/human resources under the county government and its ability to employ up to date technology, the whole county government claim lacking capacity to manage the reserves; hence planning to hand it over to private investors. We believe the claims were unrealistic and designed to change the parks management for the gains of few individuals. *(Ref. EP 7)*

- That despites all concerns raised from all quarters against the planned leasing of these reserves to private investors, the executive actually tried to perfect the dealing by unprocedurely undertaking faulty advert on local daily to source for expression of interest. This was raised to the attention of Ethics and Anti Corruption Commission (EACC) which probe the deal through its regional office based in Isiolo although the findings has not been released to the public. *(Ref. EP 9, EP 6, EP 20)*

- That the self proclaimed promotion of parks management laced with world class conservation practices in Africa by the said African Parks Organization is a fallacy and a calculated strategy to institute associated private tourism enterprises for the organization at the behest of the community interests. This can be seen from the organization's choice of taking over the two successful reserves in Isiolo whilst ignoring Bisanadi game reserve which is believably unviable business wise since its literally non operational despite its huge potential than the rest which defeats the African Parks persistent claims of aiding conservationist practices than the realism of their business priorities. The same is further supported by their short lived approaches characteristic of speculative business practices in their operations in various parks in the continent. *(Ref. EP 5)*

- That the said African Parks is not prudent gamble in this regard as it has already been tested and failed in about seven African Countries including their ejection from Nechisar National reserve of Ethiopia and Dungonab Marine Bay Park of Sudan are critical examples among others. *(Ref. EP 5)*
- That according to the negotiated memorandum of Understanding (MoU) in public dormain. These trending deal advanced by the said African Park is completely biased against the public interest, unviable to generate targeted local revenue while at the same time dangerously skewed in favour of the African park as to grant it near overhaul of the managerial mandates to the organization including highly restricted access to the facility without prior consent from the said African Parks. Including the unilateral consideration of other rightful interest in the parks like hoteliers and employees. *(Ref. EP 10)*

On the strength of the issues summarily considered in this presentation and in upholding the respect for the rule of law; we wish to draw the attention of this honourable committee to breaches of legal requirements by the County Government of Isiolo in its furtherance of the aforementioned issues as follows:-

I. That the County government has in this regard illegally and ignorantly disregarded the requirements of the public procurements laws as was explicit through the authorities attempt to single source for the instead of requisite competitive bidding envisaged in a contract of such nature. The executive also lounged a misleading and faulty public advert on the same in an attempt to dupe the public thereby abusing the legal procedures.

II. That the County government arrogantly failed to observe public participation in total breach of constitutional and other legislative requirements. The authority has continuously ignored the public cries for attention whereas the same is unalienable public rights.

III. That the County authorities arrogantly abused public office and the public trust as bestowed on public officers contrary to article six of the Constitution and other relevant statutes. The Isiolo County government has blatantly and arrogantly remained indifferent and insensitive to the public as exhibited by their disregard for public inquiries and information.

IV. That the Isiolo County Government has breached right to public information Act that ensures to avail public information within the reach of the public for scrutiny. The authority has continuously sabotaged the public to access information regarding the said lease by the County Executive.

OUR PRAYERS TO THE SENATE;

We in this regard, hereunder briefly make the following prayers to this honourable committee as follows:-

1. That this committee and the senate house by extension take up urgent action on the foregoing as a matter of urgency
2. That this committee and the senate urgently carry out all inclusive audit over the foregoing as a matter of public urgency to arrive at the bottom of this issue
3. That this honourable committee and/or the senate carry out comprehensive audit of all the players in this matter including the said NRT organization, African Parks Organization and other relevant entities for the purposes of safeguarding the public interest, particularly in Isiolo County.
4. That this august house of senate immediately halts the County government of Isiolo from proceeding with this deal until proper consultations and engagements over the same is achieved unconditionally.
5. That this honourable committee/ The senate ensures Isiolo county Government to stop its unilateral approach in stakeholder engagement
6. That this house ensure that Isiolo county government authorities and all these entities to observe the rule of law and compliance with the laws as herein above stated
7. That this honourable house grants any other remedy as it deems fit and justiciable

That in summation to this presentation, we the representative of Isiolo residents emphatically believe in our capacity to manage our game reserves and that we will categorically resist any attempt at disposition of our game reserves and any other public utility natural resources in our County. This is so particularly at this critical moment where the land tenure system is transiting from the trust land to the community land as enshrined in the Constitution.

The spirit and the letter of the supreme law is explicit in its reference to community rights and we will therefore stand to resist any attempts from any quarters to the contrary against our free and informed consent.

Many Thanks

Mr. Liban Golicha

Chief Executive Officer

Waso Trustland Project

Cell Phone:- +254 725 016 982

Email:- libangolicha@yahoo.com

Mr. Hussein Ali

Chairman

FIGARE

Cell Phone:- +254 726 270 861

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MEMMORANDUM BY FRIENDS OFISIOLO GAME RESERVES (FIGARE) ORGANIZATION TO THE STAKEHOLDERS FORUM BY THE COUNTY GOVERNMENT OF ISIOLO AT HOTEL GRANDE ON 21ST OF JULY 2016

Following the foregoing issue of the Isiolo game reserves involving the leasing and /or contracting of the game reserves the leaders has resolved the following in a build up to the stakeholders forum as follows:-

1. That the game reserves had enough security during the defunct county councils with clear success strategy as follows: -

A) The county council established then Tourism protection Unit (TPU) to curb the menace of poaching and banditry from 1998 upto date. The working strategy of the TPU was structured across the entire game reserves as hereunder expounded:-

- Within Bufallo springs game reserves – there was 3 base camps at the centre of the park, a place popularly known as White river, there was a hotel three camp on the hill, hotel five on the hill and at the place of Serena lodge. All camps now completely closed
- Within Shaba game reserves – the unit had camps at Korra within the heart of the park, hotel one on the hill, at the Shaba gate (now closed) and the extreme end at the Chaffa gate and another camp at the newly closed Joy Adamsons camp
- At the complex station – there was a complete base with a radio communication station coupled with a foot patrol between complex station and Nantorbi gate

B) Further the defunct council had also a joint operation with other arms of the government to supplement the security by the council; these included a joint operation with Kenya police, Administration police unit, Kenya Wildlife Service (KWS) and Council Rangers. All these apparatus are seemingly non existent today.

C) The defunct council also formalized and crystallized all this through a by law to support the work of these structures in a bid to strengthen the security of the game reserves. The bylaws was specific to curtail the issues of trespass and grazing in the parks by imposing punitive fines which was very effective

D) The defunct council had also a robust transport and logistics plans for the [illegible] game reserves. The game reserves notably had enough vehicles and water tankers to supplement the movements and operations of the personnels within the park

E) Notably the council had the grip of the tourism stakeholders particularly the hotels operating in the game reserves. In this regard the council had wonderful working relationships with the hotels to boost security of the parks. All the hotels in the parks used to contribute 100 litres of the fuel to supplement operation of the security personnel in and around the parks while other upkeeps were met by the council.

NB: It is noteworthy that all these were successful due to an established robust and focused security strategy initiated and administered by the defunct council. We therefore pray an explanation on the failure of all these as the security is core to the survival of the game reserves and by extension to the entire tourism business and yet we have a fully fledged tourism docket under the county government coupled with assembly to establish laws and enjoy oversight.

FURTHER; leaders has observed with a lot of concern the aforementioned security lapses formerly operational under the defunct county council and seek the following explanations forthwith:

1. The action of the county government on the security failures in the park?
2. How can the tourism department explain mismanagement of the game rangers, particularly that most warders are out of parks and that the chief warden's office has been vacant for now about a year continuing…?

These explanations are grounded on the facts that;

- The poor performance of the tourism and particularly the game reserves are inseparable with security failures
- The attempts by the county government to lease out and/or contract its management whichever the case is based on poor performance of the [illegible]

Way forward

We the friends of the game reserves and the members of this community believe with utmost honesty that this forum is a celebrated approach and would have happened much earlier and call upon respective participants to argue rationally with the sole motive of best managing our resource for the greater prosperity of our communities.

Therefore, having sufficiently ventilated the issues it's our prayer that this forum will establish a more focused and well represented team to address the failures of our game reserves and tourism sector as opposed to unilateral approaches initially taken by county government.

Thank you. God bless our county

1. HUSSEIN ALI ABDUBA – 0726270801
2. OMAR JIRMO ——— 0723245156
3. MOHAMED GUYO JATTANI – 0726882699
4. ADAN IBRAHIM – 0724365750
5. HASSAN GALMA JILLO – 0725216545
6. HASSAN BALLA GUYO – 0712830455
7. MOHAMED GODANA GOLICHA – 0726079213
8. ADAN JIRMA DUBA ——— 0720251899
9. ABDIRIZACK DAUD ABDI – 0725320286
10. Anab Kasim Sheikh 0726717180
11. Abdullahi Halkano – 0726343072
12. IDLE HASSAN – 0726093624
13. Godana Molu – 0711-159-271
14. IBRAHIM G. GABALE 0721 311282
15. Adan Addi Jarso – 0724477243
16. JOSEPH NGICHIRI 0727231654
17. JIRMA ALI 0728 211 458
18. CLR MOHAMED JAAFAR 0724 71 2236

THE CLERK,
ISIOLO COUNTY ASSEMBLY
PO BOX 60300- 36
ISIOLO.
Dear Sir,
Date : 3/02/2016

Comprehensive Statement

RE: allegation of contractual agreement between the county government of isiolo and African Parks Networks on Shaba and Buffalo Springs national reserves by County Executive.

Thank you for your letter dated 25th February, 2016 ref: ISL/CA/FBA/1/2/16 requesting a comprehensive statement, regarding the alleged contractual agreement in the above subject matter.

We wish to respond to your queries comprehensively as follows:-

1. **Introduction**

a) The current rumours in the public domain

i) In the past few weeks unknown individuals, amorphous groups and some local non-governmental organizations have been peddling disturbing rumours to the extent that the county government have either sold, leased or entered into some kind of contractual arrangement with an organization from South Africa on Buffalo Springs and Shaba National Reserves.

ii) So intense was the news that it even found its way into the pages of the local dailies. The motive of the story remains unclear but without doubt it has stirred a lot of debate and caused anxiety and fear among fellow county men and beyond. We, the CEC–Tourism and HE, the governor-Godana doyo visited a local radio station-Angaf FM radio to dispel the rumours and provide correct position as part of informing the public.

iii) As the executive committee member in charge of tourism under which the said reserves fall, we wish to state here formally and categorically that isiolo county government has not and had not entered into any kind of agreement with any entity, local or foreign in any undertaking on Shaba and Buffalo Springs national reserves, whether in form of lease, sales or memorandum of understanding (MOU).

iv) The allegations are unfounded, baseless and aimed at misleading the public from the realities on the ground concerning the two reserves.

v) Currently, the government of Isiolo has an Agency Agreement with KATO for revenue collection entered into with defunct Isiolo County Council, in 1995

vi) The trends in revenue collection in past has been going down (annex Table 1, and 2)

vii) The County government has made huge investment in the past 3 years to the parks (See Table 3) to the tune of ksh 510,187,685 excluding the payment of huge wage bills to the rangers. And during the same period the revenue from the parks ksh 220,845,780

viii) The highest ever recorded revenue collected is ksh **142,618,155** (Table 1)

b) What is the true position regarding the two Reserves as at now?

It would be helpful to the County Assembly and the public at large, if we provide the following information at this stage:-

a) Isiolo county government has started an introductory engagement with African Parks Network, a not-for-profit organization based in South Africa on possible private-public partnership arrangement with the goal and objectives of establishing partnership between the Isiolo County Government and African Parks network on matters of management, financing and development of Buffalo springs and Shaba National Reserves

b) at the moment, this is only a business idea that the county government has floated as strategic thinking/direction for addressing challenges of the said parks and making consultations with stakeholders and partners

c) The process of consultations are ongoing and we promise to be as inclusive as possible

d) Should current consultations with stakeholders find the idea of public- private-partnership (PPP) feasible and viable, a new business model of management of these two Parks may come into being and I hasten to add all these would follow due process of the constitution and the provisions of relevant laws of Kenya.

e) Having stated the true position accurately to enable the house to make informed discussion on the subject, I want to further state categorically that even in future undertaking we promise that all due process of the law and due diligence would be observed in the matter.

But why does Isiolo County government, even think of strategic partnering with private sector as indicated above?

2. Mandates of the County executive

a) Isiolo county government has mandate to plan, initiate, co-ordinate and implement projects and program in the entire county with the goal of achieving social economic developments.

b) Isiolo County is rich in natural resource endowments with main economic activities being pastoralism and tourism but located in Arid and Semi-Arid Land (ASAL), which is ecologically fragile and sensitive ecosystem with erratic low rainfall.

c) In past and present tourism revenues for the park support socio-economic activities of the county and attendant management of the parks is considered critical and strategic pillar of the County economy.

d) Currently, the Isiolo County government has a mandate to manage the National game Reserves and parks in the County. These are the Buffalo Springs, Shaba and Bisan Adi reserves. The parks are traditionally home to key wildlife species including the big five of Africa. The County has potential for more game reserves and there is a need to restore, rehabilitate and protect its rich diverse heritage of flora and fauna which is disappearing at tremendous rate (the appendices 1, 2 and 3).

3. The goal and the objectives of public private partnership

The goal and objectives of our current discussions with the African Parks network is to find a common ground on which build a long term sustainable relationship between the Isiolo County Government and African Parks network is management, financing and development of Buffalo springs and Shaba National Reserves. It is anticipated that once concluded the arrangement eventually would spur socio-economic benefits to the local communities. This is win-win situation for all parties involved- Commercial investor, the government, communities, strategic management partner and donors.

4. problems and challenges faced in executing the mandates

a) The county has major development challenges and constraints borne out of many years of neglect and marginalization, poverty, conflicts and lack of social infrastructure evident all around.

b) Wildlife protection and conservation in parks have potential for social and economic development, particularly for the benefit of local communities and contribute to wildlife survival in the face of competing forms of other land use.

c) The county has had challenges and constraints in management, development and financing of the parks over the years.

d) In terms of management of the parks, the county had direct role of the day-to- day involvement of the parks with vertical command and control structure with top down approach to management and decision making. This has led to the suboptimal performance in financing park operations, development of infrastructure in parks and poor management and governance.

e) The County government of Isiolo has developed strategies and plans to address the aforementioned challenges.

f) Revues from tourists are dwindling as a result of the insecurity with the parks, human/wildlife within the park and surrounding areas of the parks is at all times high, human-wildlife conflicts is on the raise.

g) The concept of wildlife conservation, protection of animals within/around the parks is posing challenges to management of the parks. Both Shaba and Buffalo national game reserves require rehabilitation and re-engineering of management and financing with long term sustainability in mind.

h) The two Reserves are priceless resource inherited from the defunct county council by isiolo county government, and must be made sustainable for current and for the future generations.

e) The revenue generated from the reserves almost entirely financed the operation of the council then, though hardly sufficient, with the council workers (including park rangers) going without pay for more than half a year.
f) In fact the county government bore the brunt of the burden by settling six month salary arrears of the former council employees upon inception in 2013.
g) The reserves were a pale shadow of its former self and needed critical fresh breathe of life. It was an exercise in futility to continue doing business the old council way. A different management model was not the only way to go but the only way.

5. Rationale and justifications for strategic management partnership

a) The direct management of parks by the government has not been very effective in conservation and protection of wildlife in the parks.
b) The county government of Isiolo has been trying to address this challenge by find strategic management partners to work with mitigate the challenges of wildlife parks management and the constraints of wildlife protection and ecosystem conservation.
c) The county government having challenges, a strategic management partner would take total responsibility for the rehabilitation and long-term management of two game reserves under it, in partnership with Isiolo County Government and local communities.
d) The county government over the years had been struggling with the issues of the development of the parks in the county and indeed witnessed a near collapse of parks with rampant insecurity.
e) However, the challenges have been the required huge capital outlay to invest to improve, upgrade all infrastructures (physical, human resource, financial and systems) in the parks. Both national and county governments have not found enough capital reverse the current dire situations in our parks.
f) Financing of the development and management of parks call for change in paradigm from direct government management to public-private partnership (PPP) arrangement since the government lacks both the financial resources and business acumen to run the parks sustainably, while a private sector investor with expertise would combine world-class conservation practice with business expertise and would place emphasis on achieving financial sustainability of the parks by combining long-term donor funding with tourism revenues, related business enterprise and payment for ecosystem services, which all serve as a foundation for economic development and poverty alleviation.

6. In conclusions

i. The parks require total rehabilitation of ecosystems and embrace modern conservation technology, techniques and methods.
ii. Building partnership between resource-base of the parks and commercialization of the products is critical for long term sustainability and survival of both Buffalo Springs and Shaba National Reserves.
iii. It is important to recognize that a new business model is required if we have to bequeath the parks to our children. The current affairs of things in our parks cannot be sustained.

By Suleiman Guyo Shunu-CEC in Charge Tourism, Culture and Social Service- Isiolo County Government

Appendices Tables

Table 1. Revenue from both Buffalo Spring and Shaba National Reserves

Year	revenue in shillings
2005	89,360,144
2006	99,569,549
2007	115,062,622
2008	47,768,504
2009	80,931,077
2010	117,292,180
2011	115,070,415
2012	142,618,155
2013	79,258,935
2014	84,782,799
2015	56,804,052
Total for 2005-2015	**1,028,518,432**

Source: ICG records

Table 2. Number of visitors and amount of revenue realized from Shaba National Reserve

Year	number of visitors	revenue in s
2009	4874	30,561,800
2010	5590	38,042,800
2011	6398	44,826,400
2012	4550	35,416,200
2013	4253	22,996,600
2014	4460	26,634,800
2015	3915	17,646,600
Total	34,040	216,125,200

Source: Shaba Gate Office

Table 3. The County Government allocations to the Parks

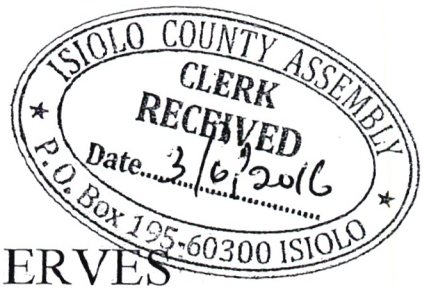
Financial year	**Recurrent**	**Development**	**Total**
2013/2014	108,062,250[1]	104,373,585	212,435,835
2014/2015	71,066,069	94,376,289	165,432,358
2015/2016	50,977,000	81,344,492	132,321,492
Total	230,105,319	280,094,366	**510,187,685**

Source: County department of Tourism 2015

1- The recurrent budget does not include the staff salaries and wages

EP 2

PETITION MADE TO THE ISIOLO COUNTY ASSEMBLY PURSUANT TO ARTICLE 1(4) OF THE CONSTITUTION OF KENYA AND ALSO ARTICLE 6(2) OF THE COUNTY GOVERNMENT ACT



BY

FRIENDS OF ISIOLO GAME RESERVES

CONCERNING

THE INTENTION OF ISIOLO COUNTY GOVERNMET TO LEASE OUT ITS TWO GAME PARKS

NAMELY BUFFALO SPRINGS AND SHABA TO A PRIVATE ORGANIZATION

PETITION BY FRIENDS OF ISIOLO GAME RESERVES

(FIGARE)

We the undersigned,

Are citizens of the Republic of Kenya, Residents of Isiolo County and Members of a C.B.O in the name of FRIENDS OF ISIOLO GAME RESERVES (FIGARE)

Draw the attention of the Isiolo county assembly to the following;

1. That we the undersigned are residents of Isiolo County and members of the above mentioned community based organization(CBO).
2. That the said CBO is legally registered organization with the office of the isiolo sub county social development office as a community based organization with a certificate No.35835 dated the 10th of May 2016.
3. That the objectives of the said CBO are as follows:
    a. To protect the three Game Reserves namely BUFFALO SPRINGS, SHABA and BISSAN ADI from internal and external negative interferences and bad publicity.
    b. To strive towards the revival of the parks past lost glory.
    c. To protect the biodiversity of the three National Reserves and
    d. To maintain the Natural heritage among others.

Wherefore: Your humble petitioners pray that the Isiolo County Assembly

1. Stops and cancel with immediate effect the advertisement by the Isiolo County Government or any of its agent in respect of its intentions to lease or contract the said two Game Reserves namely Buffalo springs and Shaba within the jurisdiction of Isiolo County.(dated 24th of May 2016).
2. That the Isiolo County Assembly as the watchdog of the residents of this County ignitiate a public participation forum to enable the public and other stakeholders to give their views on the said matter.
3. That the petitioners on behalf of the residents of Isiolo County request the County Assembly to ensure that the Isiolo County Government should make public if any the followings:
    a. Memorandum of understanding (MOU).
    b. Contractual agreement to enable the public to discuss it during the public forum
    c. That we humbly request the Isiolo County Assembly to intervene into this as a matter of utmost urgency and stop the Isiolo county government from further proceeding with this exercise until the request in our petition is heard and determined.

And we your petitioners will ever pray

Dated this 31st day of may 2016

No	Name	Phone no	Id no	Signature
1.	Hussein Ali Abdiba	0726270861	0080814	
2.	IBRAHIM A WAKO	0726172918	22492433	
3.	IDLE HASSAN	0726093624	0028940	
4.	HABIBA ADAN	0720419772	20315870	
5.	JARSO HALKANO	0720664808	0009807	
6.	Adan Jirma Duba	0720251899	0367421	
7.	Lucy v. Nyaguthii Kamiri	0726432828	22211948	
8.	Anab Kasim	0726717180	20198681	
9.	Hassan Galla Guyo	~~1090472~~ 0712 830455	1090472	
10				

THE REPORT

OF

THE PUBLIC PARTICIPATION FOR THE PROPOSED PUBLIC PRIVATE PARTNERSHIP

FOR
THE MANAGEMENT OF BUFALLO SPRINGS AND SHABA NATIONAL RESERVES

BETWEEN

ISIOLO COUNTY GOVERNEMNT AND STRATEGIC MAANGEMENT PARTNER

1. Introduction

The Concept and Basis of the Public Participation

Article 1 of the Constitution of Kenya states that sovereign power belongs to the people of Kenya and Isiolo County Government (ICG) directly derived its power and authority from the people of Kenya just like the National Government. The locus to transact public business is the County Government mandated by the constitution. However, because of prevailing bad politics and misrepresentation of facts and figures and for the purposes of upholding the principles of open governance, the ICG through the Tourism Sector entrenched public participation as an integral part of the public private Partnership (PPP) process. Public Participation is a continuous exercise in the process and it is structured to cover the entire County. While the new found lobbies and activists prematurely rushed to the Senate without facts, the County government managed to conduct a series of successful public participation that ensured there was sector-wide representation.

1.1 The Process of public Participation

The reports from the study tour, power presentations from the Consultants and Ministry of Tourism, Institutional info bank on the parks, African Parks Network (APN) documents like the draft Memorandum of understanding (MOU), presentations on the revenue projections of the parks for the successive financial periods and an array of online resources made up invaluable information, educational and communicational materials for a thorough public participation.
The public participation programme was structured to collectively cover the diverse public interest on the issue. The public participation team ensured a countywide participation in open forums and targeted audiences. The programme which is continuously on going so far was held in Isiolo South Sub County, Merti Sub County, and Isiolo Central. The targeted audience for the public participation included; MCAs, Communities living near the parks, Conservation stakeholders at the community level, Security agencies, development actors in conservation like NRT, lobby groups, local civil society organizations.
The debate on the process of the PPP is now moderated by factual arguments for the case in the various public participation program and mass media dissemination. Public participation is on its homestretch and soon it progress to the actual MOU of the PPP. The Chorus by the lobbyists and opposition inspired politics is now silenced by the superior power presentations and the clear position of the County government. It is an all systems go and the process is expeditiously on track.

This is a report of the public participation activities undertaken by the department of Tourism of Isiolo County Government with objectives of informing the public on its intention to partner with private sector to manage the Buffalo spring and shaba Game Reserves and receive stakeholders' views and input to the process of public private partnership in management contracting. A number of consultative meetings were held for different stakeholders and groups from the19th July to 1st of August 2016. In all over 500 people attended and participated in public discussions in the public participation process. The key participants are civil society representatives, conservationists, Tour operators' hoteliers, politician, women and youth. The highlights and key points of the public engagement with the process are included in this report. The aim of exercise to promote understanding and support amongst the stakeholders for proposed public private partnership management of Buffalo Springs and Shaba game reserves arrangement

The process of consultations with the public benefited immensely from the top leadership of the county including H.E. the Governor Godana Doyo, who attended three of the meetings. The governor gave insight as to why the County Government is proposing to find a strategic partner in line with public private partnership arrangement to manage the Buffalo and Shaba National game Reserves. The political commitment from the leadership is critical for the success of the proposed project. In his remarks the governor he reiterated the constitutional structure of Isiolo County Government and its responsibilities and mandate as:-

- County government- Executive and legislative

Executive- CEC mandates and functions derived from the constitution and the laws

- Legislature- mandates derived from the constitution and the laws too.
- The 2 arms must work in tandem and harmony to realize the principles, goals and

Functions of the county Assembly to:-

- Oversight the executive
- Represent the people
- Legislate for the county/country

In his introductory remarks, the CEC- Tourism stated that the public participation meeting would provide an avenue for candid conversation as stakeholders regarding the proposed plan for Buffalo springs and Shaba National game reserves management contracting under Public private partnership arrangements and regretted at the outset, the void created by the lack of proper

information to the public has created a lot of political heat without shading light on the substance of the Buffalo springs/Shaba game reserve issue.

Rationale and justifications for strategic management partnership

The two park/reserves were a pale shadow of its former self and needed critical fresh breathe of life. It was an exercise in futility to continue doing business the old council way. A different management model is the only way to go. Hence, a paradigm shift in policy and operations needed to go forward on the management, development and financing of the parks.

The concept of wildlife conservation, protection of animals within/around the parks is posing challenges to current management of the parks. Both Shaba and Buffalo national game reserves require rehabilitation and re-engineering of management and financing with long term sustainability in mind.

The parks require total rehabilitation of ecosystems and embrace modern conservation technology, techniques and methods as well as new business model to make money.

Building partnership between resource-base of the parks and commercialization of the products is critical for long term sustainability and survival of both Buffalo Springs and Shaba National Reserves. It is important to recognize that a new business model is required if we have to bequeath the parks to our children. The current affairs of things in our parks cannot be sustained. In Past, the revenue generated from the reserves almost entirely financed the operation of the council then, though hardly sufficient, with the council workers (including park rangers) going without pay for more than half a year. In fact the county government bore the brunt of the burden by settling six month salary arrears of the former council employees upon inception in 2013.

Financing of the development and management of parks call for change in paradigm from direct government management to public-private partnership (PPP) arrangement since the government lacks both the financial resources and business acumen to run the parks sustainably, while a private sector investor with expertise would combine world-class conservation practice with business expertise and would place emphasis on achieving financial sustainability of the parks by combining long-term donor funding with tourism revenues, related business enterprise and payment for ecosystem services, which all serve as a foundation for economic development and poverty alleviation.

The county government having challenges, a strategic management partner would take total responsibility for the rehabilitation and long-term management of two game reserves under it, in partnership with Isiolo County Government and local communities.

From description of APN, its organization and its network is impressive. APN's partnership with government and like-minded institutions over many years, and its good track-record from the implementation of many projects in Malawi and elsewhere in Africa,confirms that this organization has the resources, expertise and experience needed for implementation of a proposed project.

The goal and the objectives of public private partnership

The goal and objectives of the African Parks Network and Isiolo County Government is to find a common ground on which build a long term sustainable relationship between the two entities with regards to management, financing and development of Buffalo springs and Shaba National Reserves. It is anticipated that once concluded the arrangement eventually would rehabilitate the parks conserve biodiversity and spur socio-economic benefits to the local communities and to the county.

This is win-win situation for all parties involved- Commercial investor, the government, communities, strategic management partner and donors. More explicitly, the overall goal for the project is Rehabilitation and sustainable Management of Buffalo springs and Shaba National game Reserves in order to contribute to conservation of Wildlife in the two game reserves in Isiolo County through creation of an ecologically , economically productive wildlife reserve, and with the purpose: to ensure that Buffalo springs and Shaba National game Reserves are restored and developed in manner that demonstrates bio-diversity rehabilitation and conservation to levels where sustainable natural resource utilisation benefits the Kenyan economy and neighbouring communities whilst also ensuring financial viability.

The objectives of the proposed project are:

- Training of game scouts, extension staff and other wildlife management staff to facilitate the implementation of law enforcement, habitat management, community collaboration and monitoring in a gender sensitive, ethical and equitable manner.
- To develop the Reserve within the national wildlife-based tourism industry of Kenya by investing in infrastructure that increases fee-paying visitors to commercial tourism establishments.

- To promote community collaboration in the conservation of Buffalo springs and Shaba National game Reserves by establishing institutions and programs that empowers and enables communities to support and benefit from the Reserve in a sustainable, gender-sensitive and equitable manner.
- To contribute to conservation of animal and plant species of national and global concern such as the African elephant,

2.0 Background

Buffalo Springs and Shaba game reserves occupy about 1.5% of Isiolo County land and the wildlife population in the two games reserves has declined to a point that some species have become extinct due rampant poaching and situation is getting out of hand. Wildlife-human conflicts on the rise and ecosystem degraded with competition for different land use.

In the past 12 years, the two games reserves generated an income of Ksh I billion (an average of 83 million per year) (source: County Treasury) (table 1) while the currently, the wage bill for the staff (rangers) is about Ksh 7 million per month which translate to 84 million per year for 100 workforce of game reserves and the monthly recurrent expenditure for the game reserves run into 5-6 million per month translating to 60-72 million yearly. There is a serious fiscal constraint in developing and financing infrastructure development in game reserves.

Table 1. **Revenues from the Parks 2005-2015**

YEAR	REVENUE IN SHILLINGS
2005	89,360,144
2006	99,569,5492
2007	115,070,415
2008	47,768,504
2009	80,931,077
2010	117,292,180
2011	115,070,415

2012	**142,618,155**
2013	**79,258,935**
2014	84,782,799
2015	56,804,052

2.1 **History of the parks**

Buffalo Springs National Reserve

Buffalo Springs National Reserve is a protected area in the Isiolo County in northern Kenya. The reserve was established in 1948 as part of the Samburu- Isiolo Game Reserve, and the present boundaries were established in 1985. The reserve is managed by the Isiolo County Council. Most operators of Kenyan safaris offer a visit to the reserve, which has several Safari Lodges and safari camps.

Organization

The reserve was established in 1948 as part of the Samburu - Isiolo Game Reserve, and the present boundaries were established in 1985. The reserve is managed by the Isiolo County Council. Most operators of Kenyan safaris offer a visit to the reserve, which has several Safari Lodges and safari camps.

Location

The Buffalo Springs National Reserve is south of the Samburu National Reserve, which lies on the other side of the Ewaso Ngiro river. It is named after an oasis of clear water at its western end. The reserve has an area of 131 square kilometres (51 sq mi), and is at an altitude of between 850 metres (2,790 ft) and 1,230 metres (4,040 ft) above sea level.[1] It is a gently rolling lowland plain of old lava flows and volcanic soils of olivine basalt. The main feature is the Champagne Ride in the southeast, an ancient lava-terrace.[2] The climate is hot, dry and semi-arid.[1]

Flora

There is a narrow band of riverine forest along the Ewaso Ngiro which includes Tana River Poplar, Doum Palm and magnificent specimens of Acacia elatior. Vegetation includes acacia

tortilis woodland and large stretches of bushland dominated by Commiphora. In some areas lava rock is exposed, with scattered grass and shrubs. Other parts have alkaline grasslands with occasional springs and swamps. Here and there the "Desert Rose" (Adenium obesum) is found in the scrub, with bright pink blooms. The Salvadora persica (tooth-brush tree) shrub provides food to elephants, and its twigs are used as toothbrushes by the nomadic Samburu people.[1]

Fauna

Wildlife includes Grant's zebra and the endangered Grevy's Zebra. Other species of mammal include reticulated giraffe, the African bush elephant, oryx, gerenuk, African buffalo, Masai lion, African leopard, Tanzanian cheetah and spotted hyena. Over 365 species of bird have been recorded in the reserve. The river is home to hippos and crocodiles.[3] Somali ostriches are widespread within the national reserve. It is larger than the Masai ostrich's and is distinctive for their indigo legs and neck.

Shaba National Reserves

Shaba National Reserve is a protected area in northern Kenya to the east of the Samburu and Buffalo Springs national reserves. Together, the three reserves form a large protected area.[1] The Shaba reserve has dramatic scenery including river-side forests, scattered woodlands and dry grasslands dominated by the Shaba Hill volcano. The plentiful wildlife relies on waterholes and marshes scattered throughout the reserve. Shaba is home to the endangered Grevy's zebra and the rare Williams's lark. Shaba was the setting for the book and film Born Free, for the film Out of Africa and for the reality show Survivor: Africa. The reserve is a popular destination for tourists. There is some risk that excess numbers of visitors and growth of the local population around the reserve may place stress on the environment.

Location

The Shaba National Reserve was gazetted in 1974. It is administered by the Isiolo County Council. It is just east of Samburu and 70 kilometres (43 mi) to the north of Mount Kenya. The Ewaso Ngiro river runs for 34 kilometres (21 mi) along the northern boundary of the reserve. Annual rainfall is between 250 millimetres (9.8 in) and 500 millimetres (20 in). The soils are sandy, volcanic in origin. The reserve is semi desert, dotted with isolated hills and plentiful springs. Shaba Hill in the south, with its volcanic formations, rises to 2,145 metres (7,037 ft) above sea level from relatively flat surrounding country. The land at the foot of this hill is rugged, containing steep ravines.

Shaba is smaller than Samburu Reserve and has more riverine forests, which contain acacia elatior and doum palms. Away from the river the habitats include umbrella thorn acacia woodland, bush land dominated by commiphora, alkaline grasslands and open areas of lava rock that contain scattered patches of grass and shrubs.

Fauna

Although Shaba is greener than Samburu, game species such as Masai giraffes and Grant's zebras are less common. There are many klipspringer and hyrax in the hills.[4] Aardvarks, warthogs and bat-eared foxes make their homes in domed termite mounds in the shrubland. Common eland, Impala, Grant's gazelle (Bright's sub-species) and gerenuk graze the shrubs, and zebras, Beisa oryx, greater kudu and lesser kudu graze in the grasslands. Shaba is well known for its large prides of Masai lions, which rest under thickets of toothbrush trees during the day. At night, predators include the Serengeti wolf, black-backed jackal, striped hyena and spotted hyena[5] The reserve is home to rare species that include the reticulated giraffe, Somali ostrich and the endangered Grevy's zebra.[1] Other fauna includes African leopards and African bush elephants.

Bird life is plentiful in Shaba, and similar to that of the Samburu and Buffalo Springs National Reserves. The near-threatened and poorly known Williams's lark is found in the reserve in regions of rocky lava semi-desert with low Barleria shrubs. It has not been observed in any other protected area. The reserve lies on the migration route from the Palearctic for the globally threatened lesser kestrel, a few of whom pass through each year. Shaba is also home to regionally threatened birds that include the sporadically visiting African darter and great egret and the resident white-headed vulture, martial eagle and yellow-billed oxpecker, the last of which is fairly common.

Ecological concerns

Shaba is valuable for its diverse fauna of the Somali–Masai biome, and is important as a home for the poorly known Williams's lark. Neither the reserve, nor the lark's habitats are immediately threatened. Military training in the region to the north of the reserve causes considerable environmental disruption. Levels of grazing, hunting and firewood collection are rising in the areas around the reserve, and sometimes this activity intrudes into the reserve itself. There is no management plan for tourism, and there is a risk that numbers of visitors may raise to unsustainable levels.

Status report of the parks

The park is currently managed by the ICG under the Tourism Sector, the monumental issues of bio-diversity degradation, insecurity, decreased tourist numbers, low staff morale, political interference and nonexistent tourism business value chain. The ICG continues to manage the protected areas which they inherited from the defunct County Council. The raft of changes introduced by the current CEC in charge of the Tourism sector of the ICG already yielded some fruits. For instance the redeployment of the KPR for security cooperation almost single handedly reduced the rampant cattle rustling in the parks by a significant margin. This PPP process preciously is the elephant in the room but now it was faced and the process is going on smoothly. There is now significant progress made in the PPP process.

The County government invests Ksh 200M annually for a return on investments of Ksh 50M is a bad business. The County government took the leadership and initiated the process of engaging a partner to properly manage the parks. The CEC of the ICG deliberated on the available options in the larger prism of business process outsourcing specialized organization. The CEC Tourism Suleiman Shunu brought back to the Cabinet the research report which informed the start of the process and a cabinet memo authorized the CEC to expeditiously engage partners. In a raft of strategic interventions the Kenya Police Reservists were trained and deployed as a back up to the ranger force. Within a short span the combined efforts with other security agencies significantly reduced the cases of insecurity within the park and advance conservation efforts, fighting poachers and enhanced community wildlife co-existence.

The idea of engaging the APN started when the two national reserves was going through its worst ever period in its history .The rampant cattle rustling and inter-tribal conflicts reduced the erstwhile protected areas to a bandits playground. In 2012 the former Clerk of the defunct County Council of Isiolo Maurice Ogolla and the current Chief Warden of the Bufallo Springs, Shaba and Bisan Adi National Reserves Abdi Boru visited Lewa Conservancy to take up the issue of deteriorating conditions in the park. As a leading conservationist in the Northern Kenya region, Ian Craig the founder of the NRT identified APN as a potential partner. Because as a rule of engagement APN normally manage protected areas in threatened habitat like was the case of the BSSNR at the invitation of governments in all their areas of operation. The two abandoned the pursuit of the APN management contracting out of the fear of the backlash and political heat it was likely to generate. Subsequently, the parks continued facing man made destruction and

pressure on its bio-diversity. The tourism business which depends on the park was badly affected leading to substantial loss of revenue to the Council. The County government inherited the parks under these conditions; they also tried their hand in reengineering the conservation business value chain. Investing about Ksh 200M successively until it was a clear that a sustainable solution

3.0 Challenges and problems of running/ managing the game reserves

We are facing a conservation crisis in Africa in which national parks and protected areas are being lost. Although there are more than 1,200 designated Protected Areas in Africa, many are just 'paper parks' and given current trends, it is unlikely that more than 60 parks larger than 100,000 hectares each will remain intact in the next 20 years. This is why the time is now to secure these critically threatened areas under the unique model of African Parks, to ensure that Africa's wildlife and wild landscapes can survive long into the future.

Africa's wildlife and wild areas are under threat largely due to three main reasons: habitat loss and fragmentation due to the growing needs of the increasing human population; the illegal wildlife trade, a multi-billion dollar a year industry, driving the harrowing decline of elephants, rhinos and other species which is increasingly being carried out by well organized and heavily outfitted crime syndicates and even terrorist groups; and human-wildlife conflict which escalates as natural habitats are converted for development or agriculture.

The degradation of these landscapes means that the ecosystem services on which humans depend are being lost forever. Competing forms of land use for an expanding human population, compounded by climate change, means that wildlife and their natural habitats are under serious threat and depend on well protected landscapes in order to survive.

A number of issues have been identified as posing serious challenges to the management of the game reserves. Seven key issues which need to be addressed are-:

- Issues of infrastructure and management
- Issues of image and marketing
- Issues of law enforcement
- Issues of conservation management
- Issues of community engagement
- Issues of income generation

a) Infrastructure and management

Lack of capital investment, low capacity technical staff and lack high tech security equipments for surveillance are key issues among the infrastructure issues for the parks.

b) Law enforcement

Insecurity-in buffalo springs shaba complex, influx livestock, armed herders/militias, and bandit attack on tourisms are endemic and poaching has been rampant particularly with large animals. Law enforcement staff ill equipped, ill trained, ineffective informer network and the law enforcement effort not well integrated with regional ant poaching effort

c) Conservation and habitat management

Increased disintegration of ecological integrity is on rise while there no zonation plans in place. The key wildlife corridors have almost disappeared as human settlement comes around the parks. Animal Population in the parks is currently low and no restocking program in place as yet. Other risks such as fire management plan in place is not in planned and not in place and research

d) Community engagement

There is a resinous human wildlife conflict in and around the two game reserves as population increase and wildlife/livestock compete for meager natural resources (water and pasture). Lack of social program such as education and scholarships and community Enterprise development contributes to the challenges since communities have no reason to attempt to conserve the wildlife habit

e) Income generation

There is image problems of the two parks and difficult to market to outside world. The perception is that the two parks are located in bandit prone areas. In addition the diversity of products and branding of the two parks have been minimal while income from tourism to finance the operation of the reserves is insufficient

4.0 Public Private partnership (PPP)

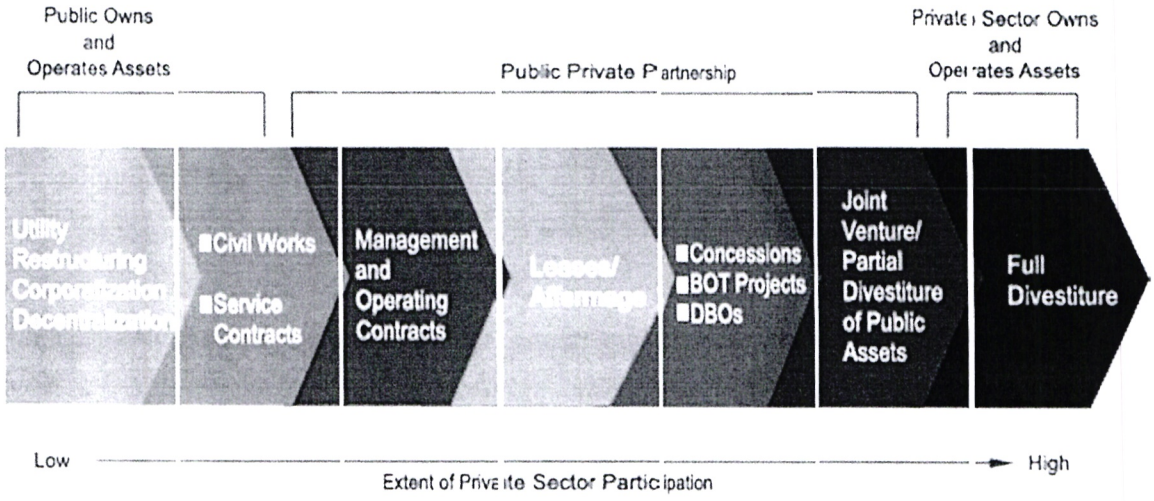
The public private partnership (PPP) is a procurement method that has been adopted worldwide. The main reason for the government opting to implement government projects through PPP is because the private sector is reported to have more skills and expertise to efficiently design, construct, operate and maintain projects.

Public-private partnerships (PPPs) take a wide range of forms varying in the extent of involvement of and risk taken by the private party.

The terms of a PPP are typically set out in a contract or agreement to outline the responsibilities of each party and clearly allocate risk. The graph below depicts the spectrum of PPP agreements There are usually two fundamental drivers for PPPs.

a), PPPs are claimed to enable the public sector to harness the expertise and efficiencies that the private sector can bring to the delivery of certain facilities and services traditionally procured and delivered by the public sector.

b) A PPP is structured so that the public sector body seeking to make a capital investment does not incur any borrowing. Rather, the PPP borrowing is incurred by the private sector vehicle implementing the project.



4.1 The Need for PPP

Once envisioned a need to work with private enterprises, a visit was undertaken as study tour. A number of study tours were made by both executive members and legislative assembly to both Akagera and majete

The Study Tours

The Visit to Akagera National Reserve

View over the Park

Akagera National Park covers 1,200 km² in eastern Rwanda, along the Tanzanian border. It was founded in 1934 to protect animals and vegetation in three ecoregions: savannah, mountain and swamp. The park is named for the Kagera River which flows along its eastern boundary feeding

into several lakes the largest of which is Lake Ihema. The complex system of lakes and linking papyrus swamps makes up over 1/3 of the park and is the largest protected wetland in central Africa.

Much of the savannah area of the park was settled in the late 1990s by former refugees returning after the end of the Rwandan Civil War. Due to land shortages, in 1997 the western boundary was re-gazetted and much of the land allocated as farms to returning refugees. The park was reduced in size from over 2,500 km² to its current size. Although much of the best savannah grazing land is now outside the park boundaries, what remains of Akagera is some of the most diverse and scenic landscape in Africa.

In 2009 the Rwanda Development Board (RDB) and the African Parks Network entered into a 20 year renewable agreement for the joint management of Akagera. The Akagera Management Company was formed in 2010 as the joint management body for Akagera National Park.

Over the next 5 years a US$10 million expenditure is planned for Akagera including the construction of a 120 km western boundary fence and the reintroduction of lion and black rhino. In July 2015, 7 Transvaal lions from South Africa were introduced and released in Akagera National Park, being the first lions in Rwanda for 15 years.

The Governor and Chief Warden Abdi Boru visited the Akagera National Reserve in October 2015 and the appraisal of the innovation and reengineering of the degraded bio-diversity and collapsed tourism industry by the APN got a stamp of approval. The report of the visit was shared with the County Assembly Tourism Committee and they too were impressed. According

Visit to Majete National Reserve in Malawi

Majete Wildlife Reserve is a national game reserve in Malawi. The reserve lies a few miles north of Chikwawa, with the Shire River forming its eastern boundary. The park consists of approximately 70,000 hectares of land and contains about 4,000 animals, including African elephant, common eland, plains zebra, African leopard, baboons, many species of monkeys, and warthogs. Large numbers of hippos and crocodiles can be found in streams and along the banks of the Shire River. In the 1980s, Majete suffered from poaching and deforestation. The elephant herds that used to be common in the area have largely vanished. Many animals have been re-introduced, including lions, black rhinos, and leopards. The park is now protected by a 142 km fence and may be the best place in Malawi to see the Big 5 animals. Majete is very dry and hot in

the summer, and several man-made watering holes have been constructed to maintain the wildlife population.

Kapachira Falls on the Shire River is located near the park. David Livingstone's 1859 Zambezi Expedition came up the Shire but was unable to proceed beyond the falls. One of Livingstone's companions is buried in a well-kept grave near a prominent baobab tree not far from the Majete

The Visit

The CEC Tourism Suleiman Shunu and the Chair of the County Assembly of Isiolo Hon Paul Mero visited the APN managed Majete as a follow up to the earlier one by the Governor and Chief Warden and they were taken on an intensive tour. The team filed their report which was tabled in the entire Committee and the Assembly. The County was involved in the process from its initial stages, the claims of some members of the CA that they were not in the picture is therefore unfounded. The opportunity by the MCAs to participate in the PPP was out of the gesture of the Tourism CEC and the Governor because the County Tourism Act (below) mandates the CEC Tourism to spearhead initiatives and interventions of how to properly manage the parks and engage strategic partners. It was meant for purposes of creating a win-win for the process and the eventual PPP.

In all visits made by members of the executive and the county assembly, the highlights of the visit reports include but not limited to:

- Improved surveillance and reconnaissance equipments for wildlife and tourists.
- Rehabilitation of the wildlife and their habitat.
- Community benefits in education, healthcare, security and household income from tourism based enterprise development.
- Up to date wildlife census and species transfer to Akagera from say South Africa.
- Seamless business process management which leads to improved revenue.

4.2 Legal Basis for the PPP in Isiolo County

The Public Private Partnership Act No 13 of 2013 is provided legal basis for PPP. The PPP is an alternative method of procurement for public sector while providing the legal and policy environment for engagement of private equity and expertise. The ICG/APN arrangements is implemented with this framework (See Ref for the PPP Act No 15 of 2013.Source KLR)

Also Isiolo County Tourism Act which mandated the CEC Tourism to spearhead private sector partnerships and stakeholder involvement in the overall objective of transforming the protected areas under its jurisdiction (See Ref: County Tourism Act of 2015)

Corporate, Institutional and legal Structures related to the PPP

- The Company Act.
- IPMB Act
- Conservancy Act
- Policies and structures of Community Partnership and Stakeholder forums.

These are proposed instruments for the implementation of the deliberate tri-partite working relationship between ICG/APN/Communities and the environment. When fully developed the regulatory and co-operation structures will ensure a perfect equilibrium in the management of the Buffalo Springs, Shaba National Reserves.

5.0 Policy options

One of attempt has been to restructure and re-organize the game reserve management to deliver on day-to day operations. While the ICG has injected substantial amount resources towards this effort it yielded dismal results.

The ICG Improved law enforcement in order to curb insecurity (eliminate poaching and increase safety for tourists) and develop infrastructure (human, physical systems and financial) to increase revenue generation but the situation require more than just that but need re-engaging of structural weakness and to reduce human wildlife conflicts and alleviate poverty.

Scenario 1

- Stay put as before
- Do the cosmetic changes of restructuring the management within the current set up
- Continue pumping in money through annual budgetary allocations as before

Expected Results- no improvement and worsening situation in security, conservation, revenue generation and wildlife-human conflicts escalate

Scenario 2

- Radical transformation of the game reserve management
- Separate regulatory functions (referee) from the Management (the Players)
- PPP arrangement ease pressure from country Treasury

- Create SPV- Isiolo Parks Management Board (IPMB) answerable to the County Government

Expected Results- turn round in key pillars

The stakeholders as leaders and representative of the people and groups to made their contributions in the plenary and critical input to the process.

6.0 Proposal Management Contracting

Public/stakeholder participation –proposed plan to engage management contracting in Buffalo springs and Shaba National Game Reserves

Comparative Analysis and Building the Case

The report comprehensively provides a case by case comparative analysis between Buffalo Springs, Shaba and Akagera, Majete National Reserves, based on the following aspects of the ideal situation of total quality management of the parks. The critical aspects which build on the case for the PPP are as follows:

- Wildlife and its Habitat
- Conservation Management Technologies
- Organizational Management, Operations and Logistics
- Security Management
- Tourism Business Value Chain
- Community Development.

Wildlife and Its Habitat

Poaching in Kenya is a national disaster and Isiolo County is not an exception. As it stands the parks act as a buffer zone for the Northern wildlife population, the last frontier for conservation in this region. The Bufallo Springs and Shaba National Reserve is a niche wildlife habitat unique to the endangered five Northern Species; the Grevy Zebra, Reticulated Giraffe, Somali ostritch, Beisa Oryx, Gerenuk. The wildlife population is not known; the two parks never conducted an animal census in its existence. The defunct ICC and ICG lacked the resources to undertake a proper census. On animal transfer, there was no transfer to Bufallo or Shaba National Reserve. The last Rhino movement occurred in 1981 when 6 rhinos were airlifted to Lewa Conservancy, the rhino population is almost extinct in the parks. The Grevy Zebra, African Elephant, Beisa and Gerenuk are also under threat. The Wildlife corridor and dispersal areas have been turned into permanent and semi-sedentary settlement. For instance, Manyatta Zebra before the Ngaremara

gate of the Buffalo Springs National Reserve is a case in point where the name itself betrays itself. The road sign denoting Zebras is now replaced with either a cow or pedestrian. Chumvi is a traditional dispersal area for the wildlife; it is now a densely populated sedentarized centre complete with a school, shops, and health centre and government projects. The communities living near the protected reserves directly live off the natural resources creating an imbalance in the Eco-system. In fact 75% of the communities in Northern Kenya degrade the land-based natural resources for livelihoods; the situation is even worse in the parks. The Wildlife in the parks are now found in isolated hide "aways" or like Elephants in Buffalo Springs congregate near tourist facilities for security and sense of protection. Illegal firewood harvesting, grazing (which leads to spread of diseases to and from wild animals/pressure on pasture) and game hunting are among the various forms of harmful human activity facing the parks.

The APN managed parks provides the counter narrative for the Bufallo Springs and Shaba National Reserves in terms of TQM. A case study of both the Akagera and Majete National Reserves above shows a contrast in the following ways; Increased numbers of the wild animals and routine pest and disease surveillance and proper management and Rehabilitation of the habitat. Delineation of the protected areas and corresponding conservation areas like wildlife corridors and dispersal areas is imperative. Regular animal census, species research, transfers and complete revolutionary protection measures for wildlife and its habitat for the building of the case for a management contracting partnership between ICG and ICG

Conservation Management Technologies

In Buffalo Springs and Shaba age old traditional methods of conservation management are still in use. There is no investment in species research and development and there is lack of specialized conservation strategies and policy. In the information age it is ironical that such a rich bio-diversity still relies on ranger patrols, barely one Land cruiser which often breakdown for surveillance. Deforestation for building, firewood, and commercial charcoal burning is an endemic symptomatic of the free fall of the parks. The indigenous species like the Acacia tortilis and Acacia Elatoir are threatened with extinction. There is no reintroduction of the five Northern species into the parks and the numbers are dwindling. Comparatively the APN managed reserves use well researched, tried and tested methodologies for both flora and fauna conservation. The renaissance of Akagera and Majete is a case of conservation at its best, a global best practice in distressed bio-diversity.

Organization, Operations and Logistics

The Buffalo Springs and Shaba Nation Reserves management is inseparable with the ICG; the day to day running is by the Tourism sector of the government. Operations, marketing, logistics amongst other business processes is still managed by the County Government. Undue political interference in the employment, deployment, promotions, performance audit, retirement, discipline ensures a lethargic, incompetent and unskilled work force. The fuel economy and logistics management is not streamlined resulting to pilferages and mismanagement.

Unlike the above the reserves under APN apply TQM for the entire business process. In fact the unique value chain management and best practices in innovation, technology transfers, and pragmatism put the parks in a class of their own. Considering that both Akagera and Majete used to be bastions of rebel armies during the civil war, the APN – ICG partnership will transform Bufallo Springs and Shaba National Reserves in a relatively short time (See 2.1-2.3)

Security Management

The persistent proliferation of small arms and light weapons, poaching with sophisticated arms and international market network, cattle rustling, tribal clashes combined is the manifestation of the poor security in the Northern region of Kenya and indeed the protected areas of Isiolo County.

One of the worst hit areas is the park and its environs which provide training camps and cover for the poachers and bandits. Due to their large numbers, superior weaponry, politics, poachers and bandits freely roam in the park a lot of times without matching resistance from the subdued rangers and KWS. Poor intelligence gathering, zero reconnaissance equipment, and with no fencing and settlements, the security inside the parks greatly hampers. The APN usually takes over the security of their parks, invests in high end security equipments, boost the personnel numbers and construct an electric fence which is constantly under surveillance by the rangers and a state of the art command centre. The use of ICT tools ensures round the clock proactive security for the wildlife, its habitat and tourist in the park. The PPP is a silver bullet in security management of the parks and the whole Northern circuit by extension

Tourism Business Value Chain

Isiolo town and peri-urban tourism based enterprise was a thriving centre which used to employ many young people. The destination which continues to record reduced tourist numbers due to the combination of the above factors cannot sustain the dependant livelihoods any longer.

In APN managed parks tourism based enterprises are fully developed and value added. The business process management strategies are smartly targeted to ensure full cycle productivity.

Community Development

Communities living near protected areas are an integral part of the eco-system. In "adha wali tana" loosely translated for 'be your brother's keeper" from the predominant Borana language, Jaafar Tupi the founder of the Buffalo Springs, Shaba and Bisan Adi National Reserves intended a brotherly co-existence of humans, livestock and wild animals. Over the years the community living near these parks adopted self destruction mode and are now considered the enemies of the park. There is lack of community development policy and programs in education, health, livelihoods, security partnerships, training and skills development. Unlike the protected areas under the APN in which the community benefit schemes through direct and indirect methods is well anchored in the APN's Core corporate objectives. It is a clear contrast that provides a valid case for the ICG-APN PPP.

A new Business Model (NBM) built on 3 important Objectives

- Ecological sustainability-success measured by promoting and securing natural ecosystem functioning and long term resilience through restoring, managing and protecting the game reserves
- **Social sustainability**- success is measured by ensuring that conservation as a land use choice contributes positively to the socio-economic development of the county and to ecosystem-based adaptation to climate change
- Financial sustainability-success is measured by fully developing the economic and revenue potential of the protected areas through effective management, broadening the range of commercial income streams and by creating climate conducive to commercial investment

The objectives will be achieved through 4 pillars

- Law enforcement
- Community engagement
- Conservation management
- Income generation

Contracting Management under PPP that can do the following

- Developing the two game Reserves

- ⦿ Financing the operations and development
- ⦿ Managing the game reserves

African Park organization (the unique model)

African Parks is unique in that we are the only non-governmental organization in Africa, and possibly the world, that takes on direct responsibility for the management of these critical ecosystems. This is achieved through entering into long-term agreements, usually for 20 years, with governments to manage and finance their national parks. By management, we mean taking on the direct day-to-day responsibility for the entire area including all the activities required to preserve and sustain the park.

What Makes African Parks Unique?

We have long-term contractual mandates to manage national parks for 20 years or more.

- Our role is not to advise or provide technical support, but to take direct responsibility for parks placed under our supervision.
- We become responsible for all the law enforcement staff, making sure they are properly equipped and trained.
- We reintroduce species that have become locally extinct and put in place ecological monitoring programmes.
- We establish infrastructure such as roads and bridges, as well as workshops, headquarters and housing.
- We become responsible for implementing community programmes to ensure that local people benefit from the existence of a national park and understand its value.
- Our approach is based on tried and tested business principles.
- We aim to achieve ecological sustainability, socio-economic acceptability and financial viability.
- Where conditions allow, we stimulate the development of tourism enterprises as a means of increasing the economic and social impact that parks can have.
- Thanks to our endowment, our administrative and overhead expenses are covered, so 100 percent of the funds received from financial partners are allocated to projects on the ground.

African Parks' objective is to become the leading player in protected area management on the African continent by being the benchmark of management excellence and park sustainability. By

2020, African Parks aims to have responsibility for a portfolio of 20 parks covering an area of 10 million hectares. Because of the geographic spread and representation of different ecosystems, this will be one of the most ecologically diverse portfolios of parks in the world.

7.0 Recommendations and Way Forward from the public participation processes

- That the APN and ICG to increase their momentum of engagement and close in on the PPP arrangement
- The CEC Tourism to spearhead the process and feed back to the public, stakeholders and all other actors on the progress.
- APN management to visit Isiolo and opens a liaison office to act as a joint centre of operation for the process of the PPP finalization.
- The CEC Tourism will prepare specific policy and legal instruments in earnest to avoid emergence of new bottlenecks and bureaucracy that can delay the deal
- The County government to put in place requisite legal expertise and a round the clock communication strategy for the project.
- The CEC Tourism will establish a PPP committee/Secretariat with specific TOR and timelines

8. Conclusion

From the stakeholders discussions and participations a number of salient points emerged

1. **Political issues-**

The process of public participation over the proposed public private partnership was heavily criticized by stakeholders for not having public input at the right time. It mentioned in several of the sessions that tokenism kind of public participation. One lesson learned and the department reflected on is that public participation is constitutional and legal requirements that need to be embedded with the governance programme of the department.

However, the consensus is that there is problems with way the two reserves are currently managed and needs to re-engineer the operations of the parks while the interest of the people taken as paramount. Secondly, the political heat and debate awash in social media that has characterized the politics of the county for the good part of the year was as a result misinformation and inability of the department to engage with the public in a formal way.

2. **Management issues-**

The direct management of the parks was also that a problem because cronyism, nepotism and direct of political inferences. In addition lack human resource capacity contributed greatly to the management. Lack of training, research and equipment is noted as a major contributing factor to low staff morale.

3. **Governance issues-**

Corruption has been noted to be rampant in the parks. The revenue clerks are answerable to individual officers for the stay and revenue pilferage and leakage very high.

4. **Resources issues**

The parks require huge capital for infrastructure development, operations and human resources. The proposed partner APN, will finance, development and operate

9. Plenary Discussions

- Public participation
- ownership
- ppp Petition to the national government
- Main objective to our national park is to protect wildlife and its environment.
- Modern technology for monitoring our national park.
- Observation technology to observe the movement of workers.
- Provision of equipment to the national park e.g vehicles and enough wardens to protect the park.
- Gender Employment,(avoid tribalism).
- Special opportunity to the residence near the park. e.g given priorities to the opportunity arising.
- Infrastructure
- Park interpretation, e.g. maps
- Discipline
- Acceptance of management sharing
- Make an identity to our county.
- Technical security gadget to be put in place
- Exposure tour.
- Lack of information to public and other stakeholders

Speech from the Governor

- Include public participation in the engagement of any agreement on the management of park.
- Give special job opportunity to the nearby residence at the park.
- Proper equipment to monitor both the rangers and the wildlife in the park.
- Improve management
- Lack of resources management

Final Opinion from the stakeholders.

- Request for Nasul conservancy to add some more armory
- Improvement on security at the Westgate area
- What are the benefits of the residence living around the park

- Delayed information from the office hence raising controversy
- Water management is very poor
- Include clan elders and other stakeholders when entering to agreement with the partners.

Opinion/questions from stakeholders 21/07/2016

- ways on how to improve our parks
- issue on job security addressed
- issue on park security
- executive members to be appointed from stakeholders for decision making on the park
- issue on gender during invitation
- Issue on consultation for both stakeholder and leaders.
- Education for senior leaders to be introduced instead of rendering park to other expertise from outside company.
- Separate politics and park management
- Basic education to community members

Fig 1 Revenue from 2005 to 2015

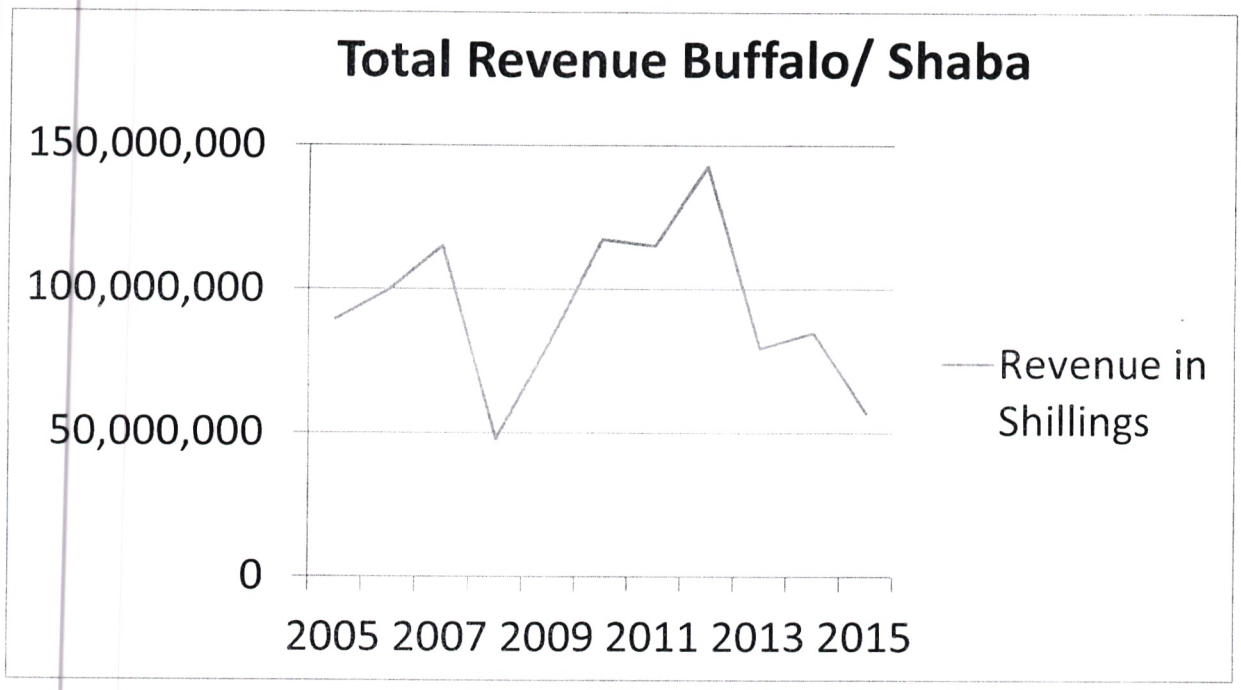
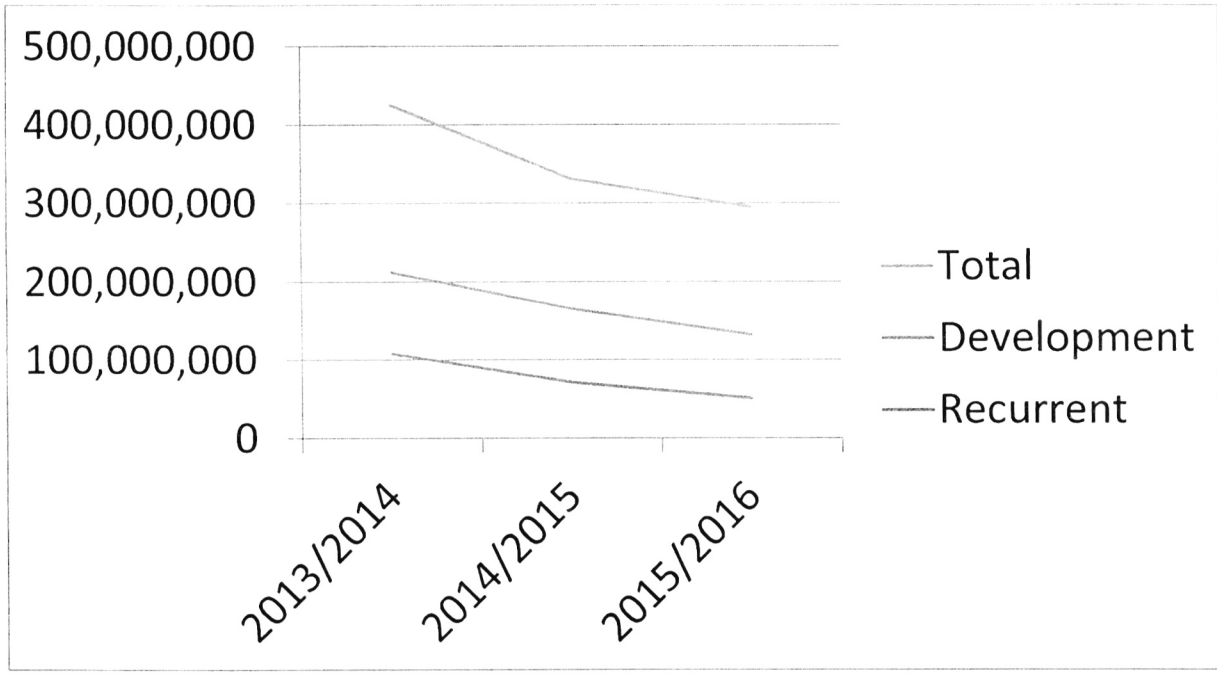


Fig 2 County allocation for three financial years



Annex 1- Document presented as Cabinet paper by CEC Tourism

1. Background

The Isiolo County is one of the 47 devolved structures established by the Constitution of Kenya 2010 and the first County government elected in 2013 with an area of 25,000 sq.km and population of 200,000 (projected 2015). It is geographically located in Arid and Semi-Arid Land (ASAL), which is ecologically fragile and sensitive ecosystem with erratic low rainfall. The County is rich in natural resource endowments with main economic activities derived from Pastoralism and Tourism.

Many decades of economic and political marginalization has bearing on economic and social development of the County. Isiolo is considered as the backwaters of development with all economic, social and human development indicators well below the national average. Poverty levels are high and conflicts and recurrent droughts compound the already vulnerable food security conditions while the levels and status of infrastructure development (social, economic and political) are underdeveloped.

Isiolo county government has mandate to plan, initiate, co-ordinate and implement projects and program in the entire county with the goal of achieving social economic developments.

That mandate includes management of the National game Reserves and parks (namely Buffalo Springs, Shaba and Bisan Adi Reserves) which has been a drain on the government budgetary allocation. The parks are traditionally home to key wildlife species including the big five of Africa. The parks are in dire needs and should be restored; rehabilitated and protected its rich diverse heritage of flora and fauna which is disappearing at tremendous rate. The County has potential for more game reserves.

In past tourism revenues for the park support socio-economic activities of the county and attendant management of the parks is considered critical and strategic pillar of the County economy. The direct management of parks by the government has not been very effective in conservation and protection of wildlife in the parks. The county government of Isiolo has been trying to address this challenge by finding strategic management partners to work with to mitigate the challenges of wildlife parks management and the constraints of wildlife protection and ecosystem conservation.

2. Past experiences of direct Management of Shaba and Buffalo game Reserves by the County government of Isiolo

The county government over the years had been struggling with the issues of the development of the parks in the county and indeed witnessed a near collapse of parks with rampant insecurity. However, the constraints have been the required huge capital outlay to invest to improve, upgrade all infrastructures (physical, human resource, financial and systems) in the parks. Both national and county governments have not found enough capital reserve or partner to inject the needed resources to improve the current dire situations in the two parks.

The government of Isiolo has an Agency Agreement with Kenya Association of Tour Operators (KATO) for revenue collection entered into with defunct Isiolo County Council, in 1995. The trends in revenue collection in past has been going down (annex Table 1, and 2). The County government has made huge investment in the past 3 years to the parks (See Table 3) to the tune of ksh 540,187,685 excluding the payment of huge wage bills to the rangers. And during the same period the revenue from the parks ksh 220,845,780 and the highest ever recorded revenue collected is ksh**142,618,155** in 2012 and lowest 47,768,504 in 2008 (Table 1)

Table 1. Revenue from both Buffalo Spring and Shaba National Reserves

Year	revenue in shillings
2005	89,360,144
2006	99,569,549
2007	115,062,622
2008	47,768,504
2009	80,931,077
2010	117,292,180
2011	115,070,415
2012	142,618,155
2013	79,258,935
2014	84,782,799
2015	56,804,052

Table 2. Number of visitors and amount of revenue realized from Shaba National Reserve

Year	number of visitors	revenue in s
2009	4874	30,561,800
2010	5590	38,042,800
2011	6398	44,826,400
2012	4550	35,416,200
2013	4253	22,996,600
2014	4460	26,634,800
2015	3915	17,646,600

Table 3. The County Government allocations to the Parks

Financial year	**Recurrent**	**Development**	**Total**
2013/2014	108,062,250	104,373,585	212,435,835
2014/2015	71,066,069	94,376,289	165,432,358
2015/2016	50,977,000	81,344,492	162,321,492
			540,187,685

3. Problems and challenges faced in executing the mandates

The two Reserves are priceless resource inherited from the defunct county council by Isiolo county government, and must be made sustainable for current and for the future generations. The problems and challenges of the Parks, however, are compounded by general problems of the county, and more specific to tourism and wildlife conservation and management such as:-

The county has major development challenges and constraints borne out of many years of neglect and marginalization, poverty, conflicts and lack of social infrastructure evident all around. Indeed, Wildlife protection and conservation in parks have potential for social and economic development, particularly for the benefit of local communities and contribute to wildlife survival in the face of competing forms of other land use.

The county has had challenges and constraints in management, development and financing of the parks over the years. In terms of management of the parks, the county had direct role of the day-to- day involvement of the parks with vertical command and control structure with top down

approach to management and decision making. This has led to the suboptimal performance in financing park operations, development of infrastructure in parks and poor management and governance.

Revenues from tourists are dwindling as a result of the insecurity with the parks, human/wildlife within the park and surrounding areas of the parks is at all times high, human-wildlife conflicts is on the raise. The parks have no products or branding-Industry players have complained and compelled to close down business eg. Joy's Camp in Shaba national game Reserve

Proposed action to rehabilitate/develop the Buffalo and Shaba National game Reserves

Isiolo county government has started an introductory engagement with African Parks Network, a not-for-profit organization based in South Africa on possible private-public partnership arrangement with the goal and objectives of establishing partnership between the Isiolo County Government and African Parks network on matters of management, financing and development of Buffalo springs and Shaba National Reserves. African Park Network (APN) is a world class, reputable organization with impeccable park Management *resume*. However, at the moment, this is only business idea that the county government has floated as strategic thinking/direction for addressing challenges of the said parks and making consultations with stakeholders and partners. The process of consultations is ongoing and would to be as inclusive as possible. If consultations with stakeholders find the idea of public- private- partnership (PPP) feasible and viable, a new business model of management of these two Parks may come into being and would follow due process of the constitution and the provisions of relevant laws of Kenya and due diligence would be observed in the process.

The County Government Act of 2012 gives power to the County Governernment to concession wildlife management and investment in a protected area (PA) under county jurisdiction to the private sector and both Buffalo springs and Shaba National game Reserves in Isiolo county are good candidates for concessioning to private sector in order to restock animals and reduce poaching due to improvements in policing. As part of the concession agreement, local communities can share in the benefits from improved earning from the parks.

Annex 2- Introduction: About African Parks Network

African Parks Network (APN), which is a non-profit organization that takes responsibility for the rehabilitation and long-term management of national parks in partnership with governments and local communities. APN aims at financial sustainability of parks under their management by combining long-term donor funding with tourism revenues, related business enterprise and payment for ecosystem services. Their philosophy is that by making wildlife parks socially and economically viable, particularly for the benefit of local communities, they may survive in the face of competing forms of land use. APN currently has management mandates for seven parks in six different countries – Chad, Democratic Republic of Congo, Malawi, Republic of Congo, Rwanda and Zambia.

The APN model as a mechanism to secure conservation areas likeBuffalo springs and Shaba National game Reserves . APN applies business approaches through long-term agreements with Governments, that the network has good governance and institutional structures, and that strategies and implementation plans are controlled by a Board where there is a separation of powers and functions. The APN model is considered more effective and efficient than other typical types of support for protected areas, but in order to be successful, the model require long time horizons with commitments from Governments, i.e. 20 years or more. Longer-term donor commitment and funding arrangements may help in longer term sustainability.

The Public-Private Partnership (Isiolo County Government and APN)

Public Private Partnerships (PPPs) refer to investment arrangements between private and public entities. Contrary to what may seem PPPs do not have a legal meaning as they may take many forms. PPPs are in fact contractual arrangements of varied nature where the two parties [public and private] share rights and responsibilities during the duration of the contract. As with any contracts, rights and responsibilities come with risks. The various forms that PPPs can take ultimately reflect the degree of risks that either party is willing and able to bare. Distribution of risk plays a central role in getting a PPP right. It refers to the probability that adverse outcomes are yielded from given actions and handled by the most suitable party.

Hence, Isiolo County Government is looking to public-private partnerships (PPPs) to radically improve manageement and financing in the two Game Reserves in the County and enhance service delivery to their people. They are hoping that this development finance model — where the County Government shares risk and responsibility with private firms (APN) but ultimately

retains control of assets — will improve services, while avoiding some of the pitfalls of privatisation: unemployment, higher prices and corruption.

In theory, the proposed County Governement contractual arrangements with APN may have the potential to solve the two Parks'sprofound infrastructure and operational and financing problems, but the government should not expect this proposed arrangement s with APN to be a 'magic bullet'. PPPs potentially bring the efficiency of business to public service delivery and avoid the politically contentious aspects of full privatisation.

PPPs allow government to retain ownership while contracting the private sector to perform a specific function such as management and financing the development of the two parks.Both sides stand to benefit from the contractual agreement.

One of the pitfalls, of such arrangement is that big government contracts are complex and demanding and prone to abuse by unscrupulous individuals, firms or politicians, unless controlled by disciplined, highly transparent procedures. Gain from PPPt, above all, government must fundamentally improve its systems for dealing with the private sector to realise the efficiency and effectiveness gains that these partnerships promise.

Lessons drawn from past partnerships else well showed that those partnerships that have been most successful have been characterised by thorough planning, good communication, strong commitment from both parties and effective monitoring, regulation and enforcement by government. The issue of pricing is crucial both to avoid political fall-out and to ensure the viability of the contract for business. Leaders need to talk openly with their citizens about their inability to continue to offer free, undervalued or heavily subsidised services, and their plans for holding the private sector accountable for providing these services. PPP — like full privatisation and other forms of government tendering — are vulnerable to graft and governments need to effectively tackle corruption before they can hope to get such partnerships right. The County if it has to entering into PPP, it must recognise that it will require professional contract drafting and monitoring skills.

Participation by stakeholders and communities

Wildlife is a renewable resource with potential to provide a multitude of utilitarian and non-utilitarian benefits to man. If managed appropriately the wildlife resources can simultaneously promote the conservation of biological diversity as well as contribute to the country's economy.Furthermore, recognizing the importance of community participation in wildlife

management need to be underscored. Wildlife resources should be managed in a manner which promotes gender and community empowerment and the success of the sector is dependent on community support. Government shall encourage community based management and benefit sharing from sustainable utilisation of wildlife resources.

The Kenya government policy also recognized the roles of other stakeholders.Government have created an enabling environment for the local communities, the private sector, Non-Governmental organisations (NGOs) and any other party with an interest in wildlife conservation and management to fully contribute.Governrmnt encourages the private sector , i.e. institutions such as Lewa conservancy, Northern RangeLand Trust (NRT) and many others, to become active in management of Kenya's wildlife on private, and community lands and coordinate with national parks. Government encourages the private sector to obtain management concessions in national parks and wildlife reserves for tourism and related activities and the private sector may develop infrastructure in national parks and wildlife reserves, provided that all such investments revert to the Governments (County or National) after a period mutually agreed between the investor and the Government prior to initiating any physical investment activities.

Wildlife protected area such as Buffalo and Shaba Game Reserve management must recognize local people's livelihood needs, which, however, can be in conflict with traditional approaches for conservation. The idea that biodiversity can be conserved without local peoples' needs and aspirations is simply not viable.There is a substantial dependence on Buffalo Springs and Shaba game reserves by border communities for their livelihood. Benefits derived include: grazing of livestock, heating energy, income, food, construction materials and traditional medicine. The importance of the wildlife game reserves to the livelihoods of the communities living around the reserve cannot be over-emphasized. However, human/wildlife conflicts are increasing in the two parks,particularly in the dry season and when pastoralist adjacent to the Reservesmove their livestocks to parks for grazing which often escalate poaching.

Rationale and justifications for strategic management partnership

The two park/reserves were a pale shadow of its former self and needed critical fresh breathe of life. It was an exercise in futility to continue doing business the old council way. A different management model is the only way to go. Hence, a paradigm shift in policy and operations needed to go forward on the management, development and financing of the parks.

The concept of wildlife conservation, protection of animals within/around the parks is posing challenges to current management of the parks. Both Shaba and Buffalo national game reserves require rehabilitation and re-engineering of management and financing with long term sustainability in mind.

The parks require total rehabilitation of ecosystems and embrace modern conservation technology, techniques and methods as well as new business model to make money.

Building partnership between resource-base of the parks and commercialization of the products is critical for long term sustainability and survival of both Buffalo Springs and Shaba National Reserves. It is important to recognize that a new business model is required if we have to bequeath the parks to our children. The current affairs of things in our parks cannot be sustained.

In Past, the revenue generated from the reserves almost entirely financed the operation of the council then, though hardly sufficient, with the council workers (including park rangers) going without pay for more than half a year. In fact the county government bore the brunt of the burden by settling six month salary arrears of the former council employees upon inception in 2013.

Financing of the development and management of parks call for change in paradigm from direct government management to public-private partnership (PPP) arrangement since the government lacks both the financial resources and business acumen to run the parks sustainably, while a private sector investor with expertise would combine world-class conservation practice with business expertise and would place emphasis on achieving financial sustainability of the parks by combining long-term donor funding with tourism revenues, related business enterprise and payment for ecosystem services, which all serve as a foundation for economic development and poverty alleviation.

The county government having challenges, a strategic management partner would take total responsibility for the rehabilitation and long-term management of two game reserves under it, in partnership with Isiolo County Government and local communities.

From description of APN, its organization and its network is impressive. APN's partnership with government and like-minded institutions over many years, and its good track-record from the implementation of many projects in Malawi and elsewhere in Africa,confirms that this organization has the resources, expertise and experience needed for implementation of a proposed project.

The goal and the objectives of public private partnership

The goal and objectives of the African Parks Network and Isiolo County Government is to find a common ground on which build a long term sustainable relationship between the two entities with regards to management, financing and development of Buffalo springs and Shaba National Reserves. It is anticipated that once concluded the arrangement eventually would rehabilitate the parks conserve biodiversity and spur socio-economic benefits to the local communities and to the county.

This is win-win situation for all parties involved- Commercial investor, the government, communities, strategic management partner and donors. More explicitly, the overall goal for the project is Rehabilitation and sustainable Management of Buffalo springs and Shaba National game Reserves in order to contribute to conservation of Wildlife in the two game reserves in Isiolo County through creation of an ecologically , economically productive wildlife reserve, and with the purpose: to ensure that Buffalo springs and Shaba National game Reserves are restored and developed in manner that demonstrates bio-diversity rehabilitation and conservation to levels where sustainable natural resource utilisation benefits the Kenyan economy and neighbouring communities whilst also ensuring financial viability.

The objectives of the proposed project are:

- Training of game scouts, extension staff and other wildlife management staff to facilitate the implementation of law enforcement, habitat management, community collaboration and monitoring in a gender sensitive, ethical and equitable manner.
- To develop the Reserve within the national wildlife-based tourism industry of Kenya by investing in infrastructure that increases fee-paying visitors to commercial tourism establishments.
- To promote community collaboration in the conservation of Buffalo springs and Shaba National game Reserves by establishing institutions and programs that empowers and enables communities to support and benefit from the Reserve in a sustainable, gender-sensitive and equitable manner.
- To contribute to conservation of animal and plant species of national and global concern such as the African elephant,

Annex 3- Handout 1 on PPP presented during the Stakeholders meetings

1. Introduction

The public private partnership (PPP) is a procurement method that has been adopted worldwide. The main reason for the government opting to implement government projects through PPP is because the private sector is reported to have more skills and expertise to efficiently design, contract, operate and maintain projects.

PPP involves a contract between a public sector authority and a private party, in which the private party provides a public service or project and assumes substantial financial, technical and operational risk in the project. In some types of PPP, the cost of using the service is borne exclusively by the users of the service and not by the taxpayer

In other types (notably the private financing initiative), capital investment is made by the private sector on the basis of a contract with government to provide agreed services and the cost of providing the service is borne wholly or in part by the government. . Government contributions to a PPP may also be in kind (notably the transfer of existing assets).

PPPs typically do not include service contracts or turnkey construction contracts, which are categorized as public procurement projects or the privatization of utilities where there is a limited ongoing role for the public sector

There are usually two fundamental drivers for PPPs.

a), PPPs are claimed to enable the public sector to harness the expertise and efficiencies that the private sector can bring to the delivery of certain facilities and services traditionally procured and delivered by the public sector.

b)A PPP is structured so that the public sector body seeking to make a capital investment does not incur any borrowing. Rather, the PPP borrowing is incurred by the private sector vehicle implementing the project.

2. What are Public Private Partnerships?

There is no one widely accepted definition of public-private partnerships (PPP).

Some definitions of PPP are

1. A long-term contract between a private party and a government entity, for providing a public asset or service, in which the private party bears significant risk and management responsibility, and remuneration is linked to performance".

2. A **public–private partnership** (**PPP**, **3P** or **P3**) is a government service or private business venture that is funded and operated through a partnership of government and one or more private sector companies

An increasing number of countries are enshrining a definition of PPPs in their laws, each tailoring the definition to their institutional and legal particularities.

3. **Risks:**

PPP involves a contract between a public sector authority and a private party, in which the private party provides a public service or project and assumes substantial financial, technical and operational risk in the project.

In all cases, the partnerships include a transfer of significant risks to the private sector, generally in an integrated and holistic way, minimizing interfaces for the public entity.

An optimal risk allocation is the main value generator for this model of delivering public service.

On PPP projects where the cost of using the service is intended to be borne exclusively by the end user, the PPP is, from the public sector's perspective, an "off-balance sheet" method of financing the delivery of new or refurbished public sector assets.

On PPP projects where the public sector intends to compensate the private sector through availability payments once the facility is established or renewed, the financing is, from the public sector's perspective, "on-balance sheet"; however, the public sector will regularly benefit from significantly deferred cash flows.

Generally, financing costs will be higher for a PPP than for a traditional public financing, because of the private sector higher cost of capital. However, extra financing costs can be offset by private sector efficiency, savings resulting from a holistic approach to delivering the project or service, and from the better risk allocation in the long run.

SPV

Typically, a private sector consortium forms a special company called a special purpose vehicle " (SPV) to develop, build, maintain and operate the asset for the contracted period. In cases where the government has invested in the project, it is typically (but not always) allotted an equity share in the SPV. The consortium is usually made up of a building contractor, a maintenance company and equity investor(s). It is the SPV that signs the contract with the government and with subcontractors to build the facility and then maintain it. In the infrastructure sector, complex

arrangements and contracts that guarantee and secure the cash flows make PPP projects prime candidates for project financing.

A typical PPP example would be a hospital building financed and constructed by a private developer and then leased to the hospital authority. The private developer then acts as landlord, providing housekeeping and other non-medical services while the hospital itself provides medical services.

Handout 2 on PPP

Defining Public

Public Private Partnership means an arrangement between a government / statutory entity / government owned entity on one side and a private sector entity on the other, for the provision of public assets and/or public services, through investments being made and/or management being undertaken by the private sector entity, for a specified period of time, where there is well defined allocation of risk between the private sector and the public entity and the private entity receives performance linked payments that conform (or are benchmarked) to specified and pre-determined performance standards, measurable by the public entity or its representative.

Essential conditions in the definition are as under:

(i).Arrangement with private sector entity: The asset and/or service under the contractual arrangement will be provided by the Private Sector entity to the users. An entity that has a majority non-governmental ownership, i.e., 51 percent or more, is construed as a Private Sector entity1.

(ii).Public asset or service for public benefit:

The facilities/ services being provided are traditionally provided by the Government, as a sovereign function, to the people. To better reflect this intent, two key concepts are elaborated below:

*(a)**Public Services*** are those services that the State is obligated to provide to its citizens or where the State has traditionally provided the services to its citizens.

(b)Public Asset is that asset the use of which is inextricably linked to the delivery of a Public Service, or, those assets that utilize or integrate sovereign assets to deliver Public Services. Ownership by Government need not necessarily imply that it is a PPP.

(iii). Investments being made by and/or management undertaken by the private sector entity:

The arrangement could provide for financial investment and/or non-financial investment by the private sector; the intent of the arrangement is to harness the private sector efficiency in the delivery of quality services to the users.

(iv). Operations or management for a specified period:

The arrangement cannot be in perpetuity. After a pre-determined time period, the arrangement with the private

sector entity comes to a closure.

(v). Risk sharing with the private sector: Mere outsourcing contracts are not PPPs.

(vi). Performance linked payments: The central focus is on performance and not merely provision of facility or service.

(vii). Conformance to performance standards: The focus is on a strong element of service delivery aspect and compliance to predetermined and measurable standards to be specified by the Sponsoring Authority.

The above definition puts forth only the essential conditions for an arrangement to be designated as a Public Private Partnerships (PPP). In addition to these, some of the desirable conditions or good practices for a PPP include the following:

(a). Allocation of risks in an optimal manner to the party best suited to manage the risks;

(b). Private sector entity receives cash flows for their investments in and/or management of the PPP either through a performance linked fee payment structure from the government entity and/or through user charges from the consumers of the service provided;

©. Generally a long term arrangement between the parties but can be shorter term dependent for instance on the sector or focus of PPP;

(d). Incentive and penalty based structures in the arrangementsoastoensurethattheprivatesectorisbenchmarkedagainstservicedelivery;

(e). Outcomes of the PPP are normally pre-defined as output parameters rather than technical specifications for assets to be built, though minimum technical specifications might be identified. Such a structure is expected to leave room for innovation and technology transfer in project execution/implementation by the private sector entity. The models where ownership of the underlying asset remains with the public entity during the contract period and project is transferred back to the public entity after the termination contract are the preferred forms of Public Private Partnership models. The final decision on the form of PPP is a determinant of the Value for Money analysis.

Some of the commonly adopted forms of PPPs include management contracts, build-operate-transfer (BOT) and its variants, build-lease-transfer (BLT), design-build-operate-transfer (DBFOT), operate-maintain-transfer (OMT),etc.

Build-own-operate (BOO) model is normally not the supported form of Public Private Partnership in view of the finite resources of the Government and complexities in imposing penalties in the event of non-performance and estimation of value of underlying assets in the event of early termination. Government of India does not recognize

service contracts, Engineering-Procurement-Construction (EPC) contracts and divestiture of assets as forms of PPP.

Government commits to the spirit of partnership amongst all the stakeholders public, private, end users and community. While the current initiatives on having a strong public community private partnership would continue, with the growing capacity and maturity of the stakeholders concerned under a PPP arrangement, Government would in due course selectively consider newer models of partnerships which would be simpler, flexible and engage increased participation amongst the contracting parties.

User-Fee Based BOT models- Medium to large scale PPPs have been awarded mainly in the energy and transport sub-sectors (roads, ports and airports). Although there are variations in approaches, over the years the PPP model has been veering towards competitively bid concessions where costs are recovered mainly through user charges (in some case partly through VGF from the government).

Annuity Based BOT models In sectors/projects not amenable for sizeable cost recovery through user charges, owing to socio-political-affordability considerations, such as in rural, urban, health and education sectors, the government harnesses private sector efficiencies through contracts based on availability/performance payments. Implementing annuity model will require necessary framework conditions, such as payment guarantee mechanism by means of making available multi-year budgetary support, a dedicated fund, letter of credit etc. Government may consider setting-up a separate window of assistance for encouraging annuity-based PPP projects. A variant of this approach could be to make a larger upfront payment (say 40% of project cost) during the construction period.

Performance Based Management/ Maintenance contracts In an environment of constrained economic resources, PPP that improves efficiency will be all the more relevant. PPP models such as performance based management/maintenance contracts are encouraged. Sectors amenable for such models include water supply, sanitation, solid waste management, road maintenance etc.

Modified Design-Build (Turnkey) Contracts: In traditional Design-Build (DB) contract, private contractor is engaged for a fixed-fee payment on completion. The primary benefits of DB contracts include time and cost savings, efficient risk-sharing and improved quality. Government may consider a Turnkey DB approach with the payments linked to achievement of tangible intermediate construction milestones (instead of lump-sum payment on completion) and short period maintenance / repair responsibilities. Penalties/incentives for delays/early completion and performance guarantee (warranty) from private partner may also be incorporated. Subsequently, as the market sentiment turns around these projects could be offered to private sector through operation-maintenance-tolling concessions.

Unsolicited Bid/ Swiss Challenge Proposals

Unsolicited bids/Swiss Challenge proposals are not preferred by the Government. The discomfort with the use of unsolicited proposals in the public sector is on grounds of lack of transparency, and lack of fair and equal treatment of potential bidders. There are elements of informational asymmetry and bidding asymmetry between an Original Proponent (OP) and its competitors. The bidding asymmetry is due to time and price asymmetries. Since only the OP essentially gets an opportunity to make the BAFO (Best and Final Offer) after one or more rounds of negotiation an opportunity that is denied to its competitors who are not authorized to submit an equal number of negotiated responses. In exceptional circumstances, in sectors not traditionally associated with PPP structures or where procurement of proprietary technology is involved, variants of the approach could be considered for development, with prior approval of the competent authority, provided the VfM analysis establishes such a decision.

Annex 4- **QUESTIONS FOR THE CEC MEMBER OF TOURISM before the County Assembly Public Investment Committee**

1. **Mr Shunu, can you please tell the committee what you understand the term management contracting to mean and tell us how different it is from a lease?**

Shunu: Both are business terminologies involving contracts. A lease is a contract between two parties called a lesser and a lessee, ordinarily called the owner and the user, where the owner transfers the right to use property to the user, for a period of time In return for fixed payment monthly, yearly or as spelt out in the agreement.

Management contracting on the other hand is a contractual arrangement where, a contracting authority seeks the services of a skilled, professional body in providing a specific service for a specific period. Usually the organization so contracted is supposed to be paid for the services. A company is usually formed as a vehicle to deliver the service. A special purpose vehicle is the name.In our context and in accordance with Public Private Partnership Act, the services are provided to the Members of the Public by the Organization contracted. Public Private Partnership is an arrangement between a Private Organization and a Government.

The fundamental difference between the two:

For lease, the Lessee makes periodic payment usually a fixed amount to the lesser. In management contracting, it is the other way round. The Contracting Authority in this case Isiolo County Government is supposed to pay the contracted Company for specific services for which it's contracted.In our case we are looking for a philanthropic Organization, non commercial, Professional with a big purse to spur socio economic growth.

Pic/Pac:Hon Shunu, does lease transfer ownership or possession?

Shunu: It's very hard to possess something and not own it. Commonly used interchangeably but very different legally. I think you are right it transfers possession. But possession of the level of ownership for that period. maybe that is what we can say.

Mr Shunu, sometimes early this year, the Governor, the speaker of the County Assembly and yourself visited Malawi and met with the Management of African parks. What were the agenda and resolution of that meeting?

Shunu: No meeting took place

Pic/pac: What do you mean?

Shunu: We went for a study visit together with the committee of Tourism, Isiolo County Assembly and Honorable Members, this is the report. The issue of agendas and resolutions does not arise

Pic/pac: we asked about the speaker and the governor?

Shunu: they belong to the executive and the assembly respectively. Hon members I am very uncomfortable calling names. You can ask me the content of the report.

3. **Mr CEC Member, did the CEC, if it ever sat after your Malawi tour, discuss the report of your tour to Malawi? Can we please have a copy of the tour report to the CEC?**

Shunu: Yes! And I have given you the copy.

4. **Mr Shunu, will the committee be right to argue that your Malawi meeting with African Parks set the stage for the proposed management contracting of these game reserves?**

5. **Shunu:** I think I have answered that question

6. **Mr. CEC member, what were the reasons that have prompted the County Government to think of contracting out County heirlooms- the game reserves?**

Shunu: County heirlooms? I don't think the reserve is an heirloom, because heirloom is something precious inherited from a family and passed over to generations. It's not transferable, sellable, contract able, modifiable name them …if that is the case then the reserve is worse than a white elephant. We continue pumping Millions without any return in the name of pride and heritage. Can't we make it better? Ornamental value here is no values at all.they say pride comes before a fall. We are already down!

<u>There are many reasons as to why we have settled on management contracting</u>:

a. Between 2005 and 2016 (12years) the Reserve generated 1, 028, 518, and 432. (1 Billion Revenue).

   2013-2016 (3 Years) 500,187,685 has been used for salaries and other operational expenses.

   Shocking Statistics! Let the figures speaks for it selves.

b. We must separate the Government and the Park Management, the Referee and the Players.

   Administration is a nightmare under these political regimes. I made some changes previously in the personnel distribution and you fought me very hard. You value your vote more than anything else, even your own life that's the same for the executive. Impunity! Impunity …

More over accountability is equally hard and no concrete action can be taken for the very reason that I have explained. It is a sub culture here.

c. Government is a very poor manager/in effective.
d. Huge capital is required (Physical, Human, etc) we hardly have money for basic facilities let alone such expensive investment. The county government have wider mandate than the former council and by entering into these kind of arrangements we focus on other areas of critical concern, such a resource starved county as ours must think strategically and bring more strategic partners on board.
e. We lack expertise: conservation and management of these resources are scientific, no conservation effort was ever been made by the defunct County Council, as a result there are array of destruction all over. The Landscape is bare, hostile, arid, hot, and ugly as a result of many decades of mismanagement. Complete reengineering is needed to restore the ecosystem by embracing modern conservation technology, techniques and methods. Wildlife census, tracking of endangered species, fencing of vulnerable section prone to influx, high tech security surveillance and restocking of unavailable species are just few capital intensive and highly technical adventures we can only dream of. The department has serious staffing issues as well. I don't have to elaborate because you know it all.
f. When I look ahead I feel like trembling. We can only develop our local work force if we bring on board professional organization that will capacitate them by infusing technical and professional knowledge. What do they learn from me or my chief officer or my director? We are all locals and it is the same as long as the system blends with cheap local politics and retrogressive culture.

7. **I mean, these game reserves, namely Buffalo springs and Shaba hold a pride of place in the social, cultural and economic history of Isiolo. Why would the inaugural County government think of contracting out these reserves in the penultimate year to an election? Mr. CEC member, will we be right to say that the reason you want to contract out the parks/reserves is to build a war chest for next year's election?**

Shunu: Election does not stop us from working, we can implement project even in August next year. But we started the Process immediately we came in, it outstretched us to date.

Pic/pac: the former council use to manage this park better than you racking in millions and saving surplus

Shunu: tell it to some pedestrians out there. You know lies told over and over again do not make the truth.

When the county government came in the employees had not been paid for 9 months and the situation was really desperate. The county government just days old, had to painfully sacrifice and pay their salary arrears. Kindly show me or tell me any reputable school, hospital, roads, borehole, dams, stadiums, enterprises etc to its name. I don't wish to go into an argument but no one can convince me.

8. **Mr. Shunu, if as you say the problem with the parks is one of management, have you tried out other management models such as reorganization and restructuring of the parks utilizing local talent before thinking of contraction out their management to private organizations**?

   Reorganization? I did and I almost lost my job because of culture of cheap politics,

   Restructuring? I won't attempt because I will take more painful action such as laying off unproductive staff and giving many early retirement. You think I will survive?

9. **Mr. Shunu, there are reports of a draft agreement between Isiolo County Government (ICG) and African Parks (AP) and this expression of interest (EOL) is merely meant to give an already concluded process a whiff of legitimacy . Please comment.**

   Draft and **agreement** seem to be incompatible in our context.

   Draft is something raw, rough, a sketch or even something for practice or bins.

   Agreement is something enforceable and legally binding. So is it really fair for me to comment? If the draft is from African Parks it is probably a proposal from them. One would always claim higher stake in any deal, its normal. The draft is not our document it is theirs. We have not made any input therefore it is impure, raw. Period.

10. **Mr. CEC member, it is alleged that the draft agreement between ICG and African Parks is heavily lopsided in favour of the latter in terms of the profit sharing formula. For example the profit sharing structure proposes to give African Parks 80% of the profit while the remaining 20% is equally shared between the ICG and local communities. Please comment.**

    In your draft it states 80% goes to the board which manages the Reserve and not African Parks.

11. Mr. Shunu, the draft agreement further proposes a special purpose company with a board of seven directors as follows – 4 from African parks, 1 from NRT, 1 from ICG and 1 nominated by African parks from among local communities. Please comment.

I don't wish to discuss this because we have just rendered it useless. It is a draft, a rough drawing not worth of any reference. I can give my observation though.

- ✓ The 4 from African parks- two expatriates and two local professionals in the desired field
- ✓ One from isiolo county government
- ✓ One from stake holders
- ✓ One from the local communities.

12. Mr. Shunu, please elaborate if any, the role of Northern Rangelands Trust (NRT) and Mr. Ian Craig in this proposed draft agreement between ICG and AP. If as is alleged NRT will sit on the Board of the proposed special purpose company to manage these reserves, wouldn't there be a clear conflict of interest as NRT manages Lewa Downs and other local conservancies which are in competition with our game reserves?

It is not uncommon for investors to have more representation on boards in business world but I cannot explain explicitly the representation of NRT. In my opinion NRT is not a prerequisite, can be changed and replaced with other stakeholders. As leaders I would be delighted if you push for a favorable terms rather than throwing the baby with the bath towel.

Ha ha may be "ian Craig ni Kabila yao" and you know everybody wants one of their own- Kenyan style or they are in conservation field together. Is only a guess I know Craig is unpopular here but I have never even met the guy.

NRT Is a world class conservation organization with impeccable resume that deals mainly with Community Conservancies mainly in Samburu and few in Isiolo. There seems to be a lot of opposition from our people in the hinterlands, the proud waso boran partly because of their fierce independence and more importantly because of the love for their rich and beautiful pastoral rangelands.

We are not competitors at the moment and we don't fear competition. Lewa is a World Class facility well managed, thronged by royalties and celebrities the more reason, why we should aspire to be at their level.

13. **Mr. CEC members, does the ICG have a policy framework regulating the transfer and /or lease of public assets and utilities? Do you think the ICG is doing the right thing by contracting out a public asset without a policy framework in place?**

The Policy and Legislation are in place.

Public Private Partnership Act and our own County Tourism Act 2015 provide frame work for management contracting.

Section 61 (c) of public private partnership Act 2013 provides for single sourcing while our own county law gives the executive powers to enter into partnership with other agencies in the management of the parks.

14. **Mr. Shunu, as the CEC member for Tourism and as the person in charge of policy in your docket, what advice did you not give to the ICG with respect to the need to have a policy in place before weighty decisions such as leasing and /or management contracting of public assets are made?**

Policies are always critical but the Lacuna at the County Level is adequately filled by National Legislation.

My advice to the executive is always not to let the absence of legislation at the county level limit our progress so long as the National Legislation serves as right. After all, we are in the transition period and the free spirit of the 2010 constitution is something to cheer about.

15. **Mr. Shunu, do you as a member of the CEC consider public participation important in the process informing the decision to contract out these game reserves? Was public participation done before the ICG made a decision to invite the Eol?**

Public Participation is critical because it seeks to include, inform and enrich any process. But who is Public? We fell short of completing the process which we are soon embarking on. But to some extent we have made consultation because the executive is Public, the assembly is public by virtue of being peoples champions. We are soon out to the real public soon.

The funds to carryout Public Participation were the limitation here, but we are soon rolling out the program to the general public. Public participation is such a critical factor to this process and we must do it before any commitment is made.

16. **Mr. Shunu, are you aware that Section 75 of the wildlife Conservation and Management Act, 2013 advocates for the recognition of the rights and privileges of communities living adjacent to conservation and protected areas in decision making and determination on the matter of conservation and management of wildlife resources? To what extent have local communities been consulted on a matter likely to impact on their livelihoods and lifestyles in very significant ways?**

    Am not aware that section 75 of Wild Life Conservation and Management Act 2013 advocates for that unless I have a different copy of the Act. Look at the heading. **Part VIII talks of Conservation orders, easement and incentives. The reserves have clearly marked boundaries and our change of management does not displace them. The right and privileges of communities adjacent the parks? May be the law is there but not this section. I don't have sufficient legal knowledge, my ignorance is humbling sometimes.**

    Section 75 talks of Mutual co-existence. You got it wrong and I stand by my contention Honorable Members.

17. **Mr. Shunu, since there are many players in the management of these game reserves, how much have you consulted with other players such as the Ministry of Tourism and Wildlife, Kenya Wildlife Service, Local conservancies and communities before a decision was made to go for management contracting?**

    As far as I know the Ministry of Tourism and Wild Life, Kenya Wild Life Service, Local Conservancies and Communities play no part in the management of the Reserves. Management is about day-to-day operation, planning, controlling, organizing, directing, policing and even disciplining. But they are key stakeholders we must consult, **management not.**

18. **Mr. Shunu, was the management contracting model ever discussed in any CEC meeting? Did you as the CEC member responsible for Tourism, generate and present a cabinet memo on management contracting before the CEC? If yes, was the proposal approved by the CEC? If indeed there was a cabinet memo, can we have a copy of the memo?**

    Yes! I wish to table the entire relevant document including cabinets' memos and Minutes here.

19. **Mr. Shunu, in the absence of a cabinet memo, will we be right to say that the decision to place these game reserves under management contracting was an arbitrary decision made between the governor and yourself?**

I think I have answered.

20. **Mr. CEC member, why did you not seek the views and / or approval of the County Assembly?**

As the Executive we have our roles to play and the honorable Assembly has theirs too, you oversight and we implement.

I have given you the PPP Act and County Tourism Act as well as our consultation through your committee and we felt, it is something we can handle at this stage.

More consultation will definitely be made with the Assembly before pen is put to paper.

Closing remarks

I would like to thank this esteemed committee of the house for the warmth that they have extended to me. You are very professional and every time I appear before you am filled with a sense of duty and patriotism because we are coming together to serve our people. We are learning and it is always a humbling experience.

You are our leaders and people look to you for direction. I have truthfully and sincerely given you all I know about this project and it is my hope and believes that you will illuminate many others.

Finally this is a noble project and I have sworn by the holy Quran, this sacred month of Ramadhan, before this honorable sitting, that I was not given any penny to push through this project. I have no other interest other than serving our people. We talk of heritage but we shall have nothing to bequeath our children if the current states of affairs are allowed to triumph.

Thank you Very Much God bless!

With that the County Assembly had all their answers on the process, coupled with the provisions of the County Tourism Act the CEC Tourism is within his mandate to roll out the next stages of the PPP.

P3

NAMES	PERSON RECEIVING	TIME	SIGN
1. Loupa Nicholas	2	2.23 Pm	
2. H.E GOVERNOR	RITA	2:27PM	
3. Hon Steele	Ibrahim	2.30PM	
County Coordinator	Kendl	2.37 PM	
Traditional Authority			
5. Tourism, Culture and Social Services	LESCOTIA	1H:50 Pm	
6.			

WASO TRUSTLAND PROJECT

P.O BOX 620
ISIOLO

TEL: 064-52293
Fax: 064-52293
E-mail: *wasotrustland@yahoo.com*

TO:
The County Executive Committee
In charge of Tourism, Culture and Social Services
County Government of Isiolo,
P.O Box 36,
Isiolo.

The Chairman
House Committee on Land and Tourism
County Assembly of Isiolo
P.O Box 36,
Isiolo

Dear Sir,

RE: PROTEST AGAINST PLANNED LEASING OF SHABA, BUFFALO AND BISAN ADI NATIONAL RESERVES TO PRIVATE INVESTORS.

The above matter refers!

Our attention has been brought to the fact that, County Government of Isiolo has initiated process of leasing the above referred three national reserves to private investors.
Following this development, Waso Trust land organized for stakeholders' forum that brought togethe the following host, MID-P, PASUCA, MOSIPEC and Isiolo Vision of Hope Youth Development program
Among other actors on 8th August 2015 to deliberate on the move and this communication is meant t inform you of that deliberation.

After extensive consultation and brief background search on the subject, its evidential that the proces have been started back in 2013 and your recent meeting with the board of African Parks was just to formal finalize the deal.
The record has it that, actually it was your request for them to take up all three reserves against their initial target which was only Shaba National Park. We are also aware of learning/benchmarking trip t Rwanda by county officials, aerial surveillances of the all three reserves by African Parks and the subsequent Management Plan presentation by the boards of African Parks in your last meeting with them at Joys Camp.

To put the record straight, by the name of clearing the air you have been on record confirming how appealing the presentation by African park at Joys camp was and these are clear indications that you are not up for anything less than leasing it out.

In these all undertakings, you completely ignored the simple but most critical constitutional principle of citizen and stakeholder participation required for decision of this magnitude, putting into consideration the attachment our people have to these reserves.

As we register our honest concern over this unfortunate and disturbing development, we wish to recognize your constitutional mandate in promotion of public-private partnership on sustainable development as provided in the County Government Act; which also demands for citizen engagement Actually, the principle of citizen participation in decision making processes requires reasonable balanc in the roles and obligations of the county government and non-state actors like us.
It further emphasizes recognition and promotion of the reciprocal roles of the non-state actors' participation and governmental facilitation and oversight.

The other available relevant laws on protected areas including Constitution of Kenya 2010 and Wildlife Conservation and Management Act 2013, as well emphasize citizen participation in all decision making process; which you never bothered to consider it here. We strongly feel that, this blantant breach of due process of the laws was by design, hence making the whole intention suspicious.

It's on the record that, you talked of reserves mismanagement, insecurity, livestock invasion and deteriorating revenue being critical challenges that you are out to solve and we wish to acknowledge this reality. However this does not warrant leasing of these reserves which is permanent assets, pride and natural heritage of this wonderful county.
Brief critical analysis and insight to the issues you raised as challenges depicts contrary to the intention and plans of leasing out the reserves as envisaged by the county government.

Tourism decline and deteriorating revenue from tourism is a national issue, of which Isiolo is no exception. Insecurity and livestock invasion can be addressed by appropriately engaging all security apparatus through National Government but private investor or conservation NGOs of whatsoever status has nothing better to offer towards securing these parks.

Parks decline in management squarely relates to its core function as protected area, which further links to performance of park rangers. There is critical inadequacy in number of rangers compared to the total areas of these reserves. The county ought to have recruited more rangers as first step towards addressing this issue. Instead you redeployed the already few ranges to take up a new task of providing security to residences of county officials. This unfortunate move in itself speaks volume on your intention as far as the management of these parks is concerned.

Owing to the all above, we view your moves to lease out these reserves as ill fetched and selfishly motivated.

We are of opinion that, to seek reasons and solutions to the dilemma facing once glaring parks of Isiolo it neither requires one to turn to volumes of books in great world libraries nor to travel great distances to Rwanda or South Africa for bench marking/learning tours and salvaging for savior.
On contrary, patriot sons and daughters of Isiolo soil, has all potential to produce both the why and how of the status decline and revival strategy respectively, once their local and professional know-how is appreciated.

We therefore, categorically opposes the intended leasing out of these reserves and will take up all available action of redress to ensure that these public property is secured and remain safe from this designed manipulation by the county government.

Yours Faithfully,

Liban Golicha
Chief Executive Officer
Mobile: +254 725 016 982
Email: libangolicha@yahoo.com

CC;
The Governor,
County Government of Isiolo

The Speaker
County Assembly of Isiolo

The Chairman
County Land Management Board
Isiolo County

The Coordinator
Transitional Authority
Isiolo County

EP 5

REPUBLIC OF KENYA

FIRST COUNTY ASSEMLY-FOURTH SESSION

THE ISIOLO COUNTYASSEMBLY

REQUEST FOR STATEMENT ON THE LEASE OF THREE GAME RESERVES BY ISIOLO COUNTY GOVERNMENT

Hon. Speaker,

Pursuant to the provisions of Standing Order 41 (1)(2)(3), with permission, Hon. Speaker, I wish to request for a statement on a fundamental issues on lease of the game reserves and natural resources to thepeople of Isiolo County. On behalf of pastoralists, conservationists, environmentalists, stakeholders, and residents of Isiolo County, I want todraw the attention of the House to the following:

THAT; Isiolo County is well endowed with natural resources which include;

(a) Sarova Shaba Game Reserve occupies an area of 254sq Km along EwasoNyiro River.

(b) The Bisanadi Game Reserve is located along the Bisanadi River bordering Meru National Park and occupies the largest area of 607sq Km

(a) Buffallo Springs borders Samburu County and is 131sq Km in size.

THAT; The amount of revenue collected from the reserves by the county government is not clear but during the defunct county council tenure, it collected up to Sh300 million annually. These reserves are the permanent asset to the local community since time immemorial, it is the pride and Natural heritage of the County. It contributes 90% of the local revenue and therefore it is the backbone of the County.

THAT; Section 75 of the Wildlife Conservation and Management Act, 2013 advocates for recognition of the rights and privileges of communities living adjacent to conservation and protected areas in decision-making and determination on the matter of conservation and management of the wildlife resource; noting with concern that the County Government has leased these reserves to a private organisation that has failed miserably in several African Countries and much worse without consulting local community of

Isiolo County; further noting with concern that such move tantamount to blatant breach of due process of the law.

Hon. Speaker Sir, Section 87 of the County Government Act provide that; Citizen participation in county governments shall be based upon the following principles—:

(a) timely access to information, data, documents, and other information relevant or related to policy formulation and implementation;
(b) reasonable access to the process of formulating and implementing policies, laws, and regulations, including the approval of development proposals, projects and budgets, the granting of permits and the establishment of specific performance standards;
(c) protection and promotion of the interest and rights of minorities, marginalised groups and communities and their access to relevant information;
(d) legal standing to interested or affected persons, organizations, and where pertinent, communities, to appeal from or, review decisions, or redress grievances, with particular emphasis on persons and traditionally marginalized communities, including women, the youth, and disadvantaged communities;
(e) reasonable balance in the roles and obligations of county governments and non-state actors in decision-making processes to promote shared responsibility and partnership, and to provide complementary authority and oversight;
(f) promotion of public-private partnerships, such as joint committees, technical teams, and citizen commissions, to encourage direct dialogue and concerted action on sustainable development; and
(g) recognition and promotion of the reciprocal roles of non-state actors' participation and governmental facilitation and oversight.

Hon. Speaker, with your indulgence allow me to give a sneak preview on the history and background of The African Parks Network; which is a registered a not-for-profit company that takes on total responsibility for the rehabilitation and long term management of national parks and other protected areas, in public-private partnerships with African Governments. And yet, word has it that there will not pay a cent for the first ten years to the County Government.

That those conversant with the operations of African Parks Networks allude that they combine world-class conservation practices with business expertise which is a total distortion of facts. They allegedly place emphasis on achieving the financial sustainability of the parks, principally through tourism and associated private enterprise which also serve as a foundation for economic development and poverty reduction.

Hon. Speaker, Sir, The African Parks Network was founded in 2000 as a not-for-profit organisation by a group of self-proclaimed conservationists;
(i) MavusoMsimang;
(ii) Dr Anthony Hall-Martin;
(iii) Michael Eustace;
(iv) Peter Fearnhead; and

(v)The late Paul Fentener van Vlissingen, who were said to be concerned about the decline of many of Africa's national parks .In just nine years, African Parks has taken on responsibility for the management of 5 protected areas in four different countries.

Hon. Speaker, Sir, African Parks Network is registered as a Company under Section 21 of the Companies Act of South Africa and its Head Office is in Johannesburg. African Parks' CEO is Peter Fearnhead. Each park is managed by a separate legal entity, registered in the host country. These legal entities are mostly established by African Parks Network for the purpose of implementing an agreement with the Government for the management of a specific national park.

Hon. Speaker Sir, African Parks Network is supported by a number of affiliate organisations established in key donor countries. Their primary role is to facilitate the establishment of partnerships in their respective host countries with individuals, institutions and companies, that are willing to become involved in the work of African Parks. Currently these affiliate organisations include:
(a) Stichting African Parks Foundation, Netherlands;
(b) African Parks Foundation of America;
(c) African Parks Foundation (UK)
Hon. Speaker sir, the following parks are managed by African Parks Network:
(i) Liuwa Plain National Park, Zambia (since August 2003)
(ii) Majete Wildlife Reserve, Malawi (since March 2003)
(iii) Garamba National Park, Democratic Republic of Congo (since November 2005)
(iv) Bangweulu Wetlands , Zambia (since October 2008)
(v) Akagera National Park, Rwanda (since December 2009)

Hon. Speaker Sir, the following parks were once managed by African Parks Network, but failed miserably for various reasons (known to them) African Parks Network stopped managing these parks:
(a) Omo National Park, Ethiopia (January 2006 to 2008)
(b) Nechisar National Park, Ethiopia (February 2004 to 2008)
(c) Dungonab Bay Marine National Park, Sudan (July 2005 to October 2008)
(d) Sanganeb Atoll Marine National Park, Sudan (July 2005 to October 2008m

Hon. Speaker Sir, what is happening in is really unfortunate because we are selling the soul of county using few pieces of silver. It is absolute manifestation of unbridled greed and injustice. We need urgent attention from the County Government and this House to make sure that due process of the law is followed. It is not only important for this House but also members of the public to know the following;

1. What is the total revenue accrued by the County Government from these reserves since the year 2013?
2. What are the salient factors that triggered the Executive arm of the County how the leadership of the Assembly is involved in the lease of the said reserves?

3. When did the negotiation to lease these reserves began and who signed the Memorandum of Understanding on behalf of the people of Isiolo County?
4. Has money exchanged hands in the entire deals which is shadowy and more so opaque?

Hon. Speaker, Kenya has a powerful legislative landscape, providing an array of clear, pragmatic provisions and principles, Kenya's emphasis on public participation resonates with global experience, which shows that building bottom-up participatory mechanisms is a key ingredient to effective decentralization.

Hon. Speaker Sir, this ambitious devolution shifts some key decision-making from central to county governments, creating a window of opportunity for more 'bottom-up' engagement, backed by a Constitution and legal framework that include provisions for government to share information, consult the public and regularly gather citizen feedback.

Hon. Speaker, many countries have, in recent decades, written or revised their constitutions, such as Afghanistan, Argentina, Bolivia, Bosnia and Herzegovina, Ecuador, Egypt, Iraq, Mozambique, South Africa, Kenya, Thailand, Timor Leste, Tunisia and Zimbabwe, just to name a few. In the past, the process of creating and revising a constitution was usually closed to the public and solely led by experts. However, public participation in these processes has been growing in recent years and is now increasingly accepted as a basic democratic right, affirmed by the UN Committee on Human Rights through their interpretation of Article 25 of the Internal Convenant on Civil and Political Rights (ICCPR). Mechanisms for participatory constitution building include civic education, public consultations, citizen participation via advocacy by civil society and expert groups, and referendums.

Hon. Speaker, the new Constitution lays the basis for the development of a policy framework on citizen participation. Key provisions pertaining to this are:

(a) ***Article 1 (4),*** that Sovereign power of the people is exercised at the (a) National level and (b) the county level;
(b) ***Article 6 (2),*** the governments at the national and county levels are distinct and inter-dependent and shall conduct their mutual relations on the basis of consultation and cooperation;
(c) ***Article 174,*** the objects of devolution are to (c) give powers of self-governance to the people and enhance their participation in the exercise of the powers of the State and in making decisions affecting them;

(d) Recognize the rights of communities to manage their own affairs and to further their development. ***Article 184 (1),*** which states that National Legislation shall provide for the governance and management of urban areas and cities and shall in particular (c) provide for participation by residents in the governance of urban areas and cities;

(e) *Article 196 (1),* which states that a county assembly shall conduct its business in an open manner and hold its sittings and those of committees in public, and facilitate public participation and involvement in the legislative and other business of the assembly and its committees;
(f) Transparency and provision to the public of timely and accurate information.
g) *Fourth Schedule Part 2 (14)* which stipulates that the functions and powers of the county are to ensure and coordinate the participation of communities and locations in governance at the local level. Counties are also to assist communities to develop the administrative capacity for the effective exercise of the functions and powers and participation in governance at the local level.
In this regard, it will prudent if this House can be adequately furnished on the following;

1. What are the terms of reference between the County Government of Isiolo and African Parks Network;
2. Who was the lead negotiator regarding the lease of the said game resereves;
3. Who is involved in the negotiations from the onset to the current status at play?;
4. Was there any written comprehensive agreement between the County Government of Isiolo and African ParksNetwork?;
5. What was the content of agreement if any?;
6. What are the rules of engagement between Isiolo County Government and the African ParksNetwork;
7. Who are the main actors on behalf of Isiolo County Government?; and what is the role of Speaker in the agreement because he is the head of a separate organ of County Government ?;
8. When was the lease Agreement initiated and how far has the said negotiation reached? ;and
9. What are the elaborate corporate social responsibility that will be offered by the African Parks Network to the Isiolo community?
10. Several trips have been undertaken by selected delegates to countries in Southern Africa such as Zambia, Malawi and South Africa regarding this matter, who has footed the expenses/bills of these trips?; copies of receipts and air tickets must be provided; and
11. What was the value addition of these study tour to both the Executive and Legislative arm of the Isiolo County Government?

THAT; The actions of the County Government negates the spirit of the new dispensation and all existing relevant statutes. Such move can trigger mayhem, pandemonium and public outcry in the community.

Hon. Speaker Sir, therefore, I would like to request this matter be delved into it expeditiously, so that proper public/civic engagement be put in place and find out those who entered memorandum of understanding/ agreement with the said organization and establish whether due process of the law was followed to the letter.

Hon. Speaker Sir, I would like to seek the indulgence of this House to form a select (ad hoc)committeeso that we know the truth of the matter within 21 days.

STATEMENT BY:

HON. HASSAN GUYO SHANO

ODM NOMINATED COUNTY REPRESENTATIVE

DATED: 13th April 2016

SIGNATURE: .....

EP 6

31st May, 2016

The Chief Executive Officer,
Ethics and Anti-Corruption Commission
Milimani/Valley Road Junction,
P. O. Box 305450-00100,
NAIROBI.
Tel 020-2717318, 020-310722,
Hotlines 020 2717468 / 0727-285663 / 0733-520641,
Email eacc@integrity.go.ke
report@integrity.go.ke.

Dear Sir,

RE: GROSS VIOLATIONS OF PROCUREMENT LAWS & BREACH OF PUBLIC TRUST

We humbly convey a matter of grave concern to your esteemed office on matters pertaining to lease of public property (Game Reserves) which belongs to the people of Isiolo by the Executive organ of the County government. The Executive wing of Isiolo County government deliberately breached the Constitution of Kenya by leasing **Buffalo Springs and Shaba game reserves** which is a public asset without citizen participation in the whole process, usurping the County Assembly and stakeholders consultation. Mind you, any attempt to lease these reserves will have far-reaching ramifications which will absolutely erodes public confidence on current the leadership of the County government owing to the fact that the entire process is flawed.

The County government cannot be trusted anymore because the manner in which the process of leasing the said game reserves was shrouded in mystery and secrecy. **Section 75 of the Wildlife Conservation and Management Act, 2013** advocates for recognition of the rights and privileges of communities living adjacent to conservation and protected areas in decision-making and determination on the matter of conservation and management of the wildlife resource; noting with concern that the County Government has called for Expression of Interest in leasing the games reserves without consulting local community, stakeholders and residents of Isiolo County; further noting with concern that such move tantamount to blatant breach of due process of the law.

Moreover, the move by the County government contravenes **Section 87 of the County Government Act, 2012** that calls for citizen participation in such affairs which is of monumental magnitude.

In this regard, a few days ago Isiolo County Government, ran a full page advertisement on Daily Nation of 24th May, 2016 with faulty and defective contacts. The county said it intends to engage a competent non-profit organization under the terms of management contracting of Buffalo Springs and Shaba game reserves which is the pride and heritage of Isiolo County since time immemorial. However, what surprised many were the fake telephone number and email address provided in the advert.

We tried to establish the express authenticity of the provided contacts which all proved to be fake and shadowy; the email read **isiolocountygovernment@ and the phone number provided was 540-721-421-347.** We have established beyond reasonable doubt that no such number exist anywhere in the world. Moreover, all Kenyan telephone number start with +254. Therefore, this boils down to another game of musical chairs by the willy nilly operatives at Isiolo county government. Whatever the intention, the full page advert that could cost upward of KSh. 450,000 may just be a waste of tax payers money because interested organizations may not get through with the fake address. Be that as it may, the advert was predetermined and more less it is just a public relation exercise because the County Government had already engaged AFRICAN PARKS NETWORK and therefore the tendering process was fundamentally flawed and single sourced. This means other interested actors and stakeholders have been deliberately locked out!

The twist and turns of events about the the lease of game reserves saga has been considerably informed by the opaque process which out rightly violates **Chapter 12, Article 227 of the Constitution and Public Procurement and Disposal Act, section 78 which provides that;**

(1) The procuring entity shall prepare a notice inviting interested persons to submit expressions of interest.

(2) The notice inviting expressions of interest shall set out the following —

(a) The name and address of the procuring entity;

(b) A brief description of the services being procured and, if applicable, the goods being procured;

(c) The qualifications necessary to be invited to submit a proposal; and

Moreover, the move by the County government contravenes **Section 87 of the County Government Act, 2012** that calls for citizen participation in such affairs which is of monumental magnitude.

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(a) The name and address of the procuring entity;

(b) A brief description of the services being procured and, if applicable, the goods being procured;

(c) The qualifications necessary to be invited to submit a proposal; and

(d) An explanation of where and when expressions of interest must be submitted.

(3) The procuring entity shall advertise the notice inviting expressions of interest in at least two daily newspapers of nation-wide circulation.

Pursuant to the provisions of the Anti-Corruption and Economic Crimes Act, 2003, A person is guilty of an offence if he/she uses his/her officer to improperly award a benefit to him/herself or another person.The public service is a public trust. Authority assigned to a public officer must be exercised in a manner that promotes integrity and the best interest of the people. Public service must also demonstrate respect for the people and bring dignity and honour to the public officer Members of the public expect public officer to render selfless service based solely on the public interest. This is demonstrated by honesty in the execution of public duties, accountability to the public in decision making, discipline and commitment in service to the people. Therefore, a public officer should do his or her best to discharge these duties in line with the Constitution. When a public officer does anything that is contrary to these expectations, he or she commits a breach of trust.

Therefore, we kindly demand an immediate halt of the lease process of the reserves, discussions, negotiations, consultations and/or agreement in any matter whatsoever shall deemed as *ultravires* and against public interests.

We further aver that leasing of these game reserves will seriously prejudice national security interest, conservation and biodiversity interest, tourism and wildlife management interests and all that pertaining to public good and welfare of our County;

We humbly petition the Commission to look into this issue expeditiously for further review and nullify the whole process which can ultimately culminate into possible prosecution.

Attached is a copy of advert on Call for Expression of Interest.

Yours Truly,

a) Friends of Isiolo Game Reserves: .....
b) Waso Trust Lands Project: .....
c) Resources Advocacy Programme: .....
d) Merti Integrated Development Programme.....

e) Mission of Hope: .....
f) Friends of Nomads International: .....
g) Pastoral Women Forum: .....
h) Northern Voice Trust: .....

Copied to;

Mr. Patrick Kiange,
Chairman,
Public Procurement Oversight Authority,
1st Ngong Road, Ardhi House,
P. O. Box 305450-00100,
NAIROBI.

The Chairman,
Commission on Administrative of Justice,
2nd Floor, West End Towers
Opposite Aga Khan High School off Waiyaki Way – Westlands
P.O. Box 20414 – 00200
NAIROBI.
Tel: +254-20-2270000/2303000/2603765/2441211/8030666

EP 7

REPUBLIC OF KENYA

OFFICE OF THE CONTROLLER OF BUDGET

COUNTY GOVERNMENTS BUDGET IMPLEMENTATION REVIEW REPORT

FIRST HALF
FY 2015/16

MARCH, 2016

Isiolo County

3.9.1 Overview of the FY 2015/16 Budget

The FY 2015/16 approved budget for Isiolo County amounts to Kshs.3.80 billion. It comprised of Kshs.2.11 billion (55.6 per cent) for recurrent expenditure and Kshs.1.69 billion (44.4 per cent) for development expenditure.

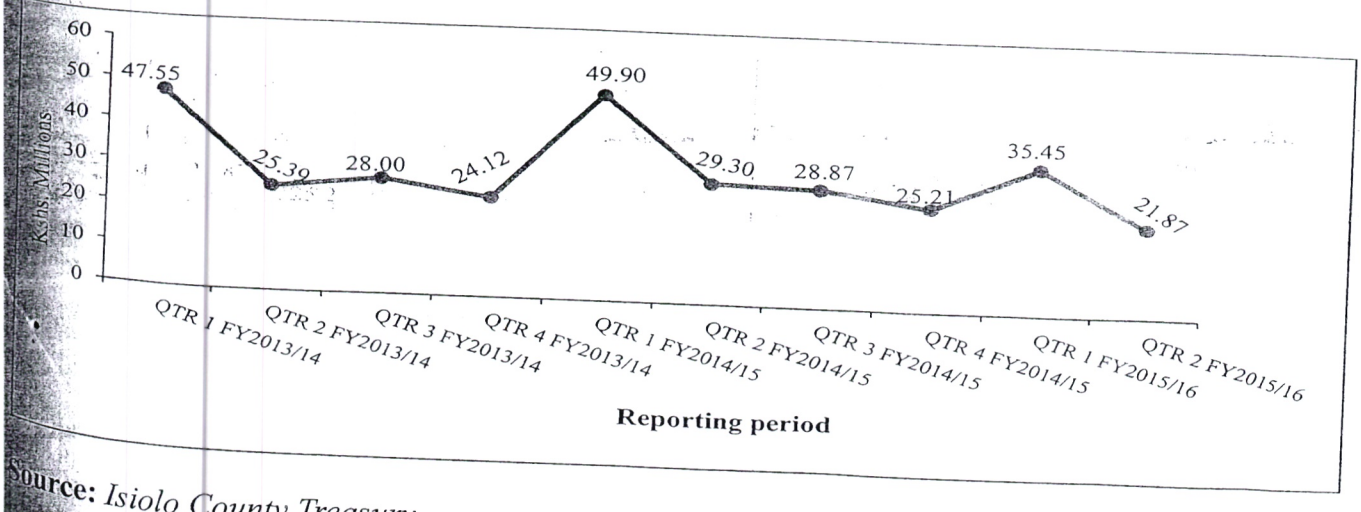
In order to finance the budget, the County expected to receive Kshs.3.06 billion (80.4 per cent) as transfers from the National Government, collect Kshs.360 million (9.5 per cent) from local sources, and receive a conditional grant of Kshs.8.73 million (0.2 per cent) from World Bank loan to supplement financing of county health facilities, and Kshs.7.97 million (0.2 per cent) from DANIDA grant to supplement financing for county health facilities, Kshs.254.70 million as conditional grant from national government, Kshs.112.80 million as appropriations in aid. The County did not include in the budget Kshs.24.68 million as opening balance brought forward from FY 2014/15.The conditional grants as per the County Allocation of Revenue Act, 2015 were Kshs.161.12 million, however what was included in the budget amounts to Kshs.254.70 million, depicting a shortfall of Kshs.93.62 million. The Kshs.161.12 million conditional grant comprises of Kshs.95.74 million for leasing of medical equipment, Kshs.38.83 million from the road maintenance fuel levy fund, Kshs.23.21 million for free maternal health care, Kshs.3.34 million for compensation of forgone user fees.

3.9.2 Revenue Analysis

In the first half of FY 2015/16, the County received Kshs.1.28 billion from the National Government as equitable share, raised Kshs.57.32 million from local sources, Kshs.9.25 million as conditional allocation for free maternal healthcare, Kshs.0.76 million as conditional allocations for forgone user fees and Kshs.19.61 million as conditional allocation from the fuel levy fund. The county did not budget Kshs.24.65 million reported as the cash balance brought forward from FY 2014/15.

The quarterly trend in local revenue collection from the FY 2013/14 to the second quarter of FY 2015/16 is shown in table 3.33.

Figure 3.33: Isiolo County, Trend in Local Revenue Collection by Quarter from the FY 2013/14 to the second quarter of FY 2015/16



Source: *Isiolo County Treasury*

local revenue consisted of Kshs.35.45 million raised in the first quarter and Kshs.21.87 million in e second quarter. The local revenue raised in the first half of the FY 2015/16 was Kshs.57.32 million 5.75 per cent of the annual local revenue target), a decline from Kshs.79.62 million collected in a milar period of FY 2014/15.

he analysis of local revenue for the first half of FY 2015/16 by stream is shown in Table 3.17.

Table 3.17: Isiolo County, Analysis of revenue collection by stream for the first half of FY 2015/16

No.	Revenue Stream	Annual Targeted Revenue (Kshs.)	Six Months Actual Revenue (Kshs.)	Revenue Performance (%)
	A	B	C	D= C/B*100
1	Plot Transfer/Subdivision/ Registration/Approval Fees	2,000,000	1,666,500	83.3
2	Slaughter Fee	1,500,000	1,010,425	67.4
3	Liquor Application	3,000,000	1,799,000	60.0
4	Parking Fee	6,000,000	2,727,730	45.5
5	Hospital Charges	15,000,000	1,799,000	12
6	Livestock Cess	6,000,000	1,975,950	32.9
7	Miraa Cess	5,000,000	1,253,464	25.1
8	Sand Cess	10,200,000	2,271,400	22.3
9	Water Levies	3,000,000	508,564	17
10	Promotions Fee	6,500,000	1,070,055	16.5
11	Game Parks Entry Charges	210,000,000	28,151,462	13.4
12	Land Rates & Rents	70,200,000	5,933,816	8.45
13	Planning & Survey Fee	8,500,000	10,000	0.12
14	Other revenue streams	13,100,000	6,509,140	49.6
	TOTAL	**360,000,000**	**56,686,506**	**15.75**

Source: *Isiolo County Treasury*

The analysis of revenue by stream indicates that Plot Transfer Fees and Slaughter House Fees were the best performing revenue streams achieving 83.30 per cent and 67.4 per cent against their annual targets respectively.

3.9.3 Banking of local revenue

eview of bank statements of the revenue collection account indicated that all locally generated e was deposited into the CRF during the period under review. This conforms to Article 207 stitution and Section 109 of the PFM Act 2012, which stipulates that all funds raised or on behalf of the County Government shall be deposited into the CRF account unless t of Parliament.

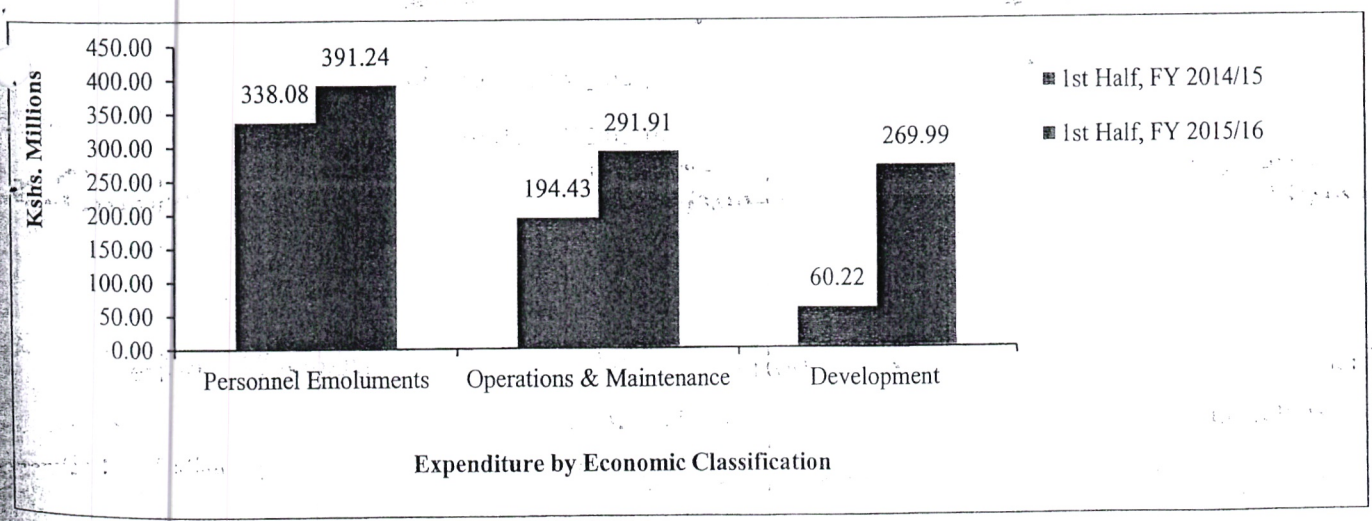
The Controller of Budget authorised withdrawal of Kshs.1.39 billion from the CRF account, which was 36.6 per cent of the approved budget. The amount represented an improvement of 28.7 per cent from Kshs.1.08 billion authorized in a similar period of FY 2014/15 and consisted of Kshs.1.09 billion (78.5 per cent) for recurrent expenditure and Kshs.300.0 million (21.5 per cent) for development activities.

3.9.5 Overall Expenditure Review

The County spent a total of Kshs.953.14 million during the first half of FY 2015/16 which was 68.4 per cent of the funds released for operations. This is an improvement from the Kshs.592.74 million spent in a similar period of FY 2014/15. A total of Kshs.683.14 million was spent on recurrent activities and Kshs.269.99 million on development activities. Recurrent expenditure was 62.5 per cent of the funds released for recurrent activities while development expenditure accounted for 90.0 per cent of the funds released for development activities. The expenditure excludes commitments as of 31st December, 2015 that amounted to Kshs.589.60 million for recurrent expenditure and Kshs.392.7 million for development expenditure.

Recurrent expenditure for the period under review represented 32.3 per cent of the approved annual recurrent budget, an improvement from 27.4 per cent spent in a similar period of FY 2014/15.On the other hand, development expenditure recorded an absorption rate of 16.0 per cent, an improvement from 7.3 per cent spent in a similar period of FY 2014/15. A comparison of the total expenditure in the first half of FY 2014/15 and in the first half of FY 20151/16 is shown in Figure 3.34.

Figure 3.34: Isiolo County, Expenditure by Economic Classification for First Half of FY 2014/15 and First Half of FY 2015/16



Source: *Isiolo County Treasury*

3.9.6 Recurrent Expenditure Analysis

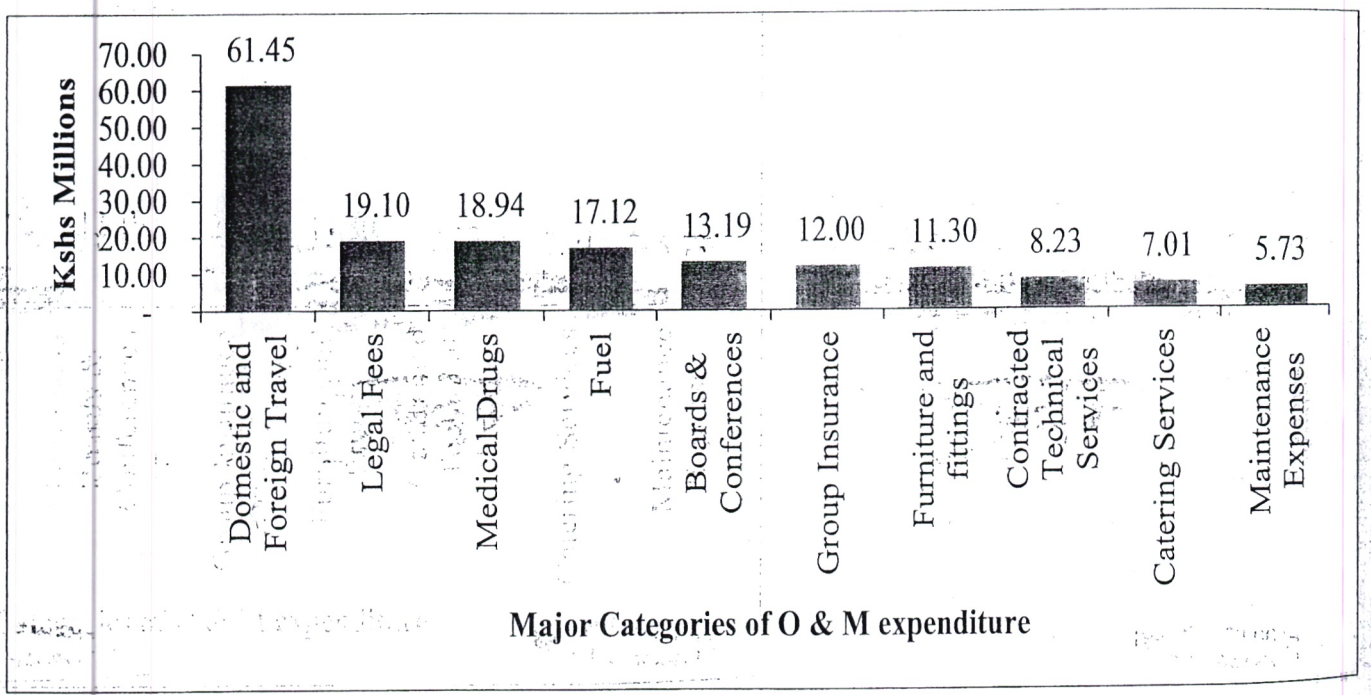
The total recurrent expenditure for the reporting period was Kshs.683.15 million against an annual budget of Kshs.2.12 billion. This is 32.30 per cent of the annual recurrent budget. The County spent

Kshs.391.24 million (57.3 per cent) on personnel emoluments and Kshs.291.91 million (42.7 per cent) on operations and maintenance as shown in Figure 3.34. Expenditure on personnel emoluments accounted for 41.4 per cent of total expenditure and has increased in FY 2015/16 as compared to a similar period of FY 2014/15 when the County spent Kshs.338.08 million.

The County spent Kshs.8.38 million on sitting allowances to the 21 MCAs and the Speaker against an annual budget of Kshs.29.44 million. This is an increase as compared to a similar period of FY2014/15. The average monthly sitting allowance per MCA was Kshs.66,542 compared to SRC's recommended monthly ceiling of Kshs.124,800.

A breakdown of the operations and maintenance expenditure for the reporting period is shown in Figure 3.35.

Figure 3.35: Isiolo County, Operations and Maintenance Expenditure for the First Half of FY 2015/16



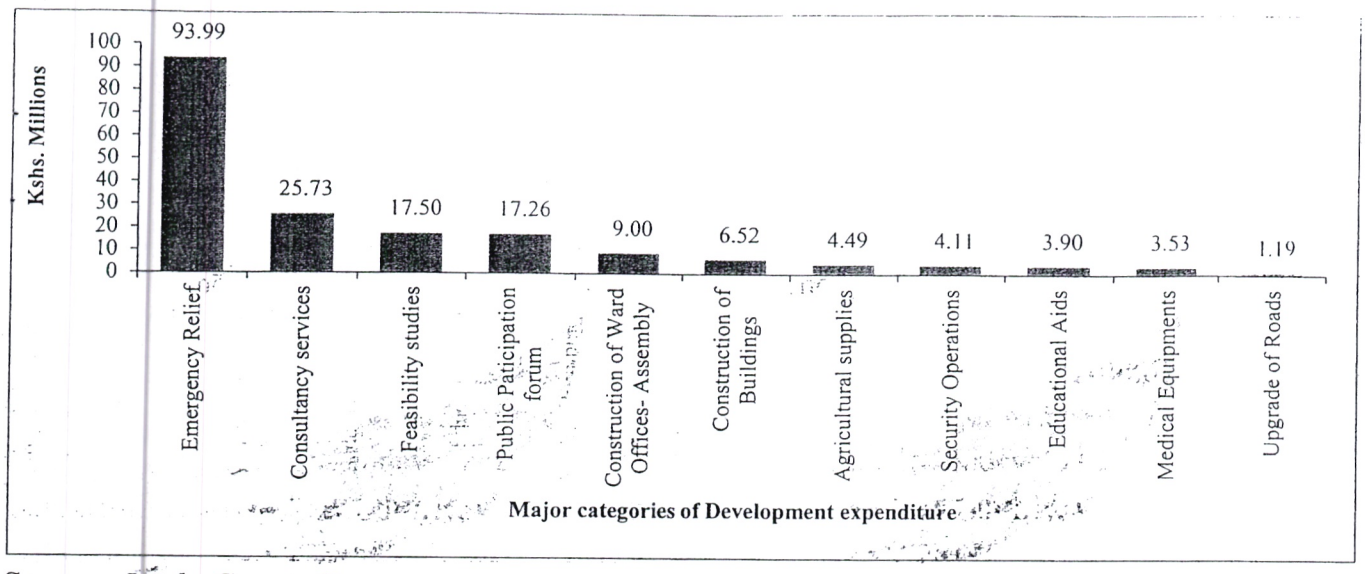
Source: *Isiolo county Treasury*

The aggregate expenditure on domestic and foreign travel was Kshs.68.71 million compared to Kshs.50.0 million incurred in a similar period of FY 2014/15, representing an increase of 36.2 per cent. This expenditure comprised of Kshs.49.57 million spent by the County Executive and Kshs.19.14 million by the County Assembly.

3.9.7 Development Expenditure Analysis

A summary of development expenditure during the first half of FY 2015/16 is shown in figure 3.36.

Figure 3.36: Isiolo County, Summary of Development Expenditure for the First Half of FY 2015/16



Source: *Isiolo County Treasury*

Analysis of the development expenditure of Kshs.269.99 million incurred in the first half of FY 2015/16 indicates that the Office of the Governor reported the highest expenditure of Kshs.80.50 million which was spent on delivery of relief supplies. The second highest expenditure of Kshs.30.90 million was incurred by the Department of Cohesion and Intergovernmental relations on famine relief and feasibility studies. The Department of Land, Physical Planning and Urban Development incurred Kshs.17.30 million for public participation forums on land issues and peace building initiatives while the Department of Agriculture incurred Kshs.4.5 million on Agricultural supplies. The office has noted that the provided list of development projects should have been classified as recurrent expenditure.

3.9.8 Annual Budget and Budget Performance Analysis by department for the First Half of FY 2015/16

A summary of the FY 2015/16 annual budget estimates and budget performance for the first half by department is shown in Table 3.18.

Table 3.18: Isiolo County, Annual Budget and First Half of FY 2015/16 Budget Performance by Department

Department	Annual Budget Estimates Allocation (Kshs. Millions)		6 Months Exchequer Issues (Kshs. Millions)		6 Month Expenditure (Kshs. Millions)		6 Month Expenditure to Exchequer Issues (%)		Absorption Rate (%)	
	Rec	Dev	Rec	Dev	Rec	Dev	Rec	Dev	Rec	Dev
County Assembly	380.93	70.00	203.40	25.00	162.18	9.00	79.7	36.0	42.6	12.9
Office of the Governor	258.77	108.00	123.41	10.00	106.59	85.05	86.4	850.5	41.2	78.8
Finance and planning	314.71	211.50	139.68	50.00	96.62	37.53	69.2	75.1	30.7	17.7
Lands and Planning	53.93	343.85	30.98	75.00	7.77	19.23	25.1	25.6	14.4	5.6

Department	Annual Budget Allocation (Kshs. Millions)		6 Months Exchequer Issues (Kshs. Millions)		6 Month Expenditure (Kshs. Millions)		6 Month Expenditure to Exchequer Issues (%)		Absorption rate (%)	
	Rec	Dev	Rec	Dev	Rec	Dev	Rec	Dev	Rec	Dev
Agriculture, Livestock	117.57	192.00	69.76	10.00	40.93	8.49	58.7	84.9	34.8	4.4
Cohesion and Intergovernmental Relations	13.23	68.18	5.67	15.00	1.13	30.91	19.9	206.0	8.5	45.3
Education	150.04	95.00	75.93	14.00	9.55	24.49	12.6	175.0	6.4	25.8
Tourism and Culture	45.98	122.50	19.87	15.00	6.76	17.83	34.0	118.8	14.7	14.6
Public Service Management	70.09	9.10	31.23	-	16.91	1.77	54.1	0.0	24.1	19.5
Water and Irrigation	101.10	243.33	56.83	50.00	20.91	9.07	36.8	18.1	20.7	3.7
Health Services	567.56	157.37	325.03	30.00	205.15	7.11	63.1	23.7	36.1	4.5
Trade and cooperatives	27.00	40.00	5.10	5.00	5.23	3.62	102.5	72.4	19.4	9.0
Town Administration	14.10	25.00	6.12	1.00	3.89	15.89	63.6	1589.2	27.6	63.6
TOTAL	**2115.00**	**1685.83**	**1093.00**	**300.00**	**683.62**	**269.99**	**62.5**	**90.0**	**32.3**	**16.0**

Source: *Isiolo County Treasury*

Analysis of budget performance by department shows that the Office of the Governor had the highest absorption of its development budget at 78.8 per cent, The Department of Water and Irrigation the lowest absorption at 3.7 per cent. On the other hand, the County Assembly had the highest percentage of its recurrent expenditure to its recurrent budget at 42.6 per cent while Education and Sports Department had the lowest percentage at 6.4 per cent.

3.9.9 Borrowing by the County Government

Article 212 of the Constitution requires a county government to borrow with approval from the County Assembly, and only if the national government guarantees the loan. Further, Section 58 of the PFM Act 2012 gives the Cabinet Secretary to the National Treasury the powers to guarantee loans subject to approval by Parliament. During the period under review, the County utilized its equitable share and local revenue collections deposited into the County revenue fund account maintained at CBK and did not borrow any funds.

3.9.10 Observations and Recommendations

The County has made significant progress in addressing the challenges previously identified as affecting budget implementation. The County has:

i. Improved capacity of the County Assembly technical staff through training.

ii. Procured an automated local revenue collection system.

iii. Adopted use of IFMIS and internet banking in the processing of financial transactions.

EP8

RESPONSE BY THE CEC SULEIMAN SHUNU, TO THE QUESTIONS BY THE COUNTY ASSEMBLY OVER THE ALLEGED LEASE OF ISIOLO PARK

RESPONSE BY THE CEC SULEIMAN SHUNU, TO THE QUESTIONS BY

THE COUNTY OVER THE ALLEGED LEASE OF ISIOLO PARK.

THE ISIOLO COUNTY GOVERNMENT

DEPARTMENT OF COUNTY TOURISM, CULTURE AND SOCIAL

SERVICES

P.O. BOX 36-60300

ISIOLO

Date: 3/02/2016

THE CLERK,

ISIOLO COUNTY ASSEMBLY

PO BOX 60300- 36

ISIOLO.

Dear Sir,

RE: Comprehensive Statements on Allegation of contractual

agreement between the county government of Isiolo and African Parks Networks on Shaba and Buffalo Springs national reserves by County Executive.

Thank you for your letter dated 25th February, 2016 ref: ISL/CA/FBA/1/2/16 requesting a comprehensive statement, regarding the alleged contractual agreement in the above subject matter.

We wish to make the following statement in response to your

queries comprehensively as follows:-

1. Introduction

a) The current rumours in the public domain

i) In the past few weeks unknown individuals, amorphous groups

and some local non-governmental organizations have been peddling disturbing rumours to the extent that the county government have either sold, leased or entered into some kind of contractual arrangement with an organization from South Africa on Buffalo Springs and Shaba National Reserves.

ii) So intense was the news that it even found its way into the pages of the local dailies. The motive of the story remains unclear but without doubt it has stirred a lot of debate and caused anxiety and fear among fellow county men and beyond. we, the CEC– Tourism and HE, the governor-Godana doyo visited a local radio station-

Angaf FM radio to dispel the rumours and provide correct position as part of informing the public.

iii) As the executive committee member in charge of tourism under which the said reserves fall, we wish to state here formally and categorically that isiolo county government has not and had not entered into any kind of agreement with any entity, local or foreign

in any undertaking on Shaba and Buffalo Springs national reserves, whether in form of lease, sales or memorandum of understanding (MOU).

iv) The allegations are unfounded, baseless and aimed at misleading the public from the realities on the ground concerning the two reserves.

v) Currently, the government of Isiolo has an Agency Agreement

with KATO for revenue collection entered into with defunct Isiolo County Council, in 1995

vi) The trends in revenue collection in past has been going down (annex Table 1, and 2)

vii) The County government has made huge investment in the past 3 years to the parks (See Table 3) to the tune of ksh 540,187,685 excluding the payment of huge wage bills to the rangers. And during the same period the revenue from the parks ksh 220,845,780

viii) The highest ever recorded revenue collected is ksh

142,618,155 in 2012 and lowest 47,768,504 in 2008 (Table 1)

b) What is the true position regarding the two Reserves as at now?

It would be helpful to the County Assembly and the public at large, if we provide the following information at this stage:-

a) Isiolo county government has started an introductory

engagement with African Parks Network, a not-for-profit

organization based in South Africa on possible private-public

partnership arrangement with the goal and objectives of

establishing partnership between the Isiolo County Government and African Parks network on matters of management, financing and

development of Buffalo springs and Shaba National Reserves

b) African Park Network (APN) is a world class, reputable

organization with impeccable park Management resume.

c) However, at the moment, this is only business idea that the

county government has floated as strategic thinking/direction for addressing challenges of the said parks and making consultations with stakeholders and partners

d) The process of consultations are ongoing and we promise to be as inclusive as possible

e) Should current consultations with stakeholders find the idea of public- private- partnership (PPP) feasible and viable, a new

business model of management of these two Parks may come into being and I hasten to add all these would follow due process of the constitution and the provisions of relevant laws of Kenya.

f) Having stated the true position accurately to enable the house to make informed discussion on the subject, I want to further state categorically that even in future undertaking we promise that all due

We wish to make the following statement in response to your

queries comprehensively as follows:-

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process of the law and due diligence would be observed in the matter.

But why does Isiolo County government, even think of strategic partnering with private sector as indicated above?

2. Mandates of the County executive

a) Isiolo county government has mandate to plan, initiate, co-

ordinate and implement projects and program in the entire county

with the goal of achieving social economic developments.

b) Isiolo County is rich in natural resource endowments with main

economic activities being pastoralism and tourism but located in Arid and Semi-Arid Land (ASAL), which is ecologically fragile and

sensitive ecosystem with erratic low rainfall.

c) In past and present tourism revenues for the park support socio-economic activities of the county and attendant management of the parks is considered critical and strategic pillar of the County economy.

d) Currently, the Isiolo County government has a mandate to

manage the National game Reserves and parks in the County. These are the Buffalo Springs, Shaba and Bisan Adi reserves. The parks are traditionally home to key wildlife species including the big five of Africa. The County has potential for more game reserves and there is a need to restore, rehabilitate and protect its rich diverse heritage of flora and fauna which is disappearing at tremendous rate.

3. The goal and the objectives of public private partnership

The goal and objectives of our current discussions with the African Parks network is to find a common ground on which build a long term sustainable relationship between the County Government and African Parks network is management, financing and development of Buffalo springs and Shaba National Reserves. It is anticipated that once concluded the arrangement eventually would spur socio- economic benefits to the local communities. This is win-win situation for all parties involved- Commercial investor, the government, communities, strategic management partner and donors.

4. problems and challenges faced in executing the mandates

The two Reserves are priceless resource inherited from the defunct county council by isiolo county government, and must be made sustainable for current and for the future generations. The problems and challenges of the Parks, however, are compounded by general problems of the county, and more specific to tourism and wildlife conservation and management such as:-

a) The county has major development challenges and constraints borne out of many years of neglect and marginalization, poverty, conflicts and lack of social infrastructure evident all around.

b) Wildlife protection and conservation in parks have potential for social and economic development, particularly for the benefit of local communities and contribute to wildlife survival in the face of competing forms of other land use.

c) The county has had challenges and constraints in management, development and financing of the parks over the years.

d) In terms of management of the parks, the county had direct role of the day-to- day involvement of the parks with vertical command and control structure with top down approach to management and decision making. This has led to the suboptimal performance in financing park operations, development of infrastructure in parks and poor management and governance.

e) Revues from tourists are dwindling as a result of the insecurity with the parks, human/wildlife within the park and surrounding areas of the parks is at all times high, human-wildlife conflicts is on the raise.

f) The parks have no products or branding-

g) Industry players have complained and compelled to close down business eg. Joy's Camp

5. Rationale and justifications for strategic management partnership

The County government of Isiolo has developed strategies and plans to address the aforementioned challenges. The concept of wildlife conservation, protection of animals within/around the parks is posing challenges to management of the parks. Both Shaba and Buffalo national game reserves require rehabilitation and re-engineering of management and financing with long term

sustainability in mind.

In Past, the revenue generated from the reserves almost entirely financed the operation of the council then, though hardly sufficient, with the council workers (including park rangers) going without pay for more than half a year. In fact the county government bore the brunt of the burden by settling six month salary arrears of the former council employees upon

inception in 2013. Currently, the two park/reserves were a pale

shadow of its former self and needed critical fresh breathe of life.

It was an exercise in futility to continue doing business the old council way. A different management model was not the only way to go but the only way. Hence, a paradigm shift in policy and operation needed to go forward of on the management,

development and financing of the parks.

Our past experiences are:-

a) The direct management of parks by the government has not been very effective in conservation and protection of wildlife in the parks.

b) The county government of Isiolo has been trying to address this challenge by finding strategic management partners to work with to mitigate the challenges of wildlife parks management and the constraints of wildlife protection and ecosystem conservation.

c) The county government having challenges, a strategic

management partner would take total responsibility for the

rehabilitation and long-term management of two game reserves under it, in partnership with Isiolo County Government and local communities.

d) The county government over the years had been struggling with the issues of the development of the parks in the county and indeed witnessed a near collapse of parks with rampant insecurity.

e) However, the constraints have been the required huge capital

outlay to invest to improve, upgrade all infrastructures (physical, human resource, financial and systems) in the parks. Both national and county governments have not found enough capital reserve or

partner injection the needed resources ameliorate the current dire situations in our parks.

f) Financing of the development and management of parks call for change in paradigm from direct government management to public-private partnership (PPP) arrangement since the government lacks both the financial resources and business acumen to run the parks

sustainably, while a private sector investor with expertise would combine world-class conservation practice with business expertise and would place emphasis on achieving financial sustainability of

the parks by combining long-term donor funding with tourism revenues, related business enterprise and payment for ecosystem

services, which all serve as a foundation for economic development and poverty alleviation.

6. In conclusions

i. The parks require total rehabilitation of ecosystems and embrace modern conservation technology, techniques and methods as well as new business model to make money.

ii. Building partnership between resource-base of the parks and

commercialization of the products is critical for long term

sustainability and survival of both Buffalo Springs and Shaba

National Reserves.

iii. It is important to recognize that a new business model is

required if we have to bequeath the parks to our children. The current affairs of things in our parks cannot be sustained.

By Suleiman Guyo Shunu-CEC in Charge Tourism, Culture and Social Service- Isiolo County Government

Appendices Tables

Table 1. Revenue from both Buffalo Spring and Shaba National Reserves

Year	revenue in shillings
2005	89,360,144
2006	99,569,549
2007	115,062,622
2008	47,768,504
2009	80,931,077
2010	117,292,180
2011	115,070,415
2012	142,618,155
2013	79,258,935
2014	84,782,799
2015	56,804,052

Table 2. Number of visitors and amount of revenue realized from Shaba National Reserve

Year	number of visitors	revenue in s

2009 4874 30,561,800

2010 5590 38,042,800

2011 6398 44,826,400

2012 4550 35,416,200

2013 4253 22,996,600

2014 4460 26,634,800

2015 3915 17,646,600

Table 3. The County Government allocations to the Parks

Financial year Recurrent Development Total

2013/2014 108,062,250 104,373,585 212,435,835

2014/2015 71,066,069 94,376,289 165,432,358

2015/2016 50,977,000 81,344,492 162,321,492

540,187,685

Ibrahim M. Adano.....

Director

For CEC Tourism, Culture and Social Services

EP 4

24th May 2016 – Standard Paper

ISIOLO COUNTY GOVERNMENT

SELECTION OF MANAGEMENT CONTRACTING PARTNER
ISIOLO COUNTY GOVERNMENT, IN THE REPUBLIC OF KENYA
MANAGEMENT CONTRACTING OF BUFALO SPRINGS AND SHABA GAME RESERVES
MANAGEMENT CONTRACTING SERVICES

CALL FOR EXPRESSION OF INTEREST (EoI)

The county government of isiolo intends to engage a competent organization under the terms of management contracting of buffalo springs and shaba game reserves assignment/services as below.

The services include development, financing, operations and management of the two parks by the selected organization

The *County Government* now invites eligible non-profit making organizations to indicate their interest in providing the services. Interested organizations must provide information indicating that they are qualified to perform services (brochures, descriptions of similar assignments, experience in similar services, conditions, availability of appropriate skills among the staff, etc.). Organizations may associate to enhance their qualifications.

Organizations will be selected in accordance with the procedures set out by the county government procurement standards and rules.

Interested organizations may obtain further information at the address below *[head of the of the procurement and supply chain management, isiolo town)* from 0800-1700 *office hours*

Expression of interest must be delivered to the address below by 10th june 2016.

THE COUNTY SECRETARY
SIOLO COUNTY GOVERNMENT
.O BOX 36-60300 ISIOLO
el: 540-721-421-347
-mail: isiolocountygovernment@

EP 10

AGREEMENT

Between

THEISIOLO COUNTY GOVERNMENT

and

AFRICAN PARKS NETWORK

Relating to a

PUBLIC PRIVATE PARTNERSHIP FOR THE MANAGEMENT OF SHABA AND BUFFALO SPRINGS NATIONAL RESERVES, ISIOLO, KENYA

ANAGREEMENT entered into this…….. Day of ……..2015

BETWEEN

THE ISIOLO COUNTY GOVERNMENT (hereinafter referred to as 'ICG'' which term shall where the context admits include its successors in title, administrators and assignees).

AND

AFRICAN PARKS NETWORK a not-for-profit company incorporated in South Africa and having its registered office in Johannesburg, (hereinafter referred to as African Parks).

WHEREAS

a) The ICG is responsible for the management, control and regulation of all National Reserves and all the wildlife related activities therein in Isiolo County, Kenya.

b) There exist in Isiolo County a number of National Reserves whose management, financing and development require a certain level of resources and management capacities that the ICG cannot currently provide.

c) ICG has an objective of entering into Public Private Partnerships with private institutions such as African Parks to manage, finance and develop its National Reserves.

d) African Parks is a non-governmental organization specializing in the management, financing and development of protected areas in Africa in partnership with national and local Governments and recognizes that to the extent possible such protected areas should benefit local communities.

e) African Parks has expressed interest in a devolved management arrangement with ICG for the management, financing and development of Buffalo Springs and Shaba National Reserves.

f) ICG has accepted African Parks offer and is willing to conclude an agreement for the management, financing and development of Buffalo Springs and Shaba National Reserves, on the terms and conditions as hereinafter set forth.

NOW THEREFORE IT IS HEREBY AGREED AND DECLARED as follows:

1. DEFINITIONS AND INTERPRETATION:

1.1 The headings in this Agreement and the Annexures are for convenience only and shall not be deemed part thereof or be taken into consideration in the interpretation or construction thereof.

1.2 Words importing the singular only, also include the plural and vice versa where the context requires.

1.3 In this Agreement any reference to any Agreement or Annexure shall be construed as including a reference to any Agreement or Annexure amending or substituting that Agreement or Annexure.

1.4 In this Agreement and Annexures the following words and expressions shall have the meanings hereby assigned to them except where the context otherwise requires:

a) "African Parks" means the African Parks Network, a not-for profit company incorporated in South Africa.

b) "ICG" means the Isiolo County Government, Kenya.

c) "Agreement" or the "Management Agreement" means the agreement concluded between African Parks and the ICG and any annexures, appendices, extensions or amendments thereto entered into by the Parties.

d) "Buffalo Springs National Reserve" and/or "Buffalo Springs" means the national reserve gazetted as Buffalo Springs National Reserve in Isiolo County, Kenya, that covers an area of approximately 128 square kilometers as well as any area to be added to Buffalo Springs National Reserve in the future in terms of relevant legislation.

e) "Shaba National Reserve" and/or "Shaba" means the national reserve gazetted as Shaba National Reserve in Isiolo County, Kenya, that covers an area of approximately 239 square kilometers as well as any area to be added to Shaba National Reserve in the future in terms of relevant legislation.

f) "The Reserves" collectively means both Buffalo Springs and Shaba National Reserves

g) "Board" means the Board of Directors of the Isiolo Parks Management Board, a company/trust/foundation incorporated

in Isiolo, Kenya under the Companies Act Cap 486, as amended and revised, and operating legally in Isiolo County, Kenya.

h) "Business Plan" means the plan to be drawn up by African Parks detailing the ecological, social and commercial management practices and activities, objectives, development plans inclusive of zonation, and infrastructure plans, responsibilities, tourism and income generation plans, funding and budget for Buffalo Springs and Shaba National Reserves which Business Plan shall have been submitted to the Board for endorsement.

i) "Day-to-day Management" or "Management" means the planning and execution of all activities and interventions related to and impacting on Buffalo Springs and Shaba National Reserves irrespective of where such activities or interventions take place

j) "Force majeure" means acts of nature, war (whether declared or not), invasion, revolution, insurrection, or other acts of similar nature or force.

k) "Government" shall mean the Isiolo County Government.

l) "Local Communities" means the communities living in close proximity to The Reserves.

m) "Parties" means ICG and African Parks.

n) "Project" means the enterprise of properly and effectively managing, developing and financing Buffalo Springs and Shaba National Reserves, the attainment of which is the objective of this Agreement in its entirety.

o) "Project Manager" or "Park Manager" means the person employed by African Parks and whose costs are covered by the Board who leads the senior management team responsible for the management of Buffalo Springs and Shaba National Reserves.

p) "Surplus" means the positive net result of a year of operations, excluding donations or grants, determined by the consistent and adequate application of the accepted International Financial Reporting Standards.

2.0 COMMENCEMENT AND DURATION OF AGREEMENT

2.1 This Agreement shall come into effect on the date of signing and unless renewed in accordance with Clause 20.1 remain in force for a period of twenty five (25) years from the date of signing.

3.0 ESTABLISHMENTOF THE BOARD

On signature of this Agreement, or as soon as reasonably possible thereafter, African Parks shall commence with the necessary consultations and actions that shall cause to be registered in Isiolo County a special purpose entity called the Isiolo Parks Management Board, on which African Parks, The Northern Rangelands Trust and ICG on behalf of local communities, will be represented. To be included in the Articles of Association (or legal equivalent in Isiolo County) of the Board are the following clauses:

3.1 The objective for which the Board has been registered and the activities which the Board may undertake are restricted to the management, financing and development of Buffalo Springs and Shaba National Reserves and associated activities in the manner contemplated and outlined in this Agreement and that therefore should this enterprise for which the Board has been incorporated fail, the Board shall be wound up.

3.2 The Board shall endeavor to generate socio-economic benefits for Local Communities by providing local employment, encouraging local businesses and providing funding for community projects.

3.3 It shall be recorded in the Articles of Association that African Parks shall have the right to appoint four of the seven Board members, including the Chairman of the Board and that African Parks shall furthermore have the right to appoint the Project Management Unit comprising the Project Manager, Field Operations Manager, Law Enforcement Manager and the Financial Coordinator of the Project. The Project Manager will be the person who has overall responsibility for all activities and operations in Buffalo Springs and Shaba National Reserves in accordance with the Business Plan.

3.4 The Standard Operating Procedures of African Parks applicable to all parks managed by African Parks shall apply to the management of Buffalo Springs and Shaba National Reserves.

3.5 The Management Board shall meet three times per year and all meetings of the Board shall be held in Isiolo County.

4.0 OBJECTIVE AND PURPOSE OF THE BOARD

4.1 The Parties agree that the Board will be established by African Parks for the sole purpose of carrying into effect the objective contemplated by the Parties herein namely the management, financing and development of Buffalo Springs and Shaba National Reserves in accordance with the terms and conditions of this Agreement. The Parties agree to do all such things as are incidental to or necessary for carrying into effect of the said objectives and thereby eventually also providing socio-economic benefits to local communities.

5.0 BOARD STRUCTURE

5.1 The Board shall be registered as a not-for profit company Limited by Guarantee (or legal equivalent) in Isiolo County, Kenya, in accordance with the Companies Act Cap 486 as amended and revised.

5.2 The Board of Directors shall consist of a maximum of seven (7) members. African Parks shall be entitled to appoint four of the seven members, with a maximum of two such appointees being technical experts from African Parks' head office and a minimum of two being Kenyan residents who are willing and able to apply themselves to the advancement of the Project. The ICG and The Northern Rangelands Trust shall each appoint one member to the Board. At least one member on the Board, to be elected by the Board, shall be responsible for representing Local Community interests.

5.3 The Chairman of the Board shall be appointed by African Parks.

5.4 All decision making in the Board shall be by way of consensus, to the extent that is possible. Failing which, decisions shall be taken by way of vote, one per Director present, with a simple majority required.

5.5 The Chairman shall have a casting vote.

6.0 FINANCING OF THE BOARD

6.1 African Parks shall make every reasonable effort to access donor funding to assist with the capital, operational, and other attendant expenses of Buffalo Springs and Shaba National Reserves and ICG undertakes to support such applications and grant approvals and endorsements necessary for the effectual realization of the Board's and African Parks' fund raising efforts.

6.2 In the interests of funding the Project and developing The Reserves, the Board shall collect and retain all income arising from or associated with Buffalo Springs and Shaba National Reserves subject only to the requirements of the relevant legislation of Isiolo County and Kenya. Sources of income include, but are not necessarily limited to, park entrance fees, tourism concession income, lease payments, permits, and payments for eco-system services, permit fees, income from the sale of surplus live animals and any other fees attributable to Buffalo Springs and Shaba National Reserves.

6.3

6.4 Of the income contemplated in 6.2 above, 80% shall be retained by the Board to cover expenses incurred in the Management of Buffalo Springs and Shaba National Reserves, 10% shall be payable to ICG and 10% shall be payable to the community conservancies neighbouring the Reserves.

6.5 All donor funding and resources will be managed according to the agreements specified by the donors, or alternatively according to African Parks Standard Operations Manual.

6.6 Should African Parks not be able to raise the necessary funding to properly manage the Reserves at any stage during the agreement for a period of twelve months, then the agreement shall be terminated and the Parties are released from their mutual obligations.

7.0 TREATMENT OF SURPLUS FUNDS

7.1 At the end of any financial year, should the Board make a Surplus from The Reserves, then such Surplus, after provisions for capital expenditure, shall be distributed by the Directors on the basis of 34% to ICG, 33% to neighbouring community within the conservancies and 33% to African Parks.

7.2 African Parks commits to using its share of any Surplus into similar conservation projects.

8.0 MANAGEMENT ARRANGEMENTS

8.1 The Project Manager and other senior management personnel, such as the Financial Controller, Law Enforcement Manager and Field Operations Manager, shall be appointed by African Parks.

8.2 The day-to-day management of Buffalo Springs and Shaba National Reserves shall be done by the Project Manager, in accordance with African Parks' Standard Operations Manual. The Project Manager shall be directly accountable to and take instruction from the Board.

8.3 The Project Manager will submit progress reports to ICG, African Parks and the Board on a monthly basis and shall also provide a consolidated annual report.

8.4 ICG shall facilitate the appointment of Kenyan Police Reservists (KPRs) (or its equivalent in Isiolo County and/or Kenya) to the Project Manager and other employees carrying out a law-enforcement responsibility. ICG shall also ensure that KPRs are equipped with appropriate arms necessary to perform their function to the required standard.

8.5 The Project Manager will endeavor to cultivate, promote and maintain good working relationships with all stakeholders, especially Local communities.

8.6 The Project Manager, with the assistance of African Parks, shall draw up a rolling 5 year business plan, an annual activity plan and an annual budget for approval by the Board. The Project Manager will take his day-to-day decisions within the framework of this plan.

8.7 The revised Business Plan will be submitted to ICG annually by no later than the 30th of October and approved by ICG by no later than the 30th November of each year. Should the Project Manager and/or Board not receive a response from the ICG by the 30th November the Business Plan will be deemed to have been approved by ICG.

9.0 DUTIES AND OBLIGATIONS OF THE BOARD

9.1 The Board shall devote its best efforts, time, judgment and resources at all times for the effectual and competent discharge of its obligations herein and shall employ, enforce and adhere to ethical, sound and responsible practices of wildlife management and conservation and shall at all times endeavor to achieve best practice in the management, financing and development of Buffalo Springs and Shaba National Reserves and in time also achieve socio-economic benefits for Local communities.

9.2 Without prejudice to the generality of the foregoing the Board shall:

9.2.1 Report to ICG on all aspects of its business, management process and planning in accordance with and in the manner specified in the Agreement.

9.2.2 Implement and execute substantially the activities and plans as outlined in the Business Plan.

10.0 RIGHTS OF THE BOARD

10.1 The Board shall be responsible for the proper management, financing and development of Buffalo Springs and Shaba National Reserves which will be executed in accordance with best conservation and business practice, the Agreement, the Business Plan, the standard operating principles of African Parks and the relevant laws of Isiolo County and Kenya.

10.2 The Board shall be entitled to operate one non-commercial guest camp in the park with the participation of African Parks as part of a sustainable financing strategy for The Reserves.

10.3 The Board shall be responsible for identifying and promoting commercial investment opportunities for tourism purposes which shall be in harmony with the management principles for Buffalo Springs and Shaba National Reserves as identified in the Business Plan, to the extent that is possible. The Board shall be responsible for ensuring the necessary approval and signing of such agreements with the commercial tourism operators in accordance with relevant legislation. The terms and conditions of such agreements, and tender documents, shall be determined and prepared by the Board, who shall also be responsible for ensuring compliance with such terms and conditions by the tourism operators.

10.4 The Board shall be entitled to employ any Kenyan national or where necessary the national of any other country as part of its staff complement either on a temporary or permanent basis.

11.0 ICG ŠRIGHTS, RESPONSIBILITIES AND OBLIGATIONS

11.1 ICG shall give the Board and its Project Manager the benefit of all reasonable judgment, effort and facilities and shall devote such time, personnel and as may be required on the part of ICG to carry out its obligations herein properly, efficiently and free of charges.

11.2 ICG shall at all times have free access to Buffalo Springs and Shaba National Reserves with intention to access being communicated to the Park Manager prior to arrival.

11.3 Without prejudice to the generality of the foregoing ICG hereby agrees to:

11.3.1 Assist with the restocking of Buffalo Springs and Shaba National Reserves as required with species indigenous to the area but which are either locally extinct or significantly

reduced in number, by granting the Board the necessary permits, providing the animals and facilitating the capture thereof, where they exist in other national parks or protected areas in Isiolo County and/or Kenya.

11.3.2 Support and commend to the relevant authorities the Board s application for work permits for up to five (5) expatriate employees to be employed by the Board at any one time, although it is a stated intention to make use of and develop local skills where possible and feasible.

11.3.3 Furnish and grant to the Board such permits, licenses and authorizations within ICG jurisdiction as may be necessary for the lawful carrying out of all and any activities expressly and impliedly allowed in this Agreement, and where such permits, licenses and authorisations fall outside of ICG jurisdiction to support and facilitate such approvals from other arms of Government .

11.3.4 Support and assist any application by the Board to the Kenyan Revenue Authority which will assist the Board with the management of The Reserves in a cost effective manner, including duty exemption on all imports of equipment, motor vehicles and services.

11.3.5 Support and assist any application for Investment Licenses in terms of the Investment Promotion Act Cap 485B or other legislation, necessary for the construction and operation of commercial and private lodges in Buffalo Springs and Shaba National Reserves as contemplated in this Agreement.

11.3.6 Support and endorse the Board s applications to international donor agencies for funding.

11.3.7 Consider, investigate and promulgate any reasonable proposals made by the Board to realign the boundaries of Buffalo Springs and Shaba where such realignment will benefit the ecological, social and financial objectives of the Project and / or The Reserves, in particular the establishment of a corridor between the Reserves.

11.3.8 Consider, investigate and implement any reasonable proposals on the resettlement of people illegally occupying, either permanently or temporarily, ecologically sensitive or important areas within The Reserves for the same purpose of benefiting the Project and / or The Reserves. Such resettlement to be carried out by ICG in accordance with relevant norms, standards and legislation.

11.3.9

11.3.10 To transfer any existing tourism concession agreements of whatsoever nature to the Board who shall be responsible for ensuring full contractual compliance, and where necessary, taking remedial action in the case of breach of such agreements. Any renewals will be done in accordance with Clause 10.3.

11.3.11 Consider in good faith any other proposal which will assist with the achievement of the objectives of the project while minimizing the costs of achieving such objectives.

11.3.12 Consider in good faith all proposals submitted by the Board.

11.4 Within six months from commencing the Project, the Project Manager shall assess the suitability of all individuals to be seconded by ICG to the Board. ICG undertakes to transfer, retrench or otherwise reabsorb any such individuals that are not required by the Project.

12.0 LAW ENFORCEMENT

12.1 Law enforcement shall be exercised by Kenyan Police Reservists employed by the Board and law enforcement personnel seconded from ICG to the Board. Such seconded law enforcement personnel shall be subject to the control, deployment and disciplining of the law enforcement manager and ultimately the Project Manager.

12.2 The law enforcement personnel seconed to the Board shall remain in the formal employment of ICG, who shall ensure that they are properly and timeously remunerated including all benefits enjoyed by other law enforcement personnel employed by ICG.

12.3 Through the Board, African Parks will be responsible for reimbursing ICG for the direct salary costs of the law enforcement personnel seconded to the Board and shall be responsible for funding the acquisition, maintenance and operation of vehicles, radios and other assets used for law enforcement and the uniform, ration and basic personal equipment costs of law enforcement personnel seconded to the Board.

12.4 ICG shall prepare a schedule of the direct salaries of all law enforcement personnel seconded to and committed to the Board in accordance with the approved Business Plan. The schedule of direct salaries and any proposed salary adjustments for law enforcement

personnel seconded to the Project shall be submitted by ICG to African Parks annually for inclusion into the Budget to be approved by African Parks and the Board. Once the Budget has been approved by African Parks and the Board, the direct salary costs included therein shall be reimbursed on a monthly basis by the Board to ICG.

12.5 The Park Manager shall be responsible for the law enforcement personnel's daily work schedules, leave, and performance evaluation as is necessary for them to perform their obligations to The Reserves and to enforce the law in an effective and efficient manner. The Board will make recommendations to ICG on the promotion and demotion of ICG seconded staff andICG undertakes to implement such recommendations.

12.6 The Board shall be responsible for the general and good welfare of the law enforcement personnel seconded to it and shall ensure that they are motivated and properly treated.

12.7 The Board shall be entitled to reward at its own cost exceptional service of individual law enforcement personnel through payment of a bonus or incentive, as determined by the Project Manager.

12.8 All selection and recruitment of new law-enforcement officers to be employed by the Board shall be done by the Project Manager. ICG undertakes not to transfer any seconded staff without prior consultation with the Board.

12.9 The Board shall determine the number of law enforcement personnel necessary to perform the obligations in terms of this Agreement.

12.10 Any law enforcement officer or other employee seconded to the Board that, in the Board's opinion, does not perform his responsibilities to a satisfactory level, shall either be subjected to the laid down disciplinary process and if found wanting after the due process subjected to the sanctions prescribed by the relevant ICG Disciplinary Code procedure, or alternatively, at the sole discretion of the Park Manager, shall be transferred back to ICG.

13.0 TERMINATION

13.1 Notwithstanding anything to the contrary herein before contained this Agreement may be terminated as follows:

13.1.1 In the event of any material breach of the terms or conditions of this Agreement then the Party not in default may give notice to the other in writing requiring it to remedy such breach. If within fourteen (14) days of receipt of such notice

the breach is still continuing, the Party which is not in default may give twenty one (21) days notice of termination to the Party in default.

13.1.2 By African Parks in the event that it is unable to raise the necessary funding for the project or if by African Parks' judgment the project is unable to achieve its long term objectives.

13.1.3 By mutual agreement of the Parties.

13.2 Termination of this Agreement shall be without prejudice to any other rights and remedies which may be available to either ICG or African Parks.

14.0 GOVERNING LAW

14.1 This Agreement shall be governed by and construed in accordance with the Laws of Kenya and of Isiolo County Government.

15.0 DISPUTE RESOLUTIONAND ARBITRATION

15.1 For the purposes of this clause, "Dispute" shall mean any dispute, difference of view, disagreements, controversy or claim arising out of or relating to this Agreement, or the interpretation or performance of this Agreement or the breach, termination or validity thereof, which the Parties are unable to resolve by mutual agreement within a reasonable time.

15.2 In the event of any dispute, difference, question whatsoever with the exception of Events of Default, which may at any time hereafter arise between the Parties hereto or their respective representatives or assignees or nominees or any of them out of construction of or concerning anything contained in or arising out of this Agreement or as to the rights, duties or liabilities of the Parties hereto respectively on their respective assignees or nominees the Parties shall in the first instance endeavor to settle such dispute, difference or question through negotiations within a period of 21 days;

15.3 If the dispute, difference or question cannot be resolved within 21 days, the Parties shall then refer such dispute, difference or question to Arbitration by an Arbitrator appointed in terms of the Arbitration Act of 1995 as amended and revised;

15.4 Either party may call a dispute by informing the affected party in writing, describing the dispute and service of the dispute;

15.5 In the event that either party is not satisfied with the arbitral award, it may opt to lodge an appeal to the Supreme Court of Kenya.

16.0 ENTIRETY OF AGREEMENT

16.1 The terms and conditions contained in this Agreement and the appendices hereto supersede all other terms, conditions, representations or undertakings made by the Parties hereto and nothing said or written during the course of negotiations between the Parties hereto shall have contractual or other legal effect unless expressly incorporated herein by reference.

17.0 AMENDMENTS

17.1 Any alterations, amendment, addition or variation to the Agreement shall not be valid unless made in writing and signed by all Parties.

18.0 FORCE MAJEURE

18.1 No Party shall be considered to be in default in performance of its duties hereunder if such performance is prevented or delayed by war, hostilities, actual or reasonably apprehended acts of violence, terrorism, strike lockout, epidemic, accidents, floods, acts of God or any other cause of any kind whatsoever outside a Party s reasonable control.

19.0 MISCELLANEOUS

19.1 The management and development work carried out by African Parks Network in the Buffalo Springs and Shaba National Reserves shall be for and on behalf of ICG and to the ultimate benefit of the Parties;

19.2 African Parks Network shall in no case have any claim to compensation from ICG for expenditure it has made on management costs towards improvement of park infrastructure.

20.0 OPTION TO RENEW

20.1 The Board shall have an option to renew the Agreement for a further 25 years

20.2 If the Board decides to exercise its option to renew the Agreement as provided for in Clause 20.1 it shall give 12 months written notice of such intention to ICG.

20.3 If no written notice as specified in Clause 20.2 shall be forthcoming from the Board within 12 months before the expiration by effluxion of time of the Agreement it shall be deemed that the Board does not intend to renew the Agreement.

21.0 PERFORMANCE REVIEW

21.1 The Parties do hereby agree that at every fifth anniversary of the Agreement there shall be conducted by an internationally recognized park management expert, as shall be mutually agreed by the Parties, a performance review. The review shall assess and evaluate the effectual implementation and compliance by each Party of their respective obligations hereunder, and evaluate and assess the general performance and achievement of the Agreement s intended goals and objectives in terms of conservation of fauna and flora, the generation of income, development of The Reserves and the accrual of socio-economic benefits to Local Communities.

21.2 All reasonable recommendations made by the performance review, as set out in Article 21.1 must be considered by the Board for implementation within six (6) months after receiving the final performance review report.

22.0 INDEMNITY

22.1 ICG indemnifies the Board against any claims for loss, injury or any other casualty suffered or incurred by any persons in the Park or adjacent areas at the hands of or as a result of any negligence on the part of ICG s employees seconded to the Board by ICG and African Parks and the Board hereby indemnifies ICG against such claims, liabilities, losses and damages which may arise or result directly or indirectly from any breaches of this Agreement by African Parks or the Board or any negligent or intentional act or omission by African Parks or the Board s employees, contractors or agents.

23.0 NOTICES

Any notice, statement or demand given under this Agreement and as required under this Agreement relating to obligations of both ICG and African Parks shall be communicated in writing and sent out by registered post, facsimile transmission, electronic mail or hand delivered as the case may be to either the representative of ICG or African Parks at the addresses below:

Isiolo County Government: The Governor
Isiolo County Government,
P.O .Box 36 - 60300,
ISIOLO

African Parks: The Chief Executive Officer
African Parks Network
P.O.Box2336
Lonehill
2062South Africa
Tel:+27. 11. 465 6802
Fax: +27.11.465 9230
Email: <peterf@african-parks.org>

AS WITNESS the hands of the Parties or their duly authorized agents the day and year first before written.

SIGNED BY _____

on behalf of the **ISIOLO COUNTY GOVERNMENT**

Name: _____

Title: _____

In the presence of:

WITNESS _____

Name: _____

Address: _____

Occupation: _____

SIGNED BY _____

on behalf of **AFRICAN PARKS NETWORK**

Name: _____

Title: _____

In the presence of:

WITNESS _____

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Occupation: _____

EP 13

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— *Geoffrey Ro*

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— *Manase Otsialo*

Isiolo

Official has until today to explain leasing of parks

Tourism executive Suleiman Shunu yesterday failed to appear before an assembly committee to explain claims he leased out Buffalo Springs and Shaba national reserves to African Parks Network. Mr Shunu was given until today to appear before the MCAs failure to which they will take unspecified action against him. The team wants among other things, details of the agreement Mr Shunu entered into with African Parks Network and how much money was involved. Nominated MCA Hassan Shano also filed a motion seeking to know how much revenue the county has collected from the reserves since 2013.
— *Vivian Jebet*

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3 March 2016 Standard

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Isiolo yet to reach deal with firm over lease of parks

By ALI ABDI

The Isiolo County government has released details of a plan to lease game parks at an initial cost of Sh500 million.

Tourism Executive Suleiman Shunu yesterday said the county government had signed a Memorandum of Understanding (MoU) with African Parks Ltd, which will see the latter among others manage the county's two game parks.

Shunu clarified: "We have not yet entered into any deal with the firm. We have just entered into an MoU to start the process that if all the stakeholders including the public agree, will lead to our parks being managed by the firm."

"The firm has Sh500 million that will initially be pumped into the parks to revamp the facilities' infrastructure and put in place well trained personnel."

The revelation comes in the wake of a public outcry which on Tuesday led to the formation of a lobby group called 'Operation Save Isiolo Game Reserves'. The 18-member lobby group is led by Hussein Abduba who served as a councillor at the defunct Isiolo county council and on two terms served as its chairman.

Non-governmental organisations involved in the process are Waso Trustland Project (WTLP), Resource Advocacy Programme (RAP) and Merti Integrated Development Programme (Mid-P). Mr Abduba said the lobby will embark on civic education to urge residents to unanimously reject the proposal. It will also hold street protests and also move to court to block the deal.

"The governor (Godana Doyo) and his administration have failed to manage our natural resource by coming up with this shoddy deal. Our fear is, next time they will even lease the management of the entire county," he said.

LAIKIPIA: 2,000 litres of illicit brew seized

Police in Nyahururu seized over 2,000 litres of illicit brew yesterday in a crackdown in Kiamaina and Mututi. The operation led by Kiamaina Chief Muraya Waithaka and his Mututi counterpart Weston Maina, unearthed Kang'ara brew buried in expansive farms in Ngoru and Kirima villages. The chiefs said they had been tipped off by residents. However, they said the suspects managed to escape a police dragnet. The administrators said the crackdown would continue despite a few challenges being experienced.

— James Munyeki

Standard of 26th February 2016.

EP 15

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ISIOLO COUNTY

Godana initiates process to lease game parks amid public outcry

By ALI ABDI

The local government will lease its game reserves to an international wildlife management firm, if the public approves its proposal.

Governor Godana Doyo, Speaker Mohamed Tubi and Tourism Executive Suleiman Shunu were in Malawi last week to tour Majete Park that is managed by African Parks Limited to assess the firm's work.

The move to lease Buffalo Springs that measures 131 square kilometres and Shaba with an area of 254 square kilometres will make Kenya the eighth country in Africa to lease out the management of its game parks to an outsider.

Should the deal be done, African Parks will fence the three parks and make them secure, streamline management, improve infrastructure and market them globally.

The development has however raised a major storm, with residents vowing to go to court to stop the process if they are not involved. The county government first met African Parks officials mid last year at Joy Adamson Camp where the two sides discussed leasing the management of the Buffalo Springs, Shaba and Bisanadi game reserves for 99 years.

Yesterday, Mr Tubi said there is urgent need to fence the two parks in Isiolo Central to keep the wildlife safe and improve on revenue generation.

"We have had many problems at the two parks with herders turning them into grazing zones and poachers killing wildlife," he said.

"These parks are in urban areas with growing human settlement from all sides and the wildlife's traditional migratory routes have been blocked."

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EP 16

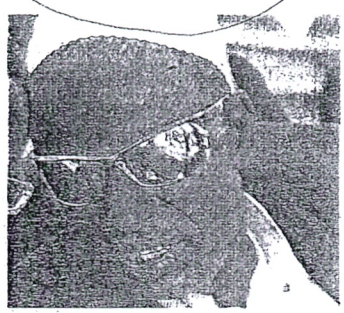
Isiolo > Devolved unit will not get a penny for 10 years

Plan to lease parks encounters hurdles

Locals suspicious because scheme 'is shrouded in a lot of secrecy'

BY VIVIAN JEBET
@vivianbevah
vjono@ke.nationmedia.com

> We need to fence the two parks in order to boost our revenue collection and guard our wildlife"
>
> **Mohammed Tubi, Isiolo County Assembly Speaker**



Plans to lease Isiolo game reserves to the African Parks Organisation are at an advanced stage.

Last week, Governor Godana Doyo, Assembly Speaker Mohammed Tubi and Tourism Executive Suleiman Shunu toured Majete Park in Malawi, which is managed by the organisation.

Contacted on Saturday, Mr Tubi declined to give details of the negotiations with the firm but said the issue would be discussed in the assembly and presented to the public later.

The speaker said Isiolo reserves were in a bad state and needed revival.

He added that traditional migratory routes for wildlife had been encroached by humans.

"We need to fence the two parks in order to boost our revenue collection and guard our wildlife," Mr Tubi said.

The speaker said invasion of the parks by herders and poaching had made the county government seek help from the organisation.

The parks fall within the northern tourist circuit. They are home to Grevy's zebra, Somali Ostrich, oryx, reticulated giraffe, lion, buffalo, elephant and leopard.

However, the plan to lease Buffalo Springs and Shaba national reserves, which are less than 40 kilometres from Isiolo Town, continues to raise concerns.

Waso Trust Land Project CEO Liban Golicha said stakeholders would meet today to discuss the way forward.

"The county government has not involved players, particularly the public. We only hear of trips and meetings with the firm," he said.

"We want to know the reasons for the secrecy surrounding the issue."

The stakeholders have also threatened to go to court if the county government leases the reserves without consent from the public.

Mr Golicha said Africa Parks would streamline management, marketing and fencing the reserves though the county government would not get revenue for the first 10 years.

The parks were managed by the defunct Isiolo County Council but later transferred to the county government following devolution.

Leaders

BY DERICK LUVEGA

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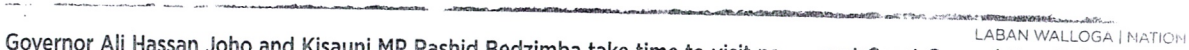

LABAN WALLOGA | NATION

Governor Ali Hassan Joho and Kisauni MP Rashid Bedzimba take time to visit pa ıs at Coast General Hospital yesterday after delivering a boiler to help improve services at the facility.

DNational Mon. Aug. 17, 2015

Isiolo >

County denies plans to lease out parks

BY VIVIAN JEBET

The Isiolo county government has denied claims it is planning to lease out three game reserves to African Parks Management Organisation.

County Executive for Tourism Suleiman Shunu said yesterday that there was no such agreement.

He noted that it was just a proposal that might be considered after thorough discussions, to protect Shaba National and Buffalo Springs game reserves.

Earlier, two lobby groups had alleged that the county government was planning to lease out Shaba, Bisanadi and Buffalo Springs to African Parks without the consent of the public and stakeholders.

Mr Shunu said they considered seeking help from professional bodies such as African Parks since the county government had challenges managing the parks.

Sought help

He said the county government considered seeking help after armed morans invaded the parks, scaring away tourists while poaching had increased in the reserves.

He added that burning of wood for charcoal in the parks was also rife, even as some locals started settling in the reserves.

"In the next three years, we will be having no parks. So in an attempt to rescue them, we contacted AP and discussed our challenges," said Mr Shunu.

He accused some NGOs of spreading rumours instead of seeking clarification.

Last week, a group had planned to hold a demonstration to demand explanation from Governor Godana Doyo on the leasing claims.

But Mr Shunu asked the group to first look at the state of the parks before criticising what the county is doing to preserve them.

He said they had taken measures to conserve the parks.

Isiolo | Standoff looms between groups and county chiefs

Groups oppose plan to lease out game reserves

County officials left public out of talks to lease parks to private entity, they claim

BY VIVIAN JEBET
@vivianbevah
chebetvivianne@gmail.com

Two lobby groups have opposed the county government's plan to lease out three game reserves to a park management organisation.

Waso Trust Land Project and Merti Integrated Development Programme yesterday said the county government was about to lease out Sarova Shaba, Bisanadi and Buffalo Springs game reserves to the African Park Management Organisation.

However, being major conservation stake holders, they had not given their consent for the implementation of the agreement, their officials said.

The parks were previously managed by the defunct Isiolo County Council, which used to collect up to Sh300 million from them annually.

With devolution, they were transferred to the county government, but the current revenue is unclear.

Although the organisation will properly manage, market and fence the game reserves, the county government will not get revenue the first 10 years, according Mr Liban Golicha, the chief executive officer at Waso Trust Land Project.

> Both parties involved in the leasing have already assessed the areas and have developed a business plan"
>
> **Mr Salad Tutana, activist**

He claimed African Park Management had expressed an interest in only the Sarova Shaba but the county government offered all the three parks. "We are worried because we are not involved in the matter."

Mr Salad Tutana, an official at Merti Integrated Development Programme, said citizens must be involved in important decisions made by the county government.

Developed a business plan

"Both parties involved in the leasing have already assessed the areas and have developed a business plan with the agreement," he told the *Nation* by phone.

Tourism executive Suleiman Shunu said the county government was holding meetings over the matter. The concerns raised would be discussed by the county assembly and subjected to public debate, he added.

Sarova Shaba is located along Ewaso Nyiro River, Bisanadi is located along Bisanadi River bordering the Meru National Park, while Buffalo Springs borders Samburu County.

Mombasa | 500 youth land jobs in the Middle East

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county government officers enforcing the court order of July 30 was ironical and had left many unanswered questions.

"We understand that the court order is still in force, and that no other decision including that of the security committee can vary the order," Mr Mruttu said.

Speaking at his office after chairing the executive committee meeting, the governor said the security committee had declined to implement the court order issued directing the exodus of all illegal herders.

"The court order needed the requisite security support for it to be fully implemented, which was never given despite numerous follow-ups by the county administration," complained Mruttu.

"The court order was addressed to us.

"It was only addressed to the county government," said Mr Sosio, who is the chairman of the security committee.

He, however, said the continued presence of livestock from outside was causing unnecessary tension in the region.

"We have given the herders from Kajiado, Narok and North Eastern region illegally grazing here two days to leave the region, failure to which stern action will be taken against them," he warned.

In an interview yesterday, the administrator said the local community had registered with his office their displeasure of having the livestock in the region.

zing in the region.

• County commissioner said to be protecting herders from his Maasai community

"We have given them up to today (yesterday) as their last day to continue grazing in the area. On expiring of the directive, they will have no other alternative but to vacate the region," he said.

Sosio denied claims that some of the animals grazing in the region were his. He also denied allegations that he was protecting herders from his Maasai community.

"It is true that all Maasais have livestock. I also have livestock but

The MP's house was among properties of unknown value destroyed as the operation to rid the county of illegal herders was intensified yesterday.

Mandera North MP Adan Noor and other herders lost property during the day-long operation after residents drove thousands of livestock out of Sarova Hills Sanctuary and people's settlement.

Sosio said the MP's property, which included his house and those of his herders, and a cattle shed were among those torched.

"We are still waiting for the MP to record a statement for action to be taken," said the commissioner.

He said residents were incited to destroy private property and warned there would be prosecutions.

constituents who complained of harassment by KDF officers.

"The military is treating any person found moving near or inside the Boni Forest as a terrorist," he said.

The MP claimed people in the area are no longer willing to report anything to the security officers for fear of being treated as the first suspects

The lawmaker who donated seven motorbikes to chiefs in his sub-county said the locals had lost confidence in the security personnel, and accused the Government of neglecting chiefs.

Protest over 'plans to lease out game parks'

ISIOLO COUNTY

By ALI ABDI

County officials have entered into talks to lease out three game parks to an international wildlife conservation group.

The talks, being led by Governor Godana Doyo and officials of African Parks have however raised a major storm from the residents who have vowed to go to court to stop the process if they are not fully involved.

Isiolo county plans to lease out Buffalo Springs, Shaba and Bisanadi game reserves to African Parks for 99 years, making Kenya the eighth country in Africa to do so.

Officials of African Parks, with roots in South Africa, Western Europe and the US were last week taken on a tour of the three parks for three days before the meeting at Joy Adam-



son Camp, located within the Shaba Game Reserve.

Those in attendance included Governor Doyo, Tourism Executive Suleiman Shunu, Assembly Lands and Tourism Committee Chairman Hassan Kumpa and Ian Craig, the director of Northern Rangeland Trust and proprietor of Lewa Downs Wildlife Conservancy, among others.

Yesterday, officials of local non-governmental organisations held a meeting with locals residents and agreed to block the deal through court.

POSSIBLE IMPACTS

Waso Trust Land Project (WTLP), Movement for Survival of Indigenous Isiolo People and Environmental Conservation (Mosiipec) and Merti Integrated Development Project (Mid-P) claimed the county had already entered into a deal with the foreigners without following the law.

"We are strongly opposed to this deal because the public has not been consulted. These parks are the lifeline of the people of Isiolo and they are the ones mandated to deal with the matter," said Liban Golicha, the CEO of WTLP.

Hassan Balla, the chairman of Mosiipec and a former councillor of the defunct Isiolo County Council, alleged the executive and assembly had already approved the deal to lease the game parks.

"The people of Isiolo should know that our parks have been auctioned and the repercussions include sacking of the locals, including the game rangers. We know that 19 out of 20 MCAs support the move," alleged Mr Balla.

Salad Tutana, an official of Mid-P, expressed concern that a county can decide to 'hand over' the management of its wildlife sanctuaries to a foreign entity, claiming that Kenyans had been duped in the deal.

"If this deal goes through, Kenya will be the eighth country in Africa to do so. Other countries have done so and failed miserably. Two of the states, including DR Congo and Central Africa Republic are experiencing unprecedented wildlife poaching," said Mr Tutana.

MARSABIT COUNTY

'We need more crisis officers'

By LIBAN GOLICHA

An MP has asked the national government to deploy disaster management officers in constituencies across the country.

Speaking to The Standard, Moyale MP Roba Duba said emergency response officers have to be deployed at the grassroots to improve on efficiency.

"The presence of fire fighters, divers and other emergency response officers at the grassroots is significant. This would enable them respond to emergencies in time," he pointed out.

The MP's sentiments come after the Government failed to retrieve the body of a herdsman who drowned in a dam in Moyale constituency over the weekend. "The National Disaster Management Authority failed to help us," he said.

Aug 10 2015 Standard

EP 20

Isiolo > Doyo denies claims regarding game reserves

EACC probes county over leasing of parks

Procurement rules not followed in efforts to contract management services, says investigator

BY VIVIAN JEBET
@vivianjebet
vjebet@ke.nationmedia.com

The anti-corruption agency has launched investigations into the alleged leasing of Buffalo Springs and Shaba game reserves by the county government.

The Ethics and Anti-Corruption Commission (EACC) is also investigating why the regional government placed a "questionable" expression of interest advert in local dailies last month on contracting management services from a competent non-profit organisation.

EACC upper eastern Kenya boss Ignatius Wekesa yesterday said the administration did not follow public procurement procedures as stipulated by the law.

He added that the advert had misleading information.

"The county government might have skewed the process to suit particular firms. The advert had inaccurate information. The email address given is incomplete. One cannot get through using the telephone number indicated. That's why we have instituted investigations," said Mr Wekesa.

The commission boss further said the leasing plans must be stopped to allow the commission to make an inquiry into the matter.

The EACC will also look into allocations for the tourism sector following claims by the public that the funds had been misused.

> "The county government might have skewed the process to suit particular firms. The advert had inaccurate information."
>
> **Ignatius Wekesa, EACC upper eastern Kenya boss**

Last week, Governor Godana Doyo denied claims that his administration is leasing the reserves, saying only the parks' management will be changed.

A lobby, Friends of Isiolo Game Reserves, has petitioned the county assembly to play its watchdog role by directing the executive to make public any contractual agreements made regarding the leasing plans.

"We ask the assembly to intervene and stop the county government from proceeding with the plans until a request in our petition is heard," said Mr Hussein Abduba, former chairman of the county council, now defunct.

Last week, the assembly asked the executive to stop further advertisements until public forums on the matter are conducted.

At the same time, land and procurement corruption cases are the most reported in counties in upper eastern Kenya.

Mr Wekesa said there is a high number of land-related cases in Meru, Isiolo, Marsabit, Samburu and Tharaka-Nithi counties.

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EP 21

County to lease out two game reserves

ISIOLO

By ALI ABDI

The county government is planning to lease out two of its game parks to a private company.

In an expression of interest (EOI) advertisement in local dailies, the government said it wants to engage the services of a competent organisation to manage Buffalo Springs and Shaba national reserves.

The services required include financing, development, operations and management of the two parks on contractual basis.

"The county government now invites eligible non-profit making organisations to indicate their interest in providing the services," reads the advertisement.

Interested organisations must provide evidence of having carried out similar successful ventures and availability of skilled workers, among other conditions.

The deadline for submission of the IOI is June 10.

Buffalo Springs measures 131 sq. km while Shaba has an area of 254 sq. km. If it succeeds in its plan, the county will make Kenya the eighth country in Africa to lease out management of its game parks to a private firm.

The plan by the administration to lease the game parks became public in May last year but was vehemently opposed by local residents and the civil society who argued that they were not been consulted in coming up with the decision.

FENCE RESERVE

Governor Godana Doyo, Assembly Speaker Mohammed Tubi and Tourism Executive Suleiman Shunu had earlier entered into talks with African Parks to lease the management of the two animal sanctuaries.

The three visited Malawi to tour Majete Game Park that is managed by African Parks and expressed satisfaction with the company's "ultra-modern wildlife conservation and management" work.

In an earlier interview, Mr Shunu said that the administration wants help to fence the game reserves and make them secure, streamline their management and to market them globally.

Following the new development, Operation Save Isiolo Game Reserves, a lobby group under Waso Trustland Project (WTP) that was formed mid last year, yesterday vowed to move to court to stop the plan.

The 18-member lobby group is led by Hussein Abduba, a former chairman of the defunct County Council of Isiolo and WTP CEO Liban Golicha.

"The administration has failed to manage our natural resource by coming up with this plan. Our fear is that next time they will even lease the management of the entire county," said Mr Abduba.

"They (the county officials) have already decided whom to lease the parks to and we will move to court to stop them because the residents are against the whole thing," Mr Golicha said.

> "Our fear is that next time they will even lease the management of the entire county-Hussein Abduba

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ETHICS AND ANTI-CORRUPTION COMMISSION

INTEGRITY CENTRE (Valley Rd. / Jakaya Kikwete Rd. Junction) P.O. Box 61130 – 00200, NAIROBI, Kenya
TEL.: 254 (020) 2717318 / 2720722, MOBILE: 0729 888881/2/3
Fax: 254 (020) 2717473 Email: eacc@integrity.go.ke Website: www.eacc.go.ke

When replying please quote:
Our Ref: EACC.6/15/4

7th November 2016

THE SENATE CLERK'S OFFICE
RECEIVED
10 NOV 2016
P.O. BOX 41842 - 00100, NAIROBI

J.M. Nyegenye, CBS
Clerk of the Senate
Clerk's Chambers
Parliament Buildings
P.O. Box 41842-00100
NAIROBI

Dear Ms Nyegenye,

RE: INVITATION TO A MEETING WITH THE SENATE STANDING COMMITTEE ON LAND AND NATURAL RESOURCES TO DELIBERATE ON A PETITION BY RESIDENTS OF ISIOLO COUNTY ON THE LEASING OF BUFFALO SPRINGS AND SHABA GAME RESERVES BY THE ISIOLO COUNTY EXECUTIVE

Reference is made to the above matter and to your letter of 17th October 2016. We also make reference to the appearance before the Senate Standing Committee on Land and Natural Resources on 3rd November 2016 by our Vice Chairperson Madam, Sophia Lepuchirit and the Deputy Secretary/CEO, Mr. Michael Mubea.

In line with the deliberations at the said meeting we hereby confirm that the Commission is undertaking investigations into the alleged leasing of the parks to third parties. As an interim intervention measure, the Commission directed Isiolo County to halt any further steps towards the envisaged lease until conclusion of our investigations. There are fundamental and investigatable flaws that informed this decision and which we are pursuing.

The Commission will keep you posted of further progress.

Yours sincerely

HALAKHE D. WAQO, ACIArb
SECRETARY / CHIEF EXECUTIVE OFFICER
MKM/sk

① D/Coms
Please note/file
4/11/16

Copy: Sen. Lenny Kivuti
Chairperson, Standing Committee on Land and Natural Resources

② Clerk Assist - Lands
Please bring this to the notice of the Committee and follow up
14/11/16

THE SENATE
RECEIVED
14 NOV 2016
DIRECTOR COMMITTEE SERVICES

MINUTES OF THE 95TH MEETING OF THE STANDING COMMITTEE ON LAND AND NATURAL RESOURCES HELD ON TUESDAY, 8TH NOVEMBER, 2016 IN THE COMMITTEE ROOM FIVE, FIRST FLOOR- MAIN PARLIAMENT BUILDINGS FROM 10.00 AM.

MEMBERS PRESENT

1. Sen. George Khaniri - **Vice Chairperson** (Acting Chair)
2. Sen. Christopher Obure, M.P. - Member
3. Sen. Boy Juma Boy, M.P. - Member
4. Sen. Henry Ndiema - Member
5. Sen. Martha Wangari, M.P. - Member

MEMBERS ABSENT WITH APOLOGY

1. Sen. Lenny Kivuti, M.P. - Chairperson
2. Sen. Isaac Melly, M.P. - Member
3. Sen. Dawnson Mwazo, M.P. - Member
4. Sen. Liza Chelule, M.P. - Member

SENATE SECRETARIAT

1. Ms. Mwanate Shaban -Clerk Assistant
2. Mr. Leonard Koech -Legal Counsel
3. Ms. Sarah Rukwaro -Serjeant At Arms
4. Mr. Joseph Muriuki -Audio Officer

MINUTE SEN/SCLNR/541/2016: PRELIMINARIES

The meeting was called to order at 11.10 a.m. by the Chairperson, followed with a word of prayer. This was followed by introductions by all present.

MINUTE SEN/SCLNR/542/2016: ADOPTION OF AGENDA

The agenda of the meeting was adopted as shown below after being proposed by Sen. Ndiema and seconded by Sen. Juma Boy as follows;

Prayer

1. Preliminaries;
2. Adoption of the Agenda;
3. **Meeting with the Isiolo County Executive on a Petition by Residents of Isiolo County on the Leasing of Buffalo Springs and Shaba Game Reserves by the Isiolo County Executive**
4. Any Other Business & Adjournment.

MINUTE SEN/SCLNR/543/2016: MEETING WITH THE ISIOLO COUNTY EXECUTIVE ON A PETITION BY RESIDENTS OF ISIOLO COUNTY ON THE LEASING OF BUFFALO SPRINGS AND SHABA GAME RESERVES BY THE ISIOLO COUNTY EXECUTIVE

- Mr. Suleiman Guyo, the County Executive Committee member in charge of Tourism, Culture and Social Service thanked the Committee for their invitation. He then went on to say that the County government had not leased any game reserve and that the reserves were still under the management of the County government.
- He poked holes in the petition stating that the signature of the petition does not match the petitioner's signature in the actual petition. He also mentioned that the petitioners

happen to be from the same clan and are related. He added the issue of gender and commented that the petition did not address the gender issues.

- He continued by saying that the concerns in the petition had been reported to the Ombudsman, the EACC and now the Senate.
- He gave a brief history of the contention in the game reserves stating that when the Isiolo County government came in, the reserves were a battlefield with warring clans fighting and killing wild animals.
- The County government wrote to the National Government seeking for support and they requested the General Service Unit to secure the area.
- Insecurity has caused a lot of anxiety in the area; affecting investments – since currently four out of the six hotels in the area have closed down.
- There is also a lot of poaching of indigenous specie and there is no wildlife corridor since people have built blocking the animals from moving across the reserves;
- The putting of a resort town in Isiolo in Kenya's vision 2030 and the pipeline have attracted clamor for land in Isiolo;
- There is a lot of pilferage going on in the parks; with the county investing about 200 million annually and making only about 56 million in revenues.
- The County government feels that there needs to be separation of park management from County management for efficient management of the parks. The County government is therefore looking for partnerships due to the challenges on expertise and resources. The County executive maintains that this is still a business idea still in the consultation process. They confirmed that they had talked to African Parks Network.

Response from Senators

1) Whether the Executive received a statement from a Member of the County Assembly Hon. Hassan Guyo Shano.
   The County Executive responded that they did and that the Assembly was satisfied with the answer.
2) Why the Executive did not respond to the letter by the EACC and why they did not produce documents required by the EACC?
   The County Executive said that they were not aware of any letter from the EACC and that the EACC only made general enquiries and took documents from the Executive.
3) The petitioners are concerned that no public participation took place;
   The Executive said that they went with the Committee of Tourism for a study tour in Malawi and that they have held various forums on local stations to publicize the public private partnerships which are receiving overwhelming support.
4) Did the County Executive issue an invitation for expression of interest?
   The County government confirmed that they did but because of the nature of the tender, they received only one bid – the African Parks Network. They are in the process of retendering.
5) What is the main driving force that is opposing what the County government is trying to do?
   The Executive stated that politics is the main issue but also fights on pastures and pilferage are undermining the County government's efforts since some herders want the park to die so that they can take over.
6) Has the County executive shared its vision of the parks with the public?
   The executive confirmed that they had but they are still being derailed.

7) How much money has the County Executive generated from the Parks since it took over?
The County executive says that has collected an average of 56 million and admits that the amount has been going down largely due to insecurity

Way Forward

- The Isiolo County government should furnish the Committee with pleadings in court over the issue;
- The Senate Committee on Land and Natural Resources will furnish the Isiolo County government with the minutes of the meetings held with the petitioners, the county assembly and the EACC so that the Executive can prepare adequately for the next meeting;
- The Committee will convene a single meeting with petitioners, the EACC, the County Assembly and the County Executive so that the issues can be resolved; and
- The Senate will refer the case to the Public Procurement Oversight Authority since concerns were also raised on the tendering process.

The chairperson thanked the County executive officials for accepting the Committee's invitation.

MINUTE SEN/SCLNR/544/2016: AOB, ADJOURNMENT AND DATE OF NEXT MEETING

- The Committee resolved that the Chairperson would read the response from the ministry of Water and Irrigation on the statement on the Impact of Northern Water Collector Tunnel Project.
- The Committee noted the invitation from the Ministry of Lands and Physical Planning to the Statehouse Summit on 14th November, 2016, and resolved that the Chairman and Sen. Chelule should represent the Committee in the meeting.
- Members were informed that the Committee was still waiting for the official communication from the Ministry of Devolution and Planning on the travel to Tennessee Valley Authority (TVA). They were also informed that the coordinators had indicated that TVA does not accept any visitors in December; therefore the travel will tentatively be scheduled for January 2017.

There being no other business, the meeting was adjourned at 11.33 a.m. and the date of the next meeting was set to Thursday 10th November, 2016 at 11.00 am.

SIGNATURE.....

(CHAIRPERSON: SEN. LENNY KIVUTI, M.P.)

DATE.....10th November 2016.....

MINUTES OF THE 93RD MEETING OF THE STANDING COMMITTEE ON LAND AND NATURAL RESOURCES HELD ON THURSDAY, 3RD NOVEMBER, 2016 IN THE CPA ROOM, GROUND FLOOR- MAIN PARLIAMENT BUILDINGS FROM 10.00 AM.

MEMBERS PRESENT

1. Sen. Christopher Obure, M.P. - Member **(Acting Chair)**
2. Sen. Boy Juma Boy, M.P. - Member
3. Sen. Dawnson Mwazo, M.P. - Member
4. Sen. Liza Chelule, M.P. - Member
5. Sen. Henry Ndiema - Member

MEMBERS ABSENT WITH APOLOGY

1. Sen. Lenny Kivuti, M.P. - **Chairperson**
2. Sen. George Khaniri - **Vice Chairperson**
3. Sen. Isaac Melly, M.P. - Member
4. Sen. Martha Wangari, M.P. - Member

SENATE SECRETARIAT

1. Ms. Mwanate Shaban -Clerk Assistant
2. Mr. Leonard Koech -Legal Counsel
3. Ms. Sarah Rukwaro -Serjeant At Arms
4. Mr. Joseph Muriuki -Audio Officer
5. Mr. Nimrod Ochieng' -Audio Officer

IN ATTENDANCE

1. Sen. Fatma Dullo
2. Ms. Sophia Lepuchirit -Vice Chairperson, Ethics and Anti-Corruption Commission
3. Mr. Michael Mubea - Deputy Chief Executive Officer, EACC

MINUTE SEN/SCLNR/533/2016: PRELIMINARIES

The meeting was called to order at 10.13 a.m. by the Chairperson, followed with a word of prayer. This was followed by introductions by all present.

MINUTE SEN/SCLNR/534/2016: ADOPTION OF AGENDA

The agenda of the meeting was adopted as shown below after being proposed by Sen. Mwazo and seconded by Sen. Chelule as follows;

Prayer

1. Preliminaries;
2. Adoption of the Agenda;
3. **Meeting with the Ethics and Anti-Corruption Commission Officials on a Petition by Residents of Isiolo County on the Leasing of Buffalo Springs and Shaba Game Reserves by the Isiolo County Executive**
4. Any Other Business & Adjournment.

MINUTE SEN/SCLNR/535/2016: MEETING WITH THE ETHICS AND ANTI-CORRUPTION COMMISSION (EACC) OFFICIALS ON A PETITION BY RESIDENTS OF ISIOLO COUNTY ON THE LEASING OF BUFFALO SPRINGS AND SHABA GAME RESERVES BY THE ISIOLO COUNTY EXECUTIVE

Submission from EACC

- The EACC had received complaints from the public and the matter was being handled by the Isiolo EACC office;
- The EACC has received part of the documents from the Executive but a bigger part has still not yet been received;
- The EACC wrote a letter to the Isiolo County Secretary, requesting for him to release documents but the County Secretary referred them to the CEC member to respond; and,
- The EACC feels that the allegations are credible and warrant investigation. The investigations are ongoing.

Responses from the Senators

- There is great need for the Senate to work with EACC and similar organizations to strengthen devolution;
- The issue is coming at a very critical time since the Senate is depending on EACC to facilitate and give information to the Senate;
- There is a lot happening in counties and part of the frustrations of Kenyans, is EACC's inability to fight economic crimes. What is EACC doing to redeem its image?
- What action did EACC take after being referred to the CEC? What can the EACC do to fast-track the process?
- There is need for an interim report on the issue from the EACC which the Committee can work on; and
- The parks are dying as people have moved in and the animals are disappearing.

Response from EACC

- In 6th July, 2016, the EACC requested the County government of Isiolo to put everything on hold;
- Currently there are twenty people from the Isiolo County Government who have been charged in court.
- In 2012, there were only 138 cases in court countrywide, but currently there are over 900 cases taken to court by the EACC.
- This is against an understaffed establishment of 450 personnel out of the required 2,400. EACC has only 200 investigators. The capacity of the Commission needs to be enhanced and Parliament should support EACC in terms of budget allocations;
- A lot that EACC does is not brought out in the public. EACC has disrupted many cases before they are concluded. In 2016, EACC disrupted a case of 350 Million in Malindi. In Kilifi, a clerk was arrested for deducting 3,000 from bursary allocations of 10,000; and
- EACC is partnering with other institutions to carry out its mandate; and it needs the political support of both the Parliament and the County Assemblies to hold the Executive to account, focusing on areas that affect the common man.

Way Forward

1) That the EACC will submit an interim report on the petition to the Committee to enable it conclude on the petition;
2) That the EACC will enhance its Public relations platform to communicate to the public on its work;
3) The EACC will fast-track its work on the Isiolo petition;
4) The Senate will support the EACC in its work in making devolution work; including advocating for increased budgetary allocations; and,
5) The EACC should lobby the National Assembly for improved budgetary allocations.

MINUTE SEN/SCLNR/536/2016: AOB, ADJOURNMENT AND DATE OF NEXT MEETING

There being no other business, the meeting was adjourned at 11.07 a.m. in preparation for the next meeting that was to start at 11.00 am.

SIGNATURE.....

(CHAIRPERSON: SEN. LENNY KIVUTI, M.P.)

DATE.....10th November 2016.....

MINUTES OF THE 91ST MEETING OF THE STANDING COMMITTEE ON LAND AND NATURAL RESOURCES HELD ON WEDNESDAY, 2ND NOVEMBER, 2016 IN THE CPA ROOM, GROUND FLOOR- MAIN PARLIAMENT BUILDINGS FROM 10.00 AM.

MEMBERS PRESENT

1. Sen. Christopher Obure, M.P. - Member **(Acting Chair)**
2. Sen. Boy Juma Boy, M.P. - Member
3. Sen. Dawnson Mwazo, M.P. - Member
4. Sen. Liza Chelule, M.P. - Member

MEMBERS ABSENT WITH APOLOGY

1. Sen. Lenny Kivuti, M.P. **- Chairperson**
2. Sen. George Khaniri **- Vice Chairperson**
3. Sen. Henry Ole Ndiema, M.P. - Member
4. Sen. Isaac Melly, M.P. - Member
5. Sen. Martha Wangari, M.P. - Member

SENATE SECRETARIAT

1. Ms. Mwanate Shaban -Clerk Assistant
2. Mr. Leonard Koech -Legal Officer
3. Ms. Sarah Rukwaro -Serjeant At Arms

IN ATTENDANCE

1. Sen. Fatma Dullo
2. Mr. Salad Boru -Clerk of Isiolo County Assembly

MINUTE SEN/SCLNR/525/2016: PRELIMINARIES

The meeting was called to order at 10.30 a.m. by the Chairperson, followed with a word of prayer. This was followed by introductions by all present. Upon Members' request, the Clerk of Isiolo County Assembly confirmed that the Chairperson of Land and Natural Resources Committee of the Isiolo County Assembly was on the way and would be arriving to the meeting shortly. Members resolved to start the meeting.

MINUTE SEN/SCLNR/526/2016: ADOPTION OF AGENDA

The agenda of the meeting was adopted as shown below after being proposed by Sen. Juma Boy and seconded by Sen. Dan Mwazo as follows;

Prayer

1. Preliminaries;
2. Adoption of the Agenda;
3. **Meeting with the Isiolo County Assembly on a Petition by Residents of Isiolo County on the Leasing of Buffalo Springs and Shaba Game Reserves by the Isiolo County Executive**
4. Any Other Business & Adjournment.

MINUTE SEN/SCLNR/527/2016: MEETING WITH THE ISIOLO COUNTY ASSEMBLY ON A PETITION BY RESIDENTS OF ISIOLO COUNTY ON THE LEASING OF BUFFALO SPRINGS AND SHABA GAME RESERVES BY THE ISIOLO COUNTY EXECUTIVE

The Chairman welcomed the Clerk and requested him to give his submission in regards to the petition of which he had a copy.

The Clerk started by saying that the issue of the game reserves is a very emotive matter and the Assembly had about it through the grapevine and outlined the chronology of events as follows:

1) The matter was formally brought before the Assembly on 28th February, 2016 when Hon. Hassa Guyo Shano requested for a statement from the Chairperson Tourism, Trade and Cooperative committee on alleged contractual management agreement of Buffalo and Sarova Shaba game reserves entered between the County Government of Isiolo and African Parks Management. The response was required within seven days.
2) The statement response dated 03/03/2016 was issued on the floor of the County Assembly by Chairperson, Tourism, Trade and Cooperative Committee on 3rd March 2016.
3) The County Assembly was not satisfied with the response and tasked the PIC/PAC Committee to inquire into alleged contractual management agreement and bring a report to the County Assembly.
4) On 2nd June, 2016, Hon. David Lemantile moved a motion urging the Executive to suspend with immediate effect from the date of the motion, the bid to enter into contractual management agreement of Buffalo and Sarova Shaba game reserves due to lack of public participation and until PIC/PAC completes its assignment and bring a report to the County Assembly.
5) On 3rd June, 2016, Friends of Isiolo Game Reserves petitioned the County Assembly to concerning the intention of Isiolo County Government to lease out Buffalo and Shaba game reserves with prayers to stop the process with immediate effect.

6) On 10th June, 2016, the PIC/PAC Committee launched its enquiry inti the matter by inviting County Executive Committee and Chief Officer for Tourism and County Secretary. The Committee also programmed to invite the petitioners and head of supply management.
7) On 10th October, 2016, the PIC/PAC Committee sought for additional time which was granted.
8) By 13th October, 2016, the PIC/ PAC Committee has prepared a draft report from the information so far gathered while they set an appropriate date to invite the petitioners and head of procurement.

Responses from the Senators

1) The Members noted with concern that the Member of County Assembly who had accompanied the Clerk had still not turned up for the meeting, thereby implying that the Assembly was not giving the matter at hand the importance it deserved;
2) Members wanted to know of the Isiolo County response to the Motion by Hon. David Lemantile on 2nd June, 2016; whether the Executive implemented the motion and stopped any dealings on agreements of the two game reserves;
3) Members also wanted to know who was managing the Parks currently; had they been leased out or were they still being managed by the Isiolo County Executive.

Since the Clerk did not seem to have answers to the concerns raised by the Members, it was resolved that the meeting be adjourned and Members discuss at length of the need to visit Isiolo and meet with all the stakeholders and come up with a report.

MINUTE SEN/SCLNR/528/2016: AOB, ADJOURNMENT AND DATE OF NEXT MEETING

There being no other business, the meeting was adjourned at 11.25 a.m. in preparation for the next meeting which should have started at 11.00 am.

SIGNATURE.....

(CHAIRPERSON: SEN. LENNY KIVUTI, M.P.)

DATE..... 3rd Nov. 2016

MINUTES OF THE 88TH MEETING OF THE STANDING COMMITTEE ON LAND AND NATURAL RESOURCES HELD ON TUESDAY, 25TH OCTOBER, 2016 IN THE COMMITTEE ROOM FOUR, FIRST FLOOR- MAIN PARLIAMENT BUILDINGS FROM 10.00 AM.

MEMBERS PRESENT

1. Sen. George Khaniri - **Vice Chairperson** (Acting Chairperson)
2. Sen. Liza Chelule, M.P. - Member
3. Sen. Boy Juma Boy, M.P. - Member
4. Sen. Martha Wangari, M.P. - Member

MEMBERS ABSENT WITH APOLOGY

1. Sen. Lenny Kivuti, M.P. - **Chairperson**
2. Sen. Christopher Obure, M.P. - Member
3. Sen. Dawnson Mwazo, M.P. - Member
4. Sen. Henry Ole Ndiema, M.P. - Member
5. Sen. Isaac Melly, M.P. - Member

IN ATTENDANCE

1. Sen. Fatuma Dullo - Senator from Isiolo County
2. Residents of Isiolo County - as per attached attendance schedule

SENATE SECRETARIAT

1. Ms. Mwanate Shaban -Clerk Assistant
2. Mr. Leonard Koech -Legal Officer
3. Mr. John Ng'ang'a -Audio Officer
4. Ms. Sarah Rukwaro -Serjeant At Arms

MINUTE SEN/SCLNR/512/2016: PRELIMINARIES

The meeting was called to order at 10.19 a.m. by the Chairperson, followed with a word of prayer. He welcomed the visitors from Isiolo and requested the visitors to introduce themselves after introductions from the Senate side.

MINUTE SEN/SCLNR/513/2016: ADOPTION OF AGENDA

The agenda of the meeting was adopted as shown below after being proposed by Sen. Juma Boy and seconded by Sen. Liza Chelule as follows;

Prayer

1. Preliminaries;
2. Adoption of the Agenda;
3. **Meeting with the Petitioners on a Petition by Residents Of Isiolo County on the Leasing of Buffalo Springs and Shaba Game Reserves by the Isiolo County Executive**
4. Any Other Business & Adjournment.

MINUTE SEN/SCLNR/514/2016: MEETING WITH THE PETITIONERS ON A PETITION BY RESIDENTS OF ISIOLO COUNTY ON THE LEASING OF BUFFALO SPRINGS AND SHABA GAME RESERVES BY THE ISIOLO COUNTY EXECUTIVE

The Chairperson requested for the Leader of Delegation. The Petitioners identified Counsellor Hussein Abduba, the Chairman of the Friends of Isiolo Game Reserves, who stated that Mr. Liban Golicha, the Chief Executive Officer of Waso Trustland Project will make the submissions on behalf of the Petitioners and the residents of Isiolo as a whole.

Mr. Golicha started by acknowledging the committee's invitation and appreciated the consideration by the Committee. He however noted that it was long overdue.
He added that the petitioners present were representatives of Isiolo communities drawn from the local civil society organizations (CSO's), Friends of Isiolo Game Reserves (FIGARE) and the Waso Trust Land (WTL) of which he was the CEO. He further explained that the WTL was a registered local non-government organization working on issues of public interest, among them, land and natural resources; while FIGARE is a creature of a lobby group against the said lease plan by the County Government.

Mr. Golicha further noted that Isiolo County is a home to diverse ethnics and cultures, and that the natural heritage and resources of the County individually and collectively belongs to the communities and People of Kenya. Isiolo is also known for its unique habitat found in the County's three famed Buffalo Springs, Shaba and Bisan Adi game reserves.

He mentioned that brokers like Northern Rangeland Trust (NRT), attracted by the Isiolo's part in Vision 2030, are disguised as conservationist and are purporting to establish community based conservancies with the aim of taking over community land. This, he claims, is at the expense of vulnerable pastoralist communities in the region. He raised the following concerns:

1) That the now defunct Isiolo County Council used to raise about 300 million Kenyan shillings annually; and the amount used to support the running of the Council and other development projects;
2) The County Government has failed to utilize the opportunities of devolution and failed to invest in the sector, and has negatively affected the revenues from the Game reserves;
3) The County Government has instead leased its most treasured County asset – the Game Reserves; and this it has done to African Parks Management Organization -a firm with suspect track record through a flawed procurement system that was shrouded in secrecy, unilateral and lacked public participation;
4) That the Petitioners through the WTL have tried to reach the Executive to comment on the deals between the NRT, and African Parks Management Organization and the Executive which included several benchmarking trips organized by NRT, but the executive has not responded to the same;
5) That Hon. Hassan Guyo Shano, a Member of the County Assembly raised a statement in the County Assembly of Isiolo but the CEC in charge of Tourism, Mr. Suleiman Shunu did not provide sufficient information;
6) That the County Executive due to public pressure on the issue, organized three stakeholders' forums hurriedly, but did not into account the views of FIGARE and its partners;

7) That the County Government gave two reasons for leasing of the Park; Insecurity and Lack of Marketing. This looks unreasonable from the petitioner's view because fencing will interfere with the normal animal movement and breeding patterns; while lack of Marketing does not refer to Isiolo due to its history;
8) That the Isiolo Game reserves have been known to generate good revenue before; it should even generate more now under the management of County government which has the resources; and
9) That the African Parks Management has not performed well in other countries; it was therefore not the best option for the County.

Mr. Golicha summarized the petitioner's concerns as follows:-

1) The County government has in this regard illegally and ignorantly disregarded the requirements of the public procurement laws as was explicit through the authorities attempt to single source; instead of the requisite competitive bidding envisaged in a contract of such nature. The executive also launched a misleading and faulty public advert on the same in attempt to dupe the public thereby abusing legal procedures;
2) The County Government arrogantly failed to observe public participation in total breach of constitutional and other legislative requirements, and has continuously ignored the public cries for attention;
3) The county government officials arrogantly abused public office and the public trust as bestowed on public officers contrary to Article 6 of the Constitution and other relevant statutes. The Isiolo County Government has blatantly and arrogantly remained indifferent and insensitive to the public as exhibited by their disregard for public inquiries and information; and
4) The County Government has breached the right to public information in the Public Information Act that ensures to avail public information within the reach of the public for scrutiny through continuous sabotaging the public to access information regarding the said lease by the Executive;

He concluded by making the following prayers to the Senate:

1) That the Committee and the Senate treat the matter as urgent;
2) That the Committee and the Senate carry out an all-inclusive audit over the foregoing as a matter of public urgency;
3) That the Committee and the Senate carry out comprehensive audit of all the players in the matter including the NRT organization, African Parks Organization and other relevant entities for the purposes of safeguarding the public interest, particularly in Isiolo County;
4) That the Senate immediately halts the County Government of Isiolo from proceeding with the said deal until proper consultations and engagements over the same have been made;
5) That the Senate ensures that the Isiolo County government stops its unilateral approach in stakeholder engagements;
6) That the Senate ensures that the county government and all its entities observe the rule of law and compliance with the laws as herein above stated; and
7) That the Senate grants any other remedy as it deems fit and justifiable.

Supplementary remarks by the Petitioners

Other petitioner present also supported Mr. Golicha and added the following points:

1) The County Government inherited about 75 game rangers – multi-disciplinary force called the Tourist Protection Unit; but only about 40 are in the Parks currently. The rest have been redeployed to guard houses and offices of the County government executive; and,
2) That the game reserves are the single most important asset that Isiolo County has; and it should therefore be managed appropriately.

Responses from the Senators

The Committee noted that the prayers of the petitioners had increased from the submission that had been received in the House. The Committee therefore resolved to add the new prayers to the initial prayer which was" that the Senate compels the Public Accounts and Investments Committee of Isiolo County Assembly to table the report of their findings within three weeks and direct Isiolo County Government to stop any further transaction on the lease of the said game reserves.

The Committee also resolved to fast-track the petition, giving an outline of the meetings with other interested parties and confirmed that they will travel to Isiolo and physically see what is on the ground after meeting other interested parties and determining the need.

MINUTE SEN/SCLNR/515/2016: AOB, ADJOURNMENT AND DATE OF NEXT MEETING

The Chairman thanked the petitioners for coming to the Committee. There being no other business, the meeting was adjourned at 11.14 a.m. in readiness for the next meeting that was supposed to start at 11.00 am.

SIGNATURE.....

(CHAIRPERSON: SEN. LENNY KIVUTI, M.P.)

DATE.....26/10/2016.....

MINUTES OF THE 87TH MEETING OF THE STANDING COMMITTEE ON LAND AND NATURAL RESOURCES HELD ON WEDNESDAY, 19TH OCTOBER, 2016 IN THE COMMITTEE ROOM FOUR, FIRST FLOOR- MAIN PARLIAMENT BUILDINGS FROM 10.00 AM.

MEMBERS PRESENT

1. Sen. George Khaniri - **Vice Chairperson** (Acting Chairperson)
2. Sen. Liza Chelule, M.P. - Member
3. Sen. Boy Juma Boy, M.P. - Member

MEMBERS ABSENT WITH APOLOGY

1. Sen. Lenny Kivuti, M.P. - **Chairperson**
2. Sen. Christopher Obure, M.P. - Member
3. Sen. Dawnson Mwazo, M.P. - Member
4. Sen. Henry Ole Ndiema, M.P. - Member
5. Sen. Martha Wangari, M.P. - Member
6. Sen. Isaac Melly, M.P. - Member

SENATE SECRETARIAT

1. Ms. Mwanate Shaban -Clerk Assistant
2. Mr. David Ng'eno -Research Officer
3. Mr. Leonard Koech -Legal Officer
4. Ms. Sarah Rukwaro -Serjeant At Arms

MINUTE SEN/SCLNR/506/2016: PRELIMINARIES

The meeting was called to order at 10.09 a.m. by the Chairperson followed with a word of prayer.

MINUTE SEN/SCLNR/507/2016: ADOPTION OF AGENDA

The agenda of the meeting was adopted as shown below after being proposed by Sen. Juma Boy and seconded by Sen. Liza Chelule as follows;

Prayer

1. Preliminaries;
2. Adoption of the Agenda;
3. Confirmation of Previous Minutes;
   a) Confirmation of the Minutes held of the 85th Meeting held on Tuesday 18th October, 2016, and
   b) Confirmation of the Minutes of the 84th Meeting held on Wednesday 12th October, 2016.
4. Matters Arising from the Previous Minutes;
5. **House Keeping; Legislative Business before the Committee;**
   a) Briefing of the Isiolo petition;
   b) Pending Statements
6. Any Other Business & Adjournment.

MINUTE SEN/SCLNR/508/2016: CONFIRMATION OF PREVIOUS MINUTES

a) The minutes of the 85th meeting held on Wednesday 12th October, 2016 in CPA room Main Parliament Building from 10.00 am were confirmed as a true record of the proceedings after being proposed by Sen. Juma Boy and seconded by Sen. Gorge Khaniri.

b) The minutes of the 84th meeting held in Panafric Hotel on 9th September, 2016 from 7.30 am were confirmed as a true record of the proceedings after being proposed by Sen. Chelule and seconded by Sen. Juma Boy.

MINUTE SEN/SCLNR/509/2016: MATTERS ARISING FROM THE PREVIOUS MINUTES

Ex. MIN. SEN./SCLNR/329/2016: MEETING DELIBERATIONS

On the way forward, the Committee noted that though not listed as endangered species in CITES, the Executive should consider conservation and preservation of wild indigenous fruits that are gradually becoming extinct.

The Executive should also as a matter of policy look into the area of compensation and fencing.

MINUTE SEN/SCLNR/510/2016: HOUSEKEEPING: LEGISLATIVE BUSINESS BEFORE THE COMMITTEE

a) Briefing on the Isiolo Petition

The Legal Counsel took the Committee through the Petition by Isiolo Residents on the Leasing of the Buffalo Springs and Shaba Game Reserves by the Isiolo County Executive as follows:-

Background

1. On 20th June, 2016, the residents of Isiolo County presented a petition before the Senate contesting the county executive's actions to lease two game reserves (Buffalo Springs and Shaba Game reserves) to a foreign non-governmental organization (African Park Networks) for a period of twenty five years.
2. The petition is before the Senate owing to what the petitioners' term as a blatant disregard by the county executive of Isiolo to a directive from the county assembly to differ the leasing process of the two game reserves.
3. The allegation is that the executive violated the Constitution by leasing the two aforementioned game reserves through an advertisement for "Expression of Interest" in the Daily Nation newspaper on 4th May, 2016 without public participation thereby abrogating the rights of the county assembly and other stakeholders to comment on the matter. In addition to this the executive has also been accused of violating the Public Procurement and Disposal Act and wasting up to Kes. 450,000 of tax payers' money through posting fake contacts on the said advert and further occasioning what was termed to be a public relations exercise since the executive had already single sourced African Parks Network.
4. Following the allegations, it is submitted that the county executive committee member for tourism in Isiolo county duly rendered a response over the outlaid. Subsequently the matter was also referred to the public accounts committee at the Isiolo county assembly for further investigations however both responses have not yielded any logical resolution.

5. Finally, the petitioners expressed their lack of confidence on the process by alluding to the outright incompetence of African Parks Network through their assessment of four mismanaged national parks in Ethiopia and Sudan during various periods.
6. The residents of Isiolo now seek two prayers in their petition before the Senate—
    a) that the procurement process be deeply investigated; and
    b) that the Senate halts the entire process of the lease.

Issues arising

7. Article 227(1) of the Constitution sets out the characteristics of the process of procurement of public goods and services in Kenya, i.e. it should be fair, equitable, transparent, competitive and cost effective. Similarly, Article 227(2) makes reference to an act of Parliament which shall prescribe a framework within which policies relating to public procurement of goods and service and asset disposal shall be implemented, i.e. The Public Procurement and Asset Disposal Act, 2015.
8. This petition is based on the premise that there were gaps on the due process of the law that could prejudice the community in as far as the procurement for the two game reserves is concerned owing to the importance of the two resources which are a primary source of revenue for the community.
9. Article 69(1)(d) of the Constitution provides that the state shall encourage public participation in the management, protection and conservation of the environment. Section 75 of the Wildlife Conservation and Management Act makes it a requirement for parties to have due regard to the privileges of communities living adjacent to conservations and protected areas. To this regard the petitioners have clarified that indeed their views on the question of leasing was not given due consideration given their assertion that African Park Networks got the twenty five year lease even though it was termed incompetent.
10. Procurement for the management services sought by the county executive of Isiolo is covered under procurement of service as provided under section 115 of the Public Procurement and Asset Disposal Act, 2015 where procurement of service or advisory are predominantly intellectual in nature.
11. The procedure for this type of procurement is as follows —
    a) A request for a proposal is issued or a procuring entity may request proposal through advertising or invite expression of interest;
    b) Notice for EOI will be advertised in the relevant government portal and at least one daily newspaper of nationwide circulation;
    c) Opening of proposals;
    d) Evaluation of applications for the EOI according to the set out criteria and shortlisting;
    e) Determination of qualified persons;
    f) Requests for proposals to qualified persons;
    g) Evaluation of proposal;
    h) Successful proposal;
    i) Negotiations for contract requirement; and
    j) Successful best and final offer.
12. The allegation hitherto is that the process was marred by elements of fraud and misrepresentation on the part of the Isiolo county executive in as far as the advertisement on the newspaper is concerned as well as the sourcing of African Parks Network.

Evidence of the advertisement has been adduced to the effect that there was mischief in the manner in which the advertisement was placed with reference to the contacts and more so the flawed manner in which African Parks Network was engaged without due process.

Way forward

13. It is important to first note that the function and power to lease the game reserves is a prerogative of the county executive as enshrined in the Constitution. Article 179 of the Constitution vests executive authority in the county to the county executive committee. Section 34 of the County Government Act, 2012 expressly provides that the county executive committee shall exercise executive authority. This authority shall however be exercised in accordance with the Constitution and other relevant national and county legislation.
14. On the face of the petition it is very clear that substantial questions have been raised that need to be addressed. Therefore substantive and procedural questions to this regard will best be resolved through an investigation of the entire procurement process.
15. Whereas the Senate is vested with the Constitutional mandate to protect the interests of the counties and powers similar to those of a high court to call for evidence, section 9(1)(h) of the Public Procurement and Asset Disposal Act, 2015 mandates the Public Procurement Regulatory Authority with the function of investigating and acting on procurement and asset disposal complaints from procuring entities, tenderers, contractors or the general public.
16. It is therefore imperative that the committee and or the petitioners should seek the indulgence of the authority in order to initiate comprehensive investigations over the lease of the two game reserves as raised in the petition against the Isiolo county government executive. This will be executed in accordance with section 36 of the Public Procurement and Asset Disposal Act, 2015 which empowers investigators to access all relevant records and persons with regard to the question at hand and thereafter submit a report of the findings on the same to the authority with a copy to the Senate.

Committee Resolutions

1) To invite the Petitioners and the Isiolo County assembly on Tuesday 25th October, 2016
2) To invite the Ethics and Anti-Corruption Commission and the Isiolo County executive on Wednesday 26, October, 2016

MINUTE SEN/SCLNR/511/2016: AOB, ADJOURNMENT AND DATE OF NEXT MEETING

There being no other business, the meeting was adjourned at 11.00 a.m. and the date of the next meeting was set to Tuesday, 25th October, 2016, at 10.00 am.

SIGNATURE.....

(CHAIRPERSON: SEN. LENNY KIVUTI, M.P.)

DATE.....26/10/2016.....

MINUTES OF THE 96TH MEETING OF THE STANDING COMMITTEE ON LAND AND NATURAL RESOURCES HELD ON THURSDAY, 10TH NOVEMBER, 2016 IN THE COMMITTEE ROOM FIVE, FIRST FLOOR- MAIN PARLIAMENT BUILDINGS FROM 11.00 AM.

MEMBERS PRESENT

1. Sen. George Khaniri - **Vice Chairperson** (Acting Chair)
2. Sen. Christopher Obure, M.P. - Member
3. Sen. Boy Juma Boy, M.P. - Member
4. Sen. Isaac Melly, M.P. - Member
5. Sen. Dawnson Mwazo, M.P. - Member
6. Sen. Liza Chelule, M.P. - Member

MEMBERS ABSENT WITH APOLOGY

1. Sen. Lenny Kivuti, M.P. - Chairperson
2. Sen. Henry Ndiema - Member
3. Sen. Martha Wangari, M.P. - Member

SENATE SECRETARIAT

1. Ms. Mwanate Shaban -Clerk Assistant
2. Mr. Yussuf Shimoy -Clerk Assistant
3. Ms. Judy Wahito -Legal Counsel
4. Ms. Sarah Rukwaro -Serjeant At Arms
5. Mr. Joseph Muriuki -Audio Officer

MINUTE SEN/SCLNR/545/2016: PRELIMINARIES

The meeting was called to order at 11.23 a.m. by the Chairperson, followed with a word of prayer. This was followed by introductions by all present.

MINUTE SEN/SCLNR/546/2016: ADOPTION OF AGENDA

The agenda of the meeting was adopted as shown below after being proposed by Sen. Mwazo and seconded by Sen. Chelule as follows;

Prayer

1. Preliminaries;
2. Adoption of the Agenda;
3. **Housekeeping:**
   - **a) Confirmation of minutes**
     - **-Minutes of the 90th sitting**
     - **-Minutes of the 93rd sitting**
     - **-Minutes of the 94th sitting**
     - **-Minutes of the 95th sitting**
   - **b) Status of Petitions before the Committee**
     - **- Changara Petition**
     - **- Isiolo Petition**
   - **c) Status of Statements before the Committee**
   - **d) Correspondence before the Committee**
   - **e) Brief on Kima Estate Farm Limited/ Konza South Bloc 2/1-312**
4. Any Other Business & Adjournment.

MINUTE SEN/SCLNR/547/2016: HOUSEKEEPING

a) Confirmation of minutes

The minutes of the 90th meeting of the Standing Committee on Land and Natural Resources held on Wednesday 26th October, 2016 in Committee Room 5, Main Parliament from 11.00 am were were confirmed as a true record of the proceedings after being proposed by Sen. Juma Boy and seconded by Sen. George Khaniri.

The minutes of the 93rd meeting of the Standing Committee on Land and Natural Resources held on Thursday 3rd November, 2016 in the CPA Room, Main Parliament from 10.00 am were confirmed with amendments after being proposed by Sen. Juma Boy and seconded by Sen. Chris Obure.

The minutes of the 94th meeting of the Standing Committee on Land and Natural Resources held on Thursday 3rd November, 2016 in the CPA Room, Main Parliament from 11.00 am were confirmed as a true record of the proceedings after being proposed by Sen. Dan Mwazo and seconded by Sen. Liza Chelule.

The minutes of the 95th meeting of the Standing Committee on Land and Natural Resources held on Tuesday 8th November, 2016 in Committee Room 5, Main Parliament from 10.00 am were confirmed as a true record of the proceedings after being proposed by Sen. Juma Boy and seconded by Sen. Chris Obure.

b) **Status of Petitions**

Changara Petition: the Members resolved that a visit to the site was not necessary since both sides had amicably reached a consensus that Changara was in Bungoma District. The secretariat was asked to prepare the report.

Isiolo Petition: The Committee resolved to visit Isiolo to meet with the stakeholders on 28th November, 2016. All Members present confirmed their participation apart from Sen. Dan Mwazo who had been scheduled to lead the Agriculture Committee for a county visit around the same time.

c) Statements

Members requested the secretariat to note down all the statements due from the Committee so that the Chair can notify and request the Speaker to issue the responses.

d) Correspondence before the Committee

The Chairperson and Senator Chelule were nominated to represent the Committee in the State House Summit on land.

e) Brief on Kima Estate Farm Limited/ Konza South Bloc 2/1-312

This agenda item was postponed to the next meeting.

MINUTE SEN/SCLNR/548/2016: ANY OTHER BUSINESS & ADJOURNEMENT

The Committee was concerned that the Physical Planning Bill, 2015 now in the Committee stage in the House, will not pass due to the many amendments brought by Sen. Mutula Kilonzo. The Committee noted that they had considered Sen. Kilonzo's amendments during the public participation stage. They resolved to invite him for a harmonization process on Tuesday 15th November, 2016.

The Committee also requested for the update report of the resolutions of the meeting between the Committee and the Cabinet Secretary for Environment and Natural Resources.

There being no other business, the meeting was adjourned at 12.30pm and the date of the next meeting was set to Tuesday 15th November, 2016.

SIGNATURE.....

(CHAIRPERSON: SEN. LENNY KIVUTI, M.P.)

DATE..... 15 / NOV / 2016

MINUTES OF THE 86TH MEETING OF THE STANDING COMMITTEE ON LAND AND NATURAL RESOURCES HELD ON TUESDAY, 18TH OCTOBER, 2016 IN THE COMMITTEE ROOM FOUR, FIRST FLOOR- MAIN PARLIAMENT BUILDINGS FROM 10.00 AM.

MEMBERS PRESENT

1. Sen. Lenny Kivuti, M.P. - **Chairperson**
2. Sen. George Khaniri - **Vice Chairperson**
3. Sen. Christopher Obure, M.P. - Member
4. Sen. Liza Chelule, M.P. - Member
5. Sen. Martha Wangari, M.P. - Member
6. Sen. Boy Juma Boy, M.P. - Member

MEMBERS ABSENT WITH APOLOGY

1. Sen. Dawnson Mwazo, M.P. - Member
2. Sen. Henry Ole Ndiema, M.P. - Member
3. Sen. Isaac Melly, M.P. - Member

SENATE SECRETARIAT

1. Ms. Mwanate Shaban -Clerk Assistant
2. Ms. Sarah Rukwaro -Serjeant At Arms

IN ATTENDANCE

Residents of Changara Location – as per list attached

MINUTE SEN/SCLNR/502/2016: PRELIMINARIES

The meeting was called to order at 10.30 a.m. by the Chairperson followed with a word of prayer. The Chair acknowledged the presence of the residents of Changara Location and welcomed them to the meeting. This was followed by introductions from all present.

MINUTE SEN/SCLNR/503/2016: ADOPTION OF AGENDA

The agenda of the meeting was adopted as shown below after being proposed by Sen. Martha Wangari and seconded by Sen. Liza Chelule as follows;

Prayer

1. Preliminaries;
2. Adoption of the Agenda;
3. **Meeting the Changara Residents on the Petition on the Exact Location of Changara Location**
4. Any Other Business; and
5. Adjournment.

MINUTE SEN/SCLNR/504/2016: MEETING THE CHANGARA RESIDENTS ON THE PETITION ON THE EXACT LOCATION OF CHANGARA LOCATION

The Chairman gave a brief on the Committee engagements on the Changara Petition. He mentioned that the Committee had written to various arms of the Executive on their opinion on the exact location of Changara location. He confirmed that the Committee had received responses from the Ministry of Lands, Housing and Urban Planning.

He acknowledged that the Changara case was not a dispute of boundaries, but an erroneous placement of Changara in Busia instead of Bungoma. He also mentioned that Both Counties were in agreement that Changara was in Bungoma and not Busia; and that the Committee had sought to know from the Ministry of Interior and National Government Coordination where Changara was administratively.

The Chairman then invited the Residents to make their submissions. These were made as follows:-

a) Submission by the Changara Residents

The petitioners said that Changara is administratively in Bungoma; for example, they pay cess tax for tobacco to Bungoma and their title deeds are registered in Bungoma. The community is currently suffering in-terms of service delivery due to the mix-up between the two counties.

They presented documentary evidence to the Committee which included:

- The Map of Busia from Survey of Kenya before 1992 which indicated that Changara sub-location was not in Busia District;
- The Map of the larger Busia District which indicates that Changara is not in Busia County;
- The Map of Bungoma District which did not include Changara- that was the map that was used to publicise county maps and it omitted Changara from Bungoma; and,
- National Assembly Hansard dated 3rd March, 1971 and 10th December, 1996 which confirm thay Changara is in Bungoma County

b) Response from the Senators

Article 188 of the Constitution gives the procedure for altering boundaries and that the Committee will find the best way to dispense with the matter;

The Members thanked the petitioners and resolved to work with the Residents' representatives; Mr. Rodgers Manana and Mr. Brian Wanjala and find a solution in the shortest time possible.

MINUTE SEN/SCLNR/505/2016: AOB, ADJOURNMENT AND DATE OF NEXT MEETING

There being no other business, the meeting was adjourned at 11.48 am and the date of the next meeting was set to Wednesday, 19th October, 2016, at 10.00 am.

SIGNATURE.....

(CHAIRPERSON: SEN. LENNY KIVUTI, M.P.)

DATE.....26/10/2016.....

MINUTES OF THE 108th MEETING OF THE STANDING COMMITTEE ON LANDS AND NATURAL RESOURCES HELD ON WEDNESDAY, 1ST MARCH, 2017 IN THE NEW WING SMALL DINING ROOM, MAIN PARLIAMENT BUILDING FROM 11.30 A.M.

MEMBERS PRESENT

1. Sen. George Khaniri, M.P - Vice Chairperson (Chairing)
2. Sen. Christopher Obure, M.P. - Acting Chair
3. Sen. Martha Wangari, M.P. - Member
4. Sen. Isaac Melly, M.P. - Member
5. Sen. Henry Tiole Ndiema - Member

MEMBERS ABSENT WITH APOLOGY

1. Sen. Lenny Kivuti, M.P. - Chairperson
2. Sen. Liza Chelule, M.P. - Member
3. Sen. Dawnson Mwazo, M.P. - Member

SENATE SECRETARIAT

1. Ms. Mwanate Shaban -Clerk Assistant
2. Mr. Mohamed Abdullahi -Clerk Assistant
3. Dr. Kefa Omoti -Principal Research Officer
4. Mr. Leonard Koech -Legal Counsel

MINUTE SEN/SCLNR/603/2017: PRELIMINARIES

The meeting was called to order at 12.00 noon. and this was followed by a word of prayer by Sen. Chris Obure. The Chairman then welcomed the new Clerk to the Committee, Mr. Mohammed Abdullahi and thanked the thanked the outgoing Clerk for her work.

MINUTE SEN/SCLNR/604/2017: ADOPTION OF AGENDA

The agenda of the meeting was adopted after it was proposed by Sen. Isaac Melly and seconded by Sen. Martha Wangari M.P. as follows;

Prayer

1. Preliminaries;
2. Adoption of the Agenda;
3. **Confirmation of previous minutes**
   - **Minutes 101**
   - **Minutes 106**
   - **Minutes 107**
4. **Matters Arising from the Minutes**
5. **Adoption of Reports**
   -Changara Petition Report
   -Isiolo Petition Report
   -COP 17 Report
6. **Briefing on the Land Value Index Laws (Amendment) Bill (National Assembly No. 40 of 2016**
7. Any Other Business & Adjournment.

MINUTE SEN/SCLNR/605/2017: CONSIDERATION OF PREVIOUS MINUTES

The Minutes of the 101st Sitting of the Committee held on Wednesday 30th November, 2016 in the New Wing Small Dining Room, Main Parliament Building From 10.00 am were confirmed after being proposed by Sen. Isaac Melly and seconded by Sen. George Khaniri.

The Minutes of the 106th Sitting of the Committee held on Wednesday 1st February, 2017 in Fahari Boardroom, Whitesands Beach Resort from three pm were postponed due to lack of quorum of the Members present then.

The Minutes of the 107th Sitting of the Committee held on Wednesday 22nd February, 2017 in Committee Room Five, Main Parliament Building From 11.00 am were confirmed after being proposed by Sen. Martha Wangari and seconded by Sen. Chris Obure.

MINUTE SEN/SCLNR/606/2017: MATTERS ARISING FROM THE MINUTES

EX-MIN SEN/SCLNR/600/2016: Committee Deliberations on the Physical Planning Bill

The Committee noted that the Physical Planning Bill had been listed in the day's Order Paper.

MINUTE SEN/SCLNR/607/2017: ADOPTION OF REPORTS

1) The Committee unanimously adopted the report on the Petition made to the Senate by Residents of Changara Location on the exact location of Changara.
2) The Committee unanimously adopted the report on the Petition made to the Senate by Residents of Isiolo County on the Leasing of Buffalo Springs and Shaba Game Reserves by the Isiolo County Executive.
3) The Committee unanimously adopted the report on the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) COP 17 that took place in Johannesburg, South Africa from 24th September to 5th October, 2016.

MINUTE SEN/SCLNR/608/2017: BRIEFING ON THE LAND VALUE INDEX LAWS (AMENDMENT) BILL (NATIONAL ASSEMBLY NO. 40 OF 2016

The Legal Counsel briefed the Members on the Bill after which the Committee resolved to hold a public hearing on the Bill on 14th March, 2017 at 11.00 am.

MINUTE SEN/SCLNR/609/2017: AOB & ADJOURNMENT

There being no other business, the meeting was adjourned at 1.00 p.m.

SIGNATURE.....

(CHAIRPERSON: SEN. LENNY KIVUTI, M.P.)

DATE.....

THE SENATE

ATTENDANCE REGISTER

STANDING COMMITTEE ON LAND AND NATURAL RESOURCES

Purpose.....House Keeping & Adoption of Reports &.....

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Venue.....Nao kling Small Dining Room.....

Date.....1 March 2017..... **Time**.....11:30am.....

No.	NAME	SIGNATURE	REMARKS
1.	Sen. Lenny Kivuti		
2.	Sen. George Khaniri		
3.	Sen. Danson M. Mwazo		
4.	Sen. Martha Wangari		
5.	Sen. Christopher Obure		
6.	Sen. Isaac Melly		
7.	Sen. Liza Chelule		
8.	Sen. Boy Juma Boy		
9.	Sen. Henry Ndiema		

Committee Clerk

Ms. Mwanate Shaban - 0726953257