



REPUBLIC OF KENYA

BOMET COUNTY ASSEMBLY

ASSEMBLY DEBATES
(OFFICIAL REPORT)

DAILY HANSARD

Thursday, January 29, 2015
(Special Sitting)
PLENARY

**COUNTY ASSEMBLY
OFFICIAL REPORT
Thursday, January 29, 2015
The House met at 10.35 a.m.
[The Speaker (*Hon. G. K. Korir*) on the Chair]
PRAYERS**

Hon. Speaker: Please put you phones on a silent mode, that amount to a disorderly act and disrespect to this House.

COMMUNICATION FROM THE CHAIR.

Hon. Speaker: I wasn't to welcome you to this special sitting for today to deliberate on the issues that the Majority Leader had requested.

Secondly honourable members the way the council of Kipsigis elders had requested that we meet today, I request that after this session we can have a meeting with the said Kipsigis elders so that we can be able to know what their proposal is. The Chair said he had planned to meet all the MCAs first before meeting all the MPs and also the Governor and then they will meet all of us. That would be the agenda that we will be expecting from them. They are still requesting that we meet after this with them.

PAPERS

- ❖ **A REPORT OF THE COMMITTEE ON URBAN PLANNING, LANDS AND HOUSING FOR THE POSITION OF MEMBER OF THE BOMET COUNTY LAND MANAGEMENT BOARD**
- ❖ **A REPORT ON LABOUR AND PUBLIC SERVICE IN RESPONSE TO THE STATEMENT SOUGHT ON THE STAFF RECRUITMENT AND OFFICE ESTABLISHMENT**
- ❖ **THE REPORT OF THE ADHOC COMMITTEE ESTABLISHED TO INVESTIGATE INTO THE CIRCUMSTANCES THAT SURROUNDED THE SECURING OF ALL THE BANK OVERDRAFT FACILITIES BY THE BOMET COUNTY TREASURY AND THE NECESSARY COST INCURRED BY BOMET COUNTY.**

Hon. Speaker: Honourable Josephine.

Hon. J. Rotich: Thank you Mr. Speaker sir, I wish to table a report on Urban Planning, Lands and Housing for the position of member of the Bomet County Land Management Board. Thank you.

Hon. Speaker: It is now the property of the House. Honourable Langat Reuben.

Hon. R. Langat: I wish to table the report on Labour and Public Service in response to the statement sought on the staff recruitment and office establishment.

Hon. Speaker: Thank you honourable Langat. We want to thank your committee for working tirelessly to come up with the report. Honourable Samson.

Hon. S. Towett: Thank you. I rise to table the report of the Adhoc committee established to investigate into the circumstances that surrounded the securing of all the bank overdraft facilities by the Bomet County Treasury and their necessary cost incurred by Bomet County.

Hon. Speaker: Thank you honourable Samson. The reports are now the properties of the House and the when the House Business Committee meet they will be able to deal with the matter squarely.

MOTION

THAT PURSUANT TO SECTION 18 (6) OF THE NATIONAL LAND COMMISSION ACT, 2012 AND STANDING ORDER 190 (5) (F), THE COUNTY ASSEMBLY APPROVES THE REPORT OF THE COMMITTEE ON LANDS, URBAN PLANNING AND HOUSING ON THE NOMINATION OF DUNCAN KIPNGENO KIRUI TO THE BOMET COUNTY LAND MANAGEMENT BOARD

Hon. Speaker: Chairperson Committee on Lands, Urban Planning and Housing honourable Josephine.

Hon. J. Rotich: Thank you Mr. Speaker, I have been given go ahead to move both motions in the Order Paper by the Chair of Urban Planning, Lands and Housing honourable Beatrice...

Hon. Speaker: I had seen the communication proceed.

Hon. J. Rotich: Thank you, that pursuant to section 18 (6) of the National Land Commission Act, 2012 and Standing Order 190 (5) (f), this County Assembly approves the report of the committee on Lands, Urban Planning and Housing on the nomination of Duncan Kipng'eno Kirui to the Bomet County Land Management Board. Before I proceed I would like to thank all the members of Lands, Urban Planning and Housing Committee for working tirelessly on vetting of the nominee Duncan Kirui. On behalf of the, Lands, Urban Planning and Housing Committee and pursuant to Standing Order 190 (5) (g), I am pleased to report on the findings of the Committee on the vetting of the nominee for member of the County Land Management Board for the County of Bomet.

This is one of the sectoral committees established under the Standing Orders 190 (1) and Second Schedule to the Standing Orders which provides that the sectoral committees of which the

Committee on Lands, Urban Planning and Housing Committee falls under for working tirelessly on vetting of the nominee Duncan Kirui. On behalf of the, Urban Planning and Housing falls the interalia vet and report on all appointments where the constitution or any law requires the County Assembly to approve committee membership.

The Committee on Lands, Urban Planning and Housing, as currently constituted comprises of the following honourable members;

Honourable Beatrice Chebomui – Chairperson

Honourable Josephine Rotich – Vice Chair

Honourable Leonard Kirui

Honourable David Rotich Big Five

Honourable Aurelia Chepkirui

Honourable Philip Korir

Honourable Evaline Chepkemoi

Honourable Robert Serbai and

Honourable Robert Metet.

The Sectoral Committee on Lands, Urban Planning and Housing derives its mandate from the provision of Standing Order 190 (5) which defines its function from being, (a) to investigate, enquire into and report all matters that relating to the mandate, management activities, administration, operations and estimates of the assigned ministries departments

(b) To study the programmes and policy objectives and policies of ministries and departments on the effectiveness of their implementation

(c) To study and review all legislations referred to it

(d) To study, assess and analyse the relative success of ministries and departments measured by the results obtained as compared with their objectives to investigate and enquire into all matters relating to the assigned ministries and departments as may be deemed necessary and as may be referred to it by the House or a minister.

(f) To vet or report on all the appointments where the constitution or law requires the County Assembly to approve except those under Standing Order 187 which will be on Committee on appointments

(g) To make reports and recommendations to the House as often as possible including recommendations of the proposed legislation.

According to the Schedule II of the Standing Orders, the Committee examines the following areas;

County planning and development;

Land survey and mapping;

Boundaries and fencing

Section 18 of the National Land Commission Act provides that the national land commission shall, in consultation with the National and County Government establish County Land Management Boards for the purpose of managing public land.

Section 18 (2) provides that County Land Management Board comprise not less than three or not more than seven members appointed by the commission and (b), a physical planner or a surveyor shall be nominated by the County Executive and appointed by the Governor.

Section 18 (6) further provides that the appointment of members shall be approved by the County Assembly and shall take into account the national values referred to in article 10 and article 232 of the constitution and shall reflect gender equity and ethnic diversity within that county. Section (18)(9) provides that that the function of the land board shall be (a) Subject to physical planning & survey requirements, process applications for allocation of land change and extension of user sub division of public land and renewal of uses perform any other function assigned by the commission or by any written law. Mr Speaker sir, after receiving the name of the nominee to the position of member to the county land management board on January 20th 2015. The vetting of the committee was done on 26th January 2015; the committee was further required to table its report on Thursday 29th January 2015, for debate and consideration. To dispense with the matter at hand, the committee in its meeting on 26th January 2015 deliberated and agreed on the procedure for conducting the vetting exercise. It was resolved that that the nominee to county land management board be invited for approval hearing within the precincts of the County Assembly; the committee complied with the constitutional and legal requirements and established the procedures for vetting. It ensured public participation in carrying out the proceeding was adhered to by inviting the public to submit the memorandum which was placed in the mainstream print media as required by law. In conducting the vetting exercise the committee made reference to the Constitution, the National Land Commission Act the Public Appointment Parliament Approval Act No.33 of 2011, the County Assembly Standing Order. The Committee wishes to thank the office of the Speaker and the Clerk and staff of the County Assembly for the support accorded to it during the vetting exercise and execution of the committee's mandate. As the Chair Person I wish to thank the committee member for the patience, sacrifice and endurance commitment to the service under tight schedule which enabled us to complete the task within stipulated period, Mr. Speaker sir, the committee made several findings about the nominee during the vetting exercise. These findings guided the committee in

making its recommendation. The committee report was based on information by the nominees and from the proceedings of the committee during the vetting exercise; these recommendations were agreed upon by the committee members during the adaptation on Wednesday 28th January 2015. Finally, on behalf of the committee and pursuant to section (8)(1) of the Public Appointments Act no. 33 of the constitution section (18) (6) of the National Land Commission and Standing Order No.199(6) it's my pleasant duty to table the report of the committee on Urban Planning Land and Housing on the nomination of Mr. Duncan Kipng'eno Kirui to serve the Bomet County Land Management Board for debate and further consideration and adoption by the House .Thank you Mr Speaker sir.

Hon. Speaker: Who seconds? Thank you honourable Evaline

Hon. Speaker: I now propose the question that pursuant to Sec (18) (6) of the national land commission and standing Order No.190 (5) (f) this County assembly approve the report of the Committee on Lands Urban planning and Housing on the nomination of Mr. Duncan Kipng'eno Kirui to the Bomet County Land Management Board. It is now open for debate. Honourable Langat.

Hon. R. Langat: Thank you very much Mr. Speaker. I am not sure whether I am the only one who does not have the copy of this document because we are supposed to be relying on the fact that we have not read, I do not know whether I am the only one.

Hon. Speaker: So honourable member, I am being informed it was deposited in the website and there were only a few copies made so I don't know whether you could not access it in your website honourable Langat

Hon. R. Langat: Mr Speaker even from my neighbour's laptop it's not there so I am not the only one.

Hon. Speaker: How many members have had the opportunity of seeing the copy of document in the iPads or hardcopy? So there are only two members. Honourable Hellen have you been able to access in your iPads. Have you been capable of down loading?

Hon. H. Chepkirui: No.

Hon. Speaker: So members we will adjourn for twenty minutes so that the members can be able to appraise themselves with the report and we come back after twenty minutes. I hope the Clerk will be able to ensure that every member has a copy. So we can adjourn for twenty minutes then we come back so as the members can get an opportunity of seeing the report.

(Adjournment for twenty minutes for members to acquaint themselves with the report)

Hon. Speaker: Honourable Langat and the team I hope you have been assisted and you have gone through the report. It is now open for debate, honourable Langat.

Hon. R. Langat: Thank you, I got an opportunity to read the document from Urban Planning Committee. We were supposed to have read and got to know who this Duncan is and from my reading, I found out that Duncan is a consultant in communication and I was questioning that the committee can tell us what informed them that he was fit to be in this Lands Board. I know there are pertinent issues in land and requires someone who understands land problems extensively. When I read I found out that he is a communications expert, thank you.

Hon. Speaker: Honourable Evaline.

Hon. E. Chepkemoi: Thank you very much honourable Speaker, I really thank the Chairperson and the Committee members for Lands, Housing and Urban Planning. Mr. Duncan Kipng'eno Kirui is from Embomos ward and he has done Bachelor of Arts in Communications and as we analysed his academic qualifications we found out that he has worked in the private sector particularly in consultancy and we found out that he is fit for the task and I know honourable Serbai understands him better. Let us support him to be a member of Lands Board, thank you.

Hon. Speaker: Honourable Leader of Majority.

Hon. J. Kirui: Thank very much honourable Speaker. I also wish to concur with honourable Reuben Langat that the Land Management Board is very crucial in running the affairs and issues pertaining to land and we need people who are well versed with the issues to do with lands.

However, I also wish to say from my own perspective that because it is a Board that requires to have somebody who is a surveyor or a valuer, I wish to say that having this Duncan on board with his communication skills, and because land is a very emotive issue that sometimes calls for dialogue and communication aspect of it among the board members, it is very imperative that one of the board members is well versed with the issues to do with Public Relations and Communications so that he can be able to persuade and to talk because there are issues pertaining to historical injustices, succession and other cross cutting issues.

This board also has to have a person who has very good communication skills and I believe that is what informed the decision of the committee to have him on board so that he can contribute on the matters pertaining to communication to the public so that they know several issues even when a matter has been concluded. I also concur with the committee in seeing that he is fit for that position.

Hon. Speaker: Honourable Taplelei.

Hon. T. Rotich: I stand to support the nomination of Mr. Duncan Kipng'eno Kirui whom we have been told comes from Embomos ward of Konoin constituency. My reasons for supporting this motion is that I know honourable Serbai has several times talked about the IDPs who come from his ward and I believe that this man coming from the same area might be able to put a better assessment of the situation in that area. Also as a whole representation of Konoin so that

the management board, as they deliberate on issues that are not right in the County may be able to put his input in relations to the IDPS that we have in this County so that we have not forgotten as the national commission deals with the IDPs once and for all and that is my main reason for supporting that he comes from the right place that pinches us as the County. Thank you.

Hon. Speaker: Honourable Mosonik.

Hon. W. Mosonik: Thank you. I stand to support the nomination of Mr. Duncan Kipng'eno Kirui. You will recall that we had rejected the names of the other nominees since Konoin as a Sub County was not included and now that a name has been proposed from Konoin, we want to thank the committee concerned for the inclusion of this name Duncan Kipng'eno Kirui.

This is a young boy who is enlightened on various issues and he is a man of good character and nearly all the members from Konoin know this young man. He is young but capable and given the type of education he acquired from Daystar University and even his transcripts can translate to his capability.

He is young and capable and compared to my age he is my son and how can you deny me from calling him such a name?

Laughter.

Hon. W. Mosonik: A person of my age is allowed to call him a boy but not for young people including (honourable) Chelule to call this young man a boy. This is a motion which should not take long since we had the other names and only Konoin Sub County was an issue and for the equitable sharing of resources each and every Sub County must be included. I will be coming for a statement for the equitable resources of a certain ministry which is underperforming in some areas but given the fact that the land issue is an emotive issue, in Konoin we have land issues and you can even recall the issue of IDPs and resettlement of these people from Chepchas which has become an issue to the people from Konoin.

Having included this man from Konoin, I think we have met all the requirements that is needed for the County and Land Board to succeed.

Land issues are pertinent since you cannot access loans without a Lands Board and we are even fighting a constitutional crisis that we have a full list of office occupants so that we shall be on the safe side. I support this motion and this is a young man comes from honourable Serbai's village and whenever we go to Nairobi he is a man of good character and I support the inclusion of this man Duncan Kipng'eno Kirui.

Hon. Speaker: Honourable Bett.

Hon. R. Bett: Thank you, I also stand to support the nominee one Duncan Kirui by saying that this young man is somebody who is a researcher, he is a man who can work tirelessly in getting more information with regard to historical injustices.

I come from Konoin Sub County and from the experience, those people who can articulate issues at the moment based on the historical injustices are the young people who are ready to consult and are ready to work with all the people who don't have the ability of moving from one area to another to give out information; so these are people who are ready to go and research and get information.

The nominee is one man who can tirelessly do that and this young man is a person who works with humility, approachable and he doesn't have boundaries of working. I know this is one person who is very much experienced within his community and he has a lot of experience in Social work because he has been socializing and participating in the day today running of activities and developmental projects within Konoin. I support that he is one who can represent the County and more specifically Konoin Sub County as an area which is having a lot of historical injustices among them is what is there in Chepchabas and Kaptien and this is one man who can run up and down researching on all these issues which affected these people to this end. I support the nominee.

Hon. Speaker: Honourable Serbai.

Hon. R. Serbai: Thank you honourable Speaker. I also stand to support the motion given that I am just a member of Urban, Lands and Housing Committee and where we vetted this young man. It also has been said that land is an emotive issue, we need people who can approach this issue with quite a lot of humility so that it cannot bring a lot of tension in our County.

The said young man is really coming from my ward and not only that but my village and I want to tell the honourable members that this man comes from so poor family to an extent that he got his education through several harambees assisted by the neighbours.

He is one young man who understands what poverty means and he also understands when one is suffering.

As we were interviewing this young man, of which I believe the members from the Lands, Urban and Housing Committee can attest to it, we put several questions across and him being an expert in terms of communications and a researcher, we were sometimes putting across some questions and he was answering to an extent we were not expecting.

He talked of persuasive language and we asked him what he is going to do with him being a member of the land board to assist the land board in solving the issues and he was telling us about the communication skills that he has. He even mentioned some of the things which I have forgotten and we were really much satisfied.

Information is power and because this young man has communication skills and he is also a researcher, we have several problems in Konoin and I am not talking of him being my neighbour neither will I be talking of him coming from my ward but we have to talk first about Konoin with

which as honourable Mosonik has put is that we had no nominee from Konoin the other time and we have several issues among them IDP issue, the Chepchabas issue and three is an issue which as slightly mentioned by honourable Bett about Kaptien and I also believe that that is Koitalel.

We also have the Multi Nationals with which I believe we will go to the National Land Commission where they said there was a lease of some years and I believe now that Land being a very scarce resource, of which the people of Chepchabas and I believe the honourable member will attest to this. I understand some people here went to pluck tea in another area and it means the kind of poverty that is within our community is eating our community to an extent of going beyond their boundaries. These are issues which I believe the National Lands Commission is supposed to be addressing.

Given that this young man with all the skills that he has, I believe he is energetic enough to carry the duty which is required of him. I don't want to say much about this young man, as has been said by honourable members but as a member of the committee, I don't want to look as if I am saying this because the man comes from my village. If he was coming from my village yet he was not going to perform well then I would stand here and say he comes from my village but he is not going to perform because I don't want to be ashamed for supporting somebody who is a none performer but I want to support someone who is a performer and that why is I am saying that this young man is a performer.

He was also a student's leader in Daystar University and he has carried out many activities in my village in mobilizing the young ones to understand about education and that is why here was a creation of what we called Kiptenden youth caucus and it was him passing the same information. You can see he has turned around the village.

I think the honourable Vice Chair will also attest. We asked him about the importance of land and he talked about the land as a resource.

We also asked him what he can do to influence the senior citizens of this country because they are the ones owning the title deeds. If I ask here there is no one who owns a title deed in this House but the title is still in the ownership of the parent or grandparents but out of his own knowledge he said he will use the information he has and the persuasive language to influence the senior citizens and also those who doesn't have the title deeds to see to it that by having no land you can still live in this world. It doesn't mean that need to have land to enable you to live in this world. He is very rich in knowledge and he has all the information and the knowledge that he can impart to the young people since the young people cannot go to the senior citizens and tell them that they need the title deeds of their land or some two points to sell so that they can get a motorbike.

Because this man is young, we can use him because he is able to reach to the young generation and he can talk to them so that they cannot be troubling senior citizens because if we trouble the

senior citizens they will be very much stressed and you know stress also kills. We can use this young man to pass the information and also to assist the County Land Management Board in passing the information.

He is also a speech writer and I support the nominee and I believe he is up to the task, thank you.

Hon. Speaker: Honourable Korir.

Hon. Julius Korir: Thank you, I also rise to contribute to this motion number eight. Honourable Chair committee on Lands urging the honourable House to approve one nominee Duncan Kipng'eno Kirui. I might not be having vast information about this nominee but given the report on his age and qualifications and given also the arguments from the honourable members they have indeed supported the nominee.

My point of concern is that this is a young boy, as has been used by honourable Mosonik, and here we are talking about an important asset called land.

Despite the fact that the man has been vetted by the committee appointed by the National Lands Commission I do not question some of the qualifications both as reported by the committee and supported overwhelmingly by the members especially from Konoin.

If you look at this gentleman, he completed form four in 2005 and went ahead for the university education and we are talking about historical land injustices and we want a young, inexperienced person to come and handle historical land injustices especially on the Sub County that has numerous land injustices. I think on experience this man is inexperienced. With the qualifications he qualifies. I want to say with the experience he is out of question because I doubt even if this nominee has ever owned a title deed given the time he completed school and now we want him to come and handle huge chunks of lands. He could be qualified but I disregard his experience in this kind of job. But it doesn't mean that I am intending to oppose but it is only that we can paint something to an extend of making the paint that we were using to look ugly and it ends up being irrelevant.

What we wanted in the report that was rejected in the House is that the House had recommended for the appointment of one member from Konoin Sub County.

We also know that the committee had rejected on the issue that they also wanted member representation of persons with disabilities in the board.

Given that the honourable members from Konoin have overwhelmingly supported, it is only that we shouldn't put much...

Hon. Speaker: Honourable Kirui

Hon. J. Kirui: Honourable Speaker I wish to say that it is not in order for the honourable member to say that members from Konoin are overwhelmingly supported the motion since my

colleagues who sat next to me and I who supported the motion don't come from Konoin. The person whom we are vetting is not meant to serve Konoin Sub County but to be one of the members of the Land Board of Bomet County, thank you.

Hon. Speaker: Honourable Korir.

Hon. Julius Korir: Thank you honourable Speaker. May be honourable Josphat never got my message. What I said is that Konoin is vast with historical land injustices and you know of Chepchabas issue and the honourable members from the area overwhelmingly said the man is inexperienced and so young and maybe he doesn't have information about the historical land injustices and he will be consulting old men like Serbai (honourable) and Chepchabas (honourable Christopher Ngeno) on issues do with land.

Hon. Speaker: Honourable Serbai.

Hon. R. Serbai: (On a point of information) Thank you for allowing me opportunity to inform this House that the issue which is being raised by the honourable member is null and void because of the following reasons that if you go to motion number nine we have all the nominees one of whom is an environmentalist, a surveyor, a lawyer and an accountant. What we are missing here is someone who has communications skills.

There is a clause in the National Lands Commission Act which says it is a maximum of four and a maximum of seven. I would like to inform the House that if there should be any other addition then it should come from persons with disabilities.

Also per the historical injustices and experience, I want to inform this House that nobody was there in the eighteen century but we all learned through history. Even on the kind of historical injustices that we are talking about even the honourable member is less than 37 years and he has nothing to tell us about a hundred year ago. We are dealing with somebody who went to school and he learned all these other things and I want to inform this House that even David in the Bible, he was a young boy but he conjured Goliath, thank you very much.

Hon. Speaker: Honourable Korir proceed.

Hon. Julius Korir: I don't know if the honourable members are misinterpreting what I am saying. I wish again to say that my point of contention was that I followed the report from the committee and I have seen the qualifications of the nominee and I was arguing based on what other honourable members have said that he is experienced. It does not need rocket science to define the term expedience, it only needs to get the information, and when I said Duncan Kipng'eno could be qualified and he lacks experience on issues to do with land, I never meant that I am against the appointment of this nominee.

Issues to do with land are sensitive and emotive and it needs people who are experienced and with those remarks given that the man represents Konoin Sub County, as has been said by the

honourable members, and we know we rejected earlier the list because none was coming from the area, and it again shows the support from the members from that area, I wish to support the appointment but I fail to understand the term “experience” used by the honourable members, thank you.

Hon. Speaker: Honourable Kirui.

Hon. S. Kirui: Thank you honourable Speaker for this opportunity to contribute on the motion before the floor of the House. I concur with my colleague honourable Korir in some of the issues he was arguing about. Let us not stand here and cheat ourselves that he has experience. Let us say the truth and call a spade a spade. We can support on other issues but not on experience. In fact I was so disappointed ...

Hon. Speaker: Yes honourable Kirui

Hon. L. Kirui: Thank you very much honourable Speaker, I am a bit confused with what the members are saying because I wish the members should inform us that how many years of experience were indicated when these people were applying because it seems there is the issue of experience and we don't know how much experience one needs for with this job. Is there anywhere in the advertisement which was showing the number of years that one was supposed to have...

Hon. Speaker: Honourable Kirui can you substantiate which experience was required, how many years?

Hon. S. Kirui: Honourable Speaker when you talked of experience and we are talking of land issues, what experience he has on land matters...

Hon. Speaker: Was it part of the advertisement; was there anything to do with experience or not?

Hon. S. Kirui: That is for the appointment committee to tell us on what the experience was because they have had a chance to peruse through the document, otherwise for this honourable House and other members who are not part of that team they cannot be able to have seen that advertisement and it will only be fair...

Hon. Speaker: Honourable Kirui.

Hon. L. Kirui: Thank you honourable Speaker, I like what honourable Kirui is saying that he wish to be informed but he is trying to inform us when he doesn't have the information. I can inform him because I am one of the members of the Committee on Lands, Urban Planning and Housing and I want to inform him that through the advertisement there was nowhere that was indicated that one was supposed to have a certain years of experience to be appointed to this position. Further to that is that these are the people who went through an interview with the land commission in conjunction with the County Government of Bomet and they picked the same

people based on the advertisement that they placed during that time. I don't think the issues of experience should come in. Thank you.

Hon. Speaker: Honourable Kirui proceed.

Hon. S. Kirui: Thank you honourable Speaker for the information from my good friend. It is good to have someone who is young and experienced to be on the land board but it is better to have somebody who is experienced and also qualified. I am not against this person called Duncan to be in the land board but let us make it clear that experience matters in land issues. At times you need someone who is experienced but I don't say that this person does not qualify to be on that position. What I am saying is that let us give him a chance but of course I believe he will be able to learn from the other experienced persons so that he will be guided to greater heights.

My argument is that land issue is so emotive, so delicate, and so intricate that if it is only left for the people who are inexperienced in the matters of land then we are courting an issue which could have been exposed in the first place so that we get the right people. My argument was not so that I oppose this motion but so that we put ourselves in record that even though he is not experienced but we believe he might perform because there was nobody who was born with experience, all of us are getting experience on the way and we believe that this person will get experience. I believe that this is the first of that board like the County Assembly of Bomet and this is the first and we are learning through mistakes.

My argument was that when you say it is experience I could have wanted to see in his CV that he had been managing some land issues that he is surveyor, lands adjudicator and at least he understands what happens. Honourable Korir said that this is somebody of the age of honourable Kirui from Siongiroi and I believe he doesn't even have a title deed. The moment you ask him to tell you the process of getting a title deed he will not be able to give you.

Hon. Speaker: Honourable Rotich.

Hon. D. Rotich: Thank you Mr. Speaker. I have to inform honourable member not to belittle his colleague by saying that he doesn't have the title deed. In the qualification, where you need youths and I think this person is among the youths and according to his education and experience, experience is the best teacher. This same young man we are talking about was born in the same controversial area and that means he has experience from his background. Let us not assume that he doesn't have anything. Let us give him a chance.

Hon. Speaker: Honourable Serbai your point of order.

Honourable Robert Serbai rose on a point of order.

Hon. R. Serbai: Is it in order for the honourable member to accuse honourable Leonard Kirui on his age that he is as young as the person whom we are discussing right now?

Two, is it also in order to talk of an age of somebody who is relevant to a certain area yet even honourable Sammy Kirui came to this Assembly?

Laughter.

Hon. Speaker: Honourable Kirui is it a point of order?

Hon. L. Kirui: Is it in order for an honourable member to refer me in the motion and I was not part of it?

Further on that, is it in order for the honourable member to say that I don't have experience? I don't know the kind of experience that the honourable member is saying and I wish that the honourable member should substantiate and withdraw.

Hon. Speaker: Honourable Majority.

Hon. J. Kirui: I am gifted with discernment and the member was not even referring to Kirui but generally talking about people who are young that they are not capable and we have a very able Speaker in this County Assembly (*laughter*)...and I think it is an insult to your Chair.

Hon. Speaker: Honourable Kirui lets bring the debate back because for you to accuse young people is not fair because...

Hon. S. Kirui: In fact honourable Speaker you are supporting them in what I did not said that you do not have experience...

Hon. Speaker: I am talking honourable Kirui or you want me to stand. Honourable Kirui let us be objective and the question has been answered was that the issue of experience was not among those which were advertised. If they wanted experience they should have put it explicitly that they want five years' experience or one or two years. Since that issue has been resolved let us continue with the issue and I think it is not good for young people to be accused, in fact even the disabled should be represented, even women should be represented; so even young people have issues dealing with that. So proceed honourable Kirui without....

Hon. S. Kirui: Thank you honourable Speaker, I think you are supporting honourable Speaker what these honourable members are saying..

Hon. Speaker: I'm not supporting, I'm giving....

Hon. S. Kirui: That one honourable Speaker in the context of what I was saying, I was saying the young man could not have a title deed like some of us young people, of which I'm also included in that category. I was not saying, he is not capable, so honourable Speaker when my good friends are bringing the issues of saying that the young man does not have experience, I think it does not go well with what I was saying, and I was saying he might not be having the title deed...

Hon. Speaker: Honourable Kirui, you know the standing orders,

Hon. S. Kirui: I withdraw the statement...

Hon. Speaker: Honourable Kirui, he is not here to defend whether he has a title deed or not and that is why you know our standing orders very well, so you should proceed as no one is here to answer that.

Hon. S. Kirui: Thank you honourable Speaker, my argument was based on experience. And honourable Speaker, I think at times consistency is what can keep you going for a long time, let us also be consistent in our arguments so that a times we might not be against somebody because of experience and when it comes to the other times, we are for that person and we are using the same experience to project him as if he is the best for this position, honourable Speaker. I think, I have to be consistent that if he doesn't have experience, I say he doesn't have experience and if he has experience, I say he has experience. Given that from the facts we have been given, I believe he doesn't have experience and that is what I'm daring for the sake of the future generations honourable Speaker. Otherwise, honourable Speaker, because of the mood of the House, I will be forced to support the nominee for the position.

(Applause)

Hon. Speaker: Honourable Kirui you can't be forced, we want you to give your honest opinion. Honourable Samson.

Hon. S. Towett: Thank you very much honourable Speaker for allowing me to stand and also add my voice to the day's discussion for the person whom we have been given to be one of the members for the County Land management board. Honourable Speaker, a lot has been said about this nominee, and I would want to straight away to say that, this nominee, as has been said by a number of my colleagues is really a resident of Konoin, even though he is young, we are saying he has really grown up within the area, he has come to learn what is happening within the area, he has really seen the challenges that the residents of Konoin are going through. When we talk about the historical land injustices, honourable Speaker, I would want to equate this to one of the young Imams who was appointed recently to be an Imam of one of the controversial mosques in Mombasa. And here, we would see some experience was required but a number of Imams or Sheikhs who were thought to be capable to take that position really could not take that position but until this young man came up and said I can take up that position. And the reasons he gave out were that he is a staunch Muslim, has grown up from his childhood to where he is today having been supported by strong Muslim parents. On the same note honourable Speaker, I want to say even though we are saying that this Duncan is young, but he has also grown up under his parents who also understand the historical injustices; the challenges that the people of Bomet and Konoin have been going through, so I know he has some experience after having learnt the history of land in our County and mostly in the area where we come from. Honourable Speaker,

as it has been said, I don't even have much words or adjectives to use; this is a young, industrious, enterprising resident of Konoin who if given this opportunity...

Hon. T. Rotich: Point of order!

Hon. Speaker: Yes honourable...

Hon. T. Rotich: I see that we have another motion after what we are discussing now and our time is up to 12:30 p.m., so I wish that pursuant to the standing order 29(3) (a), that this County Assembly do extend its sitting time until the business listed on the order paper is dispensed with.

Hon. Speaker: Who seconds? Thank you honourable Josphat.

I now propose the question, That pursuant to the standing order 29(3)(a), this House does resolve to extend its sitting time...It is now open for debate.

(Question put and agreed to)

Hon. Speaker: Proceed honourable Samson.

Hon. S. Towett: Honourable Speaker, I think I was almost summarising on what I wanted to say because a lot has been said but when we are talking about experience honourable Speaker and basing it out on the advertisement that was put forward; I was looking at the report of Lands and Urban Planning Committee that was tabled on 24th, and they are talking about the requirements that the nominee was expected to go through and I thought it wise, honourable Speaker that, maybe we can look at these things so that we can see whether what the requirements were and one of them was for the nominee to have technical knowledge particularly in respect to the mandate of the County Land Management Board and the National Land Commission, was expected to have general appreciation of the constitution and the current land laws. Third was personal presentation by the candidate and the last one was general knowledge on the public affairs, so when we take about a specific period which was required, I think that was not one of the factors that was to be considered. With those few remarks honourable Speaker, I beg to support this nominee to be appointed to that position.

Hon. Speaker: Honourable Kirui, then honourable Chepkwony

Hon. L. Kirui: Thank you very much honourable Speaker for keeping me this chance to contribute to this motion. First, honourable Speaker, I want to thank the committee on Urban Planning for really vetting this nominee and out of this report, it seems they are positive to the approval of the nominee. Honourable Speaker, I want to really state clearly that I really support the nominee-Duncan Kipng'eno Kirui to be approved as a member of Bomet County Lands Management Board. Honourable Speaker, one reason why I support Duncan is because he is a youth. Honourable Speaker, it is in this House that we have been trying day in, day out that we really involve youths in the appointments in the County. Honourable Speaker, we have been complaining bitterly, honourable Speaker, I'm one of those whom during the approval of the

CECs, we were having a feeling that at least we should be having a youth in those positions. So honourable Speaker, through my own analysis, it is clear that we have not met the affirmative action set out by the constitution. So honourable Speaker, approving Duncan will be an achievement towards the affirmative action where we should be involving youths. So honourable Speaker, I really thank Duncan for meeting all the other requirements until the point that it is only requiring our approval. I want to really request this House to really consider this so that we are not seen to be against the youths. Honourable Speaker, I am quite surprised when I hear some honourable members who are against the youths and honourable Speaker, if you look at their time of their campaigns, they were very much aware that the youths are the majority. In fact if you look at the strategy of their politics, they were trying to go for these youths. So it is quite surprising when you find somebody who has come to this House to be like forgetting the efforts of these youths. So honourable Speaker, I like because you are one of the youths and I really like the way you have been advocating for the involvement of youths. So honourable Speaker that is the first and main reason why I support the nomination of Duncan Kirui. Secondly honourable Speaker, when I looked at this nominee, I realised that he has leadership qualities. He is a leader. When you look at his curriculum vitae, it shows that one time when he was in Daystar University, he managed to be the Secretary General in the university, that one, honourable Speaker cannot be gotten on a silver platter. It shows to us that he must be having leadership skills and for real, honourable Speaker, I think in the entire country, we have been lacking good leaders. Most of the things that have been on the mess are because of lack of leadership, so it is really a privilege to us if we have somebody who has a little history of leadership. So honourable Speaker, I don't really go much into that because most of the issues have been touched by these honourable members and I liked how you have made it clearly that the issue of experience was not there and the fact that the Bomet County Lands Board is the first board to be formed, so nobody can say I'm experienced because this is a new position that was created by the constitution and nobody can say he is experienced; so honourable Speaker, I beg to really support the approval of Duncan Kipng'eno Kirui.

Hon. Speaker: Honourable Kirui, Chepkwony, and then I give the mover. Then finally honourable Ngetich then I give the mover.

Hon. P. Chepkwony: Thank you very much honourable Speaker. I rise to support this motion. The issue of experience has been a hindrance to the employment of the youths because asking for five years' experience is denying them a chance to participate in development. The reason why the County and the National Governments have been slow in performance is because of recycling of leaders who have served for long periods; people who could have engaged themselves in corruption and the government could fail because these people are tired and inactive. Honourable Speaker, the youths comprise 70% of the population and even these elected leaders have been elected by the youths who comprise 70% of the electorates. It is very surprising that the youths ought to be taking the lion's share of the employment but this hasn't

been the case. A good example is you, honourable Speaker, you are a youth and you had no experience but you have been able to discharge out your duties perfectly unlike other speakers from other Counties who are old. Honourable Speaker, I do support this motion.

Hon. Speaker: Honourable Ngetich and then finally the mover.

Hon. J. Ngetich: Thank you very much Mr. Speaker for giving me this chance to contribute to this motion. Speaker, I stand to register myself in supporting this guy called Dominic Kirui. I'm among the beneficiaries of this motion, Mr. Speaker because I have been having problems with the issue of experience because we are denying chance to the young Kenyans. Speaker, I want to disapprove what honourable Bett was talking about, he talked as if Dominic was going to discharge his duties for Konoin sub-county only Mr. Speaker; we have historical injustices in the whole county, leave alone the colonial injustices, but the black settlements that we have in the whole county and the only hope is through giving this chance to Mr. Dominic Kirui. Mr. Speaker, I want to support this young fellow as it is going to bring change as far as the land issue is concerned. Mr. Speaker, the other nominees or what I had a problem with is that I didn't see the other nominees but according to what honourable Serbai said that Dominic has been working in various institutions, For Duncan...I want to support because I rely on honourable Serbai because he knows Duncan very much, so I support the nomination Duncan Kirui in this position. Thank you Mr. Speaker sir.

Hon. Speaker: So the mover.

Hon. D. Rotich: Thank you Mr. Speaker Sir and the honourable House. We have seen actually Mr. Speaker sir that Duncan has got good communication skills and he will know how to deal perfectly with the public. Again Mr. Speaker Sir, We have seen that Duncan Kirui is a performer and resourceful, therefore the question of experience cannot arise as no one is perfect and all of us learn through mistakes and I know that Duncan will be perfect as he practices more on the land issues. Even though we have seen that Duncan has a Degree of Bachelor of Arts in Communication, we vetted with the members and we found out that Duncan has the general knowledge on issues to do with land, constitution, and the National Commission act and issues within the County. I would like to thank all the members for contributing positively towards the nomination of Duncan Kirui. We have also seen that we have got a member to represent Konoin in Lands Management Board. Thank you Mr. Speaker Sir.

Hon. Speaker: So it is now my turn to put the question.

(Question put and agreed to).

So Mr. Duncan Kipng'eno Kirui is approved now to be able to sit in the Bomet County Land Management Board.

Next order!

MOTION**❖ THAT THE COUNTY ASSEMBLY CONSIDERS THE SUBMITTED LIST OF THE FOLLOWING NOMINEES TO THE BOMET COUNTY LAND MANAGEMENT BOARD, TABLED ON 26TH OF JANUARY 2015**

Hon. Speaker: Chairperson on Committee, Lands, Urban Planning and Housing.....

Hon. B. Chebomui (Chair, committee Lands and Housing): Thank you very much Mr. Speaker sir...

Hon. S. Towett: (*On point of Order*) Honourable Speaker, I rise on point of order because already I have seen what motion number nine is all about and I would like to understand one or two things before this motion is moved to enable me know which direction to take. Honourable Speaker, I can remember clearly that on the motion ahead of us, the names that are going to be read in this House, had been tabled in this House, had been discussed and there is a resolution that this House arrived at.

Hon. Speaker: Why don't you allow honourable Samson that she moves the motion then if you have any issue, you can be able to challenge?

Hon. S. Towett: Most obliged Mr. Speaker Sir.

Hon. Speaker: So, honourable Josephine Rotich proceed!

Hon. J. Rotich: Thank you Mr. Speaker Sir. That this County Assembly considers the submitted list of the following nominees to the Bomet County Land Management Board, tabled on 26th of January 2015;

1. Mr. Rop Joel Kipkoech
2. Mr. Kipkirui Erick Chirchir

Hon. R. Langat: Point of Order.

Hon. Speaker: Yes honourable member

Hon. R. Langat: Mr. Speaker. I thought if we allow the mover to continue and if we count, I don't know if we have cleared the six months before the resubmission of the names because from September to date, I do not know if the six months have elapsed or you have given a lee way for the resubmission of these names. Thank you

Hon. Speaker: I think Honourable Langat that is why the substantive issues can come after the motion, so that we really discuss on the merits and demerits and if need be, may be, I can make a ruling on the same and that is why she can move the motion and be seconded and may be you can raise the issues. Honourable Josephine Rotich.

Hon. J. Rotich: Thank you Mr. Speaker Sir for allowing me to move the motion that is before the house, that this County Assembly considers the resubmitted list of the following nominees to the Bomet County Land Management Board, tabled on 26th of January 2015;

1. Mr. Rop Joel Kipkoech
2. Mr. Kipkirui Erick Chirchir
3. Ms. Mercy Chepkemoi
4. Mrs. Chelang'at Anne Rotich

Actually, honourable Speaker, we did not have any issue concerning the nominees that we had deliberated on, the only issue was concerning Bomet since we did not have any member from Konoin .I therefore see no reason why we shouldn't approve the members yet we have approved a member from Konoin. I therefore urge the honourable members to support the motion since there is urgency; the deadline for their swearing in is 31st January 2015.I urge the House to approve the members so that we can have members to support land issues within Bomet County. Thank you.

Hon. Speaker: Who seconds? Thank you honourable D. Rotich. I propose that this County Assembly considers the resubmission of the following list of names of nominees to the Bomet County Lands Management Board tabled on the 26th January 2015

1. Mr. Rop Joel Kipkoech
2. Mr. Kipkirui Erick Chirchir
3. Ms. Mercy Chepkemoi
4. Mrs. Chelang'at Anne Rotich

It is now open for debate. Honourable Samson

Hon. S. Towett: Thank you honourable Speaker, I had earlier on risen on a point of order seeking to understand, when you look at the County Public Service Appointments Act or I would refer to it as Bomet County Public Service Appointment Act, section (7), honourable Speaker, it talks about various issues that the Assembly and the Committee concerned needs to rely on while appointing various nominees to various positions. Honourable Speaker, I have seen the names that have been submitted this afternoon, and when you look at the names submitted under number four i.e. Mrs. Chelang'at Anne Rotich. Even if you look at the recommendations of the Committee at that particular time, they interrogated here and the recommendation of the Committee was that Mrs. Chelang'at Anne Rotich was not suitable for appointment as a member for the County Lands Management Board. If that was the resolution of the Committee, and now the same name is being brought back, I don't know whether there has been any other new vetting and any other Committee recommendations of the Committee to that effect and if that is there, indeed we need to be informed. Honourable Speaker, I think we need to revisit and see what the provision of that section is and that is an Act of Bomet County and I believe it is a law that we must follow and implement. Secondly, honourable Speaker, the same names which had been

forwarded before this House on 25th of September 2014 and when we discussed at length, the issue of Konoin came in and we discussed the report at length and it was the resolution of the whole House that the entire report be rejected. This means even the list that was before the House is rejected. Now honourable Speaker, I am not saying that I am against the reintroduction of the names again but I would want to understand and I would like to be given direction and this should be the legal direction, what would be the implications if the names were rejected and they are being reintroduced. Honourable Speaker, there have been motions that we have discussed and passed and arrived at certain resolutions; one, on the impeachments of the CEC for Finance and somewhere down the line, the resolutions were rescinded so that it allowed the Assembly to debate and give a new direction on the same matter. Honourable Speaker, We are here today to discuss the same names which were rejected and the same resolutions of these House areas till there and I don't know why we have not rescinded the first resolutions to enable us to have room to resubmit the names again. Honourable Speaker, Whatever that we are doing today will be posted in the website and people will peruse through it and they will see what we had passed earlier on and they will also see what we have passed today, I don't know the resolutions of the House today and I don't want to guess and Judge but supposing we are going to adopt the names today and somewhere down the line somebody wants to bring in the first resolution of 25th September and the resolutions that we are going to pass today, how will the residents of Bomet and the entire Country judge us? Do we have a stand? Do we know the legal provisions and are we really going by them? and Honourable Speaker, I really need to be informed so that when I'm leaving this August House, I don't want to be seen as if I'm opposed to the good things that we want to do in this County, I want us to do things the right way; I want us to follow the provision of the Constitution and all the Acts that we have passed and assented to by the governor of this County. So honourable Speaker, I beg that before we debate this motion, kindly guide me so that I can make an informed decision. Thank you honourable Speaker.

Hon. Speaker: Honourable Langat, then Honourable Serbai or you are okay with it...so honourable Serbai then honourable Taplelei then honourable Korir.

Hon. R. Serbai: Thank you honourable Speaker. I rise to seek your direction as regards today's motion number nine because when I just go through this document of September 25th, page 12, I am mentioned as having said that I was still consulting with the books and because we want to know the consequences of rejecting this particular document in its own entirety and I am also weighing in several options if we reject this document, will it have some other window for other people to continue doing the same? Mr. Speaker, since I have just read through some of the documents and the recommendations of the Committee as having met all the requirements of the law, I was seeing it is against the spirit of the books of the law and I don't want to continue there Mr. Speaker...you also go to page 16,after actually consulting...

Hon. Speaker: What are you referring to?

Hon. R. Serbai: I am referring to the debate on the Hansard of September 25th, so that I come to the conclusion. On page 16, I'm actually mentioned as having said, "Thank you Madam Speaker. The debate has been centering on other regions that have not been represented; I therefore want to move the following amendment to the report for the Committee on Lands, Urban planning and housing'. Mr. Speaker Sir, it continues to say that 'on paragraph 3(8) subject to the recommendations of the Committee, the subtitle be amended by expunging and substitute thereof, with the following words; That the following nominee- Rop Joel Kipkoech, Elijah Kipkirui, Kipkirui Erick Chirchir, Mercy Chepkemoi, Mrs. Anne Chelang'at Rotich and Mr. David Stanley Too, be rejected as members of the County Lands Management Board and the same posts be re-advertised in totality. Thank you". This is the Hansard of September 25th and Honourable Speaker, the conclusion of was that the Deputy Speaker did say, "Thank you honourable Kirui and therefore put the question and the question was actually put and the list was rejected. Now that the list is before us and we had actually rejected that the same be re-advertised, I think, through your able Chair, you can now give direction whether to debate or whether the same be followed and follow the right procedure. Thank you.

Hon. Speaker: Honourable Taplelei

Hon. T. Rotich: Thank you. I'm really grateful that today we really have the Hansard in the House when we are considering a serious matter. I have just gone through the Hansard and it looks like in many of the many of the deliberations that day, even the amendment, it was just proposed and seconded but there was no contribution and thereafter I also see like there was no question put by the Chair that day; unless in the HANSARD record, because this is the first time I'm seeing the record of Hansard, unless in the Hansard there is no record whether the question was put and whether the ayes and nays have it or not...

Hon. Speaker: I think honourable Taplelei, if you see it is said question put and agreed to, and that is how it is put and you don't record the whole question...

Hon. T. Rotich: So all Hansards are like that?

Hon. Speaker: When the question is put it is either rejected or agreed to.

Hon. T. Rotich: Let me just...

Hon. R. Serbai: Point of order!

Hon. Speaker: Honourable Serbai

Hon. R. Serbai: I would like to inform this House that they go through the last page of the Hansard where the honourable Deputy Speaker was saying "the report is rejected unanimously and we will have it to right back to the relevant office to be re-advertised", it is at the last page.

Hon. Speaker: Proceed honourable Taplelei

Hon. T. Rotich: Then I see on the last page before the adjournment it also says, ‘I thank all the members and I congratulate the mover for accepting the report to be rejected and for it to be brought back some other time and I want to agree that it be brought up some other time which is now’.

(Laughter in the House)

Hon. Speaker: Honourable Bett then Honourable Korir, then honourable Kirui

Hon. R. Bett: Thank you Mr. Speaker. I also want to congratulate the services of the House today because when we are deliberating on this issue, we are being supplied with enough materials to interrogate into the past motions which we have done. Honourable Speaker, as per the report and the deliberations as put by the honourable member for Embomos, honourable Serbai, was that most of the issues were circumventing around the issue of regional balance. And honourable Speaker, there was nothing which was said on the capability and suitability of the individuals and since the bone of contention was that Konoin was not represented and I do remember honourable Serbai was in record in saying he could not sign the report as Konoin Sub County was not represented and which was good. Mr. Speaker, we deliberated on the names in the list which was submitted and nonetheless, we never rejected the list on the capability and suitability of the candidates, it was only circumventing on the issue of regional balance and Mr. Speaker, if you go to the Hansard...

Hon. S. Towett: Honourable Speaker, I’m getting further confused when honourable Bett says that we never rejected the names but we were saying we rejected the names basing on the absence of the representative from Konoin. I don’t know when the Hansard says the list was rejected unanimously, does it exclude the other issues that honourable Bett is saying, I wish Honourable Speaker to say that Honourable Bett is misleading the House and it is not in order.

Hon. Speaker: Honourable Bett

Hon. R. Bett: Thank you Mr. Speaker. I don’t know why people are very jittery when others are deliberating on issues, I think we should be very patient and wait to the conclusion of the debater because I had not even concluded, as I was going to read the Hansard on Page 16 when honourable Serbai stood and deliberated on the issue. And that brought about the amendment that Honourable Serbai brought. Mr Speaker before the amendment of Honourable Serbai and if you read the statement by honourable Serbai, he said, ‘thank you Madam Speaker, the debate has been centering on other regions which are not represented. I therefore want to move the following amendments on the report of the Committee on Land, Urban and Housing’. The key wording which honourable Serbai has stressed is regional balancing and not suitability. The honourable member was advised on how the amendments should be brought. Mr. Speaker, I am only debating on the conditionality of that particular time where the list was rejected. I do have the knowledge that the motion was rejected simply because of regional balance and not

suitability which indeed the position of Konoin was advertised. So, there was no need for the other regions to advertise the position yet their nominees were not rejected because of suitability. I know there was no contentious issue from Konoin.

(On a point of information)

Hon. R. Serbai: Thank you Mr. Speaker. I would like to inform this House that the honourable member from Boito ward is in the Hansard as having said, “Madam Speaker, we members from Konoin feel offended and we are requesting that this list be rejected.” Here he telling us he wasn’t among them.

Hon. R. Bett: Mr. Speaker, I know I talked about that and I read the Hansard which has informed me. We had the information that if indeed the four nominees were to be accepted, then the four nominees make a quorum and Konoin might be left behind or the position might be filled immediately because of the basis of the delivery of service which was to continue. Otherwise, Mr. Speaker I want to say my basis wasn’t suitability but it was because of representation. So Mr. Speaker, as honourable Taplelei has put it, I want to agree with her that at times we follow some other sentiments, read between the lines and omit others and accept others. Otherwise, I stand to say we move and continue with the motion number nine, thank you.

Hon. Julius Korir: Thank you honourable Speaker. I also wish to participate in contributing to this motion number nine. Honourable Speaker, this is another litmus test to this honourable House on its level of integrity and competence to pass motions and issues touching our people. Honourable Speaker, the motion was amended by honourable Serbai, seconded by honourable Nancy and unanimously passed by the House that the list be rejected. The same House now wants to put the same House to the annals of history as being the first County Assembly of this County to be passing, adopting and approving and many other sorts of things blindly. Honourable Speaker, I don’t want to go back to the whole report but I want to start with what honourable Serbai had sought on amendments of the motion. It was no longer the motion of members or the nominees, but the motion that ended on 25th was the amended motion by honourable Serbai and the Speaker by then was the Deputy Speaker who ruled ‘that the report is rejected unanimously and we will have to write to the relevant office to do re-advertisement’. If it was re-advertised then the committee should have submitted to this House the re-advertised list but not resubmitting the same rejected list. Honourable Speaker, this is now a big test to your honourable office because the same members want to play with the rules and procedures of this House that we blindfold ourselves and say that we pass the same list we had rejected. Honourable Speaker, what does the Bomet Public Appointment Act section 10(1-2) says? 10(1) says where the nomination of a candidate is rejected by the County Assembly, the appointing authority may submit to the County Assembly the name of another candidate and the procedure for approving as specified in this Act shall apply accordingly. 10(2) say the appointing authority shall not re-submit the same name of a candidate whose nomination had been rejected by the

County Assembly for similar appointment within the term of the County Assembly. So if we had rejected the same list now that the same list has been re-submitted, are we not violating the laws that we have passed. Honourable Speaker, from your able office, as had been said by honourable Josphat, we aren't going to be back but we need to follow what we had done. We only wanted one member from Konoin but the other nominees had been rejected. We have only approved one nominee. That shows the other nominees who have been re-submitted had been rejected. This shows that we need the National Lands Commission to re-advertise the other positions. The only position that will remain is that of Duncan as had been identified by the report that the list wasn't regionally balanced. And the resubmission of the other list after e-advertisement should have persons with disability represented because if you look at the recommendations of the report, it says that it was gender balance but not regionally balanced and never represented persons with disability. We approved the motion for rejection subject to: resubmitting the list or re-advertising and bringing the list representing persons with disability. Honourable Speaker, this motion doesn't even need the debate from the honourable members but it automatically requires your ruling that the list was rejected and re-advertisement should be made. What honourable Vice-Chair for Urban Planning and Housing had said, that this issue will bring about delays and that we will not beat the deadline of 30th. There is no law that restricts it to be passed by 30th, it was only advertised with a recommendation by National Land Commission that it should be approved on or before 30th. And that is not the law; it is just a recommendation by the National Land Commission. Honourable Speaker, the issues of land are very sensitive and if we aren't going to follow it fully, then we will end up being in problems as a honourable House. So I stand to say that the list stood rejected by the honourable House in the previous sitting even if it means resubmitting the same list. The Standing Orders states that a motion that had been rejected at times takes not less than six months for it to be brought back to the House but we are bringing it in a short period. So we want to stick to the law and say that the list stands rejected until it has been re-advertised and the list submitted to the honourable House. The only member that I support to remain is one member from Konoin, that is Duncan, and the other member doesn't exist and we should not even continue to debate about it. We need your ruling Honourable Speaker, thank you.

Hon. L. Kirui: Thank you very much honourable Speaker. This is a motion that needs a sober mind so that we can look holistically as an honourable House and see how we can handle this. Honourable Speaker, without honesty, this motion will not lead us to the right direction. It is good we have the Hansard of 25th September 2014. If you look at critically, on the discussion during that time, it is becoming clear that the main reason was because of regional imbalance that was there. Honourable Speaker, I am not putting words on my mouth, it is clear from the contribution of members. I can even choose to cite around two members: one is honourable Samson who stated clearly on page number 14 that "if you look at the requirements here, one has to have some knowledge or understand the land laws so that he/she could be able to execute the

duties to the expectation of County and the nation at large. One has to have the knowledge on the functions and powers of National Lands Commission and the County Lands Management Board. One has to have experience in some professional skills of which I believe a number of them had that.” That means it is not the whole list that wasn’t having this experience and qualification. He further said that he didn’t know if these people really qualify to sit in this board as they execute the functions as expected if they don’t have any knowledge on land issues. He reiterated that in many instances, we have seen many things being done and Konoin is left out. Out of that you can tell the mind of honourable Samson that he is after the representation of Konoin. Also honourable Julius Korir opposed the list saying that the region has undergone a lot of marginalization. So we cannot cheat ourselves that the whole list was incompetent but it was because of lack of representation. I cannot rule out that one because we have some other members who were rejected based on their inexperience but we had others who had been picked by the Committee. From the standing order number 48(1), it says no motion may be moved which is the same in circumstance as any question which has been resolved either in affirmative or in the negative during the proceedings six months in the same session. 48(2) say a motion to rescind the decision on such a question may be moved with the permission of the Speaker. If only this was done on a special motion then I could have asked on the rescinding of the decisions since it is very clear in part two. I am very aware that the motion wasn’t a special motion when we were discussing about this Land Management Board.

(On a point of order)

Hon. S. Towett: Honourable Speaker, I don’t know whether the honourable member is in order first of all to cite. I know we do cite on how we do contribute and I don’t have a problem with that but my point of order is that this afternoon I rose on a point of order and asked if we had followed the legality of the matter when we resubmitted the names. I accept the discussion we had but resubmitting the names is my problem. Have we really followed the law?

Hon. Julius Korir: Honourable Kirui is talking of the Hansard from the beginning of the motion of this list but the question is the amendments by honourable Serbai. That led to the rejection of these nominees. We were still participating on the motion before honourable Serbai brought amendments. So I think the point of contention is the amendments. Whether I support or oppose, the question is when the motion was amended, what was the conclusion? But it is very clear that the list was unanimously rejected. So we need to argue on the amended part of the motion and not the old motion. When the member says that the deadline is 30th, it is not cast in stone. And I want to urge members that there seems to be hidden agenda from the Executive that they need this Committee because they could be planning the worse for the members of this County, thank you.

Hon. W. Mosonik: Honourable Speaker, my point of information is that in the morning we had the first motion dealing with Konoin and we passed it. Why should we have not rejected the first

motion because we have spent a lot of time deliberating on the appointment of an individual knowing that the others have been rejected? I think there is something wrong.

Hon. Speaker: To answer you, honourable Mosonik, is that you to look at the gazette notice calling for this special sitting. The other ones had been deliberated upon but for Duncan it hadn't been dealt with. So at least we had to deal with the first one as per the order of the gazette notice. That is how we had put it and we could start with the other one since it was resubmission.

(On a point of information)

Hon. D. Rotich: Thank you Mr. Speaker. I don't know why sometimes you go round and round. To speak the truth is that the contentious issue was Konoin. Let the members be like honourable Samson and the rest not to be cheaters. We have fair knowledge that we haven't handled Konoin and today you are taking us round.

Hon. Speaker: I think honourable Rotich, you are too much emotional

Hon. S. Towett: Honourable Speaker, when I was rising on a point of order I cited the legality of this issue. I am not cheating as my colleague is putting it. I don't want to be misquoted or misunderstood. I explained the resolutions of this House that we arrived at and I requested that before we could proceed could we understand first of all how we were going to resubmit these names in the floor of this House. Why are you concluding that I have rejected these names? We need to be explained to so that we can go ahead to debate on it and either to accept or reject it. Why are you victimizing me for no reason? Have we been explained to honourable Speaker?

Hon. Speaker: Honourable Rotich you are out of order and I at least command you that you withdraw and apologize what you have said.

Hon. D. Rotich withdrew and apologized

Hon. D. Rotich: One member is shouting at us and saying land grabbers. I think you have heard it honourable Speaker

Hon. Speaker: Who is that?

Hon. D. Rotich: Honourable Korir

(On a point of order)

Hon. J. Kirui: Honourable Speaker, I think you suffer from may be selective hearing since when honourable Korir is shouting at us and talking about land grabbers, you are selectively not listening. I think this is unfair.

Hon. Speaker: Honourable Josphat, you are out of order. This is not about selective hearing. I didn't hear him and that is my ruling on the same. This is not an issue of not wanting to hear you.

Hon. L. Kirui: It will not be fair because all these people interrupted me when I was building my case towards his direction. What honourable Samson said in the first case wasn't wrong. I wanted us to agree in the first place on the issue of representation. This will prevent other members from bring other issues. That is why honourable Julius Korir was trying to be selective when he was quoting some sections of Bomet County Public Appointment Act. He was very careful, he only read the first two and left the third one which says 'despite subsection two, a candidate rejected for appointment can be reconsidered for the same position in grounds of a mistake or an error apparent on the face of the report of a committee'. Honourable Speaker, I can say it was through an error that an amendment was done during that motion and a question was put on that error instead of considering the discussion that was discussed for more than two hours. That one alone is enough to say that the question was put on an error or on a mistake and out of this section; it now can allow us to bring these names back to this House. But the question now honourable Speaker through your wisdom is; how can we now bring it? We also want to bring these names in a way that will not subject this House to questions. It is not wrong to bring these names back, thank you honourable Speaker.

(On a point of order)

Hon. R. Langat: Thank you very much Mr. Speaker. Here we are talking about bringing these names back and we do not refuse that but we are questioning the procedure. What honourable Kirui has said about the question being put on an error if there was any contention, one was supposed to stand up contesting that the question was taken to the wrong path? What we are saying is we do not reject the resubmission but we are asking did you consider that it had not taken the six months? This is what we were asking in the first place before it came here. In the resubmission list that I have checked, there were contentions from the executive that some names were rejected because of this. You ought to have consulted with the executive. Also the issue that it should have been done before 30th was supposed to have been cleared long time because there were communications from executive contesting what we are now discussing, thank you.

(On a point of information)

Hon. L. Kirui: Thank you honourable Speaker. I just want to inform this House that it will not take six months as honourable Langat is saying. It is clear that even by the Bomet County Appointment Act, it talks of the entire term. It is not only for 48(3) that we couldn't have been talking of six months but only when it comes to some other motions but not this one for appointments. It is also good since 48(2) goes against the six months by saying that the decision to rescind depends on this House. So they can rescind at any time but not necessarily six months.

Hon. J. Kirui: Thank you honourable Speaker. I believe the less than one minute is over but allow me another one minute to say that honourable Samson, honourable Julius and honourable Langat are all in the House Business Committee and any document that comes before this House

is the function of the Committee to scrutinize it. This House cannot be taken for a ride honourable Speaker.....

Hon. Speaker: Honourable Josphat, you are also a member of the House Business Committee and you know that the life of the committee lapsed. You have been saying that the first business when we re-opened is to constitute a new House Business Committee. I wonder how you are saying that. If you were any other member, I would have allowed that.

Hon. J. Kirui: Honourable Speaker, in as much as I don't like questing the wisdom of your Chair, I believe the other committees should not be transacting any business right now if we are going by what you are saying.

Hon. Speaker: But are you aware that I gave a ruling. You see the problem is that you always don't attend full session and that is why you miss some issues. There is a procedure which the Clerk can advise you on and the Speaker can give a lee way. And that is why you need to ask some of these things.

Hon. J. Kirui: And how comes now that this committee is still there given that the House Business Committee has elapsed?

Hon. Speaker: It is the House Business Committee which has elapsed and not the other committees. I think maybe we have the problem of communication.

Hon. J. Kirui: Thank you very much honourable Speaker. In as much as that was a very contentious issue, I also rise to reiterate what honourable Kirui said concerning the Bomet County Public Appointment Act 48(3) which is talking about in apparent mistake or error in the face of a report of a committee, a candidate can be resubmitted honourable Speaker. What we were questioning is on what basis that this resubmission has been done and I believe that has been adequately answered by sub section 3. It is also good to realize that the apparent error in the report arose because of the issue of Konoin. Much has been said about it that I don't want to talk much about it but I want to say the cover letter indicating the reasons for resubmission has been given and based on the reasons for resubmission which I believe are very right. It is because we are doing this for the welfare of this society and the just government of the people. Honourable Speaker, right now we have a lot of issues to do with land management and apparent I am one of the victims because where the ward office is supposed to be constructed already has an issue to do with succession. Honourable Speaker, if we want to do favour to this County with a process of following the law because we cannot hold County at ransom that we force the National Lands Commission to re-advertise whereas we have that window to resubmitting the names as per the Bomet County Public Appointment Act. Honourable Speaker, I do pray that you consider this matter so that it be dispensed with because the conclusion that was arrived at was due to the error of that committee. Honourable Speaker, I beg to move.

Hon. J. Chepkwony: Thank you Mr. Speaker. I rise to support that the list of nominees be approved. The reason being in the Plenary of 24th September 2014, it was very clear based on the recommendations of the concerned committee that having considered the suitability, capacity and integrity of the nominees and pursuant to section 118(6) of the National Lands Commission Act and 8(2) of the sixth schedule, that is to the Public Appointments, the Plenary approval and Parliamentary approval, that is Act 33, 2011. The Committee recommends that the County Assembly approve the nomination of the subsequent appointment of the following members to the County Lands Management Board:

1. Mr. Rop Joel Kipkoech
2. Mr. Chirchir Erick Kipkirui
3. Ms. Mercy Chepkemoi

The Committee further recommended that the subsequent nomination of the remaining three nominees to the Lands Management Board must take into account the following:

1. Gender equity to meet the required constitutional standards
2. Inclusion of at least one member of a person with a disability
3. Representation of the two sub-counties namely; Bomet Central and Konoin

So it is not justice to say the whole list is rejected when already three were approved. And we were to have Konoin to be given one of the three slots. Honourable Samson from Konoin talked with sense and I came to understand he was very right based on many instances that he felt Konoin had been left out. That is the reason why I was convinced and it is time that Konoin is given a fair share as an equal partner of Bomet County. He continued to reiterate that we are all here and we are supposed to enjoy equitably whenever opportunities arise in the County. Now, a member from Konoin has been brought in and there is no other reason why I should reject this motion today. The other reason is the there are a lot of weighty issues that need this Land Management Board to address. We need to proceed and erect buildings that are related to the development of this County Mr. Speaker. So I beg the whole House that we support this list, thank you Mr. Speaker.

Hon. Speaker: Yes, honourable Samson

Hon. S. Towett: Honourable Speaker, I wish to inform the House that I did not rise to oppose the submission of the names but I rose on a point of order and I am repeating this, honourable Chepkwony, the Minority Leader that I rose to challenge the procedure that has been used and I know the discussion that took place is like what we are seeing in the Hansard and I concur with that but can we be given what procedure we were supposed to follow before we debate on this issue today; so I have not rejected the names, as honourable Chepkwony is saying, but all I am

asking is your support and I will also lend my hand when needed; but first of all I need to be given clear direction. Thank you.

Hon. Speaker: Honourable members, this is a weighty matter and it needs thorough consultation as when you look at the list as proposed; three lists were submitted to the County Assembly and you have also seen from the Hansard what transpired on that day and serious issues arose and needs to be considered since now all issues dealing with the Lands Management Board are critical and sensitive and when we are deliberating on this let's us remove emotion out of the whole process so that we can observe things objectively and we see that as a country we stick to the provisions of the law and since we have legislation here and the moment we will move forward as a county is if we remove emotion out of this. From what I have seen, the issues raised are critical and valid and needs time for consultation and so I am requesting that you give me 20 minutes to consult the Clerk and other sectors so that I come and give out a sound ruling backed by legislation and reasoning. So I request for 20 minutes for me to consult so that it cannot be said this is a ruling from the Speaker as it has a some serious connotations but when you look at the manner the issues was handled, the Clerk has received three letters on the same issues and the only one which has four names was tabled in the House; so let me consult widely and have a legal backing. We adjourn for 20 minutes and we come back. So don't go anywhere as we must deal with this issue conclusively and the old men From the Kipsigis Council of Elders are also waiting for us. So lets us consult as this is a heavy matter and I don't want to make a wrong move when handling this matter.

The House adjourned for some time. The House resumed

Hon. Speaker: So honourable members I had said I was consulting for some time before giving a ruling as it was a weighty matter. I am very sorry we had requested for twenty minutes but took more time because of the consultation we had to make. So this is my ruling on the consideration of resubmission of names on the County Land Management Board. Honourable members, as you are all aware, on its sitting on the 25th of September 2014, the County Assembly deliberated on the names of six nominees forwarded to the Assembly for the position of member of the County Land Management Board as provided for under section 18 of the National Land Commission Act and section 18(2) of the National Land Commission Act provides that a County Land Management Board shall comprise (a) not less than 3 and not more than 7 members appointed by the commission and; (b) a physical planner or a surveyor who shall be nominated by the Executive member and appointed by the Governor. Section 18(6) further provides that the appointment of the member shall be approved by the County Assembly and shall take into account the national values referred in article 10 and 232 of the Constitution and shall reflect gender equity and ethnic diversity within that county; section 18(9) provides that the functions of the board shall basically consists of processing the applications for allocation of land, change and extension of user, subdivision of public land and renewal of leases and performing other function

assigned by the National Land Commission. After receiving the names of nominees to the position of the County Land Management Board, on 15th September 2014, the Committee conducted vetting process of the nominees and ensured public participation and openness. In carrying out the proceedings, notification was sent to the public to submit memoranda which were placed in the main print media in tandem with the law. In conducting the vetting exercise, the vetting the committee consulted the Constitution, the National Land Commission Act, The Public Appointments Bomet County Assembly Approval Act 2014 and the Standing Orders. The Committee made several findings on the nominees during the vetting exercise and which guided the Committee in making the final recommendations. The Committees final findings were based on the information provided by the nominees and the proceedings of the committee during the vetting exercise and the recommendations were agreed with by the majority of the members of the Committee during the adoption of the report on Tuesday 23rd September 2014. The Committee recommended that the County Assembly approves the nomination and subsequent appointment of the following members to the County Land Management Board:

1. Mr. Rop Joel Kipkoech – Chepalungu Sub County
2. Mr. Kipkurui Erick Chirchir - Bomet East Sub County
3. Miss Mercy Chepkemoi- Sotik Sub County

The committee further recommended that subsequent nominations of the following members of the County Land Management Board must take into account one; gender equity to meet the required Constitutional standards; two; inclusion of at least one member of persons with disability and three; representation of the two sub counties namely Bomet Central and Konoin. However during the debate on the adoption of the Committee report, honourable Serbai stood to move an amendment and I wish to quote him as per the Hansard report of that day. He said, ‘Thank you Madam Speaker, the debate has been centering on other regions which are not represented; I therefore want to move the following amendments to the report of the Committee on Land, Urban Planning and Housing.

Paragraph three (eight) sub title recommendation of the committee; the sub title, be amended by expunging the recommendation and substitute thereof with the following words; that the following nominees (i) Mr. Rop Joel Kipkoech (ii) Mr. Elijah Kibilo Soi, (iii) Mr. Kipkurui Erick Chirchir, (iv) Ms Mercy Chepkemoi, (v) Mrs. Ann Chelang’at Rotich and (vi) Mr. David Stanley Soo be rejected as members of the Bomet County Lands Management Board.

I request this House that they support these amendments and the same be re-advertised in totality, thank you’.

The motion for amendment was seconded by Honourable Nancy Chepkirui and the floor was opened for debate but as the Hansard record indicate, there were no contributions from the members and the honourable Deputy Speaker who was presiding over the debate therefore put

the question that in paragraph three (eight) sub title recommendation of the committee; the sub title, be amended by expunging the recommendation and substitute thereof with the following words; that the following nominees (i) Rop Joel Kipkoech (ii) Elijah Kibilo Soi, (iii) Kipkurui Erick Chirchir, (iv) Ms Mercy Chepkemoi, (v) Mrs. Ann Chelang'at Rotich and Mr. David Stanley Soo be rejected as members of the Bomet County Lands Management Board. It is on record that the House agreed with the question put and furthermore Hon. B. Chebomui (Chair, Committee on Land, Housing and Urban Planning) is captured saying; 'I don't have much to say because the decision is from the House and I will concur with what the honourable members have decided'. Honourable members, the question was then put that pursuant to the Standing Orders 190 (5) (f), the County Assembly adopts the report as amended; of the Committee on Lands, Urban Planning and Housing on the vetting of the members nominated to the Bomet County Land Management Board which was agreed to by the members and the final comments by the honourable Deputy Speaker are captured here very clearly as she was chairing the session and I quote 'The report is rejected unanimously and we will have to write back to the relevant office to do re-advertisement and then new members be brought to this House that will have regional balance, and I want to thank the members for seeing the sense that this document was not reflecting regional balance, neither was it having persons with disabilities or constitutional requirements, and I must thank all the members who have contributed including also those who have not contributed for seeing the sense of this exercise being repeated and that is what we call the real oversight which is supposed to be played by this House.

I thank all the members and I congratulate the mover for accepting the report to be rejected and for it to be brought back some other time'.

Honourable members, I believe that having stated the above, I have given a fair chronology of what transpired in the House during the said date and it brings us to today's ruling. I have also taken into account the various points of order and clarifications raised by the honourable members as well as the minutes of the Committee on Land, Housing and Urban Planning on 28 January 2015 and which form part of the report of the Committee on the nomination for the position of member of Bomet County Land Management Board dated 28 January 2015 and tabled before the House on the morning of that date. Minute 26/01/2015 reads as follows, since all of us have the document, and I want to get concurrence from members of the Committee. It reads 'Minute 26/01/2015- deliberations on resumptions of names of nominees who had been rejected and the Committee noted 'on 26th January 2015, the County Attorney resubmitted the names of the nominees as follows; Mr. Rop Joel Kipkoech, Mr. Kipkurui Erick Chirchir, Miss. Mercy Chepkemoi and Mrs. Chelang'at Ann Rotich for reconsideration and all of whom had been rejected had been rejected by the Assembly on 25th September 2014. On the issue, and which is very critical, the Committee resolved that it will not make any findings and recommended that the Speaker gives a ruling on whether the matter can be revisited given that the Assembly had rejected the report on 25th September 2014. Is that the position the Vice Chair

and Committee members; is that what you discussed and agreed under that minute 26. Vice chair is that what you agreed? In the minutes if you see the documents.... do you have the documents that were submitted to the House? Everyone has? After page 12, there is page 13, there is page 14. Are you seeing page 14? It is only indicated up to page 12. Are the members seeing it? Honourable Mosonik are you seeing? Minute 26/01; is that what the Committee indicated? So are we agreeing that it is the correct position; because I wanted to find out from members of that committee? Is that what was discussed? My assumption is, because no one challenged at the floor of the House, that is the position and it is signed by the Chair and the Secretary. I want to repeat what is indicated in that minute.

“Minute 26/01/2015; deliberations on the resubmission of names of nominees who had been rejected” and it is indicated that, “The committee noted that on 26th January 2015, the County Attorney resubmitted the names of the nominees as follows; Mr. Rop Joel Kipkoech, Mr. Kipkurui Erick Chirchir, Miss. Mercy Chepkemoui and Mrs. Chelang’at Ann Rotich for reconsideration all of whom had been rejected by the Assembly on 25th September 2014. On this issue, the committee resolved that it will not make any findings and recommended that the Speaker makes a ruling on whether the matter can be revisited considering that the Assembly had rejected the entire report on 25th September 2014.

Honourable members, as I have already set out above, the Assembly in its sitting on 25th September 2014 resolved to reject the names of the nominees forwarded to the Assembly for the positions in The County Land Management Board. The nominees were; 1. Mr. Rop John Kipkoech, 2. Mr. Elijah Kibilo Soy, 3. Mr. Kipkurui Eric Chirchir, 4. Ms. Mercy Chepkemoui, and 5. Mrs. Chelang’at Ann Rotich, 6. Mr. David Stanley Soo”...

(Honourable John Chepkwony walked in and sat in the public gallery)

Hon. Speaker: Honourable Chepkwony kindly sit down. As I have already pointed out, the committee on Urban Planning, Lands and Housing had in its report table on 25th of September 2014 found the following nominees suitable to hold the office of the member of the County Land Management Board: 1. Mr. Rop John Kipkoech, 2. Mr. Kipkurui Eric Chirchir, 3. Ms Mercy Chepkemoui. That notwithstanding, the House, within its competence, resolved to reject the full list of nominees to the County Land Management Board. This resolution, honourable members, activated section 10(1) of the Public Appointments Bomet County Assembly Approval Act 2014 which this House enacted to provide for procedures for approval of Constitutional and Statutory appointments. The section states, ‘Where the nomination of a candidate, is rejected by the Assembly, the appointing authority may submit to the Assembly the name of another candidate and the procedure for approval specified in this act shall apply accordingly.’”

Indeed, as the honourable Deputy Speaker had alluded to after the deliberation on the report of the Urban Planning, Lands and Housing, it was expected that the County Executive would liaise with the National Land Commission to expedite the selection of new nominees for the position

of member on the Commission of the County Land Management Board. However, this did not happen, in fact about 3 months after the resolution, The County Attorney, through a letter dated 19th December 2014, forwarded the names for the position of members for the County Land Management Board which included names of the nominees who had earlier been rejected by the Assembly, save for the name of Mr. Elijah Kibilo Soi, and Mr. Stanely Soo. It is instructive that section 10 sub-section 2 of our Public Appointment Bomet County Assembly Approval Act 2014 requires that an appointing authority shall not re-submit the name of a candidate whose nomination has been rejected by the Assembly for a similar appointment within the term of the Assembly, nonetheless, section 10 sub-section 3 provides that “despite sub-section 2, a candidate selected for an appointment can be reconsidered for the same position on the grounds of a mistake or an error on the face of the report of a committee. The issue for consideration therefore is whether the Assembly can lawfully reconsider nominees for the position of member on the County Land Management Board whom it had rejected for a similar appointment.”

From what I have set out above, it is clear that this issues falls under the purview of section 10 sub-section 3 of the Public Appointments of Bomet County Assembly Approval Act 2014. There is no doubt that the provision of section 10 sub-section 2 of the afore mentioned law is couched in mandatory terms to the effect that an appointing authority shall not resubmit the name of a candidate whose nomination has been rejected by the Assembly for a similar appointment within the term of the Assembly. It is also quite apparent that this section was aimed at curing the mischief of appointing authorities disregarding the resolution of the Assembly by repeatedly forwarding the name of some nominees until they were eventually approved. It was also meant to bring seriousness in the members of the Assembly in that they will not have a second chance to approve a nominee therefore requiring sobriety and thorough engagement in the approval process. On the other hand, section 10 sub-section 3 of the approval law sought to offer a reprieve where the rejection of a nominee in the event a decision reached as a mistake of fact or an error apparent on the report of the committee. This presupposes that there has been an evident mistake in the finding of fact that is material to the making of the decision, for example a decision based on a statement or a decision which was false. It is therefore clear that a nominee who has been rejected for a particular decision can only be considered for a similar position where it is demonstratively evident that the ultimate decision was as a result of a mistake or an error apparent on the committee's report. The question I have considered therefore is whether it has been demonstrated whether there was an error apparent that ultimately led to the rejection of Mr. Rop Joel Kipkoech, Mr. Elijah Kibilo Soi, Mr. Kipkurui Eric Kipchichir, Ms. Mercy Chepkemoi, Mrs Chelang’at Anne Rotich and Mr. David Stanley Soo as members to the County Land Management Board. Honourable members, the Assembly has received recommendations from many quarters including some of you members, also from Mr. Sammy Keter, County attorney, Bomet County. I will deal with the representation of Mr. Keter who I believe was representing the views of the county executives on the issue. The sum of the County Attorney’s

argument seems to be that the rejection of the candidates was based on unjustifiable ground. He is of the view that the committee allocated itself the role of a 2nd tier interview panel. He also suggests that the whole list of nominees was rejected because there was no member of Konoin constituency/Sub-county. I have echoed these sentiments in my ruling. It is my considered view that the law states in clear and unambiguous terms as to when the reconsideration of a nominee can occur. Indeed, the recommendation of a nominee in section 10 sub-section 3 of the Public Appointment Approval Bomet County Assembly Act 2014 is couched in similar terms as in the review of judgments and decisions of administrative bodies. A review is not an appeal for that matter. It must be borne in our minds; honourable members that once the Assembly is ceased of a matter, the members of the Assembly have the necessary competence to reach to a considered outcome. It therefore follows that the Assembly has the right to make or unmake any law, whatever, make resolutions or decisions as long as it is within its competence. This is the essence of legislative competence. Despite the varied opinion of different honourable members, it is on record that the Assembly sat on 25th September 2014 to deliberate on nomination of members of the County Land Management Board as per the report tabled by the Committee on Urban Planning, Lands and Housing. Having debated and made amendments on the report, the Assembly by a majority resolved to reject the names of the nominees to the County Land Management Board. The merits of whether or not the Assembly reached the right decision, is neither here nor there. In fact the decision of the Assembly is informed more by political consideration rather than the professional competences of the nominees. It is clear that all the nominees had prerequisite professional competence; however, by subjecting the approval of the appointments to the Assembly shows a clear intention of the law that such appointees enjoy the confidence of the Assembly. The confidence of the Assembly is subject to many interpretations but definitely includes factors such as the Assembly being sure that the appointees will represent the voice of the community, and as the nominees were meant to be the representatives of the people of Bomet to the National Land Commission, it was merely consequential that that political considerations such as issues of regional representation took centre stage in the approval debate. What other considerations the Assembly took to reach its decision, as I have said before is irrelevant, it was within the competence of the Assembly to approve or disapprove the nominees and it decided the former. The merits of the decision is not a factor to consider under section 10 sub-section 2 and section 10 sub-section 3 of the Public Appointment Bomet County Assembly Approval Procedure Act 2014. It is my considered view, honourable members, that the only question to be considered is whether there was any error or mistake of fact on the face of the report of the committee on Urban Planning, Lands and Housing that could have made the Assembly come to another conclusion regarding the approval of the first list of nominees of members to the County Land Management Board. Before I make my ruling, I would like to make an observation particularly on the conduct of the office of the County Attorney on this matter. The communication regarding the nominees was uncoordinated and a clear misrepresentation of

the facts. In fact, as of today, the Office of the Clerk has received three distinct lists that have been forwarded regarding nomination of members to the County Land Management Board. One received on the 18th of December 2014 with seven names, which means that the seven names were those of the ones rejected on the 25th plus one erroneously including Mr. Duncan Kipng'eno Kirui among the resubmitted names. Another sent on the 19th of December with five nominees, four of whom had been rejected; another was sent on the 20th January 2015 again forwarding the name of Mr. Duncan Kipng'eno Kirui. There is one sent on 26th January 2015 containing four names previously rejected and finally the latest on 28th January 2015; which is yesterday forwarding the name of Mr. Elijah Kibilo Soi who had earlier been rejected. It seems that the County Attorney's office proceeded from the premise that the committees report was the position of the Assembly on the nominations. This explains why in some of the communications they attempted to justify the resubmission of names based on the recommendation of the committee's report. However, members are aware that a committees report is only a cog in the vetting process and ultimate decision usually rests with the Assembly. I therefore urge you members within your free time to enlighten the County Attorney on the House customs and procedures. In making my ruling I would like to quote the honourable Deputy Speaker's sentiments after deliberation of the nominees of the County Land Management Board where the House sought to reject the nominees. She said, "The report is rejected unanimously and we will have to write back to the relevant office to do re-advertisement and then new members be brought to this House that will have regional balance. I want to thank the members in seeing the sense that this document was not reflecting regional balance, neither was it having persons with disabilities or constitutional requirement. I must thank all the members who have contributed including also those who have not contributed in seeing the sense of this exercise being repeated; and that is what we call the real oversight which is supposed to be played by this House. I thank all the members and I congratulate the mover for accepting the report be rejected for it to be brought back some other time."

I fully concur and associate myself to the honourable Deputy Speaker's sentiment. What she stated reflects the position of the law. I would also like to state at this juncture that the courts have ruled that the County Assemblies have the final say on the vetting of a nominee notwithstanding whether a nominee is qualified or not. In the case of Mr. Samuel Wachira Kagiri from the County Assembly of Nyeri and two others, I got petition number 7 of 2013. The court in determining whether or not the committee on approval had exercised its jurisdiction beyond its powers, ruled as follows;

"The committee had the opportunity to interview the petitioner and in the absence of anything to show they acted in excess of their jurisdiction or took into account issues they were not supposed to take into account, cannot be faulted. In conducting the process, the committee and the first respondent were agents of the County Government hence had the duty and the responsibility to recommend for appointment the best person for the job, but also comply with the constitution

and enabling statutes with regard to national values, gender balance and equity in public appointments which in our case is the constitution and then there is Bomet County Approval Act 2014. Honourable members, as I have already stated a reconsideration of a nominee as, per our law, is only limited to an error apparent on the record and discovery of new and important matter and not alleged wrong or erroneous decision, no such evidence to the effect has been tendered. On that basis, I therefore rule that it is out of order members to revisit the list of members to the County Land Management Board whose nomination had been rejected earlier without a valid case having been made for review. That is my ruling, Honourable G.K. Kipng'etich, Speaker of the Bomet County Assembly''.

So honourable members, at least I think that is the real position regarding this matter. If you go through the Hansard, in fact, the substance is the last part of the debate on that day. Even if you discuss for three hours, But after honourable Serbai had moved an amendment, the main substance of the case rested on that amendment and that is why we cannot go back again on the issue. I think the Clerk of the Assembly will therefore submit the issues before hand and we hope the relevant authorities will be able to move very fast. I think the issue of saying we have a deadline of 30th is not cast in stone, what can happen is that we can write to the National Land Commission and inform them of the deliberation. I want to point out that the National Land Commission had the time from the 25th of September 2014 and I think honourable members we should not allow ourselves to be rushed on the last minute. When there was sufficient time the relevant authorities should have told us. So I think when we ask the National Land Commission and they would say we were never informed, otherwise they would have re-advertised the position with immediate effect. So that is my ruling and it might not be appealing to many but I believe that is the right position and we should always endeavour to do the right thing. It might not be a very good ruling but at the end of the day, that is the real truth on what we thought should be the correct position on this issue. So that marks the end of the debate on that matter. So we hope the relevant authorities may be able to inform the National Land Commission and I will also be able to write to the National Land Commission to be able to extend time so that they can at least put things in order. Thank you very much.

Hon. Speaker: Next order!

ADJOURNMENT

Hon. Speaker: Honourable members, as you are aware, still the Council of Elders are here since morning, I do request that we have a few minutes with them, so we may be able to discuss some of the issues. Otherwise, thank you very much, I understand today is world...I don't know if there is another name, I wish you well especially honourable Josphat and the team as we celebrate this wonderful day. So that marks the end and we will proceed with our recess. Until we come back. Thank you.

(The House adjourned at 3.41 p.m.)