

REPUBLIC OF KENYA



THE COUNTY ASSEMBLY OF BOMET

SECOND ASSEMBLY -FIRST SESSION

**THE COMMITTEE ON WATER, ENERGY,
ENVIRONMENT, FORESTRY AND NATURAL
RESOURCES.**

REPORT

**ON VETTING OF DAVID KIPNGETICH KOECH FOR
APPOINTMENT TO THE POSITION OF CHIEF OFFICER,
WATER AND IRRIGATION**

DECEMBER, 2017

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Annexure

Annexure I. Minutes of Committee on adoption of the report.

Annexure II. Copy of memorandum submitted by a member of the public.

Preface

Mr. Speaker Sir,

On behalf of the Committee on Water, Energy, Environment, Forestry and Natural Resources and pursuant to Standing Order 193 (5) (f), I am pleased to report on the findings of the committee on the vetting of the Chief Officer nominee for Water and Irrigation. This is one of the sectoral committees established under the Standing Orders 193 and the Second Schedule to the Standing Orders which provides that the Sectoral Committees, of which the Committee on Water, Energy, Environment, Forestry and Natural Resources falls, shall *inter alia*, vet and report on all appointments where the constitution or any law requires the County Assembly to approve.

1.1 Membership and Ownership of the Report

The composition of the committee comprises of the following members whose signatures have been appended confirming that the committee undertook the agenda therein and came up with the recommendations based on the observation during the entire vetting process.

No.	Name	Position	Signature
1.	Hon. Bett Wesley	Chairperson	
2.	Hon. Robert Langat	Vice. Chairperson	
3.	Hon. Ridha Chepkirui	Member	
4.	Hon. Augustine Koske	Member	
5.	Hon. Haron Khul	Member	
6.	Hon. Wionie Gore	Member	
7.	Hon. Alin Chesangl	Member	

Signed:  Date: 21/12/2017

HON. BETT WESLEY

**CHAIRPERSON WATER, ENERGY, ENVIRONMENT, FORESTRY AND
NATURAL RESOURCES COMMITTEE**

1.2 Committee Mandate

Mr. Speaker Sir, the Water, Energy, Environment, Forestry & Natural Resources Committee is constituted under the provisions of Standing Order to undertake such functions as provided for in the standing order no 193(5).which defines its functions as being:

- a) To investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;
- b) To study the program and policy objectives of ministries and departments and the effectiveness of their implementation;
- c) To study and review all legislation referred to it;
- d) To study, assess and analyze the relative success of the ministries and departments measured by the results obtained as compared with their stated objectives;
- e) To investigate and inquire 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 and report on all appointments where the Constitution or any law requires the County Assembly to approve, except those under Standing Order 187 (Committee on appointments); and**
- g) To make reports and recommendations to the House as often as possible, including recommendations of proposed legislation.

The subject areas on the committee are as follows:-

All matters relating to electricity, gas and energy reticulation, water conservation and sanitation services, implementation of specific national government policies on natural

resources and environmental conservation, forestry, control of air pollution, noise pollution, other public nuisances and outdoor advertising.

1.3 Acknowledgement

Mr. Speaker Sir,

On behalf of the committee on Water, Energy, Environment, Forestry and Natural Resources I wish to recognize and appreciate the committee for their unreserved support and participation in coming up with this report by engaging all the processes from examining, analyzing, actual review of the nominee's testimonials and public participation through consideration of memoranda.

The seven member committee formed a formidable team out of which invaluable comments and input fast-tracked the development and timely completion of this report. Gratitude is further extended to the Office of the Speaker, Office of the Clerk and the secretariat, whose support and participation throughout the process, yielded to successful production of the report.

I am also aware that there are many individuals, groups or departments whom I have not named though they actively participated in one aspect or the other in the process. To all those involved, I would like to express my personal and committee's gratitude for the participation, assistance and contribution. We all acknowledge, and indeed we now shift our focus to, the expectation of ensuring that the nominee, as he takes up the enormous task awaiting him, that he will fulfill and fully achieve the department's (Water & Irrigation) core mandate.

1.4 Legal Framework on Vetting and Approval of Nominees

Mr. Speaker,

Section 45 of the **County Governments Act** provides for appointment of county chief officers. Section 45 states;

(1) The Governor shall-

(a) Nominate qualified and experienced county chief officers from among persons competitively sourced and recommended by the County Public Service Board; and

(b) With the approval of the County Assembly, appoint county chief officers

(2)The office of the County Chief Officer shall be an office in the county public service

(3)A county chief officer shall be responsible to the respective county executive committee member for administration of a county department as provided under section 46.

(4)The county chief officer shall be the authorized officer in respect of exercise of delegated power.

(5)The governor may reassign a county chief officer.

(6)A county Chief officer may resign from office by giving notice, in writing, to the governor.

Section 7 of the **Public Appointments (County Assembly Approval Act) 2017** provides for the following conditions on the vetting and approval for appointments.

- 1. Following the receipt of the notification of nomination, the Speaker shall report the receipt of the notification to the County Assembly, following which the notification shall be committed to the relevant committee of the Assembly.*

2. *The chair of the committee shall determine the time and place for the holding of the approval hearing which shall not be later than fourteen days from the date of the committal of the notification to the committee.*
 3. *The approval hearings shall be held in a public place and shall be conducted during working hours.*
 4. *The Clerk shall notify a candidate of the time and place of for holding an approval hearing.*
 5. *The committee shall notify the public of the time and place of for holding an approval hearing at least seven days prior to the hearing.*
 6. *Subject to this Act, all the Committee proceedings on public appointments shall be open and transparent*
 7. *Despite sub-section (6), a Committee may, on its own motion or on the application of a candidate or any other concerned person, determine that the whole or part of its sittings shall be held in camera.*
 8. *An approval hearing shall focus on a candidate's academic credentials, professional training and experience, personal integrity and background.*
 9. *The criteria specified in the first Schedule shall be used by a committee during an approval hearing for the purpose of vetting a candidate.*
 10. *Any person may, prior to the approval hearing, and by written statement on oath as prescribed in the second Schedule, provide the Clerk with evidence contesting the suitability of a candidate to hold the office to which the candidate has been nominated.*
 11. *A candidate may, at any time, by notice in writing addressed to the Clerk, withdraw from the approval process and the candidate's nomination shall thereupon lapse.*
- Furthermore, Section 8 provides for the following issues of consideration by the County Assembly in relation to any nomination which shall be-*
- a) *the procedure used to arrive at the nominee.*
 - b) *any constitutional or statutory requirements relating to the office in question; and*

c) the suitability of the nominee for the appointment proposed having regard to whether the nominee's abilities, experience and qualities meet the needs of the body to the nomination is being made.

2.0 Background

Mr. Speaker Sir,

Section 45 (1) of the **County Governments Act** gives powers to the Governor to nominate persons, competitively sourced and recommended by the County Public Service Board and appoint as Chief Officers such persons subject to approval by the county Assembly.

Article 73 (2) of the Constitution on leadership and Integrity provides as follows:

That the guiding principles of leadership and integrity include;

- a. Selection on the basis of personal integrity, competence and suitability; free and fair elections;
- b. Objectivity and impartiality in decision making and in ensuring that decisions are not influenced by nepotism, favouritism, other improper motives or corrupt practices.
- c. Selfless services based solely on the public interest, demonstrated by-
 - i. honesty in the execution of public duties
 - ii. The declaration of any personal interest that may conflict with public duties.
 - iii. Accountability to the public for decisions and actions; and
 - iv. Discipline and commitment of service to the people.

2.1 Issues for consideration in conducting the Approval hearing

In conducting the Approval hearing, the Committee was guided by **Article 73 (2) (a) (b) (c) and (e) of the Constitution**, and the provisions of **Section 7 and 8 of the Public Appointments (County Assembly Approval) Act No. 5 of 2017**.

2.2 Notification to the nominees

On **9th December, 2017**, the Clerk of the Assembly, pursuant to **Section 7(4) of the Public Appointments (County Assembly Approval) Act No. 5 of 2017**, notified the nominee of the time and place for holding the approval hearing through an advert in the newspaper and a letter addressed to him.

2.3 Notification to the public

Further pursuant to **Section 7(10) of the Public Appointments (County Assembly Approval) Act No. 5 of 2017**, which provides that “any person may, prior to the approval hearing, and by written statement on oath, provide the Clerk with evidence contesting the suitability of a candidate to hold the office to which the candidate has been nominated”, the public was notified of the public hearing exercise regarding the said nominee on **9th December, 2017** scheduled for **18th December, 2017**.

In the same advert of the **9th December, 2017**, the Clerk, placed notifications informing the general public of the intention of the Assembly to conduct an approval hearing, as provided for by **Article 118 (1) (a) (b) and (2) of the Constitution** and **Section 7(5) of the Public Appointments (County Assembly Approval) Act, 2017**, which allow public participation in Committee proceedings. The notification further gave provision for the submission of memoranda to the office of the Clerk of the Suitability, on the suitability or otherwise of the nominee, by **Friday, 15th December, 2017**

3.0 Vetting Process of the Nominee

3.1 Appointment process of Chief Officer nominee for Water & Irrigation.

- i. Pursuant to Article 235(b) of the Constitution and section 45 of the County Government Act 2012, the Governor, forwarded to the Clerk of the County Assembly, the name of the nominee *vide* a letter dated 5th December 2017 for approval by the County Assembly as the Chief Officer for Water & Irrigation.
- ii. On Wednesday 6th December 2017, the Hon. Speaker in communication to the Assembly, informed the Assembly that the Clerk of the County Assembly, had received the name of the nominee and directed that the name and Curriculum Vitae of the said nominee be referred to the Water, Environment, Energy, Forestry and Natural Resources Committee for vetting and reporting to the House within 14 days from the day it was committed to the committee.
- iii. The public was expected to participate in the vetting process through submission of memoranda (affidavits) on the suitability or otherwise of the nominee. On 9th December 2017, the Clerk of the County Assembly placed a notice in the Standard Newspaper inviting the public to submit memoranda by Friday 15th, 2017 by 5:00pm on the suitability of the nominee or otherwise in accordance with Section 7(5) of The Public Appointments Act (County Assembly Approval Act) 2017.

3.2 Public participation in vetting process

The public was expected to participate in the vetting process through the submission of memoranda (affidavit) on the suitability or otherwise of the nominee in accordance with Section. However, one of the candidates who had interest in the same position submitted a memorandum on 15th December 2017, expressing dissatisfaction on the nomination process. This was in accordance with **Section 7(10) of the Public Appointments (County**

Assembly Approval) Act No. 5 of 2017, which provides that “any person may, prior to the approval hearing, and by written statement on oath, provide the Clerk with evidence contesting the suitability of a candidate to hold the office to which the candidate has been nominated”.

3.3 Consideration of the Memorandum

The Committee having received and considered the memorandum, the following issues were noted -:

Peter Kipngetich Chebosseh a resident of Bomet County, Sotik Sub-County submitted a memorandum raising the following issues;

- a) That he was a candidate seeking to be appointed as the chief officer for water & Irrigation but the Public Service Board failed to disclose to him how he performed in the interview and that there was no ranking to determine the best candidate.
- b) He further complained that The Public Service Board failed to conduct an open and transparent recruitment and that the whole process was unprocedural and lacked transparency.
- c) He further complained that 18 positions had been advertised for the chief officers but only 14 were declared, leaving 4 other positions vacant and he questioned as to why these 4 positions were not declared.

The Committee noted that though Peter Kipngetich chebosseh raised the complaints noted above, he failed to justify why the nominee Mr. David Kipngetich Koech should not be approved by the Assembly Committee since he did not mention any allegations against the nominee.

3.4. Committee meetings on vetting

The Committee held two meetings that culminated in the production of this report. One of this sitting was held on 18th 2017 in which the nominee, Mr. David Kipngetich Koech appeared before the committee and was vetted in accordance to the provisions of the

Constitution of Kenya, The County Government Act 2012 and Public Appointments (County Assembly Approval) Act 2017 for appointment as Chief Officer for Water and Irrigation.

4.0 Vetting of the Chief Officer of water and Irrigation nominee

In conducting the vetting process, the Water, Energy, Environment, Forestry and Natural Resources Committee examined the nominee against the following criteria, amongst others, in accordance with the Public Appointments (County Assembly Approval) Act of 2017.

- i. Academic qualifications
- ii. Employment record
- iii. Professional affiliations
- iv. Potential conflict of interest
- v. Knowledge of the relevant field
- vi. Overall suitability for the position
- vii. Tax compliance
- viii. Integrity

During its Sitting held on Monday 18th December 2017 at the Assembly Lounge, the Committee orally collected all the necessary information on vetting from the nominee. The committee, in ensuring the nominee's testimonials were valid, physically verified all the documents that were required to be fulfilled by the nominee for appointment as the Bomet County Chief Officer for Water and Irrigation.

4.1 Vetting of Mr. David Kipngetich Koech; County Chief Officer for Water & Irrigation Nominee

Mr. David Kipngetich Koech appeared before the Committee on Monday 18th December, 2017. After introductions, the Chairperson informed the nominee that the Assembly had invited the public to make any submissions on his suitability for appointment to the public office, and that a memorandum had been received.

The nominee in regard to his suitability for appointment as the Chief Officer for Water & Irrigation stated to the Committee as follows;

i) Academic Qualifications

- a) He is currently pursuing PhD in Management and Leadership in the University of Africa

- b) He graduated in MSC from The Institute for Water Education, Delft, Netherlands in 2006.
- c) He graduated in Bachelor of Science in Analytical Chemistry with second class Honours Lower Division from Moi University in 1992.
- d) He joined Menengai High School from 1978-1988 for KACE
- e) He joined Moi Forces Academy from 1983-1986

ii) Professional Training

- a) He is a professional Laboratory Management Expert, Laboratory Quality Management Lead assessor and systems lead auditor.
- b) He has served in various capacities as trainer, researcher and as a consultant

iii) Employment Record

- a) He has been serving as a manager in charge of Extension Services at Nairobi headquarters with Kenya Bureau of Standards (KEBS) for 2 years (2016 to date.)
- b) He served as a manager of Testing Laboratories at Kenya Bureau of Standards for 9 years (2008-2016)
- c) He was the head of Inorganic Laboratory at Kenya Bureau of Standards for 6 years (1998-2004).
- d) He was a laboratory Analyst for 4 years (1995-1998)
- e) He worked as a secondary school teacher for 5 years (1989-1993)

iv) Potential Conflict of Interest

His filled questionnaire indicated that there were no areas that would create potential conflict of interest.

v) Overall Suitability for the Position

- a) He has knowledge, exposure and experience of over 21 years in the field of water quality development and laboratory testing as well as in leadership and management levels. Nevertheless; the nominee had no experience in irrigation sector and he has never handled any irrigation project.

- b) The nominee submitted academic credentials to the Committee that he was qualified to be appointed to the position because he had the requisite academic qualifications.
- c) The nominee met all the Constitutional and statutory requirements, as stipulated for nomination and approval.

vi) Knowledge in the Relevant Field

- a) He had knowledge, skills and experience in leadership and management in water quality development and laboratory issues and institutional management
- b) He was conversant with roles of Counties in water and irrigation sector, as well as laws and policies related to water and Irrigation.
- c) He was able to identify the priority programs that would guide in the allocation of Ksh. 340, 907, 545 meant for water Development sector as approved in the 2017/18 County Budget.

vii) Tax Compliance

He had fully complied with all his tax obligations.

viii) Integrity

He had no integrity issues and provided a police clearance certificate to substantiate this. He was a beneficiary of the Higher Education Loans Board Scheme but the clearance certificate shows he has repaid in full the principal loan and interest thereon. In addition, the nominee did attach a copy of a Certificate from the ethics and Anti-Corruption Commission and Credit Bureau. Therefore, he had fully complied with the laid down requirements of being appointed to the said position.

Having vetted Mr. David Kipngetich Koech on Monday 18th December 2017, the Committee dedicated the next sitting to scrutiny of the nominee's oral submissions Curriculum Vitae and Certificates with the goal of establishing his suitability for appointment as the Chief Officer for Water & Irrigation and observed the following:-

5.0 Committee Observations

The Committee made the following observations in regard to the general suitability of the nominee to be appointed as Chief Officer for Water & Irrigation:

That:-

- i. Mr. David Kipngetich Koech resides from Merigi Ward in Bomet East Sub-County.
- ii. Though there was a memorandum submitted (Annex II), the same did not disclose any information against the nominee. But instead the allegations raised were against the entire process of interviewing and selection of all the Chief Officers and **NOT** on the nominee.
- iii. Mr. David Kipngetich Koech understands what he is expected to do in the County department of Water & Irrigation. He demonstrated this by explaining to the committee the dependent and independent variables to actualize Governor's manifesto for water sector and the roles of County Chief Officer.
- iv. He understands the challenges Bomet County faces in provision of sufficient clean water for domestic use, wide knowledge in water conservation, quality standards and harvesting methodologies.
- v. He has wide experience (over 21 years) in the field of water quality sector having worked with Kenya Bureau of Standards (KEBS).
- vi. He is well versed with skills on institutional management having assessed Nairobi City Water and Sewerage Company for quality management system, which he promised would enable him offer advisory services to Bomet Water Company.
- vii. Based on his past work experience, the nominee did not have experience on matters of irrigation. However he was knowledgeable on issues of irrigation as he was able to demonstrate to the Committee how he intends to address food security through irrigation.
- viii. The procedure and the requirements for appointment to the position of Chief Officer was followed in the appointment of Mr. David Kipngetich Koech of the candidate.

Out of the above observations on **Wednesday 20th December, 2017** all the members of **Water, Environment, Energy, Forestry and Natural Resources Committee** unanimously **voted to approve** the appointment of the nominee as the Chief Officer for Water &Irrigation.

Based on the observations made by the Committee, the Committee recommends Mr. David Kipngetich Koech to be appointed as the Chief Officer for Water &Irrigation of Bomet County Government based on the vetting process.

6.0 Committee's Recommendations

"Mr. Speaker Sir, in conclusion and pursuant to Section 45(1)(b) of the County Government Act 2012, Section 9(2) Of Public Appointment (County Assembly Approval Act) 2017, and Standing Order No. 193 (5)(f), the Water, Energy, Environment, Forestry and Natural Resources Committee recommends that:-

- i. Having considered the suitability, capacity and integrity of the nominee, the nominee was found to be suitable for appointment as a chief officer for water and irrigation.
- ii. The Assembly adopts the Report of Water, Energy, Environment, Forestry and Natural Resources Committee on the vetting of Mr. David Kipngetich Koech to be appointed as the chief officer for Water & Irrigation Department of Bomet County."

Signed... *Bett Wesley*

Date... *21/11/2023*

HON. BETT WESLEY

CHAIRPERSON: WATER, ENERGY, ENVIRONMENT, FORESTRY AND NATURAL
RESOURCES COMMITTEE.