

REPUBLIC OF KENYA



THE COUNTY ASSEMBLY OF BOMET

SECOND ASSEMBLY-SECOND SESSION

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FINANCE, ICT AND ECONOMIC PLANNING COMMITTEE

REPORT

ON VETTING OF MR.DAVID CHERUIYOT KIKWAI, THE CHIEF  
OFFICER NOMINEE FOR FINANCE

April 2018



A handwritten signature in black ink, appearing to be "David Cheruiyot Kikwai".

## **Annexure**

Annex i. Certificate of good conduct from Criminal Investigation Department

Annex ii. Tax compliance Certificate from Kenya Revenue Authority (KRA)

Annex iii. Clearance Certificate from Credit Reference Bureau (CRB)

Annex iv. Wealth Declaration form from EACC

Annex v. Clearance Certificate from Professional Bodies

Annex vi. Filled County Assembly vetting questionnaire

## **Preface**

### **1.1 Committee composition**

The Finance, ICT & Economic Planning Committee comprised of the following Honorable members:

1. Hon. Barchok Kipngetich – Chairperson
2. Hon. Jane Langat – V.Chair
3. Hon. David Langat-Member
4. Hon. Philip Korir- Member
5. Hon. Hellen Chepkorir- Member
6. Hon. Wesley Bett- Member
7. Hon. Ambrose Koech- Member

### **1.2 Mandate of the Committee**

County Assembly standing order 193 and the second schedule establishes Finance, ICT and Economic Planning to deal with subject area of all matters relating to the County Treasury, revenue policies, county economic planning and development including statistics and Information, Communication Technology.

Furthermore standing order 193(5) states the functions of a Sectoral Committee as follows:-

- a) *investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned departments;*

- b) study the program and policy objectives of departments and the effectiveness of the implementation;*
- c) study and review all county legislation referred to it;*
- d) study, assess and analyze the relative success of the departments as measured by the results obtained as compared with their stated objectives;*
- e) investigate and inquire into all matters relating to the assigned departments as they may deem necessary, and as may be referred to them by the County Assembly;*
- 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 188(Committee on Appointments) ; and*
- g) make reports and recommendations to the County Assembly as often as possible, including recommendation of proposed legislation.*

### **1.3 Acknowledgement**

I wish to thank the members of the committee on Finance, ICT & Economic Planning for dedicating their time and energy to vet the nominee and prepare this report. The Committee is equally grateful to the office of the Speaker and the Clerk of County Assembly for the support received as it discharged its mandate.

### **1.4 Committee meetings on vetting**

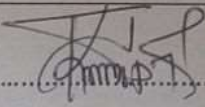
The Committee held two sittings in relation to the vetting of the nominee. Mr. David Cheruiyot Kikwai of national identification number 7062639 appeared before the committee on 19<sup>th</sup> April 2018 and was vetted in accordance to the provisions of the County Government Act 2012 and Public Appointments (County Assemblies Approval) Act No. 5 of 2017 for consideration and appointment as Chief Officer for Finance.

### 1.5 Affirmation and approval

Mr. Speaker sir,

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. Barchok Kipngetich | Chairperson    |    |
| 2.  | Hon. Jane Langat        | V. Chairperson |    |
| 3.  | Hon. David Maritim      | Member         |   |
| 4.  | Hon. Philip Korir       | Member         |  |
| 5.  | Hon. Hellen Chepkorir   | Member         |  |
| 6.  | Hon. Wesley Bett        | Member         |  |
| 7.  | Hon. Ambrose Koech      | Member         |  |

Signed..........Date.....30.4.2018.....

**HON. BARCHOK KIPNGETICH**

**CHAIRPERSON FOR FINANCE, ICT & ECONOMIC PLANNING COMMITTEE**

## **2.0 Nomination of the Chief Officer for Finance**

### **2.1 Legal Framework on Appointment**

**Mr. Speaker Sir,**

The Committee on Finance, ICT and Economic Planning is one of the Sectoral committee established under standing order No. 193(1) and deals with all matters related to Finance, ICT and Economic Planning including appointments that require the Assembly's approval including the appointment of the Chief Officers.

Section 45 of the **County Governments Act** establishes the office of the Chief Officer. The said section requires the Governor to nominate and with the approval of the County Assembly, appoint the Chief Officer.

Further, Section 45 (2) of the **County Governments Act** provides that the Chief Officer-

- a) shall be competitively sourced from amongst persons who are university graduates with not less than ten years' experience in administration and management;
- b) shall be nominated from persons competitively sourced under paragraph (a) by the governor and, with the approval of the county assembly, appointed by the governor; and
- c) May, subject to the conditions and terms of appointment, be dismissed by the governor.

Additionally, Section 45(6) provides that a chief officer may resign from office by giving notice, in writing, to the governor.

The procedure for approval hearing, issues for consideration and period for consideration and reporting is provided for under the **Public Appointments (County Assemblies Approval) Act, No. 5 of 2017**.

**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 in free and fair elections;
- b) Objectivity and impartiality in decision making and in ensuring that decisions are not influenced by nepotism, favoritism, 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 in service to the people.

## **2.2 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, Section 7(8) and Section 8 of the Public Appointments (County Assemblies Approval) Act, No. 5 of 2017**.

## **2.3 Circumstances for nomination of the Chief Officer for Finance.**

Pursuant to Article 179 (b) of the Constitution and the provisions of section 45 of the County Government Act, 2012, H.E. the Governor, vide a letter dated 6<sup>th</sup> April 2018 forwarded to the Clerk of the County Assembly a nominee by the name Mr. David Cheruiyot Kikwai. This is the second Chief Officer for Finance to be submitted for consideration and approval by the County Assembly to pave way for his appointment as the Bomet County Chief Officer for Finance, after the former Chief Officer, Mrs. Rael Jeptanui Rottich resigned on 1<sup>st</sup> March 2018.

## **2.4 Notification to the nominee**

On Friday 13<sup>th</sup> April, 2018, the Clerk of the Assembly, pursuant to Section 7(4)

of the **Public Appointments (County Assemblies Approval) Act, No. 5 of 2017** notified the nominee of the time and place for holding the approval hearing through an advert in the main print media.

### **2.5 Notification to the Public**

**Mr. Speaker Sir,**

The public was expected to participate in the vetting process through submission of memoranda (affidavit) on the suitability of the nominee. On Friday 13<sup>th</sup> April, 2018, pursuant to section 7(4) of the Public Appointments (County Assemblies Approval) Act, the Clerk of the County Assembly placed an advertisement in the main print media and the Assembly website inviting the public to submit memoranda /information or petition that may have a bearing on the selection of the candidates by Thursday 19<sup>th</sup> April, 2018 on the said nominee.

### **2.6 Submission of relevant documents from the nominee**

The nominee submitted copies of the following documents:-

- i. ID Card/Passport
- ii. Compliance Certificate from Kenya Revenue Authority (KRA)
- iii. Clearance Certificate from Higher Education Loans Board (HELB)
- iv. Clearance Certificate from Ethics and Anti- Corruption Commission (EACC)
- v. Certificate of Good Conduct from the Criminal Investigation Department
- vi. Clearance from respective professional bodies
- vii. Clearance Certificate from Credit Reference Bureau (CRB)

### **2.7 Vetting Process of the Chief Officer Nominee for Finance**

**Mr. Speaker Sir,**

This house can recall that, on 10<sup>th</sup> April 2018, the Hon. Speaker in his communication to the House directed that the name and Curriculum Vitae of the said nominee be referred to the Committee on Finance, ICT and Economic Planning for vetting and reporting to the House within 21 days.

**Mr. Speaker Sir,**

In conducting the vetting process, the committee examined the nominee against the following criteria, amongst others, in accordance with the Public Appointments (County Assemblies Approval) Act No.5 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

**Mr. Speaker Sir,**

On 19<sup>th</sup> April 2018 the nominee appeared before the committee for vetting.

The nominee submitted originals/copies of the following documents:-

1. National Identity Card
2. Curriculum Vitae/ Personal credentials and the following academic and professional certificates
  - Masters Degree
  - Undergraduate Degree
  - Certified Public Accountants (CPA) certificate
  - Certified Public Secretaries Certificate(CPS)
  - Kenya Certificate of Secondary Education
3. Compliance Certificate from Kenya Revenue Authority (KRA)
4. Compliance certificate from Higher Education Loans Board (HELB)
5. Self-declaration form from the Ethics and Anti-Corruption Commission
6. Police clearance certificate
7. Clearance certificate from Credit Reference Bureau (CRB)



**Mr. Speaker Sir,**

**I. Academic Qualifications**

In regard to his academic qualifications, the committee noted that,

- His CV indicated that he is currently pursuing PhD. in Finance
- In 2010-2012 the nominee pursued and attained Masters in Business Administration (MBA) Finance from Methodist University
- In 1987-1990 he graduated in Bachelor of Commerce –Accounting Option, from University of Nairobi.
- In 1985-1986 he joined Kericho High School for Kenya Advanced Certificate of Education (KACE).
- In 1984- 1984, he attended Poiywek Secondary School for ordinary level secondary where he attained Kenya Certificate of Education (KCE)
- In 1980-1980, he attended Laliat Primary School where he sat and attained Certificate of Primary Education (CPE).

**II. Professional Qualification**

He is a Certified Public Accountants and Certified Public Secretaries (CPA K and CPS K) holder respectively.

**III. Professional Bodies**

- He is a registered member No. 5459 of the Institute of Certified Public Accountants of Kenya (ICPAK).
- He is a registered member No. R/CPSB/2710 of the Institute of Certified Public Secretaries of Kenya (ICPAK).

**IV. Employment Record**

In regard to his employment record, the committee noted that: -

- He left formal employment and ventured into business in February,2017
- He worked as a Chief Manager Corporate Services at Kenya Agricultural Research Organization (KALRO) from 2015 to Feb, 2017.

- He worked as Finance and administration Manager at Tea Research Foundation of Kenya from 2010 to 2014
- He worked as a Chief Accountant at Tea Research Foundation of Kenya from March 2007-2010.
- He worked as Senior Accountant at Tea Research Foundation of Kenya from March 2005-March,2007
- He acted as the Administration and Finance Manager at Tea Research Foundation of Kenya from April 2003-March,2005
- He worked as an accountant at Tea Research Foundation of Kenya from July,2000-March 2003
- He worked as District Accountant, Bomet District from Feb,1998-July,2000
- He worked as an Accountant at the Bomet District Treasury from September, 1992-June, 2000.
- He worked as an Accountant at the Kiambu District Treasury from July, 1991-August, 1992.

#### **V. Potential Conflict of Interest**

The nominee stated and filled a questionnaire that he had no areas that would create potential conflict of interest.

#### **VI. Knowledge of the Relevant Field**

- He has over 6 years of working experience in the field of financial planning and administration.
- He has over 20 years of experience as an accountant in the public sector, having served at Bomet District Treasury, Kiambu District Treasury, Tea Research Foundation of Kenya and Kenya Agricultural and Livestock Research Organization.

#### **VII. Integrity**

The nominee provided certificate of good conduct from the Criminal Investigation department, certificate of Higher Education Loans Board, Tax Compliance

Certificate, clearance certificate from credit reference Bureau as well as self-declaration form from Ethics and anti-corruption commission.

## **2.8 Committee's Interrogation and Nominee's Oral Submissions**

### **2.8.1 Areas of interrogation by the Committee**

The committee interrogated the nominee on areas ranging from the roles and duties of the CO finance as stipulated in the PFM Act to the functions, powers and responsibilities of the county treasury. The committee also established to know from the nominee his knowledge and appreciation on the preparation of budgets in a program based format as well as the county budget process. He was asked on strategies that he will put in place to address the Bomet County's declining and erratic local revenue collections. The committee interrogated him on the reasons for the growing pending bills and how he intends to address them if appointed the CO for Finance. He was put to task to explain the strategies he intends to put in place to ensure proper cash flow management in relation to the county's expenditure needs. He was asked on the reasons, conditions and limits underpinning the preparation and approval of a supplementary budget. He was also put to task on how he intends to comply with the fiscal responsibility principles envisaged in section 107 of the PFM Act. The committee further sought to know how he will integrate planning and budgeting. Finally the committee enquired to know his place of residence and concluded by establishing the validity and availability of the required documents.

### **2.8.2 Nominee's Oral Submissions**

The nominee introduced himself as well as the roles he was expected to perform as the CO for Finance. The nominee also made efforts to explain the county budget cycle by mentioning deadlines set forth by the relevant laws together with the basic procedures culminating to the various resultant planning documents. In regard to the question posed to him on MTEF the nominee defined it as planning document that shows amongst other items performance of the county projects funded in the previous budget while setting forth the ones to be funded with the estimated costs.

He further asserted that the same is informed by the availability of resources. The nominee also noted that the same is more of service delivery to the citizenry. The nominee in response to the question on the fiscal responsibility principles spelt out under Section 107 of the Public Finance Management Act , outlined the same as follows:-

- i. Transparency in allocation and utilization of public funds
- ii. Oversight
- iii. Equity- resources are allocated to all without discrimination.

In response to the question posed to him by the committee on what are the likely causes of the menace of pending bills haunting many counties including Bomet County , the nominee stated that cause would include: -

- i. Inefficient utilization of funds
- ii. Lack of proper management of resources- diversion of resource.

On what strategies to address such challenges he stated that the same is best addressed by monitoring and evaluation of projects. In response to a question regarding late submission of statutory planning documents by the relevant county department the nominee stated that is a failure on part such department and the same is caused by amongst others lack of planning, failure to adhere to timelines and calendar of events. He stated that if approved he will introduce performance contracting and develop department's calendar of events.

The nominee stated that he will endeavor to ensure and foster harmony, better coordination and inclusiveness in the implementation of the plans in the CIDP so as to eliminate bottlenecks. When challenged with incidences of some county departments submitting half-baked documents to the county assembly, he stated that if approved he will address such scenario by making the personnel understand the department's calendar of events, review timelines, develop the key staff working on such document. He also stated that he will ensure that documents prepared have to be thoroughly checked by senior staff. In regard to the question on resource

mobilization the nominee stated that the county should first identify the opportunities that it has. He further gave examples including tourism promotion and agriculture. He further stated that KALRO and hoteliers are key development partners he would approach if approved.

Finally, he promised to provide an up to date clearance certificate from Directorate of Criminal Investigations and Kenya Revenue Authority (KRA) once he files his tax returns.

### **3.0 Committee findings and observations**

**Mr. Speaker Sir,**

The following are Committee findings and observations on the nominee;

- I. **Academic Qualification:** The committee noted that the nominee possesses a master’s degree in Business Administration (MBA) in Finance from Methodist University and a Bachelor’s degree in Commerce (Accounting Option) from University of Nairobi.
- II. **Professional Qualification:** Mr. David Cheruiyot Kikwai holds CPA K and CPS K and he is a registered member of ICPAK.
- III. **Knowledge in the relevant field.** Though he has vast experience in the field of financial management and accounting, he did not responded adequately and exhaustively to questions posed to him.
- IV. **Memoranda contesting the suitability of the Nominee:** There was no memorandum submitted to the committee challenging the nomination or otherwise of Mr. David Cheruiyot Kikwai as the chief officer finance.
- V. **Integrity: Based on the following statutory documents and professional affiliations.**

| <b>SNO.</b> | <b>Documents</b>        | <b>Remarks</b>   |
|-------------|-------------------------|--|
| 1.          | National Identification | He provided ID card confirming that he is a Kenyan citizen hailing from Kericho County, Ainamoi Sub- |

|    |   |   |
|----|---|---|
|    | Card/passport   | County, Township Location and Poiywek Sub location.   |
| 2. | KRA compliance<br>(Annex II)  | He provided tax compliance certificate which was valid to 1 <sup>st</sup> March 2018.   |
| 3. | Higher Education<br>Loans Board (HELB)                                      | He submitted a clearance certificate indicating he has been dully cleared.  |
| 4. | Clearance from<br>EACC<br>(Annex IV)  | He submitted a sworn self-declaration form to EACC on 9 <sup>th</sup> January 2017 averring that his place of permanent residence as Kericho District within the Republic of Kenya.   |
| 5. | Clearance from The<br>Criminal<br>Investigation<br>Department.<br>(Annex I) | He submitted a police clearance certificate dated 23 <sup>rd</sup> January 2017.He informed the committee that he has applied a new one.  |
| 6. | Clearance from<br>professional bodies<br>(Annex V)                          | He submitted a confirmation that he is a member of ICPAK and he was of good standing as at 17 <sup>th</sup> April 2018. He informed the Committee that he is a member of ICPSK but no documentary evidence was availed before the Committee.  |
| 7. | Clearance from<br>Credit Reference<br>Bureau(Annex III)                     | He submitted a valid clearance from CRB.  |
| 8. | County Assembly<br>vetting<br>questionnaire<br>(Annex<br>VI)                | He filled and submitted the said questionnaire indicating that he is Kenyan, his place of permanent and current residence as Bomet. However the Committee noted that his submission in the questionnaire <b>contradicts</b> the declaration he made before the EACC on 9 <sup>th</sup> January 2017 contrary to The Public Appointment (County Assemblies Approval) |

|  |  |                    |
|--|--|--------------------|
|  |  | Act, No.5 of 2017. |
|--|--|--------------------|

#### **4.0 Committee's Recommendations**

**Mr. Speaker Sir,**

“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 Finance, ICT and Economic Planning Committee recommends that:-

- I. Having considered the suitability, capacity and integrity of the nominee, **the nominee was found to be suitable** and therefore **fit** for appointment as a chief officer for Finance.
- II. The Assembly **approve** the nomination and subsequent appointment of **Mr. David Cheruiyot Kikwai as chief officer for finance”**