BOMET COUNTY ASSEMBLY
THIRD ASSEMBLY

COMMITTEE ON APPOINTMENTS

FIRST REPORT
ON THE VETTING OF HON. SIGEI KIMUTAI ANDREW, COUNTY EXECUTIVE COMMITTEE NOMINEE FOR ECONOMIC PLANNING, FINANCE AND ICT

31ST OCTOBER 2022

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1 PREFACE

1.1 Mandate of the Committee

The Committee on Appointments is established pursuant to Standing Order 197(1). The Standing Order 197(4) mandates the Committee On Appointments to consider, for approval by the County Assembly, the appointments of County Executive Committee Members under Article 179(2) of the Constitution.

1.2 Committee Membership

The Committee on appointments as currently constituted comprises of the following Honorable members:

Member	Designation
Hon. Cosmas Korir	Chairperson
Hon. Leonard Rotich	V. Chairperson
Hon. Rosaline Cheptoo	Member
Hon. Eric Kirui	Member
Hon. Kibet Ngetich V	Member
Hon. Stephen Chang'morik	Member
Hon. Paul Kirui	Member

1.3 List of Secretariat

The secretariat comprised of the following;

No.	Name	Position
1	Isaac Kitur	Clerk of the Assembly
2	Oscar Sang	General Counsel
3	Rashid Tonui	Director, Legislatives Services
4	Veronica Waweru	Principal Clerk Assistant
5	Edwin Makiche	Communications and media Relations
6	Kenneth Langat	Principal Clerk Assistant
7	Ronald Sang	Deputy Director of Budget
8	Annebetty Koros	Assistant Director Committee Services
9	Josphat Koech	Hansard Reporter
10	Edward Rop	Serjeant At Arms
11	Janet Birech	Administrative Officer
12.	Victor Mutai	Hansard Reporter

2 BACKGROUND

2.1 Notification of nomination

Hon. Speaker,

His Excellency the Governor, pursuant to Article 179(2)(b) of the constitution read together with sections 30(2)(d) and section 35 of the County Government's Act 2012 (Appointment of the County Executive Committee Members) via a letter reference:CGB/GVN/SPKR/06/1/1/(35) dated 12th October, 2022 submitted for vetting the name of Hon. Sigei Kimutai Andrew alongside names of six other nominees for the position of County Executive Committee member for Economic Planning, Finance and ICT.

2.2 Notification to the Assembly and referral to the Committee on Appointments

Pursuant to the provisions of Standing Order 42(1), the Speaker, vide a Communication dated Thursday, 13th October, 2022, informed the Assembly of the Governor's message to the Assembly on nomination of County Executive Committee Members, for approval by the County Assembly.

Hon. Speaker,

Pursuant to section 7(1) of the Public Appointments (County Assemblies Approval) Act No 5 of 2017 and Standing Order 197(4), the names and curriculum vitae of the nominees were referred to the Committee on Appointments for approval hearings and reporting to the Assembly.

2.2 Notification to the public

The Constitution, 2010 and the County Governments Act, 2012 obligates the County Assembly to facilitate public participation and involvement in the legislative business and other business of Assembly and its Committees.

Section 7(5) of the of the Public Appointments (County Assemblies Approval) Act No, 2017 Act further provides that the Committee shall notify the public of the time and place for holding an approval hearing at least seven days prior to the hearings.

Upon receipt, pursuant to section 7(10) of the Public Appointments (County Assembly Approval) Act No. 5 of 2017, County Assembly Clerk, via daily nation newspaper of 15th October, 2022 invited the nominees to appear before the committee on appointments for vetting on 24th and 25th October 2022 in the County Assembly Mini Chamber at various individual scheduled times. On the same newspaper, County Assembly pursuant to section 7(10) of the Public Appointments (County Assemblies Approval) Act No. 5 of 2017) invited the members of the public to submit memoranda by way of a written statement on oath (affidavit) on the suitability or otherwise of the nominees for the position to which they were nominated to serve. The advertisement indicated that the submissions were to be received by Friday, 21st October, 2022 at 5.00 pm.

2.3 Notification to the Nominee

On Friday, 14th October, 2022, the Clerk of the County Assembly invited the nominees, in writing, for the approval hearings in accordance with Section 7(4) of the of the Public Appointments (County Assemblies Approval) Act, 2017 (Annexure 3). The nominee was required to appear before the committee on appointments on Monday, 24th October, 2022 at 9.00 am.

Consequently, Hon. Sigei Kimutai Andrew appeared before the committee in the morning of 24th October 2022.

2.3 Suitability based on Chapter Six of the Constitution

The nominee submitted the following documents for purposes of suitability clearance in accordance to chapter six of the constitution;

I. Tax Compliance Certificate from Kenya Revenue Authority (KRA) valid up to 18th October 2022.
II. Clearance Certificate from Higher Education Loans Board (HELB) registration No. N06/1324/92
III. Self-declaration form from Ethics and Anti- Corruption Commission (EACC) dated 18th October, 2022.
IV. Police clearance Certificate dated 24th October 2022 reference number PCC-30 TL 99KM
V. Clearance Certificate from Creditinfo- CRB Kenya ltd serial no. 2259579148

2.4 Committee Meetings

The committee held a total of seven meetings, and during one of the meetings on 24th October, 2022, the said nominee appeared before the committee on Appointments and was vetted in accordance with the Public Appointments (County Assemblies Approval) Act No 5 of 2017 for appointment as the County Executive Committee Member for Economic Planning, Finance and ICT.

In a meeting held on 13th October, 2022, the Committee resolved to invite the nominee for approval hearing at the County Assembly Mini Chamber on Monday 24th October 2022. In conducting the vetting exercise, the Committee made reference to the Constitution, the County Governments Act, 2012, the Leadership and Integrity Act, the Public Appointments (County Assemblies Approval) Act No 5 of 2017 and the Standing Orders.

The Committee complied with the Constitutional and legal requirements in its vetting procedure by ensuring that there was public participation, transparency and openness in carrying out the exercise.

Hon. Speaker,

Notifications and invitation of the general public to submit memoranda were placed in the mainstream print media on Saturday 15th October, 2022 in line with the provision of sections 91 and 95 of the County Governments Act 2012. By close of Business on Friday, 21st October, 2022 no written memorandum had been submitted to the office of the Clerk of the County Assembly.

2.5 Acknowledgement

The Committee on Appointments wishes to thank the Office of the Speaker, the Office of the Clerk and staff of the County Assembly for the facilitation and technical support accorded to it during the vetting exercise.

I also wish to acknowledge and appreciate the committee Members on their individual capacity for their unwavering commitment and dedication to serve the public under tight schedules which enabled the committee to deliver its duty within the stipulated period.

I also wish to recognize and appreciate the members of the public led by their **ONLINE** brigade who sacrificed their time to walk the journey with the committee during the vetting exercise. The committee noted that contributions from the participants have come of age. Indeed, the members of the public have become more knowledgeable on the space granted to them by the constitution. It should be on record that participation of the members of the public on the county legislative activities have continued to get better and better. The committee took their submissions seriously and incorporated a number of them in the vetting process. Their invaluable participation and contributions will continue to be enhanced and entrenched in all future legislative activities.

The nominee's oral submissions on the issues raised and committee findings during the vetting exercise guided the Committee in making its final recommendation. The Committee's decisions were based on the Constitution of Kenya, 2010, the County Governments Act 2012, the Leadership and Integrity Act 2012, the Public Appointments (County Assemblies Approval) Act, 2017 and the information supplied by the nominee during the proceedings of the Committee and the public hearing. The Committee report was adopted by members on Sunday, 30th October, 2022.

SIGNED...............................**DATE:** 1ST NOVEMBER, 2022

Hon. Cosmas Korir
Speaker and the Chairperson
Committee on Appointments

2.6 Ownership of the Report

We, the members of Committee on Appointments, do append our signatures against our names in this report to affirm the correctness of the contents and support for the report

No	NAME	POSITION	SIGN
1.	Hon. Cosmas Korir	Chairperson	
2.	Hon. Leonard Rotich	Member	
3.	Hon. Paul Kipyegon Kirui	Member	
4.	Hon. Stephen Changmorik	Member	
5.	Hon. Kibet Ngetich	Member	
6.	Hon. Rosaline Cheptoo	Member	
7.	Hon. Eric Kirui	Member	

Dated this Sunday, 31st day of October, 2022

3 VETTING PROCEDURES

Hon. Speaker,

The Committee held a sitting on Monday, 24th October, 2022 to deliberate on the approval hearings and noted the following —

(1) THAT, the nominee had not notified the Clerk of the County Assembly of his withdrawal from the approval process as outlined under section 7(12) of the Public Appointments (County Assemblies Approval) Act, 2017.

(2) THAT, Article 179(2) of the Constitution requires H.E. the Governor to nominate and with the approval of the County Assembly, appoint members of the County Executive Committee

(3) THAT, Article 179(3) of the Constitution provides that the County Executive Committee Members appointed under clause (2) (b) shall not exceed one-third of the number of members of the County Assembly, if the Assembly has less than thirty members; or ten, if the Assembly has thirty or more members.

In this regard, it was notable that in compliance with the provisions of Article 179(3) of the Constitution, the Governor had nominated seven County Executive Committee Members.

(4) Further, the committee required the nominee to submit the following documents; (Annex 4)

i Questionnaire for vetting/approval of the Nominee for the CECM position

ii Curriculum Vitae, Personal Credentials and Academic Certificates iii Clearance Certificate from Higher Education Loans Board(HELB)

iv Certificate of Good Conduct from the Criminal Investigation Department (CID)

v Compliance Certificate from Kenya Revenue Authority (KRA)

vi Sworn self- declaration form submitted to the Ethics and Anti-Corruption Commission (EACC)for 2018

vii Clearance Certificate from Credit Reference Bureau

(5) THAT, the Committee would therefore proceed with the approval hearings on Monday, 24th October, 2022; and

(6) THAT, the Committee would examine the nominee against the criteria set out in sections 7 and 8 of the Public Appointments (County Assemblies Approval) Act, 2017.

3.1 Submission of memoranda

By close of business on 21st October, 2022, the Committee had not received any memoranda from the public.

3.2 Issues for consideration

In conducting the approval hearing, the Committee was guided by Article 73 (2) (a)(b)(c) and (e) of the Constitution, Section 35 of the County Governments Act and the provisions of the Public Appointments (County Assemblies Approval) Act 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 of service to the people.

In conducting the vetting process, the Committee on Appointments examined the nominee against the following criteria, amongst others, in accordance with the Public Appointments (County Assemblies Approval) Act 2017.

(i) Academic Qualification
(ii) Employment Record
(iii) Knowledge of the relevant subject/ role of CECM Economic Planning, Finance and ICT
(iv) Appreciation of the Constitution of Kenya 2010, Acts of Parliament and Devolution
(v) Overall Suitability for the Position
(vi) Compliance and Integrity.

The Committee considered the provisions of section 35(2) of the **County Governments Act, 2012** which states as follows: -

"*The County Assembly shall not approve nominations that do not take into account*

(a) Not more than two thirds of either gender;

(b) Representation of the minorities, marginalized groups and communities; and

(c) Community and cultural diversity within the county.

(3) A person may be appointed as a member of the executive committee if that person-

1. Is a Kenyan citizen;
2. Is a holder of at least a first degree from a university recognized in Kenya;
3. Satisfies the requirement of chapter six of the Constitution; and
4. Has knowledge, experience and distinguished career of not less than five years in the field relevant to the portfolio of the department to which the person is being appointed.

(4) *A member of the County Executive committee shall not hold any other State or Public office*.

4 APPROVAL HEARING

Hon. Speaker,

Hon. Sigei Kimutai Andrew appeared before the committee in the morning of 24th October 2022 and was interrogated as follows;

4.1 Net worth and Life History

4.1.1 Financial net worth

The nominee estimated his total financial net worth at KES 27 million and comprises of the following;

I. Home at Mogogosiek on 2 acres…………………5 Million
II. A developed plot in Mogogosiek…………………..2 Million
III. A plot in Kaplong……………………………………..1.5Million
IV. A plot in Sotik…………………………………………4 Million
V. Eucalyptus trees………..………………………………4 Million
VI. Eight acres of Tea……………………………………2.5 Million.
VII. Assorted vehicles ………………………………………6.6 Million
VIII. 20 heads of livestock…………………………………1.4 Million

4.1.2 Life and Education History

From his submission, the committee noted that the nominee was born on 18th December, 1970 in Konoin. He attended Siomo primary school in 1978 to 1986 and later admitted to Cheptenye Secondary school in 1987 to 1990 where he scored a C plain. He stated that, in 1991, he was re-admitted in 13

Sosit secondary school and managed to score a B (minus). He further stated that in 1995 to 1998 he was admitted in University of Nairobi to pursue Bachelor of Arts (Economics and Mathematics) and graduated in 30th November 1998.

4.1.3 Employment History

The nominee submitted that he secured a contract with Central Bureau of Statistics as the Supervisor to conduct census in 1999 in Embomos and later another contract with the same company in 2000 to participate in the Kenya Demographic and Health survey.

Hon. Speaker,

The nominee was later in 2007 employed in CDF as a fund account manager for Narok South constituency. Between 2009 and 2017, he served in the same capacity in Rarieda, Sotik and Belgut constituencies. During the period, he also acted as a fund account manager for Soin/Sigowet and Ainamoi constituencies before substantive fund account managers were posted to those sub-counties. He later joined Bomet County Government as the County Executive Member for Finance and Economic Planning up to the year 2022.

4.2 Interrogation Areas

The committee interrogated the nominee on the following areas including issues which occurred during his tenure;

4.3 Own source Revenue

4.3.1 Over Estimation of Local Revenue

ISSUE RAISED; The committee enquired to know why during the nominee's tenure as the County Executive Committee Member for Finance (CECMF), the County Treasury repeatedly set local revenue targets it knew it could not achieve contributing to pending bills. The committee highlighted examples of local revenues for FYs 2019/2020 and 2020/2021 which had both been estimated at KES. 275 million and 2021/2022 had been estimated at KES 300M.

NOMINEE'S RESPONSE; The Nominee posited that it was not in order to underestimate revenue since it will encourage laxity. He stated that the County Treasury had anticipated to collect revenue from *boda boda* segment but was not executed since the County Government did not fully implement its part of the agreement with the group. He further explained that *boda bodas* were to be issued with stickers after undergoing training and issuance of driving licenses through the department of administration. The nominee also stated that it was not possible to approach the group on such matters during the electioneering period. He further submitted that revenue from multinationals were not received on time. The nominee also explained that revenue realization was affected by outbreak of COVID – 19 which led to the closure of many businesses.

ISSUE RAISED; Measures the nominee intend to undertake to address the issue of unrealistic revenue targets if he is re-appointed.

NOMINEE'S RESPONSE; the nominee pointed out two areas; Multinationals and Valuation roll.

Multinationals

The nominee explained that multinationals values **one (1) acre** at **KES 80,000** and upon subjecting 2%, Multinationals can only pay the county **KES 1600** per year per acre which was way below the market rate or any standards in the country and beyond. He stated that they intended to carryout sufficient public participation to reduce resistance. The nominee submitted that if the value of an acre is doubled then the County will get KES120M without struggling. He also stated that the rate of tax can begin from the current 2% then 2.5% and 5% in the fullness of time. He finally stated that the sector could give the County KES 300 million to 400 million alone.

Valuation roll

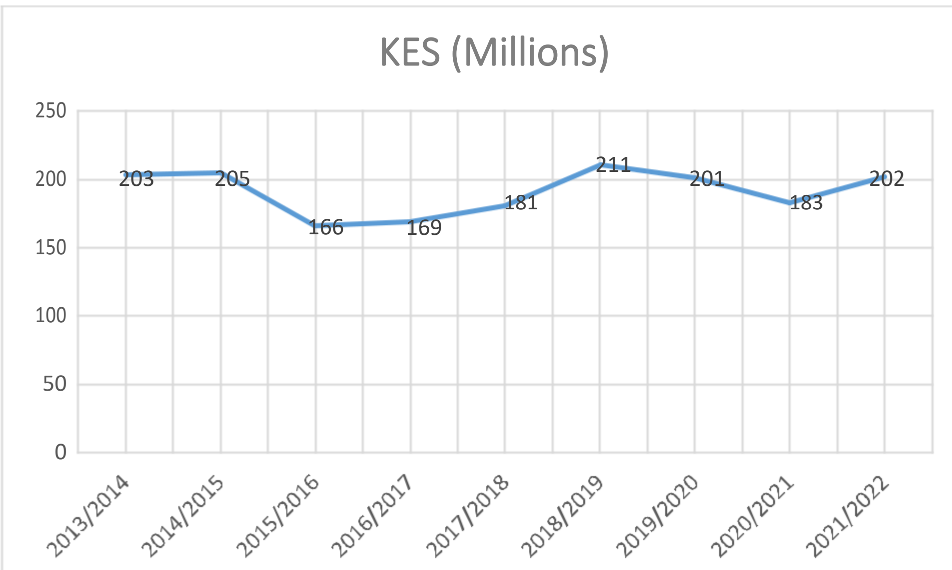
The nominee stated that public participation was critical to allow people to clearly understand the process and appreciate the charges. He added that if the valuation roll was fully implemented, the revenue will rise up to 400M. He stated that it was not targeting multinationals alone but also properties in the Bomet town and all centers (Sotik, Mogogosiek, Sigor etc) across the county which required to be revalued and re-measured.

He listed the following other segments which can yield more revenue if pulled up; Medical certificates (additional KES 1 million) as well as Food hygiene and inspection fees which provides no revenue at the moment but can yield up to KES2M each.

4.3.2 Stagnated Local Revenue

ISSUE RAISED; Stagnated local revenue. The committee posited an analysis of local revenue collection since the Financial year 2013/2014, as shown in the chart below, which indicated that there has been no significant change in local revenue collection even after the advent of devolution.

Revenue trend for Bomet County over the financial years



Source: Bomet County Treasury Financial statements, County Budget Review and outlook Paper and Controller of Budget Reports

Note: Revenue for FY 2016/17 excludes revenue received from Agriculture, Fisheries and Food Authority (AFFA) realized from ad valorem levy amounting to KES 67 million.

Hon. Speaker,

The committee also demonstrated how Laikipia and Kericho Counties had grown their local revenue collection from KES 347 million and KES 371 million respectively in 2013 to KES 894 million and KES 595 million in 2021.

The committee further enquired to know why the nominee did not consider to establish a **County Revenue Committee/Board** as a local revenue enhancement strategy as seen in a number of counties which have established and doing extremely well.

NOMINEE'S RESPONSE; the nominee concurred with the committee that figures don't lie. He stated that there were many challenges in revenue collection and the weakest link was leakages.

The nominee further stated that he had requested, but did not succeed, to be assigned independent revenue enforcement officers since the ones he had were reporting to a different director, the director in administration, yet they ought to be answerable directly to the director in revenue for smooth operations.

Hon. Speaker,

In his defense, the nominee pointed out that Bomet County cannot be compared with Laikipia and Narok County in terms of revenue performance because the two counties had unique revenue streams majorly on tourism whereas Bomet was a typically rural county with only two towns, Bomet and and Sotik, while others were just centers. He stated that the two counties have very well established revenue collection measures and that they were still collecting more revenues even before devolution.

He stated that his major area of focus was expanding the revenue base. He also stated that the issue of County revenue board was discussed at the cabinet level but a number of issues needed to be addressed first.

4.4 Revenue Automation

Hon. Speaker,

The nominee was tasked to explain why the county contracted a firm to automate revenue collection at a huge cost (KES 60M) yet revenue did not increase by more than KES 20M, whether there was value for money and if there were any feasibility studies carried out before to indicate that revenue would be increased once the automation was installed.

The committee also sought to know if the nominee considered revenue automation as a failure and whether he regretted that it should not have been implemented in the first place noting that huge resources were consumed with no meaningful output.

NOMINEE'S RESPONSE; The nominee posited that there were other factors apart from the system that contributed to low revenue. That there were numerous limitations of the office and also that there have been many challenges due to many implementers including technical limitations. He explained that the technical team procured the system, analyzed it, used it and reported that it was the right one.

He posited that studies on cost benefit analysis were done. He also stated that revenue automation was the way to go hence needed to be embraced as it separates manpower and the system.

He further stated that all the phases of the contract were not fully serviced, that the service provider pulled out the system which led the County

Treasury to stop further payment. He submitted a report on the system which indicated that the total cost of installation was **KES 58, 963,063.50.** That out of the total, **KES 41,304,496.45** had been paid to the supplier.

Committee reaction, the committee was not convinced by the nominee's explanations. The committee believed that if the county felt short changed or blackmailed by the supplier, then the county ought to seek legal redress but review of correspondence submitted by the nominee shows that the county has extended the suppliers contract for management and maintenance for another one year.

4.5 Revenue Laws and Regulations

Issue raised; the nominee was asked why he did not consider to table before the Assembly any specific law, policy or regulations that would have targeted increasing key sources of local revenue such as business permits, land rates among others which would have streamlined their collection for instance trade Licensing and Revenue Act that many other counties have enacted and whether he alludes to the fact that lack of elaborate legal framework had contributed to poor collection and unrealistic target.

NOMINEE'S RESPONSE; The nominee stated that they had a legal framework though it was not yet exhaustive. He also said that apart from the contract management policy, he had tabled some policy on hiring of heavy equipment when he was acting as CECM for the department of Roads, Public works and transport, for three months.

Committee reaction, the committee noted that the nominee ought to have prioritized relevant enabling revenue laws including trade licensing Act and Revenue Administration Act.

Issue raised; the committee sought to know from the nominee why he failed to collect a whooping **KES. 256 million** in outstanding land rates as per the Auditor General's Report of the year ended June 2021 and whether he had put in place any measures to enforce the collections as provided for under Regulation 63(1) of the Public Finance Management Act.

NOMINEE'S RESPONSE; The nominee posited that it was not easy to enforce the land rates in the county because of its historical nature which dates back to the local authorities. He stated that land owners were waiting for the waiver even though it could not be provided without a new valuation roll.

He further stated that multinationals sometimes do not remit their payment in good time but they ultimately pay. He listed some companies which owed the county and those with new invoices as follows;

S/NO	Company Name	Amount owes the county
1	Unilever Tea	KES 17,097,136 plus KES 2,137,142 which they did not pay last time totally up to KES 19,234,278.
2	William Son Tea	KES 4,321,600

3	Jemae Estate	KES 118,608
4	Raphael Kiprono Kitur	KES 1,051,763
5	James finlay	KES 23,701,675
6	Kipsigis Highland	KES 7,882,000
	Total	**KES 56,309,924**

Issue raised; the committee sought to know why throughout nominee's tenure in office, he failed to lay before the Assembly a paper on the revenue raising measures for approval in the Assembly in accordance to section 132 of the Public Finance Management Act. The committee further notes that if the paper had been laid before the assembly it would have shown the nominee's strategy as CEC finance to increase revenue and giving situational analysis together with the challenges and mitigation measures.

The committee wondered on the law currently being used by the County Treasury to levy charges since the last Finance Bill to be submitted to the County Assembly was in the year 2020. The committee posited that by failing to table the Finance Bill for the last two years, the County Treasury exposed the county to possible refusal by members of the public to pay county levies and fees.

Nominee's response; the nominee posited that he submitted Annual Development plans, County Budget Review and Outlook Paper, County Fiscal Strategy Paper and Budget Estimates containing revenue matters in them. However, committee was not convinced as the document in question was expressly provided for in section 132 of the PFM Act 2012. Upon further interrogation, the nominee stated that the Finance Bill he submitted every year to the Assembly contained all the information on revenue raising measures and therefore did not see the need to table revenue raising measures.

Hon. Speaker,

The committee, however, posited that the last time the nominee submitted a Finance Bill was 3rd March 2020 and therefore the County had been operating without a Finance Act for two years. The Nominee disputed and promised to table letters confirming that he submitted Finance Bill to the Assembly. He later submitted a letter dated 17th February 2021 which stated that the County Treasury did not intend to make any adjustments in the existing Finance Act and therefore the charges, levies, fees and rates should continue to apply.

Committee reaction, the committee notes that the nominee was unable to demonstrate a clear understanding of section 132 and 157 of the PFM Act 2012.

4.6 Receiver of Revenue

ISSUE RAISED; The committee enquired to know if the nominee complied with Section 157 (2) of the Public Finance Management Act which required the CECM for finance to appoint a Receiver of Revenue for purposes of revenue collection and IF NOT, why he failed to do so in his five-year tenure. He was also asked to give a structure of revenue collection.

Nominee's response; The nominee outlined the structure of revenue collection starting with the CEC Member for finance, then the Chief Officer, the director revenue and the deputy director revenue, revenue officers and their assistants, and finally collectors. He stated that in between, there were revenue inspectors following them.

Upon enquiry, he stated that there was no revenue director whom he had never given a letter as a receiver of revenue because it was a requirement of the law.

Committee reaction; the nominee abandoned the Director of revenue to the Chief Officer after appointing him instead of supervising his operations and output.

4.7 Pending Bills

Issue raised; Upon analysis of annual report and financial statements for the financial year 2021/2022 that was submitted to the Assembly, the committee wondered why the county had accumulated huge pending bills to a tune of **KES 884,415, 277** affecting over 300 suppliers noting that it was the highest in the last five years.

Nominee's response; the nominee confirmed that it was indeed true that the declared figure was **KES 884, 418, 277**. He posited that the County Treasury did not receive all the monies from the National Treasury at the end of the financial year. He further submitted that there were balances carried forward from the previous financial year to a tune of **KES 957, 652,250**.

He argued that pending bills was not criminal in nature, but only that one is got up with time adding that the balances brought down from the previous FY will be used to clear the suppliers and contractors. He also stated that it was always safe to establish a pending bills Committee to look into them.

Committee reaction; the nominee did not sufficiently address the root cause of a spike in pending bills.

4.8 Re-allocation of unspent balances carried forward

Issue raised; The committee notes that during the nominee's tenure, he submitted supplementary budget proposals to the Assembly with the balances brought down from the previous financial year recognized as revenue and re-budgeted afresh without any regard as to the initial programmes which were meant for posing a great financial risk and contributing to the rising pending bills. The Committee further sought to know why during the nominee's tenure, he brought supplementary bills without statements of actual expenditure.

Nominee's Response; the nominee reaffirmed that it was indeed true that he submitted at least one supplementary budget every year to capture balances carried forward but he also submits monthly, quarterly, and annual reports to the Assembly and therefore do not see any need to submit accompanying statements of explanations. On the issue of unspent balances reallocated afresh and treated as revenue, he stated that his was just a proposal to the Assembly who has the last say and whenever it sails through, it was a plus for him.

Committee reaction, the committee noted that the nominee being the principal advisor on financial matters ought to have taken a lead role to guide on financial prudence in instances where other players were on the wrong.

4.9 Under absorption of allocated Funds

Issue raised; the committee posited that analysis of the Annual report and financial statements for FY 2021/2022 the nominee submitted to the Assembly revealed a perturbing trend on absorption of funds largely affecting development expenditure. It indicated that the bank balances stood at KES **1.29 Billion**. It was also noted that service departments were doing better in absorption of funds, especially on recurrent expenditure, than the departments charged with county development. The committee was concerned that if left unabated, it will critically affect the County's attainment of its development objectives. The committee demonstrated the issue by highlighting under expenditure in Finance (48%), Economic Planning (17%) and ICT (26%) which were directly under the nominee's docket.

Nominee's response; the nominee posited that the balances were brought down from the previous FY, that some of the funds could not be spent due to delayed disbursement or got up with time due to delays by some contractors. He added that under absorption in Economic planning was due to the fact that the contractor had not qualified for payment.

4.10 County Assets

Issue raised; the nominee was interrogated on the status of County assets due to his role as principal custodian. He was asked if the County had an updated asset register and plans for disposal of assets that have outlived their shelf life. He was also asked if he prepared an asset disposal policy during his tenure.

Response; The nominee posited that the county had an updated asset register and promised to provide it in the course of the day. As promised, the nominee actually submitted an asset register alongside revenue report in the afternoon of 24th October 2022. He concurred with the committee observation that about 70% of the County Vehicles were in the garage including those used by the County Executive Committee members.

He argued that the responsibility lied with the departments since the cars alongside other county assets were devolved to the departments and it was the responsibility of the accounting officers in charge to ensure to take their cars out of the garage.

In response to the question on the disposal policy, the nominee stated that the disposal was hindered by ownership details of assets and gave examples of cars that still bear the GK number plates even after being handed over to the county government after devolution making it hard for them to be effectively disposed.

4.11 Internal Audit

Issue raised; the committee, aware that, the nominee's docket hosts Internal Audit function enquired to know the steps that he undertook to ensure that there was value for money in the projects tendered out to by the county; Examples given were; -the World Bank Project which undertook storm water project and parking yet compared to Kericho the contractor did a shoddy job and also the Chebibir – Bomet University Rd which costed KES, 67 million but only 1 Kilometer was done.

Nominee's response; the nominee reported that he respected the separation of powers as per the law and whenever required, he supplies documents to the Auditor General's office, and the arising Audit report will be tabled before the Assembly and if not satisfactory, it goes all the way to the senate.

4.12 Misapropriation of Covid-19 Funds

Issue raised; the committee posited that there was a damning report by the office of the Auditor General on how Covid-19 Funds were spent during the nominee's tenure. The Committee therefore sought to know why it could not hold him personally accountable for the wasteful utilization of funds during the period especially given that the funds were meant to protect the lives and livelihoods of the people of Bomet.

Nominee's response; In his response to questions raised on how covid-19 funds were misappropriated, the nominee stated that he did not have the Attorney General report and could not remember off head.

He further stated that that since it was a national disaster the mode of operation had to be hastened, that it was about protecting doctors. He also stated that the issue affected different department and was not fully in charge of their activities. He pointed out that it could be easier to ask questions right now but the situation was different during the pandemic.

4.13 Management of Staff

ISSUED RAISED; The committee asked the nominee to respond to the allegations that he lost control of his staff, and that towards the end, he was no longer in charge of the department and that junior staff were running the show at the Treasury. That it was further alleged that some of his officers were working in hotels and not in the office. An issue was also raised on officer's absenteeism from office.

Nominee's response; the nominee stated that there were limitations in the office but that he was in charge as the appointing authority but just like any other home, there were always naughty boys who can only be disciplined. He also argued that the issue of absenteeism perhaps relates to the electioneering period when the officers were threatened while discharging their duties.

5 COMMITTEE FINDINGS AND OBSERVATIONS

After the vetting exercise, the committee unanimously made the following findings and observations in regard to the nominee;

NO	KEY AREAS VETTED	COMMITTEE OBSERVATIONS
.	Academic Qualification	The nominee holds a Bachelor's of Arts degree from University of Nairobi having graduated in 30th November 1998. He also holds a Master's degree in Business Management and therefore, fulfilled the provision of section 35(3)(b) of the County Government Act, 2012.
.	Communication and presentation (promptness, appearance, neatness of resume/application)	The nominee exhibited knowledge and understanding of budget and finance in the public service sector. He communicated fairly on issues posted to him.
.	Education and Training (Relevant to the portfolio)	Having studied business management, statistics and economics, the nominee was found to have had relevant education and training to the portfolio.
.	Work Experience as it relates to the position	The nominee has been serving as the County Executive Committee member for Finance, ICT and Economic Planning since the year 2017. Prior to it, he served as the fund account manager under National Government

		Constituency Development Fund for various constituencies from the year 2007 to 2017. The committee therefore finds that the nominee had relevant work experience for the position.
.	Professional skills and technical skills	The nominee possesses finance and accounting skills in public service having served at senior positions in public institutions
.	Leadership and Integrity as per Chapter Six of the Constitution of Kenya, 2010.	The nominee submitted the original documents as required by the Constitution of Kenya, 2010. He therefore, satisfied the requirements as per Section 35(3)(c) of the County Governments Act, 2012.

Unique as it may look, pursuant to section 7 and section 8 of the Public Appointments (County Assemblies Approval) Act, and Section 35 of the County Government Act, 2012 and standing order 197(4), the Committee could not determine **the suitability or otherwise** of Hon. Sigei Kimutai Andrew for appointment as the County Executive Member in charge of Economic Planning, Finance and ICT since there was not majority decision reached.

The committee decision was divided in the middle since three members were of the opinion that the nominee was suitable while three other members were of the opinion that the nominee was not suitable for the appointment and gave their reasons.

The following members held the opinion that Hon. Sigei Kimutai Andrew was **not suitable** for appointment as County Executive Committee Member for Economic Planning, Finance and ICT —

(1) Hon. Eric Kirui, Committee Member

(2) Hon. Rosaline Cheptoo, Committee Member

(3) Hon. Kibet Ngetich V, Committee Member

Reasons in support of the rejection of the appointment of the Nominee

The three members posited that;

I. The nominee failed to demonstrate adequate management and problem solving skills

II. The nominee was not conversant with key statues governing Public Finance, and other guiding principles and regulations in relation to the portfolio. For instance, the members noted that the nominee was unable to demonstrate a clear understanding of section 157 of the PFM Act 2012. The structure of the revenue department setting up the county revenue receiver being responsible to the CECM in-charge of finance and thus relegating his mandate to the chief officer finance who did not have full control as provided for by PFM act 2012.

III. The nominee was unable to provide real and practical solutions on a number of issues faced in the department. The members noted that he was quite evasive and non-committal on issues he was uncomfortable with. Areas the committee found not to have been satisfactorily addressed included submission of revenue raising measures and delayed submission of Finance Bill.

IV. The nominee failed to address the issue of growing pending bills over the last five years. The pending bills grew from KES. 500Million to a whooping KES. 884,418,277 during his tenure as the CECM for finance and economic planning. He even without a flinch, said that pending bills were not criminal whereas this figure is equivalent to 45% of the county's annual development budget.

V. The nominee being the principal advisor on financial matters failed to take a lead role on financial prudence. All the county departments faced budget modifications through supplementary budgets that were done more than twice every year. The principle of fiscal discipline in the county departments was not observed neither was it impressed upon departments during his tenure.

VI. The Nominee for two consecutive financial years failed to submit to the County Assembly Finance bill for the last 2 financial years and NEVER in the last five years made pronouncement of the Revenue raising measures to the County Assembly as per requirement of section 132 PFM act 2012.

VII. The Nominee was not able to convince the committee on whether the county was able to get value for money on the Revenue collection and management system acquired by the county in the FY2018/2019. In fact, the revenues from the time the RCMS was acquired plummeted continuously for the Years to date. The Nominee on this Further misled the committee by saying that the service provider on revenue collection management system pulled out of the contract; however, a letter dated 13th May 2022 submitted to the committee confirmed that the department wrote to the service Provider requesting for contract extension for a period of one year pending payment of the money owed to the service provider corroborated by another letter dated 12th May 2022, which was a commitment letter to pay the pending dues. The contract value was KES. 58, 963,063 and by then the county had paid KES. 41,304,496 leaving a balance of KES 17,658,597. Subsequently the service provider may have pulled down the system due the said balances.

VIII. The Nominee showed lack of understanding on the role of the CEC in-charge of Finance and Economic Planning because all his questions, were short of shifting blame to the appointing authority by every time saying that; "The Office had its own limitations……", "That he wouldn't supervise colleagues" ….. That he wasn't aware that very sensitive tasks like paying the suppliers were being paid made in hotels in Bomet Town and outside.

IX. The Nominee further failed to convince the committee on why he had not replaced his token for the Internet banking (IB) that could manage rights of the users on the IB Platform and those of the IFMIS Platform.

X. On the Issue of enabling legislations for the county to aid in revenue management system Such as Trade Licensing Act and Revenue Administration. The Nominee instead posed questions to the committee and acted as though these legislations were not important to the achievement of the overall objective of achievement of own 34 source revenue targets, he instead chose to describe the failure to achieve revenue targets as "unfair to set targets that can easily be achieved" further painting himself as an aloof manager of the County Treasury.

XI. The nominee was not able to explain to the committee on the status of the valuation roll which had been budgeted in the FY2018/2019, and the money was spent and the final documentation that would help the county government develop a bill on valuation for rating, thus enhancing the current revenues received through land rates.

The following members held the opinion that Hon. Sigei Kimutai Andrew was **suitable** for appointment as County Executive Committee Member for Economic Planning, Finance and ICT —

(1) Hon. Paul Kirui, Committee Member

(2) Hon. Stephen Chang'morik, Committee Member

(3) Hon. Leonard Rotich, Committee Member

Reasons in support of the Appointment of the Nominee The three members posited that;

I. The nominee had pre-requisite experience and knowledge to run the docket

II. The nominee has steered the County Treasury successfully enabling to obtain qualified Audit report-since 2017/2018 to date up from previous disclaimers.

III. That from the qualified report, the County was awarded Investment funds by Kenya Devolution Support Programme (KDSP) -which are currently being used to put up the Mother and Child Hospital at Longisa (Dr.Joyce Labour Memorial)

IV. No person, body or organization submitted any memoranda to challenge the nomination of Hon. Sigei Kimutai Andrew during the approval hearing.

V. Challenges and limitations faced by the nominee while discharging his duties were outside his control and therefore the nominee cannot exclusively take the blame.

VI. The second Assembly's failure to fully discharge its oversight role gave the County Executive member for Finance a clean bill to run the affairs of the County Treasury the way he deems fit.

VII. Entrenched participatory Budget making process in all departments. The citizens of Bomet County are now participating in the allocation of resource envelop. Participatory budget making has yielded strengthening of Public Participation and Civic Education department which is now fully fledged Department.

VIII. The nominee scored above average on the aggregated marks awarded by the committee members indicating that he generally managed to convince the members.

IX. Through Hon. Sigei's leadership, the monitoring and evaluation of projects has been Strengthened and now in the process of fully being digitalized. This was recognized by State Department of Planning through an Award in this year's National M&E week at Tom Mboya college-Kisumu

X. He had strong negotiation skills helpful to the docket he is nominated for. Through Hon. Sigei's Leadership with the advice of the Governor and approval of County Assembly, the Proposal of the Mother and Child Hospital was approved by the World Bank team and is now under construction.

XI. The Finance and Economic Planning Department has been submitting on timely basis the County Projects Implementation Status reports to the Controller of Budget which allows approval and disbursements of County Funds.

XII. Since 2018, all the County Plans i.e CIDP, County Annual Development Plans, County Fiscal Strategy Paper and Budgets, has been completed and submitted to County Assembly on time.

XIII. Debt management has improved and hence bills to the County has reduced.

XIV. From his personality, he is a Team Builder at Cabinet level

XV. Has continued to uphold the rule of law, high Ethical and Integrity Standards with a clear understanding of Government processes and Procedures

6 COMMITTEE RECOMMENDATIONS

Hon. Speaker,

Honorable Members, having adhered to the approval hearing pursuant to section 7 of the Public Appointments (County Assemblies Approval) Act, and Section 35 of the County Government Act, 2012 and standing order 197(4), but based on the committee's sharply divided findings and observations as to the suitability of the nominee resulting in a tie, the Committee **recommends** that this House on its own merit **determines** the **approval** of Hon. Sigei Kimutai Andrew to the position of the County Executive Committee Member for Economic Planning, Finance and ICT.