

REPUBLIC OF KENYA



BOMET COUNTY ASSEMBLY



**REPORT OF THE SPECIAL COMMITTEE ON THE
REMOVAL OF CHAIRMAN, SECRETARY AND MEMBERS
OF THE COUNTY PUBLIC SERVICE BOARD**

JULY, 2014



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PREFACE

Mr. Speaker Sir,

Honourable Members will recall that Honourable John Ngetich gave Notice and moved the following Motion on 17th of June 2014;

THAT aware that Section 57 of the County Governments Act, 2012 establishes a County Public Service Board for each County and also aware that Section 59(1) provides that the functions of the County Public Service Board shall be, on behalf of the County government to, (a) establish and abolish offices in the County Public Service and (b) appoint persons to hold or act in offices of the County Public Service including in the Boards of Cities and Urban areas within the County and to confirm appointments and (c) promote in the County Public Service the values and principles referred to in Articles 10 and 232 of the Constitution; also aware that Section 65(1) of the County Governments Act provides that in selecting candidates for appointment, the County Public Service Board shall consider (a) the standards, values and principles set out in Articles 10, 27(4), 56(c) and 232(1) of the Constitution; further aware that the Chairperson, Secretary and Members of the Bomet County Public Service Board out of gross misconduct and in serious violation of the Constitution and /or incompetence has failed to promote in County Public Service, the values and principles set out in Articles 10 and 232 of the Constitution particulars of which are found in the report of the Committee of Labour and Public Service on the Report of the County Public Service Board for the period ending 31st December 2013 tabled in the House on the 10th of June 2014; deeply concerned that serious violation of the Constitution and gross misconduct will continue if the said officers continue to serve in office; this House do resolved that pursuant to Section 58(5)(a) of the County Governments Act, 2012, the Chairperson, Secretary and Members of the Bomet County Public Service Board be removed from office.

The Motion was seconded and overwhelmingly supported by majority of the Members of the County Assembly which was evident from the vote taken during that sitting.

Honourable Members will also recall that the Honourable Speaker of the Assembly, by way of a Communication from the Chair made a ruling on the 25th of June 2014 during the morning sitting regarding the procedure for removal from office the, Chairperson, Secretary and Members of the County Public Service Board, this arose as a result of several requests from the floor of the House by the Honourable Members seeking the direction and guidance of the Chair as to the Procedure for removal of the said Chairperson, Secretary and the Members of the Bomet County Public Service Board. The Speaker invoking his powers bestowed upon him under Standing Order N0.1 of our Standing Orders ruled and directed that the procedure provided for the removal of the Executive Committee Members under Standing Order 64 be followed in the removal of the Chairperson, Secretary and the Members of the Bomet County Public Service Board since the Standing Orders and Section 58(5) of the County Governments Act is silent on the same. This as per the wisdom of the Speaker would also give an opportunity to the said Officers of the right to be heard as is stated under Standing Order 65 of our Standing Orders and Article 50 of the Constitution as to attributes a fair hearing. It would also accord the said Officers an opportunity of legal representation as a matter of choice under Article 50(2) (g) of the Constitution and Standing Order 65(1) (a).

Mr. Speaker Sir,

Hon. John Ngetich gave Notice of and moved the following Motion-

THAT WHEREAS Pursuant to Article 251(1) of the Constitution of Kenya and Section 58(5)(a) of the County Governments Act 2012, on the 17th of June 2014, this County Assembly approved a Motion to remove the Chairperson, Secretary and the Members of the Bomet County Public Service Board;

AND FURTHER WHEREAS the Speaker of the County Assembly vide his Ruling and Direction on the 17th of June 2014 directed and ruled that the procedure provided for the removal of the Member of County Executive Committee in Standing Order 64 of our County Assembly Standing Orders be followed in the removal of the Chairperson, Secretary and the Members of the County Public Service Board;

AND WHEREAS Pursuant Standing Order 64(6), the County Assembly shall within seven (7) days appoint a special Committee comprising a third of the Members to investigate the matter;

NOW THEREFORE, Pursuant to Standing Order 64(6) of the County Assembly Standing Orders, this County Assembly resolves to establish a Special Committee comprising of the following Members-

1. Hon. Samwel Bor
2. Hon. Taplelei Rotich
3. Hon. John Molel
4. Hon. Julius Korir
5. Hon. Joyce Korir
6. Hon. Evaline Chepkemai
7. Hon. Hellen Chepkirui
8. Hon. Robert Serbai
9. Hon. Stephen Changmorik
10. Hon. Sammy Chelule
11. Hon. Samson Towett
12. Hon. Sammy Kirui
13. Hon. Benard Ngeno

to investigate the proposed removal of the Chairperson, Secretary and Members of the Bomet County Public Service Board and to give effect to **Standing Order 65** of the County Assembly Standing Orders on the **right to be heard** and report to the County Assembly within ten (10) days of its appointment on whether it finds the particulars of the allegations against the Chairperson, Secretary and the Members of the Bomet County Public Service Board to have been substantiated.

Mr. Speaker Sir,

Standing order 64(6) of the Assembly Standing Orders mandates the Special Committee to-

(a) investigate the matter; and

(b) report to the Assembly within ten days on whether it finds the Particulars of the Allegations against the chairperson, Secretary and the Members of the County Public Service Board to have been substantiated.

The Committee, in the execution of its mandate, was guided by the provisions of the County Governments Act 2012, the Constitution and its own rules of procedure.

Mr. Speaker Sir,

The Special Committee held its first meeting on the afternoon of Saturday, 28th June, 2014, immediately following its establishment. Pursuant to Standing Order 160, owing to the urgency of the matter at hand, at that meeting, the Committee conducted the election of its Chairperson and Vice-Chairperson. Hon. Sammy Kirui and Hon. Samson Towett were elected to the positions of Chairperson and Vice-Chairperson, respectively.

Mr. Speaker Sir,

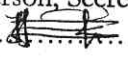
Article 47 of the Constitution and Standing Order 65(1)(a) of the Assembly Standing Orders gives a person a right to appear and be represented before the Special Committee during its investigations. Pursuant to these provisions of the law, the Committee invited the Chairperson, Secretary and Members of the County Public Service Board to appear and be represented before the Committee. All elected to appear in person and represent themselves during the proceedings.

Mr. Speaker Sir,

The Committee wishes to thank the Offices of the Speaker of the Assembly and the Clerk of the Assembly for the support extended to the Committee in the execution of its mandate. The Committee further extends its appreciation to the parties to the matter; namely, the County Assembly Staff for their technical support and the Chairperson, Secretary and Members of the Bomet County Public Service Board for their eloquent submissions in this matter. The Committee also appreciates the media for the coverage of its proceedings during the course of the investigations. Further, the Committee acknowledges the Members of the public who expressed great interest in the proceedings, sitting through the hearings as they keenly followed the proceedings in the matter.

Mr. Speaker Sir,

It is now my pleasant duty and privilege, on behalf of the Special Committee, to present to the Assembly, this Report of the Special Committee on the Proposed Removal from Office, the Chairperson, Secretary and Members of the Bomet County Public Service Board.

SIGNED:.....

Hon. Sammy Kirui.

(CHAIRPERSON)

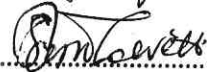
DATE.....16/07/2014.....

We Members of the Special Committee on the removal from office the chairman, secretary and members of the CPSB do hereby affix our signatures to this report to affirm the correctness of the contents and support for the report:-

(i) The Hon. Sammy Kipsiele



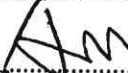
(ii) The Hon. Samson Towett



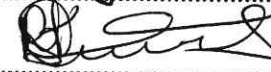
(iii) The Hon. Joyce Korir



(iv) The Hon. John Molel



(v) The Hon. Robert Serbai



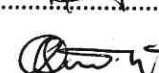
(vi) The Hon. Evaline Chepkemoi



(vii) The Hon. Benard Ngeno



(viii) The Hon. Stephen Changmorik



(ix) The Hon. Sammy Chelule



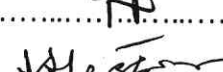
(x) The Hon. Samwel Bor



(xi) The Hon. Hellen Chepkirui



(xii) The Hon. Taplelei Rotich



(xiii) The Hon. Julius Korir



INTRODUCTION

Background

1. Pursuant to Section 58(5) of the County Governments Act, 2012 on 24th June, 2014, the County Assembly approved a Motion "to remove from office, the Chairman, Secretary and Members the County Public Service Board by impeachment,".

2. **Article 58(5) of the County Governments Act** provides as follows-of the County Governments Act which provides that Members of the County Public Service Board may be removed from office on grounds set out for the removal of Members of a Constitutional Commission under Article 251(1) of the Constitution and by a vote of not less than seventy five percent of all the Members of the County Assembly.

Method of Work

In the execution of its mandate, the Committee conducted a number of activities which are set out below-

Meetings of the Special Committee

The Special Committee held its first meeting on the afternoon of Friday, 3rd July, 2014, immediately following its establishment. Pursuant to the communication of the Hon. Speaker and ,owing to the strict timelines attached to the execution of the mandate of the Special Committee, at its first meeting conducted the election of the Chairperson and Vice-Chairperson of the Committee. Hon. Sammy Kirui was elected as the Chairman of the Committee while Hon. Samson Towett was elected as the Vice-Chairman of the Committee.

Indicative Programme of Events

Following the conduct of the election at the first meeting of the Committee, the Committee considered an Indicative Programme of Events.

The Committee observed that in terms of the communication of the Hon. Speaker, the Committee had only ten days within which to investigate the matter in respect of the proposed removal of the Chairman, Secretary and Members of the County Public Service Board and thereafter to report to the Assembly on whether it found the particulars of the allegations against the Chairman, Members and Secretary to the County Public Service Board to have been substantiated.

It was evident to the Committee, at that early stage, that bearing in mind the nature of the proceedings anticipated in the hearing for the proposed removal from office, the Chairman, Secretary and Members of the County Public Service Board, the Committee had the onerous task of ensuring that the timelines set by the Hon. Speaker were adhered to.

Rules of Procedure for the Investigation into the Proposed Removal from Office of a Chairman, Secretary and Members of the County Public Service Board

It was noted that Section 58(5) of the County Governments Act, 2012 and Standing Order 64 of the Assembly Standing Orders did not provide sufficient detail on the procedure to be followed by the Special Committee in the conduct of its investigation. It was noted that the Special Committee required Rules of Procedure for the Investigation into the Proposed Removal from Office, the Chairman, Secretary and Members of the County Public Service Board.

The Committee therefore drafted and adopted the Rules of Procedure for the Investigation into the Proposed Removal from Office, the Chairman, Secretary and Members of the County Public Service Board. The Rules regulated the procedure of the Committees on a number of critical matters in respect of which the County Governments Act, 2012 and the Standing Orders were silent.

Invitations to Appear

The Committee observed that Standing Order 64 of the Assembly Standing Orders provides that "a person shall have the right to appear and be represented before the Special Committee during its investigations".

The Committee further observed that in the interests of justice, it would also be necessary to summon, on behalf of the Chairperson, Secretary and Members of the County Public Service Board, any other person to appear before the Committee to produce further evidence, if any, be it written or oral evidence, if the Chairman, Secretary and Members of the County Public Service Board so desired.

Having made these observations, and taking into account the limited time available, at its meeting held on 3rd July, 2014, the Committee resolved to invite the Chairman, Secretary and Members of the Public Service Board to appear before the Committee for the hearing of the evidence. Copies of the Invitations to Appear were duly served to the parties and all parties appeared in person.

In the Invitation to Appear, the Chairman, Secretary and Members of the County Public Service Board were requested to indicate whether they would exercise their right to appear before the Committee. If they chose to exercise that right, the Chairman, Secretary and Members of the County Public Service Board were informed that they would be required, by 10.30 am on 7th June, 2014, to file an answer to the charges with the Office of the Clerk of the

Assembly in which the Chairman, Secretary and each Member of the County Public Service Board would set out-

- (a) their respective responses to the Particulars of the Allegations;
- (b) how they each proposed to appear before the Special Committee; whether in person, by Advocate, or in person and by Advocate;
- (c) the names and addresses of the persons to be called as witnesses, if any, and witness statements containing a summary of the evidence to be presented by such witnesses before the Committee; and
- (d) any other evidence to be relied on.
- (e) a list of persons that they would each request the Special Committee to summon on their behalf.

The Conference of Parties

The Conference of Parties was held on 7th July, 2014. This provided the opportunity for the formal introduction of the Chairman, Secretary and Members of the County Public Service Board to the Special Committee. At that meeting, the Chairman, Secretary and Members of the County Public Service Board were taken through the Rules of Procedure which they were all contented with. The meeting also set out to draw a schedule of appearance.

The Chairman, Secretary and Members of the Public Service Board all indicated that they would appear in person. They also indicated that they had no witnesses of their own but they requested that a group of persons be summoned to shed light on some charges against them. The persons to be summoned were common to the Chairman, Secretary and Members of the County Public Service Board.

Also during the Conference of Parties, the Committee requested the Chairman, Secretary and Members of the County Public Service Board to furnish the Committee with a list of documents. The Chairman, Secretary and Members of the County Public Service Board did not object to the production of the documents.

In the evening of 7th July, 2014, the Chairman, Secretary and Members of the Public Service Board filed with the Office of the Clerk of the Assembly a document titled "Written Response to Charges".

On the 8th of July 2014, summons were despatched to the County Secretary, Mr. Jonathan Soi, Mrs. Ann Turgut, the Human Resources Director, Mr. Kilelson Mutai, the Chief Officer Trade and Tourism and Ms. Rose Kositany. The summons indicated the particulars of some charges against the Chairman, Secretary and Members of the County Public Service Board which each of the summoned persons were required to shed light on.

Schedule of Appearance

As per the conference of parties held at the County Assembly Chamber on the 7th of July 2014, the agreed schedule of appearance was as follows:

1. Mr. Paul Kimetto
2. Ms. Winnie Maina
3. Ms. Judith Siele
4. Amb. Joshua Terer
5. Ms. Eunice Benson
6. Ms. Joseph Rono
7. Mr. Philip Tonui

However, due to unavoidable circumstances the hearings were rescheduled with the consultation with the respondents. As a result of the changes, the schedule of appearance was reorganised as follows;

1. Mr. Paul Kimetto,
2. Ms. Winnie Maina,
3. Ms. Judith Siele
4. Ms. Eunice Benson,
5. Mr. Joseph Rono,
6. Amb. Joshua Terer
7. Mr. Philip Tonui.

THE HEARING

As a point of departure, the Special Committee noted that the removal proceedings against Public Officers are quasi-judicial in nature. The procedure to be followed in this particular case was therefore similar to that in a criminal trial with the following elements present-

- (i) charges are framed and put to the Chairman, Secretary and each Member of the County Public Service Board;
- (ii) the Chairman, Secretary and each Member of the County Public Service Board pleads to the charges;
- (iii) evidence is adduced against the Chairman, Secretary and each of the Members of the County Public Service Board;
- (iv) the Chairman, Secretary and each Member of the County Public Service Board defends themselves against the charges;
- (v) the Committee decides whether the charges have been substantiated; and
- (vi) the County Assembly decides whether to remove the Chairman, Secretary and Members of the County Public Service Board or not.

THRESHOLD FOR THE COMMITTEE'S FINDINGS

A hearing for proposed removal from office is a unique process because it is a hybrid. It is both quasi-judicial and quasi-political. It is neither a civil case nor a criminal case. A criminal case is designed to punish an offender and to seek retribution. In contrast, removal from office is the first step in a process that tries to remedy a wrong in governance. The purpose of removal from office through impeachment is not personal punishment, but rather to maintain constitutional government, through the removal of an unfit official from a position of public trust.

The Committee notes that by approving the Chairman, Secretary and Members of the County Public Service Board to hold office in the County Public Service Board, the Assembly found them qualified and capable to act in those positions. That right to hold office is however subject to the provisions of Section 58(5) of the County Governments Act which provides that Members of the County Public Service Board may be removed from office on grounds set out for the removal of Members of a Constitutional Commission under Article 251(1) of the Constitution and by a vote of not less than seventy five percent of all the Members of the County Assembly. The grounds under Article 251 include serious violation of the Constitution or any other Law and gross misconduct, whether in the performance of the Member or office holder's functions or otherwise.

Therefore, what is the threshold or standard of proof for gross violation required for the removal of the Chairman, Secretary and Members of the County Public Service Board from office?

The Committee considered whether the appropriate standard of proof in this particular removal proceedings should be one that is beyond reasonable doubt as it is the nature in criminal trials or that of preponderance of evidence as required of civil trials. In considering the appropriate standard, the Committee observed that by vesting the removal authority of the County Public Service Board in the politically accountable authority of the County Assembly, the drafters of the County Governments Act, 2012 deliberately chose to leave the difficult questions of removal in the hands of State Officials well versed in pragmatic decision making. Members of County Assembly are pragmatists who can be expected to decide or resolve issues, including the appropriate tests, by recourse to practical rather than formalist, calculations. The vesting of impeachment authority in political branch of the County Assembly necessarily implies the discretion to take various factors, including possible consequences, into consideration in the course of exercising such authority.

The Committee also further notes that the Chairman, Secretary and Members of the County Public Service Board as human beings cannot always be right and they cannot claim to be always right. That explains why Section 58(5) as read with Article 251 of the Constitution talks about gross violations. Accordingly, where a misconduct is not gross, then Section 58(5) weapon of removal is not available to the County Assembly.

After much consideration, the Committee declined to use the beyond reasonable doubt standard. It was observed that the standard was a very high standard designed to protect criminal defendants who risked forfeitures of life, liberty and property. Such a standard was considered inappropriate because the County Governments Act, 2012 limits the consequences of the Assembly's decisions to removal from office. It therefore explicitly preserves the option for a subsequent criminal trial in the courts. Accordingly, the Committee decided to use the preponderance of evidence standard. Thus, an overwhelming preponderance of the evidence standard comes perhaps as close to denoting the chosen standard by the Committee.

Indeed, such a standard is perhaps most useful in highlighting basic questions that honourable Members of the Committee will want to ask themselves in considering whether a respondent's misconduct constituted "a violation" or "a gross violation". This pragmatic analysis will entail balancing various practical considerations or factors, including the magnitude of harm that a respondent's conduct has caused the people of Bomet County or the Constitutional Order, the nexus between a respondent's duties and his/her misconduct and other possible avenues of

redress. This is in contrast with the formalist analysis that would have been employed under a rigid standard dependant on extremely well-defined elements of offences, such as treating every violation of the law or every breach of the public trust as justifying removal.

THE HEARING OF PAUL KIMETTO

Mr. Paul Kimetto appeared for hearing on the 8th of July.

Reading of the Charges

Pursuant to the Rules of Procedure for the Investigation into the Proposed Removal from Office, the Chairman, Secretary and Members, the hearing of Mr. Paul Kimetto commenced with the reading out, verbatim, of the Particulars of the Allegations against Mr. Paul Kimetto. However, before the charges were read out to him, the Special Committee Chairman brought to his attention an intended amendment to charge two. Article 232 was misspelt as 231 due to typing error though it was evident that the particulars dealt with 232. Mr. Kimetto did not object to the amendment.

The Charges are against Mr. Kimetto were as follows;

Charge One: Gross Violation of the County Governments Act, 2012

The following were the specific matters canvassed under this Charge-

- a) *Unlawfully and unprocedurally recruiting personnel and creating Offices in the County Public Service contrary to the provisions of Sections 59, 60 and 62 of the County Governments Act, 2012.*

Particulars

That Mr. Kimetto jointly and severally as a Member of the County Public Service Board breached the law with wanton abandon by recruiting personnel to Offices in the County Public Service that were neither established by the County Public Service Board nor approved by the County Assembly as required by the law. Some of the Offices which were irregularly and unprocedurally established that were captured in the report of the County Assembly Committee on Labour and Public Service include-

- *One extra Ward Administrator Coordinator*
- *15 Administrators.*
- *Executive Drivers*

- b) *Unlawfully and intentionally failing to observe fairness, transparency and County diversity in the recruitment of County Staff contrary to Section 65 and 66 of the County Governments Act, 2012.*

Particulars

That Mr. Kimetto jointly and severally as a Member of the County Public Service Board disregarded fairness, transparency and county diversity in the recruitment of county personnel by failing to recruit individuals from certain quarters of the County despite conducting large recruitment exercises.

That Mr. Kimetto further jointly and severally as a Member of the County Public Service Board took decisions not to widely publicise Public Offices to be filled so as to invite applications from a wide population of potential Applicants as required by the law. A case in point is the unprocedural regularisation of Drivers which was done without any advertisements and the unlawful and unnecessary recruitment of a twenty-sixth Ward Administrator.

That Mr. Kimetto further jointly and severally as a Member of the County Public Service Board disregarded experience, qualifications and fair competition in the recruitment of personnel to the County Public Service by recruiting individuals who had never applied nor were shortlisted for certain positions but ended up being recruited nevertheless.

- c) *Unlawfully and intentionally permitting persons to unprocedurally and irregularly hold or act in Offices of the County Public Service without taking any corrective measures contrary to Section 64(5) as read with Section 75 of the County Governments Act, 2012.*

Particulars

That Mr. Kimetto jointly and severally as a Member of the County Public Service Board knowingly allowed certain individuals in the county to continue to purport to be Chief Officers or continue to purport to act in the Office of Chief Officers for a long period of time while fully aware that none of these individuals has been approved by the Assembly as required by law.

That Mr. Kimetto further jointly and severally as a Member of the County Public Service Board intentionally failed to take any corrective action regarding persons serving in Office contrary to the law despite having knowledge of the irregularities

Responses

Mr. Kimetto, in his response to the allegations against him, first started by indicating the matters in question happened prior his joining the County Assembly Board. He tendered his appointment letter as evidence that he joined the County Public Service Board in February of 2014. It was marked as "EXB 1A". Mr. Kimetto therefore testified that he was neither involved in the report writing nor any decisions made by the County Public Service Board prior his joining the Board.

Despite his denials, Mr. Kimetto did concede that a mistake was made by the Board in hiring the extra Ward Administrator hence proposed corrective measures to cure the anomaly as provided for under Section 75 of the County Governments Act. He indicated that the Board in one of its meeting held on 6th through 7th September, 2013 sat and agreed to revoke their decision of hiring the 26th Ward Administrator. He was however not sure whether this decision was communicated to the County Secretary.

Observations and findings of the Committee

The Committee notes that Mr. Kimetto was not present during the appointment of an extra Ward Administrator. He was similarly not present during the regularisation of the drivers. There was also no evidence available to the Committee to indicate that Mr. Kimetto knew of any persons apart from the two individuals approved by the County Assembly acting in the Offices of Chief Officers. As a result, the Committee found the charge of gross violation of the County Governments Act against the Mr. Kimetto was not substantiated.

Charge Two: Gross Violation of the Constitution and the leadership and Integrity Act, 2012

a) Unlawfully and intentionally failing to observe the National Values and the guiding principles of leadership and integrity in the running of the County Public Service contrary to Article 10 (2) (c) and 73(2) of the Constitution.

Particulars

That Mr. Kimetto jointly and severally as a Member of the County Public Service Board in collusion with the Office of the County Secretary unprocedurally made appointments of extra Administrators by "agreeing" to appoint Administrators from the list of unsuccessful applicants for the position of Ward Administrators and that you further made clandestine arrangements to regularise the appointments of other County Staff including drivers.

b) Unlawfully and intentionally failing to observe the values and principles of Public Service that includes the efficient and effective use of resources, accountability for Administrative Acts and the provision of accurate information as the basis of appointment contrary to article 232 of the Constitution.

Particulars

That Mr. Kimetto jointly and severally as a Member of the County Public Service Board acquiesced to the unlawful drawing of salaries and benefits from the County Treasury by participating in the recruitment of excess personnel whose Offices are not lawfully established and allowing individuals who are not properly in Office of Chief Officers to go on serving in the County Public Service thus leading to the inefficient use of County Resources and unnecessarily burdening the County's already increasing wage bill.

- d) *Unlawfully failing to carry out the duties of the Office of Member of the County Public Service Board with honesty, failing to keep accurate records and documents relating to the functions of the County Public Service Board and failing to report truthfully on all matters of the County Public Service Board contrary to Section 10 of the Leadership and Integrity Act, 2012*

Particulars

That Mr. Kimetto jointly and severally as a Member of the County Public Service Board in your report to the County Assembly made deliberate attempts to mislead the Assembly by giving wrong spellings to Administrative Units within the County and even included non-existent Ward Units from which you purported to have recruited County Staff in order to cover up excessive recruitment from certain areas of the county to the detriment of other areas within the County.

That Mr. Kimetto further jointly and severally as a Member of the County Public Service Board denied knowledge of irregular appointments of unsuccessful applicants to the Office of Ward Administrators to other offices in the Public Service by uttering information before the County Assembly's Committee on Labour and Public Service that was later concluded to be false after the County Secretary tendered official written correspondence with County Public Service Board to the contrary.

Responses

In response to the above charge, Mr. Kimetto stated that the Board never participated in making any decisions in hiring of extra 15 Ward Administrators. He further indicated that, as far as he was concerned, no consultations had taken place between the Board and the Office of the County Secretary regarding the appointment of the 15 extra Administrators.

Mr. Kimetto also told the Committee that there were only two active Chief Officers; Mr. Kilelson Mutai and Eng. Simon Korir who had been approved by the Assembly and that he was not aware of any acting Chief Officer.

Observations and findings

The Committee noted that Mr. Kimetto was not present during the recruitment of the extra Administrators. The Committee also did not find any evidence that Mr. Kimetto was aware of the excess Administrators drawing salaries nor was he aware of any unapproved persons serving as Chief Officer. Ultimately, a charge of gross violation of the Constitution and the leadership and Integrity Act, 2012 against Mr. Kimetto could not be substantiated.

Charge Three: Incompetence to Hold Office in the County Public Service Board

Particulars

That Mr. Kimetto jointly and severally as Member of the County Public Service Board committed numerous serious violations of the law as has been set out above despite the clarity of the provisions of the Part VII of the County Governments Act, 2012 concerning the functions and powers of the County Public Service Board. Consequently, a reasonable person can only reach the conclusion that the as a Member of the County Public Service Board, Mr. Kimetto is not conversant with the legal framework of his mandate and is thus incompetent and unfit to hold Office as Member of the County Public Service Board.

Furthermore, the report submitted by Mr. Kimetto jointly with the other Members of the County Public Service Board to the County Assembly was inadequate in very many respects as it had several errors regarding the names of Administrative Units. One would expect a Member of the County Public Service Board to be keen on details such as the proper names and designations of Administrative Units in the County by virtue of task given to him to manage the County Public Service on behalf of the County government. Moreover, the report submitted to the County Assembly also left out crucial information required of such a report within the criteria set out in Section 59 of the County Governments Act, 2012. A reasonable person can thus only reach a conclusion of incompetence on Mr. Kimetto as a Member of the County Public Service Board.

Further, the submitted report by Mr. Kimetto and other Board Members to the Assembly was also clear evidence that the County Public Service Board never maintains a definitive record of all applications received in response to advertisements which record could be easily available for inspection. As a consequence to this poor record keeping, the record of Applicants presented in the report was jumbled and had many omissions. Such errors and omissions are not expected of a professionally and competently administered County Public Service Board

Responses

Mr. Kimetto denied the charge reiterating the he was a new Member of the Board. He however regretted the shortcomings of the Board by pointing out that as a Member of the Board, he would take collective responsibility.

Observation and Findings of the Committee

Upon questioning on the roles and functions of the County Public Service Board, the Committee observed that Mr. Kimetto was not fully conversant with the role and functions of the County Public Service Board as set out in the County Governments Act, 2012. The Committee however appreciated that Mr. Kimetto was relatively new to his current assignment at the County Public Service Board and thus was expected that he was still familiarising himself with the Office.

On the report submitted by the Board, it was noted that Mr. Kimetto was barely two weeks old in service and could thus not be expected to have fully participated in the writing of the report.

On the records of the County Public Service Board, the Committee was informed that it was the role of the Secretariat headed by the Secretary that was charged with record keeping. As a result, Mr. Kimetto was not involved in record keeping.

On the charge of incompetence against Mr. Paul Kimetto, the Committee came to the finding that the charge of incompetence was not substantiated.

HEARING OF WINNIE MAINA

Ms. Winnie Maina appeared for hearing on the 8th of July.

Reading of the Charges

Pursuant to the Rules of Procedure for the Investigation into the Proposed Removal from Office, the Chairman, Secretary and Members, the hearing of Ms. Maina commenced with the reading out, verbatim, of the particulars of the allegations against each Member of the County Public Service Board. However, before the charges were read out to her by the Special Committee, the Committee brought to Ms. Maina's attention an amendment to charge two. Due to a typing error, Article 232 was misspelt as 231 though it was evident that the particulars dealt with 232. Ms. Maina did not object to the amendment.

Charge One: Gross Violation of the County Governments Act, 2012

The following were the specific matters canvassed under this Charge-

- e) *Unlawfully and unprocedurally recruiting personnel and creating Offices in the County Public Service contrary to the provisions of Sections 59, 60 and 62 of the County Governments Act, 2012.*

Particulars

That Ms. Maina jointly and severally as Member of the County Public Service Board breached the law with wanton abandon by recruiting personnel to Offices in the County Public Service that were neither established by the County Public Service Board nor approved by the County Assembly as required by the law. Some of the Offices which were irregularly and unprocedurally established that were captured in the report of the County Assembly Committee on Labour and Public Service include-

- *One extra Ward Administrator Coordinator*
- *15 Administrators.*
- *Executive Drivers*

- f) *Unlawfully and intentionally failing to observe fairness, transparency and county diversity in the recruitment of County Staff contrary to Section 65 and 66 of the County Governments Act, 2012.*

Particulars

That Ms. Maina jointly and severally as a Member of the County Public Service Board disregarded fairness, transparency and county diversity in the recruitment of county personnel by failing to recruit individuals from certain quarters of the County despite conducting large recruitment exercises.

That Ms. Maina further jointly and severally as a Member of the County Public Service Board took decisions not to widely publicise Public Offices to be filled so as to invite applications from a wide population of potential Applicants as required by the law. A case in point is the unprocedural regularisation of drivers which was done without any advertisements and the unlawful and unnecessary recruitment of a twenty-sixth Ward Administrator.

That Ms. Maina further jointly and severally as a Member of the County Public Service Board disregarded experience, qualifications and fair competition in the recruitment of personnel to the County Public Service by recruiting individuals who had never applied nor were shortlisted for certain positions but ended up being recruited nevertheless.

- g) *Unlawfully and intentionally permitting persons to unprocedurally and irregularly hold or act in Offices of the County Public Service without taking any corrective measures contrary to Section 64(5) as read with Section 75 of the County Governments Act, 2012.*

Particulars

That Ms. Maina jointly and severally as a Member of the County Public Service Board knowingly allowed certain individuals in the County to continue to purport to be Chief Officers or continue to purport to act in the Office of Chief Officers for a long period of time while fully aware that none of these individuals has been approved by the Assembly as required by law.

That Ms. Maina further jointly and severally as a Member of the County Public Service Board intentionally failed to take any corrective action regarding persons serving in Office contrary to the law despite having knowledge of the irregularities

Responses

Ms. Maina, in her response to the allegations against her denied the charges. Ms. Maina acknowledged that indeed as a Board Member, she violated the law by participating in hiring of the extra Ward Administrator without following the due process. She informed the Committee that vide the minutes of 6th and 7th of September, 2013, the Board agreed to revoke its decision by

curing the irregularity in hiring the 26th Ward Administrator as provided for under Section 75 of the County Governments Act, 2012. However, she admitted that after arriving at its decision, the Board never took measures to ensure that its decision was implemented.

Ms. Maina denied to having played any part in the hiring of the extra 15 Ward Administrators. She testified that this was done without the Board being consulted. She however, admitted that a list of names from the shortlisted candidates of no. 2 and no. 3 for the position of Ward Administrators was forwarded to the County Secretary for purposes of record keeping and reference

Ms. Maina testified that the Board took corrective measures by regularizing the drivers that were employed by the County Executive Committee Members Known as the Executive drivers. The drivers, she said, had temporary appointment letters and required confirmation in order for them to be effective in their job. She stated that the Board decided to take them through suitability interviews and thereafter validated them. Ms. Maina agreed with the Committee Members that the fact that there were no interviews conducted hence the process was not competitive and fair.

The respondent testified knowing only two Chief Officers and was not aware of any Acting Chief Officer.

Observations and findings of the Committee

As a point of departure, the Committee noted that Section 51 of the County Governments Act, 2012 establishes an Office of Ward Administrator for each Ward. Bomet County presently has 25 Wards. The Committee was therefore of the view that by recruiting 26 Ward Administrators, the County Public Service Board had unlawfully created an extra Office of Ward Administrator.

The Committee further notes that under Section 51(4) of the County Governments Act, 2012, Ward Administrators are directly supervised by Sub-County Administrators. Therefore, the Committee finds the notion that there was a need for Coordinator not to have been adequately thought through with due regard to the law.

The Committee also noted that, Ms. Maina conceded that the County Public Service Board has irregularly created the Office of an extra Ward Administrator. The Committee further notes that Ms. Maina was among the Members of the Board who realised their mistake and resolved to rescind the decision to appoint the extra Ward Administrator. It is curious however, why she failed to follow up to know whether the decision of the Board was implemented.

The Committee further notes that Ms. Maina's answer to the question of the hiring of 15 Administrators was that she was not aware of these administrators in the County Public Service.

The Committee finds it hard to believe though that Ms. Maina was not aware of such Officers who are very visible in many public institutions within the County and were well known to many of the County's residents. Perhaps, Ms. Maina is out of touch with the public. Nonetheless, in the Committee's opinion, a more truthful answer would have been that she had heard of the existence of such Officers but had not confirmed the nature of their recruitment.

On the recruitment of drivers, the Committee notes that Ms. Maina said that the County Public Service Board decided to regularise the drivers of the executive given that they were already in Office and because they were personal to the County Executive Committee Members. The Committee takes issue with the mode taken by the County Public Service Board in the regularisation of drivers. County Executive Committee Member's drivers are public drivers and are therefore not to be considered personal. After all, the likelihood of County Executive Committees changing every five years is very real. To say therefore, that a driver is personal to a County Executive Committee Member and as such a County Executive Committee Member should select a candidate for the position of driver who is then suited by the Board is improper. Firstly, it denies Members of the County a fair opportunity to compete for such positions. Secondly, it disregards experience and qualifications for persons taking up positions in the County Public Service. However, the most risky consequence is that it opens for the possibility of nepotism and favouritism. Moreover, if it is seen carefully, the practice of regularisation may have no end. The Committee is of the opinion that if County Executive Committee Members are allowed to bring their own drivers then, once they leave office new County Executive Committee Members will expect similar treatment of having their own chosen candidate regularised as drivers.

On the aspect of allowing people to hold or act in offices of Chief Officers, the Committee did not find any evidence to show that Ms. Maina knew of any Officers irregularly in Office.

On the charge of violating the County Governments Act, 2012, the Committee finds Ms. Maina jointly and severally violated the Sections 65 and 66 of the County Governments Act. However, the violation did not reach the threshold of gross violation. As a result, the Committee finds that the charge of gross violation of the County Governments Act against Ms. Maina was not substantiated.

Charge Two: Gross Violation of the Constitution and the Leadership and Integrity Act, 2012

a) Unlawfully and intentionally failing to observe the National values and the guiding principles of leadership and integrity in the running of the County Public Service contrary to Article 10 (2) (c) and 73(2) of the Constitution.

Particulars

That Ms. Maina jointly and severally as a Member of the County Public Service Board in collusion with the Office of the County Secretary unprocedurally made appointments of extra Administrators by "agreeing" to appoint Administrators from the list of unsuccessful Applicants for the position of Ward Administrators and that you further made clandestine arrangements to regularise the appointments of other County Staff including drivers.

b) Unlawfully and intentionally failing to observe the values and principles of Public Service that includes the efficient and effective use of resources, accountability for administrative acts and the provision of accurate information as the basis of appointment contrary to article 232 of the Constitution.

Particulars

That Ms. Maina jointly and severally as a Member of the County Public Service Board acquiesced to the unlawful drawing of salaries and benefits from the County Treasury by participating in the recruitment of excess personnel whose Offices are not lawfully established and allowing individuals who are not properly in office of Chief Officers to go on serving in the County Public Service thus leading to the inefficient use of County resources and unnecessarily burdening the County's already increasing wage bill.

c) Unlawfully failing to carry out the duties of the Office of Member of the County Public Service Board with honesty, failing to keep accurate records and documents relating to the functions of the County Public Service Board and failing to report truthfully on all matters of the County Public Service Board contrary to Section 10 of the Leadership and Integrity Act, 2012

Particulars

That Ms. Maina jointly and severally as a Member of the County Public Service Board in your report to the County Assembly made deliberate attempts to mislead the Assembly by giving wrong spellings to Administrative Units within the County and even included non-existent Ward Units from which she together with the other Members of the Board purported to have recruited County Staff in order to cover up excessive recruitment from certain areas of the County to the detriment of other areas within the County.

That Ms. Maina further jointly and severally as a Member of the County Public Service Board denied knowledge of irregular appointments of unsuccessful Applicants to the Office of Ward Administrators to other Offices in the

Public Service by uttering information before the County Assembly's Committee on Public Service that was later concluded to be false after the County Secretary tendered official written correspondence with County Public Service Board to the contrary.

Responses

Ms. Maina denied the charge, she indicated that she had never held consultations with the County Secretary on the recruitment of Administrators. She however apologised for the errors in the report attributing it to the challenges at the formative stages of the Board.

Observations and findings of the Committee

On the aspect of collusion with the office of the County Secretary to appoint extra Ward Administrators, the Committee found no evidence linking Ms. Maina with the irregular appointment of Administrators. Consequently, no evidence was found to show that she facilitated the recruitment of excess personnel.

On the aspect of giving wrong spellings and designations to ward units, the Committee observes that indeed as Ms. Maina testified that the Board was occupied with recruitment in the second half of last year. Indeed, a fully functioning Secretariat was not established by then. As a result, the Committee finds that errors and omissions could have understandably occurred in the collation of data from applicants for purposes of the report. The Committee finds no evidence on Ms. Maina of any ulterior motive as a result of the errors.

On the charge therefore of gross violation of the Constitution and the Leadership and Integrity Act against Ms. Maina, the Committee finds that the charge was not substantiated.

Charge Three: Incompetence to Hold Office in the County Public Service Board

Particulars

That Ms. Maina jointly and severally as Member of the County Public Service Board committed numerous serious violations of the law as has been set out above despite the clarity of the provisions of the Part VII of the County Governments Act, 2012 concerning the functions and powers of the County Public Service Board. Consequently, a reasonable person can only reach the conclusion as a Member of the County Public Service Board, Ms. Maina was not conversant with the legal framework of her mandate and are thus incompetent and unfit to hold Office as Member of the County Public Service Board.

Furthermore, the report submitted by Ms. Maina jointly with the other Members of the County Public Service Board to the County Assembly was inadequate in very many respects as it had several errors regarding the names of

administrative units. One would expect a Member of the County Public Service Board to be keen on details such as the proper names and designations of administrative units in the County by virtue of task given to you to manage the County Public Service on behalf of the County government. Moreover, the report submitted to the County Assembly also left out crucial information required of such a report within the criteria set out in Section 59 of the County Governments Act. A reasonable person can thus only reach a conclusion of incompetence on your part as a Member of the County Public Service Board.

Further, the submitted report by Ms. Maina and other Board Members to the Assembly was also clear evidence that the County Public Service Board never maintains a definitive record of all applications received in response to advertisements which record could be easily available for inspection. As a consequence to this poor record keeping, the record of applicants presented in the report was jumbled and had many omissions. Such errors and omissions are not expected of a professionally and competently administered County Public Service Board

Responses

Ms. Maina denied vehemently the allegations of incompetence. Indeed, she appeared shocked when a charge of incompetence was read against her. She apologised for the errors stating that it would not happen again in the Board's subsequent reports.

Observations and findings of the Committee

The Committee from the hearings observed that, Ms. Maina was not fully conversant with the roles and powers of the County Public Service Board as set out in the County Governments Act. She also did not seem to have internalised the fact that the Board is a statutory independent body as she kept referring to the office of the County Secretary for some of the shortcomings pointed out against the Board. Nonetheless, Ms. Maina appeared ready to rectify any breaches of law and omissions on her part.

On the report, the Committee noted that Ms. Maina apologised for the errors and confirmed knowledge of all the Administrative Units within the County. On the issue of records, the Committee observed that record keeping lay squarely with the Secretariat. Nevertheless, this does not mean Members should not be keen to ensure records are kept.

The Committee came to a conclusion that the charge of incompetence against Ms. Maina was not substantiated.

HEARING OF JUDITH SIELE

Ms. Judith Siele appeared for hearing on the 8th of July.

Reading of the Charges

Pursuant to the Rules of Procedure for the Investigation into the Proposed Removal from Office, the Chairman, Secretary and Members, the hearing of Ms. Judith Siele commenced with the reading out, verbatim, of the particulars of the allegations against each Member of the County Public Service Board. However, before the charges were read out to her by the Special Committee, the Committee brought to her attention an amendment to charge two. Due to typing error, Article 232 was misspelt as 231 though it was evident that the particulars dealt with 232. Ms. Siele did not object to the amendment. The Charges are set out at page 3 of Annex 1.

Charge One: Gross Violation of the County Governments Act, 2012

The following were the specific matters canvassed under this Charge-

- a) *Unlawfully and unprocedurally recruiting personnel and creating Offices in the County Public Service contrary to the provisions of Sections 59, 60 and 62 of the County Governments Act, 2012.*

Particulars

That Ms. Siele jointly and severally as Member of the County Public Service Board breached the law with wanton abandon by recruiting personnel to Offices in the County Public Service that were neither established by the County Public Service Board nor approved by the County Assembly as required by the law. Some of the Offices which were irregularly and unprocedurally established and were captured in the report of the County Assembly Committee on Labour and Public Service include-

- *One extra Ward Administrator Coordinator*
 - *15 Administrators.*
 - *Executive drivers*
- b) *Unlawfully and intentionally failing to observe fairness, transparency and County diversity in the recruitment of County Staff contrary to Section 65 and 66 of the County Governments Act, 2012.*

Particulars

That Ms. Siele jointly and severally as Member of the County Public Service Board disregarded fairness, transparency and county diversity in the recruitment of county personnel by failing to recruit individuals from certain quarters of the County despite conducting large recruitment exercises.

That Ms. Siele further jointly and severally as a Member of the County Public Service Board took decisions not to widely publicise Public Offices to be filled so as to invite applications from a wide population of potential applicants as required by the law. A case in point is the unprocedural regularisation of drivers which was done without any advertisements and the unlawful and unnecessary recruitment of a twenty-sixth Ward Administrator.

That Ms. Siele further jointly and severally as a Member of the County Public Service Board disregarded experience, qualifications and fair competition in the recruitment of personnel to the County Public Service by recruiting individuals who had never applied nor were shortlisted for certain positions but ended up being recruited nevertheless.

- c) *Unlawfully and intentionally permitting persons to unprocedurally and irregularly hold or act in Offices of the County Public Service without taking any corrective measures contrary to Section 64(5) as read with Section 75 of the County Governments Act, 2012.*

Particulars

That Ms. Siele jointly and severally as a Member of the County Public Service Board knowingly allowed certain individuals in the County to continue to purport to be Chief Officers or continue to purport to act in the office of Chief Officers for a long period of time while fully aware that none of these individuals has been approved by the Assembly as required by law.

That Ms. Siele further jointly and severally as a Member of the County Public Service Board intentionally failed to take any corrective action regarding persons serving in Office contrary to the law despite having knowledge of the irregularities

Responses

Ms. Siele, in her response to the allegations against her, she conceded that the appointment a twenty sixth Ward Administrator was a mistake which the Board later realised and rescinded. She explained that the suitability interviews were conducted on drivers as a corrective measure on drivers who had been appointed before the Board came into existence. However, upon further questioning by the Committee Members, she accepted that suitability interviews may not have been a transparent and fair mode of recruiting County personnel.

She testified to having no part in the recruitment of extra fifteen Ward Administrators. However, she had heard, as any other resident of Bomet County, of the apparent appointment of these Officers. She also testified to having knowledge of two Chief Officers and as far as she was concerned there was no acting Chief Officer.

Observations and findings of the Committee

The Committee takes note that Ms. Siele admitted that, the Board made an error in the recruitment of a twenty-sixth Ward Administrator, which they later rescinded. The Committee also notes that Ms. Siele participated in the regularisation of drivers. The Committee wishes to observe that the regularisation of drivers, a practice that seems to have been generally adopted by the Board in correcting direct appointments of County personnel by people other than the Board is inimical to fair competition and transparency in the recruitment of County Staff. As was observed elsewhere in this report, the Committee takes issue with the regularisation of drivers for County Executive Committee Members. The Committee finds that this practice denied qualified and experienced Members of the public an opportunity of fairly competing for these public positions. In any case, if the rationale for regularising drivers was the fact that they were personal drivers and therefore had to hand-picked by the County Executive Committee Members, then such drivers should have been hired on contracts that would run concurrently with that of their respective County Executive Committee Members. The Committee notes, however, that these drivers were hired on a permanent basis meaning they would continue to serve in the County Public Service long past the tenures of their respective County Executive Committee Members. As a result, the Committee finds that Ms. Siele jointly and severally violated Section 65 and 66 of the County Governments Act.

The Committee also observes that Ms. Siele denied participation in the recruitment of 15 Administrators hired irregularly in various dockets within the County. However, she was sincere to admit that she was aware that such Officers had been appointed. She was particularly aware of a Hospital Administrators. She, however, explained that the Board was yet to find out how these individuals were appointed. The Committee therefore finds that Ms. Siele jointly and severally as a Member of the County Public Service Board failed to carry out investigations into the anomaly and take corrective measures as required by Section 75 of the County Governments Act.

On the issue of persons not properly in office, the Committee came to a finding that there was no evidence to show that Ms. Siele was aware of any Chief Officers or acting Chief Officers other than those approved by the County Assembly.

The Committee found Ms. Siele to have breached some provisions of the County Governments Act, 2012 but as per the threshold set by the Committee, Committee reached a finding that the charge of gross violation of the County Governments Act against Ms. Siele was not substantiated.

Charge Two: Gross Violation of the Constitution and the leadership and Integrity Act, 2012

a) Unlawfully and intentionally failing to observe the National values and the guiding principles of leadership and integrity in the running of the County Public Service contrary to Article 10 (2) (c) and 73(2) of the Constitution.

Particulars

That Ms. Siele jointly and severally as a Member of the County Public Service Board in collusion with the office of the County Secretary unprocedurally made appointments of extra Administrators by "agreeing" to appoint Administrators from the list of unsuccessful applicants for the position of Ward Administrators and that you further made clandestine arrangements to regularise the appointments of other County Staff including drivers.

b) Unlawfully and intentionally failing to observe the values and principles of Public Service that includes the efficient and effective use of resources, accountability for administrative acts and the provision of accurate information as the basis of appointment contrary to Article 232 of the Constitution.

Particulars

That Ms. Siele jointly and severally as a Member of the County Public Service Board acquiesced to the unlawful drawing of salaries and benefits from the County Treasury by participating in the recruitment of excess personnel whose Offices are not lawfully established and allowing individuals who are not properly in office of Chief Officers to go on serving in the County Public Service thus leading to the inefficient use of County resources and unnecessarily burdening the County's already increasing wage bill.

c) Unlawfully failing to carry out the duties of the office of Member of the County Public Service Board with honesty, failing to keep accurate records and documents relating to the functions of the County Public Service Board and failing to report truthfully on all matters of the County Public Service Board contrary to Section 10 of the Leadership and Integrity Act, 2012

Particulars

That Ms. Siele jointly and severally as a Member of the County Public Service Board in your report to the County Assembly made deliberate attempts to mislead the Assembly by giving wrong spellings to Administrative Units within the County and even included non-existent Ward Units from which she together with the other Members of the Board purported to have recruited County Staff in order to cover up excessive recruitment from certain areas of the County to the detriment of other areas within the County.

That Ms. Siele further jointly and severally as a Member of the County Public Service Board denied knowledge of irregular appointments of unsuccessful applicants to the Office of Ward Administrators to other offices in the Public Service by uttering information before the County Assembly's Committee on Labour and Public Service that was later concluded to be false after the County Secretary tendered official written correspondence with County Public Service Board to the contrary.

Responses

Ms. Siele denied having any knowledge of any consultations between the Board and the County Secretary on the recruitment of extra Administrators. She also denied that the report by the Committee with errors was meant as a cover up. She attributed the errors to hectic schedule of the Board during the recruitment done on the second part of last year.

Observations and findings of the Committee

On the issue of colluding with the office of County Secretary to hire extra Administrators, the Committee found no evidence implicating Ms. Judith Siele. On the issue of wrong spelling, the Committee considered Ms. Siele's testimony where she attributed the errors to the heavy work load of the Board and the lack of an efficient Secretariat at the time and subsequently exonerated. The Committee consequently exonerates Ms. Siele from the charge of violating the Leadership and Integrity Act.

On the charge therefore of violating the Constitution and the leadership and Integrity Act against Judith Siele, the Committee finds the charges were not substantiated.

Charge Three: Incompetence to Hold Office in the County Public Service Board

Particulars

That Ms. Siele jointly and severally as Member of the County Public Service Board committed numerous serious violations of the law as has been set out above despite the clarity of the provisions of the Part VII of the County Governments Act, 2012 concerning the functions and powers of the County Public Service Board. Consequently, a reasonable person can only reach the conclusion that as a Member of the County Public Service Board Ms. Siele was not conversant with the legal framework of your mandate and are thus incompetent and unfit to hold office as Member of the County Public Service Board.

Furthermore, the report submitted by you jointly with the other Members of the County Public Service Board to the County Assembly was inadequate in very many respects as it had several errors regarding the names of Administrative Units. One would expect a Member of the County Public Service Board to be keen on details such as the proper names and designations of Administrative Units in the County by virtue of task given to her to manage the County Public Service on behalf of the County government. Moreover, the report submitted to the County

Assembly also left out crucial information required of such a report within the criteria set out in Section 59 of the County Governments Act. A reasonable person can thus only reach a conclusion of incompetence on the part of Ms. Siele as a Member of the County Public Service Board.

Further, the submitted report by Ms. Siele and other Board Members to the Assembly was also clear evidence that the County Public Service Board never maintains a definitive record of all applications received in response to advertisements which record could be easily available for inspection. As a consequence to this poor record keeping, the record of applicants presented in the report was jumbled and had many omissions. Such errors and omissions are not expected of a professionally and competently administered County Public Service Board

Responses

Ms. Siele testified that although she together with many other Members of the County Public Service Board were new, she denied being incompetent. She apologised for errors in the report submitted to the County Assembly.

Observation of the Committee

The Committee noted that Ms. Siele did not fully appreciate the powers of the Board although she appeared to understand her general role as a Member of the Board. However, compared with the other Members of Board, the Committee by far appreciated Ms. Siele's sense of introspection. Ms. Siele was indeed apologetic for the mistakes of the Board and also her failings as a Member of the Board as pointed by the Committee during the hearing proceedings

The Committee was indeed impressed by the fact that Ms. Siele kept personal records of interviews. She was also the only respondent who kept personal file copies of advertisements made by the Board. Indeed the Committee, after the hearings, considers her a bright light within the Board. The Committee notes that Ms. Siele in her testimony alluded to having spoken out on a number of anomalies within the Board. The Committee is only disappointed that she did not speak out forcefully. The Committee takes note of her apology on the errors of Administrative Units within the report of the Board submitted to the Assembly.

The Committee notes that the record keeping function of the Board lies squarely with the Secretariat. However, all Members of the Board have a duty to ensure collectively that the Board has proper records.

On the charge of incompetence against Ms. Judith Siele, the Committee found that the charge was not substantiated.

HEARING OF EUNICE BENSON,

Ms. Eunice Benson appeared for hearing on the 9th of July.

Reading of the Charges

Pursuant to the Rules of Procedure for the Investigation into the Proposed Removal from Office of the Chairman, Secretary and Members, the hearing of Ms. Eunice Benson commenced with the reading out, verbatim, of the Particulars of the Allegations against each Member of the County Public Service Board. However, before the charges were read out to her by the Special Committee, the Committee brought to her attention an amendment to charge two. Due to typing error Article 232 was misspelt as 231 though it was evident that the particulars dealt with 232. Ms. Benson did not object to the amendment.

Charge One: Gross Violation of the County Governments Act, 2012

The following were the specific matters canvassed under this Charge-

- d) *Unlawfully and unprocedurally recruiting personnel and creating Offices in the County Public Service contrary to the provisions of Sections 59, 60 and 62 of the County Governments Act, 2012.*

Particulars

That Ms. Benson jointly and severally as Member of the County Public Service Board breached the law with wanton abandon by recruiting personnel to Offices in the County Public Service that were neither established by the County Public Service Board nor approved by the County Assembly as required by the law. Some of the Offices which were irregularly and unprocedurally established that were captured in the report of the County Assembly Committee on Labour and Public Service include-

- *One extra Ward Administrator Coordinator*
 - *15 Administrators.*
 - *Executive drivers*
- e) *Unlawfully and intentionally failing to observe fairness, transparency and County diversity in the recruitment of County Staff contrary to Section 65 and 66 of the County Governments Act, 2012.*

Particulars

That Ms. Benson jointly and severally as Member of the County Public Service Board disregarded fairness, transparency and County diversity in the recruitment of County personnel by failing to recruit individuals from certain quarters of the County despite conducting large recruitment exercises.

That Ms. Benson further jointly and severally as a Member of the County Public Service Board took decisions not to widely publicise Public Offices to be filled so as to invite applications from a wide population of potential applicants as required by the law. A case in point is the unprocedural regularisation of drivers which was done without any advertisements and the unlawful and unnecessary recruitment of a twenty-sixth Ward Administrator.

That Ms. Benson further jointly and severally as a Member of the County Public Service Board disregarded experience, qualifications and fair competition in the recruitment of personnel to the County Public Service by recruiting individuals who had never applied nor were shortlisted for certain positions but ended up being recruited nevertheless.

- f) *Unlawfully and intentionally permitting persons to unprocedurally and irregularly hold or act in Offices of the County Public Service without taking any corrective measures contrary to Section 64(5) as read with Section 75 of the County Governments Act, 2012.*

Particulars

That Ms. Benson jointly and severally as a Member of the County Public Service Board knowingly allowed certain individuals in the County to continue to purport to be Chief Officers or continue to purport to act in the office of Chief Officers for a long period of time while fully aware that none of these individuals has been approved by the Assembly as required by law.

That you further jointly and severally as a Member of the County Public Service Board intentionally failed to take any corrective action regarding persons serving in office contrary to the law despite having knowledge of the irregularities

Responses

Ms. Benson, in her response to the allegations denied all the allegations against her. Ms. Benson acknowledged the existence of the 26th Ward Administrator. She acknowledged that it was the decision of the Board to appoint the extra Ward Administrator without observing the due process of the law in good faith. She testified that at the time, they thought they were doing the right thing but later realized that they had breached the law. She acknowledged that the position of the 26th Ward Administrator was not advertised as required under the provisions of Section 66 of the County Governments Act.

She informed the Committee that the Board met on 6th and 7th of September, 2013 whereby she was acting as the chair. They resorted to rescinding Board's decision on the recruitment of 26th Ward Administrator, the decision she believed to have been relayed to the County Secretary by the Secretary of the Board.

She denied of having any involvement in the hiring of the extra 15 Ward Administrators as the Board was never consulted on the same. She accepted her role in the regularisation of drivers.

Observations of the Committee

The Committee notes that Ms. Benson admitted to having been involved in the recruitment of a 26th Ward Administrator, she however chaired a meeting to rescind the decision. On the issue of the 15 Ward Administrators, the Committee found no evidence to link Ms. Benson with the irregular recruitment of the Administrators. The Committee also wishes to register its appreciation that Ms. Benson admitted to the awareness of the persons serving as Administrators within the County whom had not been properly recruited by the Board.

On the aspect of the regularisation of drivers, the Committee notes Ms. Benson's involvement. The Committee notes that the regularisation of drivers denied qualified and experienced Members of the public and opportunity to apply for positions. The argument that the regularisation was preferred because the drivers were personal to the executive does not hold water due to the fact that these drivers are hired on a permanent and pensionable basis. The Committee therefore finds that Ms. Benson jointly and severally violated the Section 65 of the County Governments Act in the regularisation for drivers.

On the issue of Chief Officers there was no evidence to show that Ms. Benson had any knowledge of officers acting improperly in the office of Chief Officers.

The Committee finds that charge of gross violation of the County Governments Act against Ms. Benson was not substantiated.

Charge Two: Gross Violation of the Constitution and the leadership and Integrity Act, 2012

a) Unlawfully and intentionally failing to observe the National values and the guiding principles of leadership and integrity in the running of the County Public Service contrary to Article 10 (2) (c) and 73(2) of the Constitution.

Particulars

That Ms. Benson jointly and severally as a Member of the County Public Service Board in collusion with the office of the County Secretary unprocedurally made appointments of extra Administrators by "agreeing" to appoint Administrators from the list of unsuccessful applicants for the position of Ward Administrators and that you further made clandestine arrangements to regularise the appointments of other County Staff including drivers.

b) Unlawfully and intentionally failing to observe the values and principles of Public Service that includes the efficient and effective use of resources, accountability for administrative acts and the provision of accurate information as the basis of appointment contrary to Article 232 of the Constitution.

Particulars

That Ms. Benson jointly and severally as a Member of the County Public Service Board acquiesced to the unlawful drawing of salaries and benefits from the County Treasury by participating in the recruitment of excess personnel whose offices are not lawfully established and allowing individuals who are not properly in office of Chief Officers to go on serving in the County Public Service thus leading to the inefficient use of county resources and unnecessarily burdening the County's already increasing wage bill.

c) Unlawfully failing to carry out the duties of the office as Member of the County Public Service Board with honesty, failing to keep accurate records and documents relating to the functions of the County Public Service Board and failing to report truthfully on all matters of the County Public Service Board contrary to Section 10 of the Leadership and Integrity Act, 2012

Particulars

That Ms. Benson jointly and severally as a Member of the County Public Service Board in her report to the County Assembly made deliberate attempts to mislead the Assembly by giving wrong spellings to Administrative Units within the County and even included non-existent Ward Units from which she purported to have recruited County Staff in order to cover up excessive recruitment from certain areas of the County to the detriment of other areas within the County.

That Ms. Benson further jointly and severally as a Member of the County Public Service Board denied knowledge of irregular appointments of unsuccessful applicants to the office of Ward Administrators to other offices in the Public Service by uttering information before the County Assembly's Committee on Labour and Public Service that was later concluded to be false after the County Secretary tendered official written correspondence with County Public Service Board to the contrary.

Responses

Ms. Benson denied any consultation between the board and any other member of the executive regarding the recruitment of extra administrators. She denied knowing any persons irregularly acting as Chief Officers.

Observations and findings of the Committee

The Committee found that there was no evidence linking Ms. Benson with the irregular appointment of Administrators in collusion with the office of the County Secretary. There was also no evidence to show that Ms. Benson uttered any false information the Committee of the Assembly on Labour and Public Service. The Committee found that the charge of violation of the Constitution and the Leadership and Integrity Act against Ms. Benson were not substantiated.

Charge Three: Incompetence to Hold Office in the County Public Service Board

Particulars

That Ms. Benson jointly and severally as Member of the County Public Service Board committed numerous serious violations of the law as has been set out above despite the clarity of the provisions of the Part VII of the County Governments Act, 2012 concerning the functions and powers of the County Public Service Board. Consequently, a reasonable person can only reach the conclusion that the as a Member of the County Public Service Board Ms, Benson is not conversant with the legal framework of your mandate and are thus incompetent and unfit to hold office of Member of the County Public Service Board.

Furthermore, the report submitted by you jointly with the other Members of the County Public Service Board to the County Assembly was inadequate in very many respects as it had several errors regarding the names of Administrative Units. One would expect a Member of the County Public Service Board to be keen on details such as the proper names and designations of Administrative Units in the County by virtue of task given to Ms. Benson to manage the County Public Service on behalf of the County government. Moreover, the report submitted to the County Assembly also left out crucial information required of such a report within the criteria set out in Section 59 of the County Governments Act. A reasonable person can thus only reach a conclusion of incompetence on your part as a Member of the County Public Service Board.

Further, the submitted report by Ms. Benson and other Board Members to the Assembly was also clear evidence that the County Public Service Board never maintains a definitive record of all applications received in response to advertisements which record could be easily available for inspection. As a consequence to this poor record keeping, the record of applicants presented in the report was jumbled and had many omissions. Such errors and omissions are not expected of a professionally and competently administered County Public Service Board

Responses

Ms. Benson denied any consultation between the board and any other member of the executive regarding the recruitment of extra administrators. She denied knowing any persons irregularly acting as Chief Officers.

Observation and findings of the Committee

In considering Ms. Benson case, the Committee took note of the fact that Ms. Benson was a vice-chairperson. It was the Committee's considered view that Ms. Benson had not fully appreciated her functions and powers under part VII of the County Governments Act. However, Ms. Benson appeared to hint at reform as she thanked the Committee for the interactions citing that she had gained a lot. Ms. Benson also apologised for the error on the report and promised if given a chance the Board will improve. The Committee also noted that record keeping is a function of the Board's Secretariat.

On the charge of incompetence therefore, the Committee found the charge against Ms. Benson was not substantiated.

HEARING OF JOSEPH RONO

Mr.(Pastor) Joseph Rono appeared for hearing on the 9th of July.

Reading of the Charges

Pursuant to the Rules of Procedure for the Investigation into the Proposed Removal from Office, the Chairman, Secretary and Members, the hearing of Mr. Rono commenced with the reading out, verbatim, of the Particulars of the allegations against him. However, before the charges were read out to him by the Special Committee, the Committee brought to his attention an amendment to charge two. Due to a typing error, Article 232 was misspelt as 231 though it was evident that the particulars dealt with 232. Mr. Rono did not object to the amendment.

Charge One: Gross Violation of the County Governments Act, 2012

The following were the specific matters canvassed under this Charge-

- a) *Unlawfully and unprocedurally recruiting personnel and creating offices in the County Public Service contrary to the provisions of Sections 59, 60 and 62 of the County Governments Act, 2012.*

Particulars

That Mr. Rono jointly and severally as Member of the County Public Service Board breached the law with wanton abandon by recruiting personnel to offices in the County Public Service that were neither established by the County Public Service Board nor approved by the County Assembly as required by the law. Some of the offices which were irregularly and unprocedurally established that were captured in the report of the County Assembly Committee on Labour and Public Service include-

- *One extra Ward Administrator Coordinator*
- *15 Administrators.*

- *Executive drivers*

- b) *Unlawfully and intentionally failing to observe fairness, transparency and County diversity in the recruitment of County Staff contrary to Section 65 and 66 of the County Governments Act, 2012.*

Particulars

That Mr. Rono jointly and severally as Member of the County Public Service Board disregarded fairness, transparency and County diversity in the recruitment of county personnel by failing to recruit individuals from certain quarters of the County despite conducting large recruitment exercises.

That Mr. Rono further jointly and severally as a Member of the County Public Service Board took decisions not to widely publicise Public Offices to be filled so as to invite applications from a wide population of potential applicants as required by the law. A case in point is the unprocedural regularisation of drivers which was done without any advertisements and the unlawful and unnecessary recruitment of a twenty-sixth Ward Administrator.

That Mr. Rono further jointly and severally as a Member of the County Public Service Board disregarded experience, qualifications and fair competition in the recruitment of personnel to the County Public Service by recruiting individuals who had never applied nor were shortlisted for certain positions but ended up being recruited nevertheless.

- c) *Unlawfully and intentionally permitting persons to unprocedurally and irregularly hold or act in offices of the County Public Service without taking any corrective measures contrary to Section 64(5) as read with Section 75 of the County Governments Act, 2012.*

Particulars

That Mr. Rono jointly and severally as a Member of the County Public Service Board knowingly allowed certain individuals in the county to continue to purport to be Chief Officers or continue to purport to act in the office of Chief Officers for a long period of time while fully aware that none of these individuals has been approved by the Assembly as required by law.

That Mr. Rono further jointly and severally as a Member of the County Public Service Board intentionally failed to take any corrective action regarding persons serving in office contrary to the law despite having knowledge of the irregularities

Responses

Mr. Rono in his response to the allegations against him denied the charge against him. Although Mr. Rono denied all the charges, he acknowledged the existence of the extra Ward Administrator, the 15 Administrators and the Executive drivers. In his defence, he stated that the hiring of the extra Ward Administrator was done in good faith as the responsibility of the extra Ward Administrator was to coordinate the other Ward Administrators. He however, went on to add that when the Board realised that it had made a mistake it resolved to revoke its decision pursuant to Section 75 of the County Governments Act.

On the issue of the 15 extra Ward Administrators, Mr. Rono testified that the Board required copies of their letters of appointment so that it could take corrective measures according to Section 75 of the County Governments Act. He however, added that the fact that the County Secretary had failed in several occasions to furnish the Board with copies of appointment letters incapacitated the Board in taking any corrective measure.

On the issue of Executive drivers, Mr. Rono, like the other Members of the Board who appeared before the Committee, stated that the Board took a corrective measure as per Section 75 of the County Governments Act by suiting and validating them.

He also responded to questions regarding the establishment of other offices within the County. He stated that with regard to the establishment of the offices of the Political Advisor, Security Policing Officer the mandate fell under the office of the Executive as provided for in Section 46 of the County Governments Act and hence the Board had no mandate in establishing the same.

Mr Rono denied of any knowledge of any acting Chief Officer apart from Mr. Kilelson Mutai and Simon Korir who had been approved by the County Assembly

Observations of the Committee

The Committee observed that Mr. Rono participated in the recruitment of a twenty-sixth Ward Administrator and participated in the rescinding of the motion. The Committee did not find evidence of Mr. Rono directly participating in the recruitment of the extra Administrators. However, he admitted to having known later that a list of unsuccessful applicants was transmitted to the office of the Governor. Mr. Rono was of the opinion that this was improper.

The Committee observed that Mr. Rono participated in the regularisation of Executive drivers. The Committee finds this improper for the reasons stated above with respect to the other

Members above. Accordingly, the Committee finds that Mr. Rono violated Section 65 and 66 of the County Government's Act.

Although the Committee could not find evidence to show that Mr. Rono had knowledge of any persons improperly serving in the office of Chief Officers, the Committee is concerned that of Mr. Rono's role as a representative of the Board in the budget making process. The Committee notes the statutory role of the Board in facilitating the budgeting for personal emoluments of County Staff under Section 59(1)(g) of the County Governments Act. It appears this role of the Board is not being performed by the Board as it is apparent. Mr. Rono participation in the budget making process is only to ensure that the Board's interests are protected. The Committee is therefore disappointed that Mr. Rono failed to notice that the 2014-2015 Bomet County Budget Estimates appropriated for six in post Chief Officers. Mr. Rono ought to have noticed this anomaly.

Nonetheless, the Committee found that the charges of gross violation of the County Governments Act against Mr. Rono was not substantiated.

Charge Two: Gross Violation of the Constitution and the leadership and Integrity Act, 2012

a) Unlawfully and intentionally failing to observe the National values and the guiding principles of leadership and integrity in the running of the County Public Service contrary to Article 10 (2) (c) and 73(2) of the Constitution.

Particulars

That Mr. Rono jointly and severally as a Member of the County Public Service Board in collusion with the office of the County Secretary unprocedurally made appointments of extra Administrators by "agreeing" to appoint Administrators from the list of unsuccessful applicants for the position of Ward Administrators and that you further made clandestine arrangements to regularise the appointments of other County Staff including drivers.

b) Unlawfully and intentionally failing to observe the values and principles of public service that includes the efficient and effective use of resources, accountability for administrative acts and the provision of accurate information as the basis of appointment contrary to article 232 of the Constitution.

Particulars

That Mr. Rono jointly and severally as a Member of the County Public Service Board acquiesced to the unlawful drawing of salaries and benefits from the County Treasury by participating in the recruitment of excess personnel whose offices are not lawfully established and allowing individuals who are not properly in office of Chief Officers to go on serving in the County Public Service thus leading to the inefficient use of county resources and unnecessarily burdening the county's already increasing wage bill.

c) Unlawfully failing to carry out the duties of the office of Member of the County Public Service Board with honesty, failing to keep accurate records and documents relating to the functions of the County Public Service Board and failing to report truthfully on all matters of the County Public Service Board contrary to Section 10 of the Leadership and Integrity Act, 2012.

Particulars

That Mr. Rono jointly and severally as a Member of the County Public Service Board in your report to the County Assembly made deliberate attempts to mislead the Assembly by giving wrong spellings to Administrative Units within the County and even included non-existent Ward Units from which you purported to have recruited County Staff in order to cover up excessive recruitment from certain areas of the County to the detriment of other areas within the County.

That Mr. Rono further jointly and severally as a Member of the County Public Service Board denied knowledge of irregular appointments of unsuccessful applicants to the office of Ward Administrators to other offices in the Public Service by uttering information before the County Assembly's Committee on Labour and Public Service that was later concluded to be false after the County Secretary tendered official written correspondence with County Public Service Board to the contrary.

Responses

Mr. Rono vehemently denied the charge of violating the Constitution and Leadership and Integrity Act. He denied being aware of any consultations between himself and the County Secretary on the recruitment of extra Administrators. He also said he was not aware of persons purporting to Chief Officers drawing salaries as Chief Officers.

Observations and findings

The Committee could not find any evidence linking Mr. Rono with the irregular recruitment of Administrators in the County Public Service neither could it find evidence that he tendered false information to an Assembly Committee. On the issue of allowing persons to draw funds unlawfully from the County Public Service, the Committee had scanty evidence which could not sustained against Mr. Rono's testimony.

On the charge of violation of the constitution and the county governments Act against Mr. Rono, the Committee found that the charge could not be substantiated.

Charge Three: Incompetence to Hold Office in the County Public Service Board

Particulars

That Mr. Rono jointly and severally as Member of the County Public Service Board committed numerous serious violations of the law as has been set out above despite the clarity of the provisions of the Part VII of the County Governments Act, 2012 concerning the functions and powers of the County Public Service Board. Consequently, a reasonable person can only reach the conclusion that the as a Member of the County Public Service Board you are not conversant with the legal framework of your mandate and are thus incompetent and unfit to hold office of Member of the County Public Service Board.

Furthermore, the report submitted by Mr. Rono jointly with the other Members of the County Public Service Board to the County Assembly was inadequate in very many respects as it had several errors regarding the names of administrative units. One would expect a Member of the County Public Service Board to be keen on details such as the proper names and designations of administrative units in the County by virtue of task given to you to manage the County Public Service on behalf of the County government. Moreover, the report submitted to the County Assembly also left out crucial information required of such a report within the criteria set out in Section 59 of the County Governments Act. A reasonable person can thus only reach a conclusion of incompetence on Mr. Rono's part as a Member of the County Public Service Board.

Further, the submitted report by Mr. Rono and other Board Members to the Assembly was also clear evidence that the County Public Service Board never maintains a definitive record of all applications received in response to advertisements which record could be easily available for inspection. As a consequence to this poor record keeping, the record of applicants presented in the report was jumbled and had many omissions. Such errors and omissions are not expected of a professionally and competently administered County Public Service Board

Responses

On this particular charge, he was pressed to respond to the question why there were the appointees not being absorbed into the County Public Service yet the Board had legal backing to stamp its authority. A case in point was the case of 30 individuals interviewed and appointed by the Board to fill the positions of drivers but it has emerged that only one had reported to work and that the rest were yet to receive their appointment letters. Mr. Rono submitted before the Committee that the appointment letters are normally dispatched from the office of the County Secretary. Mr. Rono could therefore not confirm whether those positions had been filled by other people.

Mr Rono acknowledged that as a Board Member, the Board could not establish the number of employees the Board has hired as no reconciliation has been made between the Board and the relevant department.

Observation of the Committee

It was the Committee considered opinion that Mr. Rono did not fully appreciate the roles and functions of the County Public Service Board particularly its role in the budget making process as set out in the County Governments Act. However, Mr. Rono expressed his appreciation at having the session with the Committee and noted that things will change in the Board if given another chance. The Committee notes that Mr. Rono expressed his apologies for the errors on the report citing certain challenges during the writing of the report. The Committee also notes that the function of record keeping lay with the secretariat, however the all Board Members.

On the charge of incompetence against the Mr. Rono, the Committee finds that this charge was not substantiated.

HEARING OF AMB. JOSHUA TERER,

Amb. Joshua Terer appeared for hearing on the 9th of July.

Reading of the Charges

Pursuant to the Rules of Procedure for the Investigation into the Proposed Removal from Office, the Chairman, Secretary and Members, the hearing of Amb. Joshua Terer commenced with the reading out, verbatim, of the Particulars of the Allegations against him. However, before the charges were read out to him by the Special Committee, the Committee brought to his attention an amendment to charge two due to typing error, Article 232 was misspelt as 231 though it was evident that the particulars dealt with 232. Amb. Joshua Terer did not object to the amendment.

Charge One: Gross Violation of the County Governments Act, 2012

The following were the specific matters canvassed under this Charge-

- d) *Unlawfully and unprocedurally recruiting personnel and creating offices in the County Public Service contrary to the provisions of Sections 59, 60 and 62 of the County Governments Act, 2012.*

Particulars

That Amb. Terer jointly and severally as Chairman of the County Public Service Board breached the law with wanton abandon by recruiting personnel to offices in the County Public Service that were neither established by the County Public Service Board nor approved by the County Assembly as required by the law. Some of the offices which were irregularly and unprocedurally established that were captured in the report of the County Assembly Committee on Labour and Public Service include-

- *One extra Ward Administrator Coordinator*
- *15 Administrators.*

- *Executive drivers*

- e) *Unlawfully and intentionally failing to observe fairness, transparency and county diversity in the recruitment of county staff contrary to Section 65 and 66 of the County Governments Act, 2012.*

Particulars

That Amb. Terer jointly and severally as Chairman of the County Public Service Board disregarded fairness, transparency and county diversity in the recruitment of county personnel by failing to recruit individuals from certain quarters of the county despite conducting large recruitment exercises.

That Amb. Terer further jointly and severally as a Chairman of the County Public Service Board took decisions not to widely publicise Public Offices to be filled so as to invite applications from a wide population of potential applicants as required by the law. A case in point is the unprocedural regularisation of drivers which was done without any advertisements and the unlawful and unnecessary recruitment of a twenty-sixth Ward Administrator.

That Amb. Terer further jointly and severally as Chairman of the County Public Service Board disregarded experience, qualifications and fair competition in the recruitment of personnel to the County Public Service by recruiting individuals who had never applied nor were shortlisted for certain positions but ended up being recruited nevertheless.

- f) *Unlawfully and intentionally permitting persons to unprocedurally and irregularly hold or act in offices of the County Public Service without taking any corrective measures contrary to Section 64(5) as read with Section 75 of the County Governments Act, 2012.*

Particulars

That Amb. Terer jointly and severally as Chairman of the County Public Service Board knowingly allowed certain individuals in the County to continue to purport to be Chief Officers or continue to purport to act in the office of Chief Officers for a long period of time while fully aware that none of these individuals has been approved by the Assembly as required by law.

That Amb. Terer further jointly and severally as Chairman of the County Public Service Board intentionally failed to take any corrective action regarding persons serving in office contrary to the law despite having knowledge of the irregularities

Responses

Amb. Terer in his response to the allegations against him, denied the allegations. In his response with regard to the hiring of the 26th Ward Administrator, Mr. Terer acknowledged that the Board had erred in appointing the extra Ward Administrator. Mr. Terer admitted that the position of the

extra Ward Administrator was never advertised as required under Section 66 of the County Governments Act thus the process was flawed. He nonetheless stated that the Board in its decision after meeting unanimously agreed to revoke its decision on hiring of the extra Ward administrator as guided by the law under Section 75 of the County Governments Act in remedying the Board's shortfall.

Mr. Terer denied having played any role in hiring of the fifteen Ward Administrators. He in fact told the Committee that as a chair, he didn't know who appointed the 15 Ward Administrators and that he sought to know who the appointing authority through the Special Committee was. The respondent acknowledged to having written directly to H.E the Governor submitting a list of names of interviewees for positions of ward administrator rated as no. 2 and 3 who are alleged to comprise of the 15 ward administrators vide letter addressed to the H. E the Governor dated 28th August, 2013. He insisted that the list was for reference and record purposes.

Amb. Terere stated that the Board has only established 1 office of the 26th ward administrator and that no other office have been established. He told the Committee that the Board has been staffing existing offices and not creation of offices. He admitted to having confirmed the drivers to the County Executive Committee Members through suitability and validity test by regularising them thus complying with Section 75 of the County Governments Act. He defended the Board's action as being lawful.

Amb. Terer denied being aware of any persons being hired entities other than the Board within the County Public Service. He further stated that he was not aware of any Chief Officers or acting Chief Officers apart from two Chief Officers who were approved by the County Assembly.

Amb. Terer testified that offices could be established by the Executive as provided by the law under Section 46 of the County Governments Act. He however stated his view was subject to other interpretation.

Observations of the Committee

The Committee observed that the Chairman admitted that the appointment of the one extra Ward Administrator was unlawful and unprocedural. It was his admission that the relevant department did not submit any formal request to the Board nor was the approval of the County Assembly sought. He further stated that a decision was taken to rescind the decision. However, as Chairman of the Board and the signatory to the minutes of the 9th of September it curious why such a decision was never transmitted to the County Secretary.

Like the other Members of the Board the Committee finds that Amb. Tonui breached the law by regularisation of executive drivers since it was not transparent nor allowed for fair completion as required by the law. The Committee also rejects the rationale of drivers being personal to County Executive Committee Members as warranting the regularisation. The Committee thus finds the Amb. Terer to have violated Section 65 and 66 of the County Governments Act in the regularisation of executive drivers.

On the issue of the recruitment of 15 extra Ward Administrators, the Committee notes that this was an issue that all the other Members who had appeared before the Committee vehemently denied their involvement and so did Amb. Terer. However, the Committee had the benefit of two witnesses summoned on behalf of the all the Members of the County Public Service Board to shed light on this issue.

One Mr. Kilelson Mutai, who was before his present assignment, was a Chief Officer, Administration in the office of the Governor testified that the recruitment of the 15 Administrators could not have been made without consultation with the Board. He testified that because of the staffing challenges within the county at the time of the recruitment of ward administrators, it was felt that some of the recruited ward administrators were suitable for other positions. As a result, according to Mr. Kilelson's testimony the office of the H. E the Governor requested a list of the candidates rated as second and third in the interviews from the County Public Service Board. The intention according to Mr. Kilelson's testimony was to see which of the candidates could be deployed to what department in the County Executive. The list as requested by the office of H.E the Governor was submitted by the Board in Mr. Kilelson's testimony and the candidates were deployed by the executive to various positions this notwithstanding the fact that they had applied for the position of Ward Administrators.

Mr. Kilelson also testified that the Chairman of the Board, Amb. Terer and Secretary of the Board, Philip Tonui were frequent guests to the Governor's office during the time of the recruitment of Ward Administrators by inference therefore Mr. Kilelson took them to conducting business on behalf of the Board including holding consultations for the recruitment of the extra Ward Administrators. Amb. Terer elected not to cross-examine Mr. Kilelson to probe the correctness or otherwise of his testimony when given an opportunity by the Committee to do so.

The County Secretary Mr. Jonathan Soi was also summoned to appear to before the Committee to shed light on the recruitment of the extra Ward Administrators. He confirmed that there had been consultations between the Board, to be exact between the Chairman and Secretary of the Board and H. E the Governor's office. He referred to the letter dated 28th August 2013 addressed

directly to H.E the Governor enclosing the particulars of the 2nd and 3rd rated candidates for positions of Ward Administrator which Mr. Soi tendered before the Committee. Interestingly, the letter tendered by Mr. Soi although similar one tendered by the Board as part of its defence had been signed by the Secretary of the Board Mr. Philip Tonui .Amb. Terer cross-examined Mr. Soi on the intent of the letter which he said was for reference and record of H.E the Governor. Mr. Soi dismissed that notion, saying that it was clearly understood that the names were for the Governor's office to refer and accordingly make appointments.

The Committee is of the considered view that Amb. Terer participated in the negotiations between the Board and the executive that led to the recruitment of the extra fifteen Ward Administrators. The Committee notes that these opaque manner of recruitment in County Public Service is in serious contravention of the law. It is neither transparent nor competitive and has the effect of discouraging other potential County residents an opportunity to apply for jobs they feel they are comfortable and suited for. It also lowers public confidence in County Public Service recruitment and also the institution of the County Public Service Board. The Committee finds that Amb. Terer breached the County Government Act by participating in the recruitment of Administrators against the law and in effect participating in the irregular creation of offices.

Given the violations of the County Government Act and the concerted attempt at covering up his involvement in the irregular recruitment of Administrators. The Committee finds that the charge of gross violation of the County Government Act by the Amb. Terer was substantiated.

Charge Two: Gross Violation of the Constitution and the leadership and Integrity Act, 2012

a) Unlawfully and intentionally failing to observe the National values and the guiding principles of leadership and integrity in the running of the County Public Service contrary to Article 10 (2) (c) and 73(2) of the Constitution.

Particulars

That Amb. Terer jointly and severally as Chairman of the County Public Service Board in collusion with the office of the County Secretary unprocedurally made appointments of extra Administrators by "agreeing" to appoint administrators from the list of unsuccessful applicants for the position of Ward Administrators and that you further made clandestine arrangements to regularise the appointments of other County Staff including drivers.

b) Unlawfully and intentionally failing to observe the values and principles of Public Service that includes the efficient and effective use of resources, accountability for administrative acts and the provision of accurate information as the basis of appointment contrary to article 232 of the Constitution.

Particulars

That Amb. Terer jointly and severally as Chairman of the County Public Service Board acquiesced to the unlawful drawing of salaries and benefits from the County Treasury by participating in the recruitment of excess personnel whose offices are not lawfully established and allowing individuals who are not properly in office of Chief Officers to go on serving in the County Public Service thus leading to the inefficient use of county resources and unnecessarily burdening the county's already increasing wage bill.

c) Unlawfully failing to carry out the duties of the office of Member of the County Public Service Board with honesty, failing to keep accurate records and documents relating to the functions of the County Public Service Board and failing to report truthfully on all matters of the County Public Service Board contrary to Section 10 of the Leadership and Integrity Act, 2012

Particulars

That Amb. Terer jointly and severally as a Member of the County Public Service Board in your report to the County Assembly made deliberate attempts to mislead the Assembly by giving wrong spellings to Administrative Units within the County and even included non-existent Ward Units from which you purported to have recruited County Staff in order to cover up excessive recruitment from certain areas of the county to the detriment of other areas within the County.

That Amb. Terer further jointly and severally as a Member of the County Public Service Board denied knowledge of irregular appointments of unsuccessful applicants to the office of Ward Administrators to other offices in the Public Service by uttering information before the County Assembly's Committee on Labour and Public Service that was later concluded to be false after the County Secretary tendered official written correspondence with County Public Service Board to the contrary.

Responses

Amb. Terer denied the charge. He vehemently denied any consultations to agree on the recruitment of extra Administrators. He regretted the errors in the report stating that they were as result of the heavy workload of the Board during the compilation of the report and that the errors had no ulterior motive.

Observations

The Committee observed that Amb. Terer was quite evasive and kept shifting the blame on other offices within the County while knowing very well that all matters to do with creation and staffing of offices within the County lay squarely in his office. The Chairman kept telling the Committee

"am not aware" of the extra Administrators yet there was evidence to the contrary. Given its finding in charge one and the testimony of Mr. Kilelson Mutai Chief Officer, Trade and Tourism, and County Secretary Mr. Jonathan Soi, the Committee finds that the Amb. Terer contravened Section 10 of the Leadership and Integrity Act and Article 73 of the Constitution by not taking accountability for the irregular appointment of excess staff. Given that this aspect of the charge is related to charge one, the Committee finds that the charge of gross violation of the constitution against Amb. Terer was substantiated.

Charge Three: Incompetence to Hold Office in the County Public Service Board

Particulars

That Amb. Terer jointly and severally as Member of the County Public Service Board committed numerous serious violations of the law as has been set out above despite the clarity of the provisions of the Part VII of the County Governments Act, 2012 concerning the functions and powers of the County Public Service Board. Consequently, a reasonable person can only reach the conclusion that as Chairman of the County Public Service Board you are not conversant with the legal framework of your mandate and are thus incompetent and unfit to hold office as Member of the County Public Service Board.

Furthermore, the report submitted by Amb. Terer jointly with the other Members of the County Public Service Board to the County Assembly was inadequate in very many respects as it had several errors regarding the names of administrative units. One would expect the Chairman of the County Public Service Board to be keen on details such as the proper names and designations of Administrative Units in the County by virtue of task given to you to manage the County Public Service on behalf of the County government. Moreover, the report submitted to the County Assembly also left out crucial information required of such a report within the criteria set out in Section 59 of the County Governments Act. A reasonable person can thus only reach a conclusion of incompetence on the part as Amb. Terer as Chairman of the County Public Service Board.

Further, the submitted report by yourself and other Board Members to the Assembly was also clear evidence that the County Public Service Board never maintains a definitive record of all applications received in response to advertisements which record could be easily available for inspection. As a consequence to this poor record keeping, the record of applicants presented in the report was jumbled and had many omissions. Such errors and omissions are not expected of a professionally and competently administered County Public Service Board

Responses

The Chairman denied the charges of incompetence.

Observation of the Committee

The Committee found the Chairman was a knowledgeable person with a vast experience in the management of public affairs. The Committee however noted that the Chairman, in his response seems to have taken the approach of denying liability and assigning blame to other officials within the County. No evidence was tendered by the Chairman to demonstrate that, as the Chairman of the Board, he had ensured that the decision of the Board to rescind appointment of the extra Administrators was communicated and effected. Had the Chairman done so, he would have save the County from incurring unnecessary burden.

While the Committee would have benefited from clear response by the Chairman to the issues raised in the County Assembly Committee on labour's report, the Chairman opted to provide a generalized and rather casual response to the same. The Chairman did not produce sufficient further evidence to shed light on the unlawful recruitment. As a result, the serious matters cited in the County Assembly report all pointing to the unlawful and irregular appointments in the County remain unchallenged and unexplained. Nonetheless, the Committee found that the charge of incompetence against the Chairman could not be substantiated.

HEARING PHILIP TONUI,

Mr. Philip Tonui appeared for hearing on the 10th of July.

Reading of the Charges

Pursuant to the Rules of Procedure for the Investigation into the Proposed Removal from Office, the Chairman, Secretary and Members, the hearing of Mr. Philip Tonui commenced with the reading out, verbatim, of the Particulars of the Allegations against the each Member of the County Public Service Board. However, before the charges were read out to him by the Special Committee, the Committee brought to his attention an amendment to charge two due to typing error that Article 232 was misspelt as 231 though it was evident that the particulars dealt with 232. Mr. Philip Tonui did not object to the amendment.

Charge One: Gross Violation of the County Governments Act, 2012

The following were the specific matters canvassed under this Charge-

- g) Unlawfully and unprocedurally recruiting personnel and creating offices in the County Public Service contrary to the provisions of Sections 59, 60 and 62 of the County Governments Act, 2012.*

Particulars

That Mr. Tonui jointly and severally as Secretary of the County Public Service Board breached the law with wanton abandon by recruiting personnel to offices in the County Public Service that were neither established by the County Public Service Board nor approved by the County Assembly as required by the law. Some of the offices which were irregularly and unprocedurally established that were captured in the report of the County Assembly Committee on Labour and Public Service include—

- *One extra Ward Administrator Coordinator*
- *15 Administrators.*
- *Executive drivers*

- h) Unlawfully and intentionally failing to observe fairness, transparency and county diversity in the recruitment of county staff contrary to Section 65 and 66 of the County Governments Act, 2012.*

Particulars

That Mr. Tonui jointly and severally as Secretary of the County Public Service Board disregarded fairness, transparency and County diversity in the recruitment of county personnel by failing to recruit individuals from certain quarters of the County despite conducting large recruitment exercises.

That Mr. Tonui further jointly and severally as a Member of the County Public Service Board took decisions not to widely publicise Public Offices to be filled so as to invite applications from a wide population of potential applicants as required by the law. A case in point is the unprocedural regularisation of drivers which was done without any advertisements and the unlawful and unnecessary recruitment of a twenty-sixth Ward Administrator.

That Mr. Tonui further jointly and severally as Secretary of the County Public Service Board disregarded experience, qualifications and fair competition in the recruitment of personnel to the County Public Service by recruiting individuals who had never applied nor were shortlisted for certain positions but ended up being recruited nevertheless.

- i) Unlawfully and intentionally permitting persons to unprocedurally and irregularly hold or act in offices of the County Public Service without taking any corrective measures contrary to Section 64(5) as read with Section 75 of the County Governments Act, 2012.*

Particulars

That Mr. Tonui jointly and severally as a Member of the County Public Service Board knowingly allowed certain individuals in the county to continue to purport to be Chief Officers or continue to purport to act in the

office of Chief Officers for a long period of time while fully aware that none of these individuals has been approved by the Assembly as required by law.

That you further jointly and severally as a Member of the County Public Service Board intentionally failed to take any corrective action regarding persons serving in office contrary to the law despite having knowledge of the irregularities

Responses

Mr. Tonui, in his response to the allegations against him denied the charges.

Observations of the Committee

The Committee finds that as the Secretary, he failed to advise the Board in the recruitment of an extra Ward Administrator. The Committee also finds him culpable in the irregular recruitment of extra Administrators. In particular, the Committee took into consideration the evidence given by a witness by the name Mr. Kilelson on the issue of hiring of the extra Administrators. It was the contention of the witness that the Secretary did participate in the negotiations between the Board and the Executive which led to the recruitment of the said extra Administrators. The Secretary did not deny the same as well as cross examine the witness on the correctness or otherwise of the said testimony. The statement which was given under oath therefore remains uncontested by the Secretary. The same confirms the fact that he was indeed privy to the information and the process leading up to the recruitment of the extra Administrators. The Special Committee can do no more than agree with the evidence of the said witness. The Committee therefore finds the charge against Mr. Tonui to be substantiated.

Charge Two: Gross Violation of the Constitution and the leadership and Integrity Act, 2012

a) Unlawfully and intentionally failing to observe the National values and the guiding principles of Leadership and Integrity in the running of the County Public Service contrary to Article 10 (2) (c) and 73(2) of the Constitution.

Particulars

That Mr. Tonui jointly and severally as a Member of the County Public Service Board in collusion with the office of the County Secretary unprocedurally made appointments of extra Administrators by "agreeing" to appoint Administrators from the list of unsuccessful applicants for the position of Ward Administrators and that you further made clandestine arrangements to regularise the appointments of other County Staff including drivers.

b) Unlawfully and intentionally failing to observe the values and principles of Public Service that includes the efficient and effective use of resources, accountability for administrative acts and the provision of accurate information as the basis of appointment contrary to article 232 of the Constitution.

Particulars

That Mr. Tonui jointly and severally as Secretary of the County Public Service Board acquiesced to the unlawful drawing of salaries and benefits from the County Treasury by participating in the recruitment of excess personnel whose offices are not lawfully established and allowing individuals who are not properly in office of Chief Officers to go on serving in the County Public Service thus leading to the inefficient use of County resources and unnecessarily burdening the County's already increasing wage bill.

c) Unlawfully failing to carry out the duties of the office of Member of the County Public Service Board with honesty, failing to keep accurate records and documents relating to the functions of the County Public Service Board and failing to report truthfully on all matters of the County Public Service Board contrary to Section 10 of the Leadership and Integrity Act, 2012

Particulars

That Mr. Tonui jointly and severally as Secretary of the County Public Service Board in their report to the County Assembly made deliberate attempts to mislead the Assembly by giving wrong spellings to Administrative Units within the County and even included non-existent Ward Units from which you purported to have recruited County staff in order to cover up excessive recruitment from certain areas of the County to the detriment of other areas within the County.

That Mr. Tonui further jointly and severally as a Member of the County Public Service Board denied knowledge of irregular appointments of unsuccessful applicants to the office of Ward Administrators to other offices in the Public Service by uttering information before the County Assembly's Committee on Labour and Public Service that was later concluded to be false after the County Secretary tendered official written correspondence with County Public Service Board to the contrary.

Responses

Mr. Tonui denied the charges.

Observations

The Committee observed that a number of issues raised under this charge were substantially the same as those raised in the first charge which has been dealt with above. The Committee therefore reiterates its observations under charges one. The Committee therefore finds the charge substantiated.

The Committee observed that the Secretary was not discharging his duties in a manner that a reasonable person would expect. It was also noted that the Secretary was giving too much emphasis

to oral communication as opposed to written communication which is the standard practice for any official communication.

The Committee also observed that the Secretary being a professional did not endeavour to provide the necessary advice and guidance to the Board.

Charge Three: Incompetence to Hold Office in the County Public Service Board

Particulars

That Mr. Tonui jointly and severally as Secretary of the County Public Service Board committed numerous serious violations of the law as has been set out above despite the clarity of the provisions of the Part VII of the County Governments Act, 2012 concerning the functions and powers of the County Public Service Board. Consequently, a reasonable person can only reach the conclusion that the as Secretary of the County Public Service Board Mr. Tonui not conversant with the legal framework of your mandate and is thus incompetent and unfit to hold office of Secretary of the County Public Service Board.

Furthermore, the report submitted by Mr. Tonui jointly with the other Members of the County Public Service Board to the County Assembly was inadequate in very many respects as it had several errors regarding the names of administrative units. One would expect a Secretary of the County Public Service Board to be keen on details such as the proper names and designations of Administrative Units in the County by virtue of the task given to him to manage the County Public Service on behalf of the County government. Moreover, the report submitted to the County Assembly also left out crucial information required of such a report within the criteria set out in Section 59 of the County Governments Act. A reasonable person can thus only reach a conclusion of incompetence on your part as a Member of the County Public Service Board.

Further, the submitted report by Mr. Tonui and other Board Members to the Assembly was also clear evidence that the County Public Service Board never maintains a definitive record of all applications received in response to advertisements which record could be easily available for inspection. As a consequence to this poor record keeping, the record of applicants presented in the report was jumbled and had many omissions. Such errors and omissions are not expected of a professionally and competently administered County Public Service Board

Responses

Mr. Tonui denied the charges

Observation of the Committee

It was evidently clear to the Committee that the Secretary did not fully understood the salient provisions of Sections 59 and 60 of the County Governments Act 2012 as well as Articles 10 and

232 of the Constitution. This was in contrast to both his position and qualification as a certified public Secretary (CPS-K). The Secretary from his evidence seems to have either an unclear understanding of his official duties or has deliberately chosen to abdicate the same. A case in point is the lack of evidence to demonstrate whether or not the Board's decision rescinding the appointment of extra Ward Administrators was communicated. The Secretary could not provide a definitive answer when asked if he made a follow up to ensure that the said decision was effected.

The Committee however finds that a charge of incompetence on the part of the Secretary was not substantiated.

OTHER OBSERVATIONS AND RECOMMENDATIONS

During the course of the investigations of the Committee it became it emerged that the Office of the County Secretary and County Public Service Board did not have an effective working relation. In fact the Committee got the impression that the office of the County Secretary was frustrating the functions of the Board. One particular example is that the office of the County Secretary, an office mandated to write appointment letters on behalf of the Board, failure to issue copies of appointment letters to the County Public Service Board. It was also of great concern, drawing from the testimony of the County Secretary during the hearings that the County Secretary seemed to have arrogated himself or his office the power to further vet the persons appointed by the Public Service Board before issuing them with appointment letters. The Committee wishes to note that this is in clear violation of the County Governments Act which vests all appointments except those expressly provided for in other laws, in the County Public Service.

It was also noted that there were parallel appointments to the appointments being made by the County Public Service Board. It was further noted that there were offices in the county such as the office of the County Attorney that seemed neither to operate as state office nor a public service office under the county public service board. The County Secretary and the board both denied knowledge of an officer known as the "County Attorney" within the county public service. The Assembly needs to investigate this matter as it has had frequent dealings with the said officer.

Although a comprehensive analysis of the state of affairs in Bomet County in terms of employment of personnel did not form part of the mandate of the Special Committee, it would be an omission on the part of the Special Committee not to recommend for a comprehensive audit of all the staff working within the County and a full list of employees currently on payroll, noting full details including the job groups and the same be submitted to the County Assembly not later than two

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months from the date of adoption of this report. There is need for the County residents to know the County workforce pursuant to Article 35 of the Constitution on the citizen's right to access information, and generally in ensuring the development and success of the County.

The Committee strongly recommends that any persons currently purporting to be "acting" as Chief Officers be advised to immediately desist and cease doing so and in contravention thereof be severely reprimanded.

The Committee further recommends that in contravention of the recommendation no.3 above, the County Assembly shall not recognise any such persons and shall not be obligated to receive any documents signed by such persons for deliberations, adoption and approval unless such documentations are accompanied by documentary evidence of existence of any such appointment.

The Committee further recommends that all the County employees, in particular the extra Ward Administrators who were irregularly recruited but nevertheless are in employment, be regularised and deployed to departments where individual skills would be relevant and more useful.

The Committee finally recommends that the County Public Service Board be fully involved in the budget making process.

ANNEXTURES

**MINUTES OF THE SPECIAL COMMITTEE ON THE REMOVAL FROM OFFICE
THE CHAIRMAN, SECRETARY AND MEMBERS OF THE CPSB HELD AT THE
CHAMBERS ON 7TH JULY 2014 AT 10.00 AM**

MEMBERS PRESENT

Hon. Sammy Kipsiele	Chairman
Hon. Samson Towett	Vice chairman
Hon. Stephen Changmorik	Member
Hon. Samwel Bor	Member
Hon. Taplelei Rotich	Member
Hon. John Molel	Member
Hon. Julius Korir	Member
Hon. Hellen Chepkirui	Member
Hon. Evaline Chepkemoi	Member

IN ATTENDANCE

Oscar Sang	Director legislative and legal services
Haron Ngeno	Senior Legal Counsel
Veronicah Waweru	Clerk

MEMBERS OF THE CPSB

Amb. Joshua Terer	Chairman CPSB
Eunice Benson	Vice chairperson CPSB
Philip Tonui	Secretary CPSB
Paul Kimetto	Member CPSB
Judith Siele	Member CPSB
Winnie Maina	Member CPSB

Pst Joseph Rono

Member CPSB

AGENDA

1. Preliminaries
2. Pre-trial conference
3. A.O.B

PRELIMINARIES

The chair welcomed the members of the committee and members of the County Public Service Board.

Hon. Taplelei Rotich prayed.

PRE TRIAL CONFERENCE

The director of legal and legislative services read through the rules of procedures which had been adopted by the committee.

Issues raised with respect to the rules:-

- (a) That the board would give a joint written response to the charges
- (b) Each member stated that he/she had attended the pre-trial conference in good faith and that he/she would appear before the committee in person.
- (c) That the documents that the board sought to rely on would be filed before office hours.
- (d) All the members agreed to appear before the committee individually
- (e) The respondents requested the committee to summon 9 individuals as witnesses to their case.
- (f) The committee requested the board that it be furnished with the following documents:
 - (i) All adverts made by the board on recruitment of staffs
 - (ii) List of applicants
 - (iii) List of the offices that the board had established
 - (iv) Regular reports that the board ought to have been submitting to the Assembly.
- (g) The committee assured the respondents that sittings of the committee would almost be like those of the High Court.
- (h) The committee together with the board came up with a schedule of how the respondents would appear before the committee.
- (i) The board gave a list of names that it wished the committee to summon as witnesses.

They were:-

- | | |
|--------------------|---------------------|
| 1. Paul K. Langat | Ward Adm Sigor |
| 2. Erick Chepkwony | Accountant |
| 3. Geoffrey Bett | Ward Adnm |
| 4. Rose Kositany | Director of Finance |

5. Philip Cheruiyot	Director of Cooperatives
6. Kilelson Mutai	Chief Officer Trade and Tourism
7. Jonathan Siele	County Secretary
8. Ann Turgut	Director Human Resource
9. Kiprotich Langat	Payroll Manager

Erick Chehpkwony, Paul Langat and Geoffrey Bett would be summoned to make a clarification on which ward he came from.

Rose Kositany would be summoned to clarify on her job group and designation

Philip Cheruiyot would explain to the committee on user department

Kileleson Mutai would explain on the hiring of the extra ward administrator

Ann Turgut would answer on the issue of appointment letters and salary scales

Jonathan Soi would give explanations on the issue of appointment letters and the appointment of the extra ward administrators.

The following schedule was adopted:

NAME	DAY AND TIME
	Tuesday, 8th July 2014
Mr. Paul Kimetto	at 9.00 am- 10.00 am
Ms. Winnie Maina	10.00 am – 12.00 noon
Ms. Judith Siele	12.00 noon-1.00 pm
Amb. Joshua Terer	2.00 pm – 4.00 pm
Ms. Eunice Benson	4.00 pm – 6.00 pm
	Wednesday, 9th July 2014
Mr. Philip Tonui	9.00 am – 11.00 am
Mr. Joseph Rono	11.00 am – 1.00 pm
Witnesses	
Rose Kositany	2.00 pm – 2.30 pm
Jonathan Soi	2.30 pm – 3.00 pm
Ann Turgut	3.00 pm – 3.30 pm

Kiprotich Langat

3.30 pm – 4. 00 pm

A.O.B

There being no other business the chair adjourned the meeting at 2.05 pm.

Hon. John Molel prayed

SIGNED BY:

THE CHAIRMAN: _____

SIGNATURE: _____ **DATE** _____

THE SECRETARY: _____

SIGNATURE: _____ **DATE** _____

**MINUTES OF THE SPECIAL COMMITTEE ON THE PUBLIC HEARING FOR THE
REMOVAL FROM OFFICE THE CHAIRMAN, SECRETARY AND MEMBERS OF
THE PUBLIC SERVICE BOARD HELD AT THE COUNTY ASSEMBLY'S LOUNGE
ON 8TH JULY 2014 AT 9.00 AM**

MEMBERTS PRESENT

Hon. Sammy Kipsiele
Hon. Samson Towett
Hon. Samwel Bor
Hon. Taplelei Rotich
Hon. Julius Korir
Hon. Benard Ngeno
Hon. Hellen Chepkirui
Hon. Sammy Chelule
Hon. Robert Serbai
Hon. Evaline Chepkemai
Hon. Stephen Changmorik
Hon. John Molel

MEMBERS ABSENT

Hon. Joyce Korir

IN ATTENDANCE

Oscar Sang
Haron Ngeno
Calvine Kitur
Veronicah Waweru

AGENDA

1. Preliminaries
2. Public hearing on the removal from office the chairman, secretary and member of public service Board.

PRELIMINARIES

The chair called the meeting to order. Hon. Taplelei Rotich prayed.

PUBLIC HEARING ON THE REMOVAL FROM OFFICE THE CHAIRMAN, SECRETARY AND MEMBER OF PUBLIC SERVICE BOARD.

Mr. Kimetto, in his response to the allegations against him, first started by indicating the matters in question that happened prior his joining the Board. Firstly, he started by telling the committee that he was neither involved in the report writing nor any decisions made by the committee prior his joining the Board. He produced his appointment letter marked as "EXB 1A" as evidence. Despite his denial in being involved, he acknowledged that a mistake was made by the Board in hiring the extra ward administrator hence proposed corrective measures to cure the anomaly as provided for under Section 75 of the County Governments Act. That as a Board in one of its meeting dated 6th and 7th September, 2013 sat and agreed to revoke its decision of hiring the 26th ward administrator. That although the Board wrote to the County secretary informing him of its decision no step was taken to implement the same.

Charge 2

In response Mr. Kimetto stated that the Board never participated in making any decisions in hiring of the extra 15 ward administrators. That no consultations were made between the Board and the office of the County secretary in appointment of the 15 ward administrators.

Mr. Kimetto told the committee that there were only two Active chief officers Mr. Kilelson Mutai and Simon Korir who had been approved by the Assembly and that he was not aware of any acting chief officer. The respondent acknowledged to have heard about the Acting chief officers but as a member of the Board he stated that no appointments had been made with regard to the same. The respondent stated that the Board is mandated to appoint acting chief officers but none had been made to that effect.

Charge 3

The respondent denied the charges. He stated that the Board do keep records of all applicants although it was not produced as evidence. He said that he was aware of the national values and principles of good governance under article 10 and 232 of the Constitution.

The respondent denied the existence of any acting chief officers and having any involvement in the appointment of the 15 ward administrators.

2nd RESPONDENT

Ms. Winnie Maina, in her response to the allegations against her, first started by indicating the matters in question that happened prior her joining the Board. Ms. Maina acknowledged that indeed as a Board

member she violated the law by participating in hiring of the extra ward administrator without following the due process. The respondent informed the committee that vide the minutes of 6th and 7th of September, 2013 the Board agreed to revoke its decision by curing the irregularity in hiring the 26th ward administrator as provided for under section 75 of the County Governments Act 2012. That after arriving at its decision the Board never took measures to ensure that its decision was implemented.

Ms. Maina denied to having played any part in the hiring of the extra 15 ward administrators. That the same was done without the Board being consulted. The respondent agreed that the list of names from the shortlisted candidates of no. 2 and no. 3 for the position of ward administrator were forwarded to the County Secretary for purposes of record keeping and reference

That the Board took corrective measures by regularizing the drivers to the County Executive drivers. The drivers had temporary letters of appointment and required confirmation in order for them to be effective in their job. That the Board carried a suitability test and validated them. The respondent agreed that no interview was conductive hence the process was not competitive and fair.

The respondent admitted to only knowing two chief officers and was not aware of any acting chief officer.

Ms. Maina denied the charges of incompetency. That the Board has not established any offices but has been filling those offices that were established by the statute. She said that she upheld the provisions of Articles 73 of the constitution. That the Board had not made any recommendations to the Salaries and remuneration Commission on the issues of salaries and gratuities.

That the Board suited Rose Kositany as the director of finance. The office of Chief Finance Officer has been established. The respondent stated that the Director of Finance was in job group "R". The respondent told the committee that the Board had requested that the Payroll Manager be summoned to appear before the committee to clarify on how much the Director of Finance earned as she was not privy to the information.

The respondent denied of any knowledge to the information that more than two chief officers had been budgeted for in the budget estimates for the FY 2014/2015. That she was not involved in the budget making process. That Pastor Joseph Rono was the one who sat in that committee during budget making process.

3RD RESPONDENT

Ms. Judith Siele denied all the charges. She stated that she believed in transparency.

She stated that the positions of the ward administrators were advertised except that of the extra ward administrator. That despite the Board's decision after it realized it had made a mistake the Board decided to rescind the decision as provided for under section 75 of the County Governments Act.

With the issue of the extra 15 ward administrators, the respondent stated that there was no consultation made between the Board and the office of the Governor. That as a citizen of this County she had heard rumours about their existence but the Board did not make the appointments. The respondent confirmed that the extra ward administrators are among the offices established illegally. The respondent even acknowledged the existence of the Health Administrator. In her response with

regard to the executive driver she acknowledged that the Board saw it fit to suit and validate them as they had temporary letters of appointment.

Ms. Siele denied the existence of the office of the County attorney and the liaison officer. That she heard the existence of the office of the County attorney from people but the Board has never investigated. The respondent admitted to having conducted interviews to the security policing officer as they had been requested by the executive pursuant to section 46 of the County Governments Act. That the aforementioned position was advertised. The respondent admitted that the Board is the only body mandated to establish and abolish offices as provided for in section 59 of the County Governments Act. She admitted that the office of the Chief Officer existed.

That as a Board member I was concerned with affirmative Action as a remedy because applicants do not always apply from all parts of the County. The respondent partially agreed that she violated section 75 of the County Governments Act. She admitted that she made mistakes which she apologised for before the committee.

The respondent denied any knowledge of the existence of any person acting as drivers to the ward administrators apart from the 30 drivers that the Board appointed but have not received appointment letters.

That the County Secretary requested for the list of names of successful candidates no. 2 and 3 and that she was not aware that the list would be used for appointment of the extra 15 ward administrators. The CEO to the Board forwarded the list to the County secretary. Ms. Siele told the committee that on several occasions the Board had requested the County secretary for the letters of appointments but the same has not been furnished to the Board.

Ms. Siele told the committee that she was only aware of two chief officers and that there have been no arrangements made by the Board to hire a chief officer. Ms. Siele did not have the exact number of employees the Board had hired.

The respondent stated that she was not aware of the exact budget estimates budgeted for the employees of the County. That the Board have not carried out an audit in order to establish what number of employees the Board has hired.

The respondent told the committee that all the administrators the Board appointed had reported to their respective offices.

Ms. Siele stated that she contributes as a member of the Board and endeavours to represent the women. That she represent the women with integrity and honesty. That she believes in corrective measures which she told the committee as a Board was underway in implementation.

A.O.B

The chair requested that the public hearing be adjourned to the following day. Ms. Eunice Benson's hearing was postponed to the following morning.

The chair requested the Board to furnish the committee with the copies of job advertisement and the list of all appointees in all the position advertised.

There being no other business the hearing was adjourned at 1830 hrs.

Hon. Joyce Kotir prayed.

SIGNED BY:

THE CHAIRMAN: _____

SIGNATURE: _____ DATE _____

THE SECRETARY: _____

SIGNATURE: _____ DATE _____

**MINUTES OF THE SPECIAL COMMITTEE ON THE PUBLIC HEARING FOR
REMOVAL FROM OFFICE THE CHAIRMAN, SECRETARY AND MEMBERS OF THE
PUBLIC SERVICE BOARD HELD AT THE COUNTY ASSEMBLY'S LOUNGE ON 9TH
JULY 2014 AT 9.00 AM**

MEMBERTS PRESENT

Hon. Sammy Kipsiele

Hon. Samson Towett

Hon. Joyce Korir

Hon. Samwel Bor

Hon. Taplelei Rotich

Hon. Julius Korir

Hon. Benard Ngeno

Hon. Hellen Chepkirui

Hon. Sammy Chelule

Hon. Robert Serbai

IN ATTENDANCE

Oscar Sang

Haron Ngeno

Calvine Kitur

Veronicah Waweru

AGENDA

1. Preliminaries
2. Public hearing on the removal from office the chairman, secretary and member of public service board.

PRELIMINARIES

The chair called the meeting to order. Hon. Taplelei Rotich prayed.

**PUBLIC HEARING ON THE REMOVAL FROM OFFICE THE CHAIRMAN,
SECRETARY AND MEMBER OF PUBLIC SERVICE BOARD.**

4th Respondent

Eunice Benson. Sworn in English.

The respondent is a teacher by profession and a pastor. She was sworn into office on 28th May 2013.

She acknowledged that she owned the response filed by the board. The respondent was aware of the existence of the 15 ward administrators and that of the 26th ward administrator whose role was to coordinate. The board never appointed the 15 ward administrators.

The respondent said that the board has never delegated its powers. She acknowledged to having written to the County secretary to take the corrective measures in hiring the extra ward administrator.

The respondent never tabled any documents to prove the same but stated that the secretary to the board is the custodian of all documents. That the advertisement of the ward administrators was done before they got into office. That the first people they interviewed after assuming their offices were the chief officers. That only 2 of them were brought to the Assembly for approval yet the board had recommended ten of them. We wrote to inquire why the rest were left out.

At some point we even sought to consult with the Governor as we had several issues. The issue of the chief officer among them. It was not within our knowledge that there was any acting chief officer and was only aware of two chief officers Kilelson Mutai and Simon Korir. The respondent was not aware if any extra chief officer had been budgeted for as indicated in the budget estimates for the FY 2014/2015.

The respondent informed the committee that the board had written to the County secretary in relations to the abolition of any offices irregularly established. That despite of the foregoing no disciplinary measures have been taken in remedying the same. The respondent acknowledged that it was the board's mandate to create and abolish offices as provided for under section 59 of the County Governments Act.

That the board met on 6th and 7th September 2013 and unanimously agreed to revoke its decision of hiring the extra 26th ward administrator as it realized it had made a mistake in hiring without observing the due process of the law. That the board's decision was a corrective measure in pursuant to section 75 of the County Governments Act. That the secretary had been summoned by the board to make clarification as to why the board's decision was not implemented. The respondent stated that the chairman and the secretary normally act as a link between the members of the board and the executive.

That the board contravened section 66 of the County Governments Act when it established the office extra ward administrator. The respondent admitted that there was in existence the office of the security policing officer as the board had carried out the interviews. The respondent stated that under section 46 of the County Government Act, the executive had mandate to establish and abolish offices hence the same could not be assumed to be the board's failure.

For corrective measures the board normally uses the suitability test and validity in case of any irregularity. The respondent gave an example of the doctors and driver to the members of the executive. The respondent told the committee that Rose Kositany had undergone a suitability test as a director of finance and that she was not aware if she was masquerading as a chief officer. That Rose Kositany was in job group R.

The respondent denied the allegations that she was incompetent.

5th respondent

JOSEPH KIPKIRUI RONO

Mr. Joseph Rono, in his response to the allegations against him, first started by indicating the matters in question that happened prior his joining the Board. Although Mr. Rono denied all the charges he acknowledged the existence of the extra ward administrator, the 15 ward administrator and the executive drivers. In his defence he stated that the hiring of the extra ward administrator was done in good faith as his responsibility was to Act as a coordinator amid the other ward administrators. That when the board grasped that it had made a mistake it made an attempt to revoke its decision pursuant to section 75 of the County Governments Act.

That with regard to the 15 ward administrators, the board required copies of their letters of appointment so that it could take corrective measures according to section 75 of the County Governments Act but was incapacitated in doing so because the County secretary had failed in several occasions to furnish the board with the same. Mr Rono acknowledged that as a board member he could not ascertain the exact number employees the board had hired as no reconciliation has been made between the board and the relevant department.

On the issue of Executive drivers, Mr. Rono stated that the board took a corrective measure as per section 75 of the County Governments Act by suiting and validating them.

That with regard to the establishment of the offices of the political advisor, security policing officer the mandate fell under the office of the executive as provided for in section 46 of the County Governments Act and hence the board had no mandate in establishing the same.

In his defense on the issue of the executive driver, Mr. Rono stated that the board had interviewed 30 drivers to fill in the positions but only one had reported to work and that the rest were yet to receive their appointment letters. He further added that appointment letters are normally dispatched from the office of the County secretary. Mr. Rono could not confirm whether those positions had been filled by other people.

Mr Rono denied of any knowledge of any Acting chief officer apart from Mr. Kilelson Mutai and Simon Korir who had been approved by the County Assembly.

Mr. Rono testified that he was competent and thus was fit to hold his current office.

1ST WITNESS

The first witness was Rose Kositany who was sworn in English.

The witness stated that she worked as a director of finance at the County treasury. That the executive member appointed her to act as the chief finance officer which is equivalent to director of finance. The County Secretary would confirm her position.

The witness declined to produce her appointment letter to prove her designation. The witness said that she needed to consult her lawyer with regard to interpretation of Article 198 (1) and (2) of the Constitution. Hearing of the witness was suspended to the following day at 10.00 am.

SIGNED BY:

THE CHAIRMAN: _____

SIGNATURE: _____ **DATE** _____

THE SECRETARY: _____

SIGNATURE: _____ **DATE** _____

**BOMET COUNTY SPECIAL COMMITTEE INQUIRING INTO THE REMOVAL OF
COUNTY PUBLIC SERVICE BOARD**

**SCHEDULE OF MEMBERS OF THE BOMET COUNTY PUBLIC SERVICE BOARD
APPEARING BEFORE THE COMMITTEE ON 8TH TO 10TH JULY 2014**

Date	Time	Member, CPSM	Venue
	Status Conference	All parties	Chambers
Monday 7 th July 2014			
Tuesday, 8 th July, 2014	9:00 am - 12:00pm	Mr. Paul Kimetto	Chambers
	1:00pm -4:00pm	Ms. Winnie Chelangat	Chambers
	4.00pm- 7.00pm	Ms. Judith Siele	Chambers
Wednesday 9 th July, 2014	9:00am- 12:00pm	Ms. Eunice Benson	Assembly Lounge
	1:00pm-2:00pm	Mr. Joseph Rono	Assembly Lounge
	2.00pm-2:30pm	Ms. Rose Kositany (Witness)	Assembly Lounge
	2:35pm – 3:00pm	Mr. Kilelson Mutai- chief officer, Trade (witness)	Assembly Lounge
	3:10pm-6:10pm	Amb. Joshua Terer	Assembly Lounge
Thursday 10 th July, 2014	9:00am- 12:00pm	Mr. Philip Tonui	Chambers
	12:30pm – 12:40 pm	Ms. Rose Kositany (witness)	Chambers
	1.00pm- 2.00pm	Ms. Ann Turgut Director, Human Resource (witness)	Chambers
	2.00pm- 5.00pm	Mr. Jonathan Soi, The County Secretary(witness)	Chambers

CHARGES AGAINST MS. EUNICE CHERONO BENSON-MEMBER OF THE COUNTY PUBLIC SERVICE BOARD

CHARGE ONE: GROSS VIOLATION OF THE COUNTY GOVERNMENTS ACT, 2012

- a) Unlawfully and unprocedurally recruiting personnel and creating offices in the County Public Service contrary to the provisions of sections 59, 60 and 62 of the County Governments Act, 2012.

Particulars

That you jointly and severally as member of the County Public Service Board breached the law with wanton abandon by recruiting personnel to offices in the county public service that were neither established by the County Public Service Board nor approved by the County Assembly as required by the law. Some of the offices which were irregularly and unprocedurally established that were captured in the report of the County Assembly Committee on Labour and Public Service include-

- One extra ward administrator coordinator
- 15 administrators.
- Executive drivers

- b) Unlawfully and intentionally failing to observe fairness, transparency and county diversity in the recruitment of county staff contrary to section 65 and 66 of the County Governments Act, 2012.

Particulars

That you jointly and severally as member of the County Public Service Board disregarded fairness, transparency and county diversity in the recruitment of county personnel by failing to recruit individuals from certain quarters of the county despite conducting large recruitment exercises.

That you further jointly and severally as a member of the County Public Service Board took decisions not to widely publicise public offices to be filled so as to invite applications from a wide population of potential applicants as required by the law. A case in point is the unprocedural regularisation of drivers which was done without any advertisements and the unlawful and unnecessary recruitment of a twenty-sixth ward administrator.

That you further jointly and severally as a member of the County Public Service Board disregarded experience, qualifications and fair competition in the recruitment of personnel to the county public service by recruiting individuals who had never applied nor were shortlisted for certain positions but ended up being recruited nevertheless.

- c) Unlawfully and intentionally permitting persons to unprocedurally and irregularly hold or act in offices of the county public service without taking any corrective measures contrary to section 64(5) as read with section 75 of the County Governments Act, 2012.

Particulars

That you jointly and severally as a member of the County Public Service Board knowingly allowed certain individuals in the county to continue to purport to be Chief Officers or continue to purport to act in the office of Chief Officers for a long period of time while fully aware that none of these individuals has been approved by the Assembly as required by law.

That you further jointly and severally as a member of the County Public Service Board intentionally failed to take any corrective action regarding persons serving in office contrary to the law despite having knowledge of the irregularities.

CHARGE TWO: GROSS VIOLATION OF THE CONSTITUTION AND THE LEADERSHIP AND INTERGITY ACT, 2012

- a) Unlawfully and intentionally failing to observe the national values and the guiding principles of leadership and integrity in the running of the county public service contrary to Article 10 (2) (c) and 73(2) of the Constitution.

Particulars

That you jointly and severally as a member of the County Public Service Board in collusion with the office of the County Secretary unprocedurally made appointments of extra administrators by "agreeing" to appoint administrators from the list of unsuccessful applicants for the position of ward administrators and that you further made clandestine arrangements to regularise the appointments of other county staff including drivers.

- b) Unlawfully and intentionally failing to observe the values and principles of public service that includes the efficient and effective use of resources, accountability for administrative acts and the provision of accurate information as the basis of appointment contrary to article 231 of the Constitution.

Particulars

That you jointly and severally as a member of the County Public Service Board acquiesced to the unlawful drawing salaries and benefits from the County Treasury by participating in the recruitment of excess personnel whose offices are not lawfully established and allowing individuals who are not properly in office of Chief Officers to go on serving in the county public

service thus leading to the inefficient use of county resources and unnecessarily burdening the county's already increasing wage bill.

- c) Unlawfully failing to carry out the duties of the office of member of the County Public Service Board with honesty, failing to keep accurate records and documents relating to the functions of the County Public Service Board and failing to report truthfully on all matters of the County Public Service Board contrary to section 10 of the Leadership and Integrity Act, 2012

Particulars

That you jointly and severally as a member of the County Public Service Board in your report to the County Assembly made deliberate attempts to mislead the Assembly by giving wrong spellings to administrative units within the county and even included non-existent ward units from which you purported to have recruited county staff in order to cover up excessive recruitment from certain areas of the county to the detriment of other areas within the county.

That you further jointly and severally as a member of the County Public Service Board denied knowledge of irregular appointments of unsuccessful applicants to the office of ward administrators to other offices in the public service by uttering information before the County Assembly's Committee on Public Service that was later concluded to be false after the County Secretary tendered official written correspondence with County Public Service Board to the contrary.

CHARGE THREE: INCOMPENCE TO HOLD OFFICE IN THE COUNTY PUBLIC SERVICE BOARD

Particulars

That you jointly and severally as member of the County Public Service Board committed numerous serious violations of the law as has been set out above despite the clarity of the provisions of the Part VII of the County Governments Act, 2012 concerning the functions and powers of the County Public Service Board. Consequently, a reasonable person can only reach the conclusion that the as a member of the County Public Service Board you are not conversant with the legal framework of your mandate and are thus incompetent and unfit to hold office of member of the County Public Service Board.

Furthermore, the report submitted by you jointly with the other members of the County Public Service Board to the County Assembly was inadequate in very many respects as it had several errors regarding the names of administrative units. One would expect a member of the County Public Service Board to be keen on details such as the proper names and designations of administrative units in

the County by virtue of task given to you to manage the county public service on behalf of the County government. Moreover, the report submitted to the County Assembly also left out crucial information required of such a report within the criteria set out in section 59 of the County Governments Act. A reasonable person can thus only reach a conclusion of incompetence on your part as a member of the County Public Service Board.

Further, the submitted report by yourself and other board members to the Assembly was also clear evidence that the County Public Service Board never maintains a definitive record of all applications received in response to advertisements which record could be easily available for inspection. As a consequence to this poor record keeping, the record of applicants presented in the report was jumbled and had many omissions. Such errors and omissions are not expected of a professionally and competently administered County Public Service Board.

CHARGES AGAINST MR. PAUL KIMETO-MEMBER OF THE COUNTY PUBLIC SERVICE BOARD

CHARGE ONE: GROSS VIOLATION OF THE COUNTY GOVERNMENTS ACT, 2012

- a) Unlawfully and unprocedurally recruiting personnel and creating offices in the County Public Service contrary to the provisions of sections 59, 60 and 62 of the County Governments Act, 2012.

Particulars

That you jointly and severally as member of the County Public Service Board breached the law with wanton abandon by recruiting personnel to offices in the county public service that were neither established by the County Public Service Board nor approved by the County Assembly as required by the law. Some of the offices which were irregularly and unprocedurally established that were captured in the report of the County Assembly Committee on Labour and Public Service include-

- One extra ward administrator coordinator
- 15 administrators.
- Executive drivers

- b) Unlawfully and intentionally failing to observe fairness, transparency and county diversity in the recruitment of county staff contrary to section 65 and 66 of the County Governments Act, 2012.

Particulars

That you jointly and severally as member of the County Public Service Board disregarded fairness, transparency and county diversity in the recruitment of county personnel by failing to recruit individuals from certain quarters of the county despite conducting large recruitment exercises.

That you further jointly and severally as a member of the County Public Service Board took decisions not to widely publicise public offices to be filled so as to invite applications from a wide population of potential applicants as required by the law. A case in point is the unprocedural regularisation of drivers which was done without any advertisements and the unlawful and unnecessary recruitment of a twenty-sixth ward administrator.

That you further jointly and severally as a member of the County Public Service Board disregarded experience, qualifications and fair competition in the recruitment of personnel to the county public service by recruiting individuals who had never applied nor were shortlisted for certain positions but ended up being recruited nevertheless.

- c) Unlawfully and intentionally permitting persons to unprocedurally and irregularly hold or act in offices of the county public service without taking any corrective measures contrary to section 64(5) as read with section 75 of the County Governments Act, 2012.

Particulars

That you jointly and severally as a member of the County Public Service Board knowingly allowed certain individuals in the county to continue to purport to be Chief Officers or continue to purport to act in the office of Chief Officers for a long period of time while fully aware that none of these individuals has been approved by the Assembly as required by law.

That you further jointly and severally as a member of the County Public Service Board intentionally failed to take any corrective action regarding persons serving in office contrary to the law despite having knowledge of the irregularities.

CHARGE TWO: GROSS VIOLATION OF THE CONSTITUTION AND THE LEADERSHIP AND INTERGITY ACT, 2012

- a) Unlawfully and intentionally failing to observe the national values and the guiding principles of leadership and integrity in the running of the county public service contrary to Article 10 (2) (c) and 73(2) of the Constitution.

Particulars

That you jointly and severally as a member of the County Public Service Board in collusion with the office of the County Secretary unprocedurally made appointments of extra administrators by "agreeing" to appoint administrators from the list of unsuccessful applicants for the position of ward administrators and that you further made clandestine arrangements to regularise the appointments of other county staff including drivers.

- b) Unlawfully and intentionally failing to observe the values and principles of public service that includes the efficient and effective use of resources, accountability for administrative acts and the provision of accurate information as the basis of appointment contrary to article 231 of the Constitution.

Particulars

That you jointly and severally as a member of the County Public Service Board acquiesced to the unlawful drawing salaries and benefits from the County Treasury by participating in the recruitment of excess personnel whose offices are not lawfully established and allowing individuals who are not properly in office of Chief Officers to go on serving in the county public

service thus leading to the inefficient use of county resources and unnecessarily burdening the county's already increasing wage bill.

- c) Unlawfully failing to carry out the duties of the office of member of the County Public Service Board with honesty, failing to keep accurate records and documents relating to the functions of the County Public Service Board and failing to report truthfully on all matters of the County Public Service Board contrary to section 10 of the Leadership and Integrity Act, 2012

Particulars

That you jointly and severally as a member of the County Public Service Board in your report to the County Assembly made deliberate attempts to mislead the Assembly by giving wrong spellings to administrative units within the county and even included non-existent ward units from which you purported to have recruited county staff in order to cover up excessive recruitment from certain areas of the county to the detriment of other areas within the county.

That you further jointly and severally as a member of the County Public Service Board denied knowledge of irregular appointments of unsuccessful applicants to the office of ward administrators to other offices in the public service by uttering information before the County Assembly's Committee on Public Service that was later concluded to be false after the County Secretary tendered official written correspondence with County Public Service Board to the contrary.

CHARGE THREE: INCOMPENCE TO HOLD OFFICE IN THE COUNTY PUBLIC SERVICE BOARD

Particulars

That you jointly and severally as member of the County Public Service Board committed numerous serious violations of the law as has been set out above despite the clarity of the provisions of the Part VII of the County Governments Act, 2012 concerning the functions and powers of the County Public Service Board. Consequently, a reasonable person can only reach the conclusion that the as a member of the County Public Service Board you are not conversant with the legal framework of your mandate and are thus incompetent and unfit to hold office of member of the County Public Service Board.

Furthermore, the report submitted by you jointly with the other members of the County Public Service Board to the County Assembly was inadequate in very many respects as it had several errors regarding the names of administrative units. One would expect a member of the County Public Service Board to be keen on details such as the proper names and designations of administrative units in

the County by virtue of task given to you to manage the county public service on behalf of the County government. Moreover, the report submitted to the County Assembly also left out crucial information required of such a report within the criteria set out in section 59 of the County Governments Act. A reasonable person can thus only reach a conclusion of incompetence on your part as a member of the County Public Service Board.

Further, the submitted report by yourself and other board members to the Assembly was also clear evidence that the County Public Service Board never maintains a definitive record of all applications received in response to advertisements which record could be easily available for inspection. As a consequence to this poor record keeping, the record of applicants presented in the report was jumbled and had many omissions. Such errors and omissions are not expected of a professionally and competently administered County Public Service Board.

**CHARGES AGAINST AMB. JOSHUA TERER- CHAIRPERSON OF
THE COUNTY PUBLIC SERVICE BOARD**

**CHARGE ONE: GROSS VIOLATION OF THE COUNTY GOVERNMENTS ACT,
2012**

- a) Unlawfully and unprocedurally recruiting personnel and creating offices in the County Public Service contrary to the provisions of sections 59, 60 and 62 of the County Governments Act, 2012.

Particulars

That you jointly and severally as chairperson of the County Public Service Board breached the law with wanton abandon by recruiting personnel to offices in the county public service that were neither established by the County Public Service Board nor approved by the County Assembly as required by the law. Some of the offices which were irregularly and unprocedurally established that were captured in the report of the County Assembly Committee on Labour and Public Service include-

- One extra ward administrator coordinator
- 15 administrators.
- Executive drivers

- b) Unlawfully and intentionally failing to observe fairness, transparency and county diversity in the recruitment of county staff contrary to section 65 and 66 of the County Governments Act, 2012.

Particulars

That you jointly and severally as chairperson of the County Public Service Board disregarded fairness, transparency and county diversity in the recruitment of county personnel by failing to recruit individuals from certain quarters of the county despite conducting large recruitment exercises.

That you further jointly and severally as a chairperson of the County Public Service Board took decisions not to widely publicise public offices to be filled so as to invite applications from a wide population of potential applicants as required by the law. A case in point is the unprocedural regularisation of drivers which was done without any advertisements and the unlawful and unnecessary recruitment of a twenty-sixth ward administrator.

That you further jointly and severally as a chairperson of the County Public Service Board disregarded experience, qualifications and fair competition in the recruitment of personnel to the county public service by recruiting individuals who had never applied nor were shortlisted for certain positions but ended up being recruited nevertheless.

- c) Unlawfully and intentionally permitting persons to unprocedurally and irregularly hold or act in offices of the county public service without taking any corrective measures contrary to section 64(5) as read with section 75 of the County Governments Act, 2012.

Particulars

That you jointly and severally as a chairperson of the County Public Service Board knowingly allowed certain individuals in the county to continue to purport to be Chief Officers or continue to purport to act in the office of Chief Officers for a long period of time while fully aware that none of these individuals has been approved by the Assembly as required by law.

That you further jointly and severally as a chairperson of the County Public Service Board intentionally failed to take any corrective action regarding persons serving in office contrary to the law despite having knowledge of the irregularities.

CHARGE TWO: GROSS VIOLATION OF THE CONSTITUTION AND THE LEADERSHIP AND INTERGITY ACT, 2012

- a) Unlawfully and intentionally failing to observe the national values and the guiding principles of leadership and integrity in the running of the county public service contrary to Article 10 (2) (c) and 73(2) of the Constitution.

Particulars

That you jointly and severally as a chairperson of the County Public Service Board in collusion with the office of the County Secretary unprocedurally made appointments of extra administrators by "agreeing" to appoint administrators from the list of unsuccessful applicants for the position of ward administrators and that you further made clandestine arrangements to regularise the appointments of other county staff including drivers.

- b) Unlawfully and intentionally failing to observe the values and principles of public service that includes the efficient and effective use of resources, accountability for administrative acts and the provision of accurate information as the basis of appointment contrary to article 231 of the Constitution.

Particulars

That you jointly and severally as a chairperson of the County Public Service Board acquiesced to the unlawful drawing salaries and benefits from the County Treasury by participating in the recruitment of excess personnel whose offices are not lawfully established and allowing individuals who are not properly in office of Chief Officers to go on serving in the county public

service thus leading to the inefficient use of county resources and unnecessarily burdening the county's already increasing wage bill.

- c) Unlawfully failing to carry out the duties of the office of chairperson of the County Public Service Board with honesty, failing to keep accurate records and documents relating to the functions of the County Public Service Board and failing to report truthfully on all matters of the County Public Service Board contrary to section 10 of the Leadership and Integrity Act, 2012

Particulars

That you jointly and severally as a chairperson of the County Public Service Board in your report to the County Assembly made deliberate attempts to mislead the Assembly by giving wrong spellings to administrative units within the county and even included non-existent ward units from which you purported to have recruited county staff in order to cover up excessive recruitment from certain areas of the county to the detriment of other areas within the county.

That you further jointly and severally as a chairperson of the County Public Service Board denied knowledge of irregular appointments of unsuccessful applicants to the office of ward administrators to other offices in the public service by uttering information before the County Assembly's Committee on Public Service that was later concluded to be false after the County Secretary tendered official written correspondence with County Public Service Board to the contrary.

CHARGE THREE: INCOMPENCE TO HOLD OFFICE IN THE COUNTY PUBLIC SERVICE BOARD

Particulars

That you jointly and severally as chairperson of the County Public Service Board committed numerous serious violations of the law as has been set out above despite the clarity of the provisions of the Part VII of the County Governments Act, 2012 concerning the functions and powers of the County Public Service Board. Consequently, a reasonable person can only reach the conclusion that the as a chairperson of the County Public Service Board you are not conversant with the legal framework of your mandate and are thus incompetent and unfit to hold office of chairperson of the County Public Service Board.

Furthermore, the report submitted by you jointly with the other members of the County Public Service Board to the County Assembly was inadequate in very many respects as it had several errors regarding the names of administrative units. One would expect a chairperson of the County Public Service Board to be keen on details such as the proper names and designations of administrative

units in the County by virtue of task given to you to manage the county public service on behalf of the County government. Moreover, the report submitted to the County Assembly also left out crucial information required of such a report within the criteria set out in section 59 of the County Governments Act. A reasonable person can thus only reach a conclusion of incompetence on your part as a chairperson of the County Public Service Board.

Further, the submitted report by yourself and other board members to the Assembly was also clear evidence that the County Public Service Board never maintains a definitive record of all applications received in response to advertisements which record could be easily available for inspection. As a consequence to this poor record keeping, the record of applicants presented in the report was jumbled and had many omissions. Such errors and omissions are not expected of a professionally and competently administered County Public Service Board.

**CHARGES AGAINST MS. WINNIE CHELANG'AT MAINA-
MEMBER OF THE COUNTY PUBLIC SERVICE BOARD**

**CHARGE ONE: GROSS VIOLATION OF THE COUNTY GOVERNMENTS ACT,
2012**

- a) Unlawfully and unprocedurally recruiting personnel and creating offices in the County Public Service contrary to the provisions of sections 59, 60 and 62 of the County Governments Act, 2012.

Particulars

That you jointly and severally as member of the County Public Service Board breached the law with wanton abandon by recruiting personnel to offices in the county public service that were neither established by the County Public Service Board nor approved by the County Assembly as required by the law. Some of the offices which were irregularly and unprocedurally established that were captured in the report of the County Assembly Committee on Labour and Public Service include-

- One extra ward administrator coordinator
- 15 administrators.
- Executive drivers

- b) Unlawfully and intentionally failing to observe fairness, transparency and county diversity in the recruitment of county staff contrary to section 65 and 66 of the County Governments Act, 2012.

Particulars

That you jointly and severally as member of the County Public Service Board disregarded fairness, transparency and county diversity in the recruitment of county personnel by failing to recruit individuals from certain quarters of the county despite conducting large recruitment exercises.

That you further jointly and severally as a member of the County Public Service Board took decisions not to widely publicise public offices to be filled so as to invite applications from a wide population of potential applicants as required by the law. A case in point is the unprocedural regularisation of drivers which was done without any advertisements and the unlawful and unnecessary recruitment of a twenty-sixth ward administrator.

That you further jointly and severally as a member of the County Public Service Board disregarded experience, qualifications and fair competition in the recruitment of personnel to the county public service by recruiting individuals who had never applied nor were shortlisted for certain positions but ended up being recruited nevertheless.

- c) Unlawfully and intentionally permitting persons to unprocedurally and irregularly hold or act in offices of the county public service without taking any corrective measures contrary to section 64(5) as read with section 75 of the County Governments Act, 2012.

Particulars

That you jointly and severally as a member of the County Public Service Board knowingly allowed certain individuals in the county to continue to purport to be Chief Officers or continue to purport to act in the office of Chief Officers for a long period of time while fully aware that none of these individuals has been approved by the Assembly as required by law.

That you further jointly and severally as a member of the County Public Service Board intentionally failed to take any corrective action regarding persons serving in office contrary to the law despite having knowledge of the irregularities.

CHARGE TWO: GROSS VIOLATION OF THE CONSTITUTION AND THE LEADERSHIP AND INTERGITY ACT, 2012

- a) Unlawfully and intentionally failing to observe the national values and the guiding principles of leadership and integrity in the running of the county public service contrary to Article 10 (2) (c) and 73(2) of the Constitution.

Particulars

That you jointly and severally as a member of the County Public Service Board in collusion with the office of the County Secretary unprocedurally made appointments of extra administrators by "agreeing" to appoint administrators from the list of unsuccessful applicants for the position of ward administrators and that you further made clandestine arrangements to regularise the appointments of other county staff including drivers.

- b) Unlawfully and intentionally failing to observe the values and principles of public service that includes the efficient and effective use of resources, accountability for administrative acts and the provision of accurate information as the basis of appointment contrary to article 231 of the Constitution.

Particulars

That you jointly and severally as a member of the County Public Service Board acquiesced to the unlawful drawing salaries and benefits from the County Treasury by participating in the recruitment of excess personnel whose offices are not lawfully established and allowing individuals who are not properly in office of Chief Officers to go on serving in the county public

service thus leading to the inefficient use of county resources and unnecessarily burdening the county's already increasing wage bill.

- c) Unlawfully failing to carry out the duties of the office of member of the County Public Service Board with honesty, failing to keep accurate records and documents relating to the functions of the County Public Service Board and failing to report truthfully on all matters of the County Public Service Board contrary to section 10 of the Leadership and Integrity Act, 2012

Particulars

That you jointly and severally as a member of the County Public Service Board in your report to the County Assembly made deliberate attempts to mislead the Assembly by giving wrong spellings to administrative units within the county and even included non-existent ward units from which you purported to have recruited county staff in order to cover up excessive recruitment from certain areas of the county to the detriment of other areas within the county.

That you further jointly and severally as a member of the County Public Service Board denied knowledge of irregular appointments of unsuccessful applicants to the office of ward administrators to other offices in the public service by uttering information before the County Assembly's Committee on Public Service that was later concluded to be false after the County Secretary tendered official written correspondence with County Public Service Board to the contrary.

CHARGE THREE: INCOMPENCE TO HOLD OFFICE IN THE COUNTY PUBLIC SERVICE BOARD

Particulars

That you jointly and severally as member of the County Public Service Board committed numerous serious violations of the law as has been set out above despite the clarity of the provisions of the Part VII of the County Governments Act, 2012 concerning the functions and powers of the County Public Service Board. Consequently, a reasonable person can only reach the conclusion that the as a member of the County Public Service Board you are not conversant with the legal framework of your mandate and are thus incompetent and unfit to hold office of member of the County Public Service Board.

Furthermore, the report submitted by you jointly with the other members of the County Public Service Board to the County Assembly was inadequate in very many respects as it had several errors regarding the names of administrative units. One would expect a member of the County Public Service Board to be keen on details such as the proper names and designations of administrative units in

the County by virtue of task given to you to manage the county public service on behalf of the County government. Moreover, the report submitted to the County Assembly also left out crucial information required of such a report within the criteria set out in section 59 of the County Governments Act. A reasonable person can thus only reach a conclusion of incompetence on your part as a member of the County Public Service Board.

Further, the submitted report by yourself and other board members to the Assembly was also clear evidence that the County Public Service Board never maintains a definitive record of all applications received in response to advertisements which record could be easily available for inspection. As a consequence to this poor record keeping, the record of applicants presented in the report was jumbled and had many omissions. Such errors and omissions are not expected of a professionally and competently administered County Public Service Board.

CHARGES AGAINST MR. PHILIP TONUI- SECRETARY OF THE COUNTY PUBLIC SERVICE BOARD

CHARGE ONE: GROSS VIOLATION OF THE COUNTY GOVERNMENTS ACT, 2012

- a) Unlawfully and unprocedurally recruiting personnel and creating offices in the County Public Service contrary to the provisions of sections 59, 60 and 62 of the County Governments Act, 2012.

Particulars

That you jointly and severally as secretary of the County Public Service Board breached the law with wanton abandon by recruiting personnel to offices in the county public service that were neither established by the County Public Service Board nor approved by the County Assembly as required by the law. Some of the offices which were irregularly and unprocedurally established that were captured in the report of the County Assembly Committee on Labour and Public Service include-

- One extra ward administrator coordinator
- 15 administrators.
- Executive drivers

- b) Unlawfully and intentionally failing to observe fairness, transparency and county diversity in the recruitment of county staff contrary to section 65 and 66 of the County Governments Act, 2012.

Particulars

That you jointly and severally as secretary of the County Public Service Board disregarded fairness, transparency and county diversity in the recruitment of county personnel by failing to recruit individuals from certain quarters of the county despite conducting large recruitment exercises.

That you further jointly and severally as a secretary of the County Public Service Board took decisions not to widely publicise public offices to be filled so as to invite applications from a wide population of potential applicants as required by the law. A case in point is the unprocedural regularisation of drivers which was done without any advertisements and the unlawful and unnecessary recruitment of a twenty-sixth ward administrator.

That you further jointly and severally as a secretary of the County Public Service Board disregarded experience, qualifications and fair competition in the recruitment of personnel to the county public service by recruiting individuals who had never applied nor were shortlisted for certain positions but ended up being recruited nevertheless.

- c) Unlawfully and intentionally permitting persons to unprocedurally and irregularly hold or act in offices of the county public service without taking any corrective measures contrary to section 64(5) as read with section 75 of the County Governments Act, 2012.

Particulars

That you jointly and severally as a secretary of the County Public Service Board knowingly allowed certain individuals in the county to continue to purport to be Chief Officers or continue to purport to act in the office of Chief Officers for a long period of time while fully aware that none of these individuals has been approved by the Assembly as required by law.

That you further jointly and severally as a secretary of the County Public Service Board intentionally failed to take any corrective action regarding persons serving in office contrary to the law despite having knowledge of the irregularities.

CHARGE TWO: GROSS VIOLATION OF THE CONSTITUTION AND THE LEADERSHIP AND INTERGITY ACT, 2012

- a) Unlawfully and intentionally failing to observe the national values and the guiding principles of leadership and integrity in the running of the county public service contrary to Article 10 (2) (c) and 73(2) of the Constitution.

Particulars

That you jointly and severally as a secretary of the County Public Service Board in collusion with the office of the County Secretary unprocedurally made appointments of extra administrators by "agreeing" to appoint administrators from the list of unsuccessful applicants for the position of ward administrators and that you further made clandestine arrangements to regularise the appointments of other county staff including drivers.

- b) Unlawfully and intentionally failing to observe the values and principles of public service that includes the efficient and effective use of resources, accountability for administrative acts and the provision of accurate information as the basis of appointment contrary to article 231 of the Constitution.

Particulars

That you jointly and severally as a secretary of the County Public Service Board acquiesced to the unlawful drawing salaries and benefits from the County Treasury by participating in the recruitment of excess personnel whose offices are not lawfully established and allowing individuals who are not properly in office of Chief Officers to go on serving in the county public

service thus leading to the inefficient use of county resources and unnecessarily burdening the county's already increasing wage bill.

- c) Unlawfully failing to carry out the duties of the office of secretary of the County Public Service Board with honesty, failing to keep accurate records and documents relating to the functions of the County Public Service Board and failing to report truthfully on all matters of the County Public Service Board contrary to section 10 of the Leadership and Integrity Act, 2012

Particulars

That you jointly and severally as a secretary of the County Public Service Board in your report to the County Assembly made deliberate attempts to mislead the Assembly by giving wrong spellings to administrative units within the county and even included non-existent ward units from which you purported to have recruited county staff in order to cover up excessive recruitment from certain areas of the county to the detriment of other areas within the county.

That you further jointly and severally as a secretary of the County Public Service Board denied knowledge of irregular appointments of unsuccessful applicants to the office of ward administrators to other offices in the public service by uttering information before the County Assembly's Committee on Public Service that was later concluded to be false after the County Secretary tendered official written correspondence with County Public Service Board to the contrary.

CHARGE THREE: INCOMPENCE TO HOLD OFFICE IN THE COUNTY PUBLIC SERVICE BOARD

Particulars

That you jointly and severally as secretary of the County Public Service Board committed numerous serious violations of the law as has been set out above despite the clarity of the provisions of the Part VII of the County Governments Act, 2012 concerning the functions and powers of the County Public Service Board. Consequently, a reasonable person can only reach the conclusion that the as a secretary of the County Public Service Board you are not conversant with the legal framework of your mandate and are thus incompetent and unfit to hold office of secretary of the County Public Service Board.

Furthermore, the report submitted by you jointly with the other members of the County Public Service Board to the County Assembly was inadequate in very many respects as it had several errors regarding the names of administrative units. One would expect a secretary of the County Public Service Board to be keen on details such as the proper names and designations of administrative

units in the County by virtue of task given to you to manage the county public service on behalf of the County government. Moreover, the report submitted to the County Assembly also left out crucial information required of such a report within the criteria set out in section 59 of the County Governments Act. A reasonable person can thus only reach a conclusion of incompetence on your part as a secretary of the County Public Service Board.

Further, the submitted report by yourself and other board members to the Assembly was also clear evidence that the County Public Service Board never maintains a definitive record of all applications received in response to advertisements which record could be easily available for inspection. As a consequence to this poor record keeping, the record of applicants presented in the report was jumbled and had many omissions. Such errors and omissions are not expected of a professionally and competently administered County Public Service Board.

CHARGES AGAINST MS. JUDITH CHEPNG'ETICH SIELE-
MEMBER OF THE COUNTY PUBLIC SERVICE BOARD

CHARGE ONE: GROSS VIOLATION OF THE COUNTY GOVERNMENTS ACT, 2012

- a) Unlawfully and unprocedurally recruiting personnel and creating offices in the County Public Service contrary to the provisions of sections 59, 60 and 62 of the County Governments Act, 2012.

Particulars

That you jointly and severally as member of the County Public Service Board breached the law with wanton abandon by recruiting personnel to offices in the county public service that were neither established by the County Public Service Board nor approved by the County Assembly as required by the law. Some of the offices which were irregularly and unprocedurally established that were captured in the report of the County Assembly Committee on Labour and Public Service include-

- One extra ward administrator coordinator
- 15 administrators.
- Executive drivers

- b) Unlawfully and intentionally failing to observe fairness, transparency and county diversity in the recruitment of county staff contrary to section 65 and 66 of the County Governments Act, 2012.

Particulars

That you jointly and severally as member of the County Public Service Board disregarded fairness, transparency and county diversity in the recruitment of county personnel by failing to recruit individuals from certain quarters of the county despite conducting large recruitment exercises.

That you further jointly and severally as a member of the County Public Service Board took decisions not to widely publicise public offices to be filled so as to invite applications from a wide population of potential applicants as required by the law. A case in point is the unprocedural regularisation of drivers which was done without any advertisements and the unlawful and unnecessary recruitment of a twenty-sixth ward administrator.

That you further jointly and severally as a member of the County Public Service Board disregarded experience, qualifications and fair competition in the recruitment of personnel to the county public service by recruiting individuals who had never applied nor were shortlisted for certain positions but ended up being recruited nevertheless.

- c) Unlawfully and intentionally permitting persons to unprocedurally and irregularly hold or act in offices of the county public service without taking any corrective measures contrary to section 64(5) as read with section 75 of the County Governments Act, 2012.

Particulars

That you jointly and severally as a member of the County Public Service Board knowingly allowed certain individuals in the county to continue to purport to be Chief Officers or continue to purport to act in the office of Chief Officers for a long period of time while fully aware that none of these individuals has been approved by the Assembly as required by law.

That you further jointly and severally as a member of the County Public Service Board intentionally failed to take any corrective action regarding persons serving in office contrary to the law despite having knowledge of the irregularities.

CHARGE TWO: GROSS VIOLATION OF THE CONSTITUTION AND THE LEADERSHIP AND INTERGITY ACT, 2012

- a) Unlawfully and intentionally failing to observe the national values and the guiding principles of leadership and integrity in the running of the county public service contrary to Article 10 (2) (c) and 73(2) of the Constitution.

Particulars

That you jointly and severally as a member of the County Public Service Board in collusion with the office of the County Secretary unprocedurally made appointments of extra administrators by "agreeing" to appoint administrators from the list of unsuccessful applicants for the position of ward administrators and that you further made clandestine arrangements to regularise the appointments of other county staff including drivers.

- b) Unlawfully and intentionally failing to observe the values and principles of public service that includes the efficient and effective use of resources, accountability for administrative acts and the provision of accurate information as the basis of appointment contrary to article 231 of the Constitution.

Particulars

That you jointly and severally as a member of the County Public Service Board acquiesced to the unlawful drawing salaries and benefits from the County Treasury by participating in the recruitment of excess personnel whose offices are not lawfully established and allowing individuals who are not properly in office of Chief Officers to go on serving in the county public

service thus leading to the inefficient use of county resources and unnecessarily burdening the county's already increasing wage bill.

- c) Unlawfully failing to carry out the duties of the office of member of the County Public Service Board with honesty, failing to keep accurate records and documents relating to the functions of the County Public Service Board and failing to report truthfully on all matters of the County Public Service Board contrary to section 10 of the Leadership and Integrity Act, 2012

Particulars

That you jointly and severally as a member of the County Public Service Board in your report to the County Assembly made deliberate attempts to mislead the Assembly by giving wrong spellings to administrative units within the county and even included non-existent ward units from which you purported to have recruited county staff in order to cover up excessive recruitment from certain areas of the county to the detriment of other areas within the county.

That you further jointly and severally as a member of the County Public Service Board denied knowledge of irregular appointments of unsuccessful applicants to the office of ward administrators to other offices in the public service by uttering information before the County Assembly's Committee on Public Service that was later concluded to be false after the County Secretary tendered official written correspondence with County Public Service Board to the contrary.

CHARGE THREE: INCOMPENCE TO HOLD OFFICE IN THE COUNTY PUBLIC SERVICE BOARD

Particulars

That you jointly and severally as member of the County Public Service Board committed numerous serious violations of the law as has been set out above despite the clarity of the provisions of the Part VII of the County Governments Act, 2012 concerning the functions and powers of the County Public Service Board. Consequently, a reasonable person can only reach the conclusion that the as a member of the County Public Service Board you are not conversant with the legal framework of your mandate and are thus incompetent and unfit to hold office of member of the County Public Service Board.

Furthermore, the report submitted by you jointly with the other members of the County Public Service Board to the County Assembly was inadequate in very many respects as it had several errors regarding the names of administrative units. One would expect a member of the County Public Service Board to be keen on details such as the proper names and designations of administrative units in

the County by virtue of task given to you to manage the county public service on behalf of the County government. Moreover, the report submitted to the County Assembly also left out crucial information required of such a report within the criteria set out in section 59 of the County Governments Act. A reasonable person can thus only reach a conclusion of incompetence on your part as a member of the County Public Service Board.

Further, the submitted report by yourself and other board members to the Assembly was also clear evidence that the County Public Service Board never maintains a definitive record of all applications received in response to advertisements which record could be easily available for inspection. As a consequence to this poor record keeping, the record of applicants presented in the report was jumbled and had many omissions. Such errors and omissions are not expected of a professionally and competently administered County Public Service Board.

CHARGES AGAINST MR. JOSEPH RONO-MEMBER OF THE COUNTY PUBLIC SERVICE BOARD

CHARGE ONE: GROSS VIOLATION OF THE COUNTY GOVERNMENTS ACT, 2012

- a) Unlawfully and unprocedurally recruiting personnel and creating offices in the County Public Service contrary to the provisions of sections 59, 60 and 62 of the County Governments Act, 2012.

Particulars

That you jointly and severally as member of the County Public Service Board breached the law with wanton abandon by recruiting personnel to offices in the county public service that were neither established by the County Public Service Board nor approved by the County Assembly as required by the law. Some of the offices which were irregularly and unprocedurally established that were captured in the report of the County Assembly Committee on Labour and Public Service include-

- One extra ward administrator coordinator
- 15 administrators.
- Executive drivers

- b) Unlawfully and intentionally failing to observe fairness, transparency and county diversity in the recruitment of county staff contrary to section 65 and 66 of the County Governments Act, 2012.

Particulars

That you jointly and severally as member of the County Public Service Board disregarded fairness, transparency and county diversity in the recruitment of county personnel by failing to recruit individuals from certain quarters of the county despite conducting large recruitment exercises.

That you further jointly and severally as a member of the County Public Service Board took decisions not to widely publicise public offices to be filled so as to invite applications from a wide population of potential applicants as required by the law. A case in point is the unprocedural regularisation of drivers which was done without any advertisements and the unlawful and unnecessary recruitment of a twenty-sixth ward administrator.

That you further jointly and severally as a member of the County Public Service Board disregarded experience, qualifications and fair competition in the recruitment of personnel to the county public service by recruiting individuals who had never applied nor were shortlisted for certain positions but ended up being recruited nevertheless.

- c) Unlawfully and intentionally permitting persons to unprocedurally and irregularly hold or act in offices of the county public service without taking any corrective measures contrary to section 64(5) as read with section 75 of the County Governments Act, 2012.

Particulars

That you jointly and severally as a member of the County Public Service Board, knowingly allowed certain individuals in the county to continue to purport to be Chief Officers or continue to purport to act in the office of Chief Officers for a long period of time while fully aware that none of these individuals has been approved by the Assembly as required by law.

That you further jointly and severally as a member of the County Public Service Board intentionally failed to take any corrective action regarding persons serving in office contrary to the law despite having knowledge of the irregularities.

CHARGE TWO: GROSS VIOLATION OF THE CONSTITUTION AND THE LEADERSHIP AND INTERGITY ACT, 2012

- a) Unlawfully and intentionally failing to observe the national values and the guiding principles of leadership and integrity in the running of the county public service contrary to Article 10 (2) (c) and 73(2) of the Constitution.

Particulars

That you jointly and severally as a member of the County Public Service Board in collusion with the office of the County Secretary unprocedurally made appointments of extra administrators by "agreeing" to appoint administrators from the list of unsuccessful applicants for the position of ward administrators and that you further made clandestine arrangements to regularise the appointments of other county staff including drivers.

- b) Unlawfully and intentionally failing to observe the values and principles of public service that includes the efficient and effective use of resources, accountability for administrative acts and the provision of accurate information as the basis of appointment contrary to article 231 of the Constitution.

Particulars

That you jointly and severally as a member of the County Public Service Board acquiesced to the unlawful drawing salaries and benefits from the County Treasury by participating in the recruitment of excess personnel whose offices are not lawfully established and allowing individuals who are not properly in office of Chief Officers to go on serving in the county public

service thus leading to the inefficient use of county resources and unnecessarily burdening the county's already increasing wage bill.

- c) Unlawfully failing to carry out the duties of the office of member of the County Public Service Board with honesty, failing to keep accurate records and documents relating to the functions of the County Public Service Board and failing to report truthfully on all matters of the County Public Service Board contrary to section 10 of the Leadership and Integrity Act, 2012

Particulars

That you jointly and severally as a member of the County Public Service Board in your report to the County Assembly made deliberate attempts to mislead the Assembly by giving wrong spellings to administrative units within the county and even included non-existent ward units from which you purported to have recruited county staff in order to cover up excessive recruitment from certain areas of the county to the detriment of other areas within the county.

That you further jointly and severally as a member of the County Public Service Board denied knowledge of irregular appointments of unsuccessful applicants to the office of ward administrators to other offices in the public service by uttering information before the County Assembly's Committee on Public Service that was later concluded to be false after the County Secretary tendered official written correspondence with County Public Service Board to the contrary.

CHARGE THREE: INCOMPETENCE TO HOLD OFFICE IN THE COUNTY PUBLIC SERVICE BOARD

Particulars

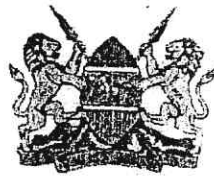
That you jointly and severally as member of the County Public Service Board committed numerous serious violations of the law as has been set out above despite the clarity of the provisions of the Part VII of the County Governments Act, 2012 concerning the functions and powers of the County Public Service Board. Consequently, a reasonable person can only reach the conclusion that the as a member of the County Public Service Board you are not conversant with the legal framework of your mandate and are thus incompetent and unfit to hold office of member of the County Public Service Board.

Furthermore, the report submitted by you jointly with the other members of the County Public Service Board to the County Assembly was inadequate in very many respects as it had several errors regarding the names of administrative units. One would expect a member of the County Public Service Board to be keen on details such as the proper names and designations of administrative units in

the County by virtue of task given to you to manage the county public service on behalf of the County government. Moreover, the report submitted to the County Assembly also left out crucial information required of such a report within the criteria set out in section 59 of the County Governments Act. A reasonable person can thus only reach a conclusion of incompetence on your part as a member of the County Public Service Board.

Further, the submitted report by yourself and other board members to the Assembly was also clear evidence that the County Public Service Board never maintains a definitive record of all applications received in response to advertisements which record could be easily available for inspection. As a consequence to this poor record keeping, the record of applicants presented in the report was jumbled and had many omissions. Such errors and omissions are not expected of a professionally and competently administered County Public Service Board.

Clerk's Chambers
Off Narok-Sotik Road
P. O Box 590
BOMET 20400



Email: info@bometbunge.com
Website: www.bometbunge.com
Cell: 0727 887 146

REPUBLIC OF KENYA
BOMET COUNTY ASSEMBLY
Office of the Clerk

Ref: BCA/GOV.PSB/13/11/14

8th July, 2014

The Chief Officer,
Trade & Tourism,
County Government of Bomet,
P. O. Box 19 – 20400
BOMET



Dear Mr. Mutai,

Pursuant to Section 58 (5) of the County Governments Act, 2012 on 24th June, 2014, the County Assembly approved a Motion "to remove from office, the Chairman, Secretary and members of the County Public Service Board." A Special committee was subsequently established to investigate the proposed removal from office and report to the Assembly.

The chairman, secretary and members of the County Public Service Board have among other charges been charged with "unlawfully and intentionally recruiting personnel and creating offices in the County Public Service contrary to the provisions of sections 59, 60 and 62 of the County Governments Act, 2012."

You have been adversely mentioned as having knowledge and participated in the unlawful and unprocedural recruitment of one extra ward administrator coordinator and 15 extra administrators within the county public service during your tenure as chief officer administration.

Pursuant, therefore, to the mandate of the Special Committee and Article 195 of the Constitution, the Committee invites you to appear before it at 2 p.m on Wednesday the 9th of July 2014 at the MCA's Lounge within the precincts of the Bomet County Assembly. You are to shed light on the recruitment of ward administrators by the County Public Service Board during your tenure as the chief officer administration.

Yours Sincerely,


Isaac Kifur
CLERK OF THE COUNTY ASSEMBLY

cc. Chairman County Public Service Board
Secretary County Public service Board
Members County Public Service Board



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REPUBLIC OF KENYA
BOMET COUNTY ASSEMBLY
Office of the Clerk

Ref: BCA/GOV.PSB/13/11/14

8th July, 2014

Treasury Office,
County Government of Bomet
P. O. Box 19 – 20400
BOMET



Dear Ms. Kositany

Pursuant to Section 58 (5) of the County Governments Act, 2012 the County Assembly on 24th June, 2014, approved a Motion "to remove from office, the Chairman, Secretary and members of the County Public Service Board." A Special committee was subsequently established to investigate the proposed removal from office and report to the Assembly.

The chairman, secretary and members of the County Public Service Board have among other charges been charged with "unlawfully and intentionally permitting persons to unprocedurally and irregularly hold or act in offices of the County Public Service without taking any corrective measures contrary to section 64(5) as read with section 75 of the County Governments Act 2012"

You have been adversely mentioned as unlawfully and irregularly acting in the Office of Chief Officer Finance. You have also been cited as signing county public documents as "Chief Finance Officer."

Pursuant, therefore, to the mandate of the Special Committee and Article 195 of the Constitution, the Committee invites you to appear before it on Wednesday 9th of July 2014 at 2.00 pm at the MCA's Lounge within the precincts of Bomet County Assembly. You are to shed light on your appointment by the County Public Service Board and your current job designation.

You are requested to bring along your appointment letter and any other correspondences between yourself and the County Public Service Board regarding your employment in the county public service.

Yours Sincerely,

Isaac Kitur

CLERK OF THE COUNTY ASSEMBLY

c. . Chairman County Public Service Board
Secretary County Public service Board
Members County Public Service Board

Clerk's Chambers
Off Narok-Sotik Road
P. O Box 590
BOMET 20400



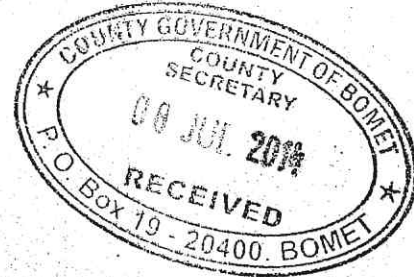
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REPUBLIC OF KENYA
BOMET COUNTY ASSEMBLY
Office of the Clerk

Ref: BCA/GOV.PSB/13/11/14

8th July, 2014

The County Secretary,
County Government of Bomet
P. O. Box 19 – 20400
BOMET



Dear Mr. Soi

Pursuant to Section 58 (5) of the County Governments Act, 2012, the County Assembly on 24th June, 2014 approved a Motion "to remove from office, the Chairman, Secretary and members of the County Public Service Board." A Special committee was subsequently established to investigate the proposed removal from office and thereafter report to the County Assembly.

The chairman, secretary and members of the County Public Service Board have, among other charges, been charged with "unlawfully and unprocedurally recruiting of personnel and creating offices in the County Public Service contrary to the provisions of section 59, 60 and 62 of the County Government Act, 2012."

You have been adversely mentioned as allegedly being involved in the unlawful and irregular recruitment of personnel within the county public service.

Pursuant, therefore, to the mandate of the Special Committee and pursuant to Article 195 of the Constitution, the Committee invites you to appear before it on Wednesday at 9th July, 2014 at 3.30 p.m. to shed light on your role in the irregular appointments of personnel within the county public service. In particular, you are to shed light on the unlawful and unprocedural establishment of the office of ward administrator coordinator, the recruitment of 15 extra administrators from a list of unsuccessful applicants to the position of ward administrator and the unlawful regularization of executive drivers. You are also to appear to shed light on the unlawful budgeting for personal emoluments of "in post" Chief Officers within the 2014-2015 Bomet County Budget Estimates yet only two such officers are lawfully in office.

You are requested to bring along any correspondences between your office and the County Public Service Board regarding the appointment of persons to office within the county public service and any other correspondences touching on the charges against the Board herein attached.

Yours Sincerely,

Isaac Kitur

CLERK OF THE COUNTY ASSEMBLY

cc. Chairman County Public Service Board
Secretary County Public service Board
Members County Public Service Board

Clerk's Chambers
Off Narok-Sotik Road
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REPUBLIC OF KENYA
BOMET COUNTY ASSEMBLY
Office of the Clerk

Ref: BCA/GOV.PSB/13/11/14

8th July, 2014

Treasury Office,
County Government of Bomet
P. O. Box 19 – 20400
BOMET



Dear Ms. Kositany

Pursuant to Section 58 (5) of the County Governments Act, 2012 the County Assembly on 24th June, 2014, approved a Motion "to remove from office, the Chairman, Secretary and members of the County Public Service Board." A Special committee was subsequently established to investigate the proposed removal from office and report to the Assembly.

The chairman, secretary and members of the County Public Service Board have among other charges been charged with "unlawfully and intentionally permitting persons to unprocedurally and irregularly hold or act in offices of the County Public Service without taking any corrective measures contrary to section 64(5) as read with section 75 of the County Governments Act 2012"

You have been adversely mentioned as unlawfully and irregularly acting in the Office of Chief Officer Finance. You have also been cited as signing county public documents as "Chief Finance Officer."

Pursuant, therefore, to the mandate of the Special Committee and Article 195 of the Constitution, the Committee invites you to appear before it on Wednesday 9th of July 2014 at 2.00 pm at the MCA's Lounge within the precincts of Bomet County Assembly. You are to shed light on your appointment by the County Public Service Board and your current job designation.

You are requested to bring along your appointment letter and any other correspondences between yourself and the County Public Service Board regarding your employment in the county public service.

Yours Sincerely,

Isaac Kitur
CLERK OF THE COUNTY ASSEMBLY

cc. Chairman County Public Service Board
Secretary County Public service Board
Members County Public Service Board

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REPUBLIC OF KENYA
BOMET COUNTY ASSEMBLY
Office of the Clerk

Ref: BCA/GOV.PSB/13/11/14

8th July, 2014

The Payroll Manager,
County Government of Bomet,
P. O. Box 19 – 20400
BOMET

Dear Mr. Langat

Pursuant to Section 58 (5) of the County Governments Act, 2012 the County Assembly on 24th June, 2014 approved a Motion *"to remove from office, the Chairman, Secretary and members of the County Public Service Board."* A Special committee was subsequently established to investigate the proposed removal from office and thereafter report to the Assembly.

The chairman, secretary and members of the County Public Service Board have, among other charges, been charged with *"unlawfully and intentionally failing to observe the values and principles of public service which includes the efficient and effective use of resources contrary to Article 232 of the Constitution."* The particulars of this charge is that the County Public Service Board allowed the unlawful drawing of salaries and benefits from the County Treasury by participating in the recruitment of excess personnel whose offices are not lawfully established and allowing individuals who are not properly in office of Chief Officers to irregularly earn salaries as chief officers in the county public service therefore illegitimately and unnecessarily burdening the County's already increasing wage bill.

Pursuant, therefore, to the mandate of the Special Committee and pursuant to Article 195 of the Constitution, the Committee request that you appear before it on Wednesday the 9th of July 2014 at 3.00 pm at the MCA's Lounge within the precincts of the Bomet County Assembly. You are to appear, in your capacity as payroll manager to shed light on the authorization of payments to certain individuals within the county public service who are not Chief Officers within the salary scales of Chief Officers. You are also shed light on the authorization of payments to other county senior staff outside the recommendations set out by the Salaries and Remuneration Commission. You are further requested to bring along correspondences, if any, between your office and the County Public Service Board regarding the payment of salaries.

Yours Sincerely,

Isaac Kitur

CLERK OF THE COUNTY ASSEMBLY

cc. Chairman County Public Service Board
Secretary County Public service Board
Members County Public Service Board

COUNTY GOVERNMENT OF BOMET
PAYROLL MANAGER
08 JUL 2014

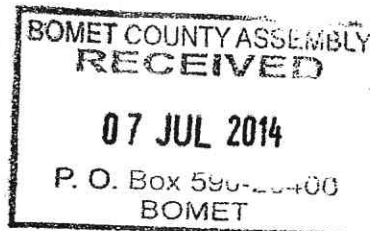
Draft Rules of Procedure for the Public Service Board Removal Proceedings

1. The Committee shall issue a charge detailing the particulars of the laws that the member of the CPSB violated.
2. The members of the CPSB against whom the Committee will be investigating shall be known as is called the respondent in the Rules of Procedure.
3. A respondent has the right to appear in person or be represented by a person who is lawfully permitted to provide such representation.
4. The Committee will conduct an independent review of the allegations, facts and recommendation of the Committee on Labour and Public Service to determine whether the Committee on Labour and Public Service's conclusion is supported or by substantial evidence and whether the Committee on Labour and Public Service properly interpreted or applied the law in coming to its conclusion.
5. The Committee if of the opinion that there is no case to answer shall terminate the removal proceeding and issue a declaration exonerating a member/members of the CPSB from the charges.
6. The respondents may submit written submissions in reply to the charges against them within three 24 hours after receiving the Committee's notification of charges.
7. The reply from the respondents must respond in detail to each and every charge.
8. Except as allowed by the Rules of Procedure, members of the Committee are prohibited from talking with anyone about any issues related to the removal hearing.
9. No respondent is allowed to communicate with any member of the Committee on issues touching on the removal proceedings outside of the removal hearing.
10. A member of the Committee shall be disqualified from participating in the hearing if it is discovered that he/ she has been engaging in unauthorised communication outside the removal hearing.
11. A member of the Committee shall recuse (remove) herself/himself if the member discovers he or she has an actual or apparent conflict of interest that cannot be reconciled.
12. The Chair of the Committee shall be the Presiding Officer and shall be assisted by the vice-chairperson.
13. The chairperson will manage the proceedings and make determinations on behalf of the Committee and will ensure that each party has an opportunity to effectively participate in the appeal hearing process.
14. The removal hearing will be scheduled for three hours per respondent, unless the committee resolves to increase the period.
15. A pre-hearing conference shall be conducted to consider and make determinations on any procedural issues related to the removal hearing.
16. The committee will issue a notice of removal hearing to each party and others at least 24 hours prior to the date of the hearing.
17. The Committee shall keep a verbatim record of the removal hearing.
18. The Committee will manage the removal hearing and make rulings on evidence and procedural issues. In general, the Committee will allow evidence that a reasonably prudent person is accustomed to rely upon.
19. Each party will have the right to call and examine witnesses, present evidence, cross-examine witnesses.
20. Persons called as witnesses must swear or affirm to testify truthfully before testifying. The Committee may issue summons to require a person to testify or produce documents.
21. The Committee may review its procedural decisions from time to time.
22. The removal hearings will be conducted as open meetings unless the law requires closure of all or a portion of the hearing.

23. After the hearing, the Committee will enter findings, conclusions and a final determination as to whether a member/ members of the CPSB should be removed from office.
24. The Committee will send each party a copy of the findings, conclusions and final determination to the all the respondents one hour before the report is tabled in the Assembly.
25. The Committee will then table its report to the Assembly for adoption.
26. Documents filed for the removal proceedings will be made available to the public for inspection and copying unless the law provides otherwise.

7th July, 2014

The Clerk
Bomet County Assembly
P.O. Box 590 - 20400
Bomet



Dear

RE: WRITTEN RESPONSE TO CHARGES

I refer to your letter dated 3rd July, 2014 Ref BCA/GOV.PSB/13/11/14 and here below is my response to the charges:-

Charge 1 – Gross violation of CGA

Part (a)

- **The 26th Ward administrator** was taken in good faith to act as a coordinator in the head office.
- **15 Administrators**
No verbal agreement took place between the CS and the Board concerning the appointment of extra administrators.
- **Drivers**
The Drivers personal to the CEC already had temporary letters of appointment when the Board took office. We therefore took corrective actions as per Section 75 of CGA.

Part (b)

- All quarters of the County were catered for. Kongasis, Kimulot and Chepchabas wards that were cited in your report had candidates from those areas who had been misplaced in other wards as far as our data was concerned. The misplacement was due to the information obtained from their applications and older identity cards issued before the new wards were created.
- The Board would like to make it clear that available posts have always been widely publicized, as per Section 66 of CGA and the decision of the Board as evidenced by the attached minutes (Min 3/12/13).
- Geoffrey Bett – misplaced as under Chepchabas. He was rightly from Kimulot and was appointed there in. However, those who were misplaced should not be construed as not having applied.
- Erick Chepkwony was misplaced to Chesoen, but he is actually from Chepchabas, he was placed correctly and appointed at Chepchabas as affirmative as he had 4yrs instead of 5yrs experience.

Part (c)

The Board has never appointed anyone to be acting Chief Officer.

Charge 2:

Gross violation of Constitution and the Leadership & Integrity Act, 2012.

- There has never been any collusion or agreement with County Secretary neither clandestine arrangements to appoint extra administrators. As for the drivers and other county staff corrective action was taken to regularize their appointments as per Section 75 of CGA.
- N.B: (Article 231 quoted in the charge refers to Central Bank of Kenya). The CPSB did not participate in the recruitment of the additional 15 "administrators". The Board is not aware of any person acting in the position of Chief Officer and drawing allowances irregularly.
- The Board would like to submit that although the report had wrong spellings in relation to administrative units this was not meant to mislead the Honourable Members of the County Assembly nor cover up excessive recruitment from certain areas. The Board regrets the errors. We would like to confirm that this did not materially change the final representation in the county neither added any extra ward.
- The Board has never appointed 15 extra Ward administrators.

Charge 3:

Incompetence to hold office in CPSB.

- Despite the fact that the Board was not inducted, our county has always served as a role model.

Yours



7/07/2014

Winnie Maina
Board Member

ANSWERS TO THE CHARGES:

- (a) The response to the particulars of the allegations have been attached herewith.
- (b) The Board proposes to appear as a corporate body. (Article 57 (a) & (b) of the CGA).

- (c) Response to charges:

Annexes/Documents.

- (1) Our overall response to the Assembly's Report.
- (2) Letter forwarding the 26 Administrators & those rated 2nd and 3rd.
- (3) Minutes on adverts
- (4) Updated data (matrix) to show progress.
- (5) Letter to the Governor.

Board's request for the following:

- (1) Document of sessional paper signed by one Rose Kositany.
- (2) Tendered documents by CS on the additional 15 administrators.
- (3) County Assembly Standing orders.

(e) Persons to be summoned:

1. Rose Kositany – 0725-300345

- To confirm her position with evidence and current payslip

2. Kilelson Mutai – 0725-743400

- To confirm need for the 26th Ward administrator.

3. Jonathan Soi – 0711-671860

- To provide correspondence on the purported agreement between his office and the Board.
- To provide appointment letters for Board approved appointees.
- All letters of acting officers.
- To provide letters appointing additional 15 administrators.
- All letters of temporary appointments.

4. Anne Turgut – 0721-212175

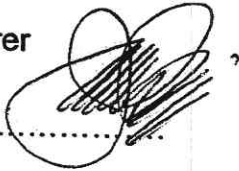
- To provide appointment letters for Board approved appointees.
- All letters of acting officers.

- To provide letters appointing additional 15 administrators.
- All letters of temporary appointments.

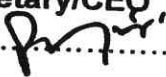
5. Kiprotich Langat – 0720-289799

- Staff payroll copies that indicate emoluments of county staff.
- List of those engaged temporarily.

Amb. J.K. Terer
Chairman
Sign.....



Cs. Philip K. Tonui
Secretary/CEQ
Sign.....



COUNTY GOVERNMENT OF BOMET

PUBLIC SERVICE BOARD

RESPONSE TO THE COUNTY ASSEMBLY REPORT

PREFACE

It is worth noting that the appointment of the persons to occupy the offices as advertised on 24th May 2013 on Daily Nation were created by a Statute and devolved by the Constitution. It was therefore not created by County Public Service Board.

The advertised positions are the following:-

- (1) Chief Officers
- (2) Sub-County administrators
- (3) Town administrators
- (4) Ward administrators

CHALLENGES:

The CPSB acknowledged that the report was voluminous. This is because all the applicants' particulars were captured. Some applicants brought in their application before the Board was constituted and the mode for capturing data did not have a column for PWD's. However, for clarity and more efficiency, the CPSB will in future trim the report and give only the essentials.

ANALYSIS OF THE REPORT.

Matters to take into account

- Merit, equity and distribution be a guiding force.
- Since Bomet County comprises of 5 Sub-counties, the Board agreed that two (2) Chief Officers be appointed from each Sub-county.
- Where possible, ensure a third of Chief officers are from either gender.

Education & Vocational training

- Candidates numbered 66, 67 & 68 were erroneously not typed but during shortlisting their particulars were obtained from the files using portfolio numbers. These 3 candidates include Samuel K. Cheruiyot who was prequalified.

Finance

- Esther Chepkorir Rono was not shortlisted due to age factor – born in 1954. The user department was present during shortlisting to give the guidelines and specific qualification by the user department were highlighted in the advert. (The Pension Act requires that an employee must complete at least 10 years continuous service to qualify for pension).

Health and Sanitation

1. The candidate who had PhD in Public Health comes from Sotik Sub-county. Sotik Sub-county has several candidates who are highly qualified in several fields. Since equity and distribution had to be considered as provided for in the Constitution, every Sub-county was slotted two vacancies for Chief officers. Another reason is that the docket of Health and Sanitation had ladies who were more likely to be considered for the post of Chief officers as compared to other dockets. That is why Leonard Kipkirui Langat was not picked.
2. Stephen Kiplangat Koskey applied although his name was missing in the long list. He was shortlisted but had no score because he failed to produce original documents during interview.
3. Chebet Terer was not shortlisted because she had 2 years of experience yet minimum of 10 years was required.

Energy, Housing and Urban Planning

- Only one candidate from Bomet County was shortlisted. Few candidates applied and most of them did not meet minimum requirements.

Public Works and Transport

- Two candidates were shortlisted. However, during the interview, it was discovered that one candidate did not meet the minimum qualification. Since only one candidate was interviewed, the Board recommended that the position be re-advertised. The position was non-responsive.

Environment, Water and natural resources

- 30 applications were received, 9 were shortlisted and Simion Korir was picked for the position. The candidate impressed the interviewing panel. His work experience and good managerial skills were exemplary. His qualification is still in

tandem with requirements e.g constructions of water pans. This decision was enhanced by the approval of the candidate by the County Assembly.

N.B: Certain areas in the County were indicated as wards (e.g Cheptal). These were typographical errors and the said should not be used to mean the Board is incompetent and has no knowledge of the County. The unintended mistakes did not materially change the final tally and no appointees were posted to ghost wards.

Sub-county Administrators.

The list of the shortlisted candidates is available for perusing and it is attached. Interviews were carried out and finally the names of the successful candidates were submitted to the County Secretary.

The statement to the effect "submitted to your further necessary action" means:

1. To give the successful candidates letters of appointment.
2. To deploy.
3. To manage and supervise on daily basis and give the Board any necessary feedback in case of disciplinary issues.

Ward administrators

644 applied and 202 were shortlisted.

Interviews were carried out in the Sub-counties.

Kongasis ward

Six (6) candidates were interviewed and they were from Kongasis ward. The successful candidate Paul K. Langat is from Kongasis ward, Olbutyo area. Paul K. Langat was indicated to be from Chebunyo ward. This is because the information from the Identity card said so.

Chepchabas ward

The candidates who were shortlisted in Chepchabas ward were actually discovered to be from other wards, for example:

Joseph Ngeno was from Embomos ward, Kipngetich Langat Wilson and Geoffrey Bett from Kimulot. Eric Chepkwony was misplaced and listed to be from Chesoen ward yet he is from Chepchabas ward. Eric Chepkwony, being the only bonafide candidate from

Chepchabas ward, and on affirmative action, was picked as the successful candidate. (He was 4yrs experience yet 5yrs was required):

Kimulot Ward

Five candidates were shortlisted in Kimulot ward and Geoffery Kipngetich Bett, who had been misplaced to Chepchabas ward was successful. There was a maximum number of candidates to be shortlisted in every ward, which was 5. Where competition was high, the Board looked for the most qualified candidates. Therefore some candidates who were qualified were not shortlisted in some wards.

The 26th Ward administrator: It has since been established that the 26th ward administrator is from Ndanai ward. The Chairman of CPSB could not give an immediate response and he found it prudent to report in the Assembly that he was not aware where he came from. The Chairman admitted the presence of the 26th administrator and could not have therefore at the same time denied.

Extra Ward administrators

The extra 15 ward administrators have been a bone of contention between the CPSB and CS. (This is especially because some of the initial 26 Ward administrators were not deployed to Wards as expected). The Board has requested in writing to the CS to furnish the Board with letters of appointment of the ward administrators but nothing has been forthcoming. As for the appointment of the 15 ward administrators, no verbal negotiation took place between CS and CPSB. The CS should clarify when, where and with whom the negotiation took place.

Town administrators

1. The Board would like to humbly report to the honorable Members of the County Assembly that the list of the shortlisted candidates is available and is attached herewith. This was an error of omission which the Board did not intend.
2. Two candidates were successful, one male and one female. Certain considerations were put in place; that is apart from qualification and merit, equity, distribution and gender took the upper hand. That explains why some applicants with masters were not successful.

Suitability interviews and personnel recruited by executives

- Since the County Government was new, certain persons had to be recruited on temporary basis to keep the county running. The CPSB, when it came into the office confirmed those who were suitable to hold the positions. However, after some time, the CPSB noted the imbalance of some Sub-counties e.g Sotik and Chepalungu having the highest number of suited personnel, while Konoin Sub-county had the lowest. The situation has since been rectified.

ECDE ASSISTANT TEACHERS

The Board agreed that there were anomalies as far as the list of ECDE assistant teachers is concerned. A committee needs to be set to look into the problems.

Reason for anomalies: – The Board was overwhelmed by time and numbers and the urgency of the situation. The exercise had to be completed within a short time.

The Board shall welcome and cooperate with an independent-audit. We emphasize that detailed documentation by our field officers under the leadership of our authorized officers will be ensured.

HEALTH WORKERS

Errors were noted in the list of the health workers and will be rectified. The exercise was carried out during the health workers strike brought about by transition from National to County Government.

Committee's conclusion

1. Serious inadequacies in the manner the Board runs its affairs

- The 25 offices of administrators were not established by the CPSB. They were established by a Statute.
- The office of the 26th administrator is an oversight by the Board corrective and measures are to be taken as per Article 75. For the 15 extra Ward administrators, the CPSB is demand-driven. The user department did not demand the services of the extra 15 Ward administrators and no indent was given to the Board. The issue has not been settled between the CS and CPSB.
- One Rose Kositany was suited to the substantive post of Director of Finance, Job Group 'R'.
- All our appointees are posted to specific job groups in addition to descriptive positions.

- The Board would like to categorically state that no officer is on acting basis as a Chief Officer – Finance.
- The CPSB would also like to reiterate that they observed the values and principles indicated in Articles 10 & 232 of the Constitution. The Board has not violated the Constitution.

2. That the report was "wanting".

In the report to the County Assembly, there was no indication of the persons with disabilities and those from minority community. Indeed, the CPSB took up those persons as mentioned above. The Board made an error by not putting up a column for such. This is an omission which has since been regretted.

N.B: The PWD had not indicated in their letters of application that they were actually PWD. As for the minority group, those who qualified were taken up for the post.

- A number from the PWD and minority group were taken up for ECDE assistant teachers.
- As for the establishment of the officers within the County Public services, the CPSB did not create the offices of the 15 Ward administrators. As has been mentioned earlier on in the report, the County Secretary did not consult the Board before picking the extra 15 Ward administrators.

3. That there were irregularities on appointments

The CPSB did not fail to exercise its powers as per Article 75 of the CGA. It actually took a corrective action by regularizing the appointment of drivers personal to CEC as per Article 75 (c) of CGA.

4. That there was "Gross misconduct and incompetence" by the Board.

The Board is conversant with the law. The Board did not in any way choose to violate the law since it was aware of its legal framework as well as its mandate. The Board is competent and this can be ascertained by the recruitment of good workforce which has put the county in the limelight of the Republic of Kenya. The county has become a role model which provides bench-marking.

 7/7/14

6

File 2011

REPUBLIC OF KENYA



COUNTY GOVERNMENT OF BOMET
COUNTY PUBLIC SERVICE BOARD

Telephone: 0704734693

P.O Box 605-20400
BOMET, KENYA

Ref. No. CPSB/WRD/1/2013(1)

28th August, 2013.

H.E. ISAAC.K.RUTO, EGH,
The governor
Bomet County.

Dear

RE: - APPOINTMENT OF WARD ADMINISTRATORS.

Advertisements were placed in the media on 24th may 2013 inviting applications for the above positions.

Applications were received and the Public Service Board conducted interviews within the sub-counties for seven days beginning 19th august 2013 to 26th august.2013.

In line with the provisions of the County Government Act section 51(2) which says in part. '*...that the ward administrator shall be competitively appointed by the County Public Service Board...*' we hereby enclose a list of appointed ward administrators for the twenty-five wards within the county and one ward administrator as coordinator to be stationed at the County headquarters:-

Yours

Amb. Joshua K. Terer
Chairman

AFRUVIWE WAKU ADMINISTRATOTRS

SUBCOUNTY	WARD	GEND ER	D.O.B	NAME	ID NO	HIGHEST ACADEMIC LEVEL	CONTACTS	REMARKS
SOTIK	Ndanai	M	1974	Richard Kiplangat Kirui	12481906	Degree	0710256100	
	Chemagel	F	1978	Annah Chebet	20125236	Degree	0729836552	
	Kipsonoi	F	1986	Cherono Patricia	24721305	Degree	0726464305	YOUTH
	Kapletundo	F	1981	Caroline Chepkirui Mitei	22591881	Degree	0720477475	
	Rongena	F	1983	Emily C. Suinyon	23627278	Degree	0712908679	
CHEPALUNGU	Kongasis	M	1978	Paul Kipkirui Langat	20289852	Degree	0704417999/ 0726709631	
	Nyangores	M	1973	Joseah Kipkorir Bett	02934553	Degree	0720355236	
	Sigor	M	1982	Kirui Kipngetch Jeremies	22903828	Degree	0724967335	
	Chebunyo	F	1987	Anne Chepkemioi	23303015	Degree	0723177310	YOUTH
	Siongiroi	M	1973	Joseph Kimutai Ngeno	11433759	Degree	0720665962	
BOMET EAST	Merigi	M	1964	Michael Kiplangat Cheruiyot	7699365	Degree	0729777877	
	Kembu	M	1982	Robert Kiprono Rotich	22872985	Degree	0729683955	
	Longisa	M	1978	Linus Kipkirui Chepkwony	20555440	Degree	0722511848	
	Kipreris	M	1977	Kipkemioi Towett Chepkelat	20810531	Degree	0728104933	
	Chemamer	M	1976	Elijah Kipkoach Chelule	14439847	Masters	0727838783	
BOMET CENTRAL	Silibwet	M	1969	Paul Kibet Rotich	10991027	Degree	0713319755	
	Ndaraweta	M	1967	Eric Kimutai Langat	8548070	Degree	0722608299	
	Singorwet	M	1962	Richard Kimutai Maritim	2419779	Masters	0723638926	
	Chesoan	M	1983	Vincent Kipkirui Langat	22844009	Degree	0729385183	
	Mutarakwa	M	1969	Philemon Byegon	9640880	Degree	0710745031	
KONOIN	Chepchabas	M	1988	Eric Chepkwony	26980015	Degree	0710418933	YOUTH
	Kimulot	M	1981	Geoffrey Kipngetch Bett	22713976	Degree	0722143728	
	Mogogosiek	M	1974	Wesley Kipngeno Chirchir	12923607	Degree	0724758597	
	Boito	F	1987	Joyce Chepkirui Ngetich	24999678	Degree	0726830208	YOUTH
	Embomos	M	1972	Wesley Ngetich	11795488	Masters	0724669904 0711374233	
SOTIK	Ndanai	M	1969	Philip Kipngeno Butto	10020317	-Degree Public Administration -Dip. Mass Comm	0722777482	Currently acting DO1 in wajir to be deployed to County headquarters

(2nd and 3rd POSITION CANDIDATES FOR POST OF WARD ADMIN.)

SUBCOUNTY	WARD	PO SITI ON	GENDER	D.O.B	NAME	ID NO	ACADEMIC	CONTACTS	REMARKS
SOTIK	Ndanai	2	F	1975	Joice Cherotich Chumo	20412018	Degree	0707331858	
		3	M	1973	Kipkemoi Langat	12481961	Degree	0718280181	
	Chemagel								
		2	F	1973	Ann Chebet	11368702	Degree	0729651859	
		3	M	1965	Nicholas Korir	5452697	Degree	0728784189	
	Kipsonoi								
		2	M	1974	Joseph Koskei	13010064	Degree	0726709242	
		3	M	1957	Joel K Sang	3962630	Degree	0723745721	
	Kapletundo								
		2	M	1968	Paul Cheruiyot Rono	9232755	Degree	0710531441	
		3	M	1974	Daavid Kiprono Koske	12478039	Degree	0726062672	
	Rongena								
		2	F	1985	Florida Chepwogen	24105905	Degree	0727226760	
		3	M	1966	Langat Micah	10771875	Degree	0724493416	
CHEPALUNGU	Kongasis	2	M	1981	Geoffrey Lelei	22207712	Degree	0729209643	
		3	F	1985	Vicky Chepkemioi	24061115	Degree	0724986354	
	Nyangores								
		2	M	1976	Jacob Byegon	14438959	Degree	0720342086	
		3	M	1980	Wesley Korir	22280633	Degree	0721852790	
	Sigor								
		2	M	1988	Theophilus Laboso	25380869	Degree	0723384560	
		3			NIL				
	Chebunyo								
		2	M	1965	Richard Sigei	9729363	Degree	0725761919	
		3	M	1981	Isaiah Kirui	22464944	Masters	0728662858	
	Siong'iroi								
		2	M	1969	Richard Chirchir	10887255	Degree	0700138129	
		3	M	1968	Duncan Sang	9233374	Degree	0713630002	

BOMET EAST	Merigi	2	M	1970	Stephen Ngeno	11205086	Masters	0729760436	
		3			NIL				
	Kembu	2	M	1976	Augustine Korir	20374931	Degree	0723937919	
		3	M	1972	Richard Mosonik	11432976	Degree	0723486452	
	Longisa	2	M	1986	Wesley K. Kones	24497503	Degree	0723075122	
		3	F	1986	Naomi Cherop	25203015	Degree	0727833851	
	Kipreres	2	M	1973	Elijah Keter	11797080	Degree	0720657548/ 0788462400	
		3	M	1985	Kibet Samoei	23705932	Degree	0724663236	
	Chermaner	2	M	1978	Charles Langat	21048779	Degree	0727099527	
		3	M	1974	Daniel Tuei	12553911	Degree	0727636174	
BOMET CENTRAL	Silibwet	2	F	1980	Janeth Chebet Rono	22307006	Degree	0723770754	
		3	F	1983	Lilian K. W. Mutai	22918152	Masters	0724757049	
	Ndaraweta	2	F	1969	Linah Cherotich	10517990	Degree	0723592121	
		3	F	1980	Agnes Cherotich Biomdo	212953027	Degree	0720977773	
	Singorwet	2	M	1981	Hillary Ngetich	22622188	Degree	0723792955	
		3	M	1978	Wesley Rono	20552320	Masters	0720995337	
	Chesoen	2	M	1974	Simion K. Korir	12553848	Masters	0728968409	
		3	M	1984	Erick Ngeno Kibet	23639365	Degree	0720426567	
	Mutarakwa	2	M	1967	Richard Kipkoach Kirui	10506255	Degree	0714392663	
		3	M	1962	Joseph K. Bett	3831106	Degree	0729692047	

KONON	Chepchabas												
		2				NIL							
		3				NIL							
	Kimulot												
		2	F	1986	Diana C. Ngeno	24404072	Masters	0723913177/ 0721297701					
		3	M	1985	Kipngetch Langat Wilson	24457229	Degree	0725029196					
	Mogogosiek												
		2	M	1960	Joseph Kiplangat Ngeno	3850622	Degree	0722499396					
		3	M	1984	Nathan Ngetich	24016309	Degree	0725513823					
	Boito												
		2	M	1987	Felix Yegon	24800645	Degree	0725801433/ 0720325939					
		3	F	1983	Ann Chepkemioi	23303015	Degree	0724278096/ 0724055532					
	Embomos												
		2	M	1973	Ronald Kibet Kirui	11527971	Degree	0720325378					
		3	M	1972	Edward Kiptoo	11795471	Degree	0720230403					

MINUTES OF THE BOARD MEETING HELD ON 7TH DECEMBER, 2013 AT THE BOARD ROOM.

PRESENT

- | | | |
|-------------------------|---|------------------|
| 1. Amb.j.k.Terer | - | Chairman |
| 2. Rev. Eunice Benson | - | Vice Chairperson |
| 3. Pr. Joseph Rono | - | Member |
| 4. M/s. Winny Maina | - | Member |
| 5. M/s. Judith Siele | - | Member |
| 6. Mr. Phillip k. Tonui | - | Secretary |

The meeting started at 3:00 p.m. with a word of prayer.

MIN 1//12/13: CONFIRMATION OF PREVIOUS MINUTES.

The minutes of the meeting held on 5th November, 2013 were confirmed as true records of the proceedings then.

MIN 2/12/13: OFFICE ACCOMODATION.

The board members are now accommodated at the new premises. Few repairs have to be done. Perimeter fence needs to be done.

Min 3/12/13: INDENTS RECEIVED.

Indents for Health and sanitation together with Agriculture and livestock were received from the County secretary. The adverts to be placed in the print media i.e. the standard, Daily Nation and the Star Newspapers.

MIN4/12/13: SUITABILITY INTERVIEWS.

Suitability interviews for staff in Health and sanitation docket to be done on 16th -17th December, 2013.

There was no other business and the meeting came to an end at 4:20 p.m. with a word of prayer.

Amb. J. K. Terer
.....
(CHAIRMAN)

SIGN



DATE *14/12/2013*

P. K. Tonui
.....
(SECRETARY)

SIGN



DATE *14/12/13*

MINUTES OF THE PUBLIC SERVICE BOARD MEETING HELD ON 6TH & 7TH SEPTEMBER , 2013 AT TWIGGS ANNEX

PRESENT.

1. Rev. Eunice Benson ----- Vice chairperson.
2. Mr. Joseph Rono --- -- Member.
3. M/s. Judith Siele ----- Member.
4. M/s. Winny Maina ----- Member.
5. Mr. P.K.Tonui ----- Secretary.

ABSENT WITH APOLOGIES

1. Ambassador J.K.Terer----- Chairman.

The Meeting started at 10.00 a.m with a word of prayer

MIN 1/9/2013 : CONFIRMATION OF THE MINUTES

The minutes of the meeting held on 27th August 2013 were confirmed as true record of the proceedings then.

MIN 2 /9/2013 : MATTERS ARISING

- (i) *Min 9/8/2013* : The members were unanimous that the decision to appoint the candidate as a ward administrator from Ndanai ward and be stationed at County headquarters to act as coordinator be rescinded. The submitted list be recalled and re-drawn to exclude the appointee.

MIN 3/9/2013 : SUITABILITY/DOCUMENT VERIFICATION

- (i) The board confirmed the appointment of Rose Chebet as a personal Secretary .
- (ii) The board resolved that the two positions of tutor at Longisa MTC be advertised.
- (iii) The Water board be advised to formally present their request to the Board so that a suitability interview be arranged for the identified candidate for post of General Manager, Bomet Water Company.

MIN 4/9/2013 : E.C.D. TEACHERS INTERVIEWS.

The Board resolved that the positions be subjected to a competitive process so that a recruitment and selection process is commenced.

MIN 5/9/2013 : STAFF MATTERS

- (i) The driver , Mr. Abraham Towett posted to Board offices and currently unutilized be surrendered to the County Secretary for re- deployment.
- (ii) A staff list per department be made and a summary of each job category showing the total number in the county be drawn.

The meeting adjourned at 3.00 p.m

The Meeting started at 10.00 a.m the second day 7th September, 2013 with a word of prayer

MIN 6/9/2013 : DRAFT WORK-PLAN

The meeting agreed that to facilitate preparation of a work-plan, the work load that constitute the functions of the board be availed from relevant offices.

A schedule would then be drawn.

There was no other business and the meeting came to a close at 2.30 p.m with a word of prayer.

.....
Vice Chairman

.....
Date

.....
Secretary

.....
Date

COUNTY GOVERNMENT OF BOMET



PUBLIC SERVICE BOARD

P.O. BOX 605 – 20400
BOMET.

Ref: CPSB/ LET /008/13

7th October, 2013

H.E The Governor
Bomet County

RE: REQUEST FOR A COURTESY CALL FOR BRIEFING AND CONSULTATION

We are requesting for a courtesy call for a briefing and consultation.

Below is a brief on what we will consult on:-

- To share experiences and challenges we have had for the four months we have been in office i.e on appointments, transport, discharge of our mandate viz-a-viz insufficient induction and our general settlement.
- To share and build a common ground in view of the expected report that we are to submit to the County assembly in December in line with the provisions of the County Government Act sect 59 (5). The report is based on the extent to which the government observes the values and principles of good governance. (Articles 10 and 232 of the Constitution).
- The County government Executive should have prepared structures so that we fill the identified positions as per our mandate. We need to find a way forward in the absence of these structures.
- Staff harmonization be commenced per devolved function so as to abate staff anxiety in the county.


Cs. Philip K. Tonui
Board Secretary

SUMMARY OF APPOINTMENTS AS AT JUNE 2014

		M	F	Total
SOTIK	Chemagel	7	8	15
	Kapletundo	5	6	11
	Kipsonoi	6	6	12
	Ndanai	13	0	13
	Rongena	7	5	12
Sub Total		38	25	63
RONOIN	Boito	9	3	12
	Chepchabas	4	1	5
	Embomos	10	2	12
	Kimulot	5	1	6
	Mogogosiek	12	3	15
Sub Total		40	10	50
CHEPALUNGU	Chebunyo	6	0	6
	Kong'asis	14	3	17
	Nyongores	7	1	8
	Sigor	11	1	12
	Siongiroi	8	5	13
Sub Total		46	10	56
BOMET EAST	Chemaner	8	0	8
	Kembu	7	2	9
	Kipreres	9	3	12
	Longisa	7	2	9
	Merigi	9	3	12
Sub Total		40	10	50
BOMET CENTRAL	Chesoan	9	2	11
	Mutarakwa	5	0	5
	Ndarawetta	8	1	9
	Silibwet	10	3	13
	Singorwet	8	3	11
Sub Total		40	9	49
		202	64	267
OTHER COUNTIES		9	7	16
Grand Total		213	71	284



CS. Philip K. Tonui

Board Secretary

COUNTY GOVERNMENT OF BOMET



PUBLIC SERVICE BOARD

P.O. BOX 605 – 20400

BOMET.

Ref: CPSB/ LET /053/2014

14TH FEBRUARY, 2014.

THE COUNTY SECRETARY.

RE: APPOINTMENTS.

There has been growing unease over the manner in which certain appointments have been made, I hereby wish to convey to your office the decisions of the Board on the same and various other emerging relevant issues:-

- The Board appointed twenty-six (26) Ward Administrators and it is emerging that some were appointed without approval from the Board. The Board requests for your clarification on these.
- The Board has so far regularized appointment of drivers attached to the executives. All other irregularly engaged drivers driving county government vehicles should be asked to leave immediately until the Board completes the recruitment process as an indent on the same has been received; because without this action the process of recruitment would be questionable.
- Positions being held on temporary basis be declared vacant so as to be filled competitively; and any such existing appointment be terminated.

- The Board has noted that approved entry job groups and designations are varied as the decision is communicated to the appointee and advises that we coordinate where an error is noted so that an official amendment is issued and recorded.
- We ask that you provide us with a list of all permanent staff per department bearing relevant staff details.
- To avoid demoralizing staff its our advise that as you deploy them consideration should be given to their areas of training so as to align them well and shape a clear career progression path.
- Kindly be serving the Board with copies of appointment letters that you issue. We have often called for these.



P.K.Tonui

BOARD SECRETARY.



COUNTY GOVERNMENT OF BOMET

Telephone: 0202084070

Fax:

Email: info@bometcounty.or.ke

When replying please quote Ref. No. and Date

Office of the County Secretary

P.O. Box 19-20400

BOMET, KENYA

25th Feb. 2014

BC.70/2/1

Mr. Philip Tonui,
Secretary,
County Public Service Board.

RE: APPOINTMENTS

Reference is made to your letter CPSB/LET/053/2014 dated 14th Feb. 2014 on the above subject and wishes to respond as follows;

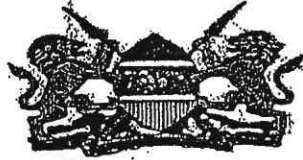
- **Additional Ward Administrators:** The appointments were made after necessary consultation between your Office and the Office of the Governor. The additional administrators were picked from the list which you provided vide your letter Ref. No. CPSB/WRD/1/2013(2) dated 28th August 2013 addressed to the Governor. The Officers were needed to handle Administrative duties both at the sub – Counties and the HQs. The appointments were therefore done with the understanding that they would be re designated appropriately at a later date within the probationary period. The Officers have since been deployed in various Departments both at the HQs and Sub-Counties.
- **Appointment of Drivers:** A few Drivers were engaged on Temporary basis for a period of three Months which are almost expiring and may expire before you complete the process of interviewing. It is therefore not advisable to terminate their temporary appointments at this stage but they will be free to apply along with others since the jobs have been advertised.
- **Vacant Positions:** Any Vacant position being held on temporary basis will be declared to the Board as per your recommendations.
- **Variation of Job Groups/Designations:** The County Government Act Section 46 (1) mandates the County Executive to determine Organisation of the County and its various departments. In accordance with the above section, the Office of the Governor is within its mandate to vary any position based on

the requirements of the Departments after consultations with the relevant Departments. This was done and the Officers whose positions may have been affected were consulted before being issued with the appointment letters. The positions were reviewed downwards based on the needs of the Departments and the Officers who were affected accepted the changes and the Board will be notified accordingly.

- **Records of Permanent Employees:** The records of permanent employees are already in your records since all the devolved staff appeared before your Board for verification and the record of other staff that you employed are within your custody. However if need be, a fresh audit can be carried out by the Board and my Office to ascertain the exact number of permanent employees.
- **Professional Qualifications:** This Office has always taken into account the professional training of Officers before they are deployed to various Departments and wish to assure you that your sentiments will always be taken into account.
- **Copies of Appointment letters:** Compliment control and staff establishment including personal files and data of all staff in the Public Service is the mandate of the Department of Public Service under the Ministry of Planning and Devolution. In our case, such information is kept by the H.R Department under the Governor's Office. It is my view that such information which may contain confidential personal data including medical records of an officer be kept under one office for legal reasons. This also applies to payroll records including payslips which are handled only by an authorized payroll officer in H.R. However where you require any information, I would advice that the Head of H.R personally delivers a file folder containing all the appointment letters to your office and return them for safe custody.


Jonathan Soi
County Secretary

REPUBLIC OF KENYA



COUNTY GOVERNMENT OF BOMET
COUNTY PUBLIC SERVICE BOARD

Telephone: 0704734693

P.O Box 605-20400
BOMET, KENYA

Ref. No. CPSB/WRD/1/2013(2)

28th August, 2013.

The governor
Bomet County.

RE: - 2ND AND 3RD POSITION CANDIDATES --- WARD ADMIN. POST.

The interviewees whose particulars are provided in the enclosed table were rated 2nd and 3rd position in each ward.

We provide this for your reference and record.

Yours

Amb. Joshua K. Terer
CHAIRMAN.

A handwritten signature in black ink, consisting of a large, stylized 'J' followed by several loops and a final flourish.

RULING ON THE PROCEDURE FOR THE REMOVAL OF THE MEMBERS OF THE COUNTY PUBLIC SERVICE BOARD.

Hon. Members as you are all aware that this house debated and passed a motion dated 17th June 2014 seeking for the removal from office of the chairperson and members of the county public service board. There have been requests from the concerned members as to the exact procedure to be followed after the motion has been passed. It is against this backdrop that I now wish to make the following ruling.

Hon. Members the appointment of the county public service board is provided for under section 57 of the county government act. The composition thereof is well outlined under section 58 of the said act.

On the issue of the removal from office, section 58(5) provides as follows;

"The members of the board may only be removed from office-

(a) On the grounds set out for the removal of members of a constitutional commission under article 251(1) of the constitution; and

(b) By a vote of not less than seventy five percent of all the members of the county assembly"

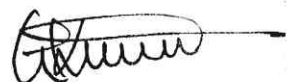
Hon members looking at the aforementioned section, it is clear that there are two limbs, that is;

(a) the grounds for removal as set out in the constitution

(b) a vote by the members of the county assembly.

Hon members turning to the referred section of the constitution (section 251) the said section provide for the grounds for removal which include violation of the constitution, gross misconduct, physical or mental incapacity to perform and incompetence. The section also provide for the procedure for the removal from office which includes a petition to the national assembly and thereafter constitution of a tribunal to conduct investigations.

Hon members looking critically at the wording of section 251(1) of the constitution it becomes patently clear that the only relevant part for a case such as the one currently before the house is basically the first limb on the grounds for removal. The second part is basically the procedure that would apply for removal at the national level. It is not conceivable or imaginable that the law anticipated a situation where the president would be called upon to constitute a tribunal to investigate the removal of a member of the county public service board. Indeed such interpretation would open up floodgates



for numerous petitions bearing in mind that under article 6 of the constitution the territory of Kenya is divided into 47 counties as specified in the first schedule.

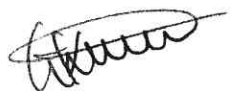
Hon Members my interpretation of section 251 of the constitution is that its application in a case such as the one at hand is only limited to the grounds set out therein.

Hon members turning to our standing orders, its noteworthy that there are no express provisions for the removal of the chairperson and the members of the county public service board. The standing orders only provide for the removal of the Governor, the Deputy Governor, Speaker, Deputy Speaker and the CEC members. Be it as it may the common understanding is that the members of the board were recruited competitively and approved by this Honourable house just the way the CEC members are recruited.

I wish to refer the Honourable member to the salient provision under section 58 (1) (b) "not less than three but not more than five other members nominated and appointed by the county governor, with the approval of the county Assembly". I have deliberately underlined the words with the approval of the County Assembly to emphasize the fact this honorable house is mandated under the law to participate in the appointment of said officers.

Hon. Members arising from aforementioned observation is the fact that an appointing body has a role to play in the dismissal and /or removal of the appointee. Indeed, it would be quite absurd to expect that the president (who did not approve the appointment) would participate in the removal. Hon. Members I have deliberately attempted to demonstrate that members of the County Public Service undergo more less the same appointment procedure as the CEC's. I have therefore (as I had earlier directed) arrived at a decision that the procedure for removal of the CEC pursuant to the Standing Orders do apply for the removal of the members of the Board.

Hon. Members that means we have to resort our Standing Orders no. 64(1) which states as follows "Before giving notice of motion under section 40 of the County Governments Act, 2012, the member shall deliver to the Clerk a copy of the proposed Motion in writing stating the grounds and particulars upon which the proposal is made, for requiring the Governor to dismiss a Member of County Executive Committee on ground of a gross violation of a provision of the Constitution or of any other law; where there are serious reasons for believing that the Member of county executive has committed a crime under national or international law; or for gross misconduct. The notice of Motion shall be signed by the Member and the Clerk shall submit the proposed Motion to the Speaker for approval."



Hon. Members the County Assembly is free to decide whether or not to appoint a committee to consider the matter. The most crucial principle under Standing Order, and indeed under Articles 47 and 50 (1) of the Constitution is that a person being removed must be given a fair trial which includes the right to be heard and to have adequate time to defend himself. It is also imperative to note that the County Assembly is a fully fledged legislature albeit at the devolved level. The laws and principles applicable to the legislature apply in full to this Honourable House.

I therefore wish to point out that impeachment process is quasi-judicial in nature. The procedure is similar to that in a criminal trial with the following elements;

- (a) Charges are framed and put against the person to be impeached
- (b) Evidence is adduced
- (c) The person facing charges defends himself
- (d) The assembly decides whether to impeach or not

Article 259 of the constitution provides guidance on how the constitution ought to be interpreted and states as follows;

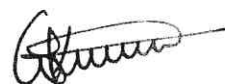
"This constitution shall be interpreted in a manner that-

- (a) Promotes its purposes, values and principles;*
- (b) Advances the rule of law, and the human rights and fundamental freedoms in the bill of rights;*
- (c) Permits the development of the law; and*
- (d) Contributes to good governance"*

Hon members I do not wish to belabor more on the issue, suffice to emphasize that the procedure as aforementioned adheres to the tenets set out in the constitution. I therefore direct that the special committee as constituted do proceed to conduct investigations and present a report to this honorable house within the time frame provided for under the standing order 64(6).

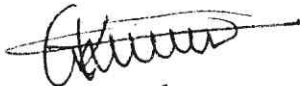
The committee in liason with the legal department should come up with the rules of procedure which will regulate the procedure of the committee on a number of critical matters in respect of which the county government act and the standing orders are silent.

Honorable Members all said and done, since Section 58(5) of the County Governments Act only provides for the grounds under which the Chairperson, secretary and the Members of the Public service Board can be removed, being the same as those of



removal of a member of a constitutional Commission provided under Article 251(1), and since there is no procedure for removal in our Standing Orders I directed that using my powers vested upon me by Standing Order N0.1 and to give effect to Standing Order 65 on the right to be heard and to accord the said officers a fair hearing , the procedure of removal of the Executive Committee Member be adopted for the removal of the Chairperson, Secretary and the Members of the County Public Service Board. This procedure will also accord the said members a chance to have legal representation since they were not represented when they appeared before the Committee on Labour and Public Service.

The Special Committee which was formed by this Honorable House should then immediately meet and elect their Chairperson since they have ten days to present a report to this House.



Hon.Speaker.