

REPUBLIC OF KENYA



COUNTY GOVERNMENT OF BOMET

COUNTY ASSEMBLY

COMMITTEE ON APPOINTMENTS ANNUAL PROGRESS REPORT FOR
THE FINANCIAL YEAR 2014-2015

JULY 2014-JUNE 2015



SEPTEMBER, 2015

*Tabled on the
September 14th
2015.*

Canon.

BACKGROUND

Mr. Speaker Sir,

On behalf of the Members of the Appointment Committee and as required under standing order No.183, the committee is pleased to present to the Assembly, the Committee's annual progress report for the Financial Year 2014/2015.

Mr. Speaker Sir,

The Appointment Committee comprise of the following Honorable members:

- | | |
|--------------------------------|-------------|
| 1. Hon. G.K Kipngetich – | Chairperson |
| 2. Hon. Josphat Kirui - | Member |
| 3. Hon. John Chepkwony- | Member |
| 4. Hon. Christopher Ngeno- | Member |
| 5. Hon. David Rotich Big Five- | Member |
| 6. Hon. Bency Too- | Member |

Mandate of the Committee

The Committee is one of the Select committees established under Standing Order 188(1) to the Standing Orders which provides that the Committee on Appointment shall deal with all appointments made by the Governor under Articles 179(2) (Members of County Executive Committees) of the Constitution.

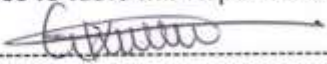
ACKNOWLEDGEMENT

Mr. Speaker Sir,

I wish to thank the members of the Appointment Committee who have worked tirelessly in preparing this report.

Mr. Speaker Sir,

It is therefore my pleasant duty and privilege, on behalf of the Appointment Committee to table this Report and recommend it to the House for adoption.

Signed  _____

THE HON. G.K. KIPNGETICH

CHAIRPERSON, APPOINTMENT COMMITTEE

Date 07/09/2015 _____

Affirmation

We, honorable members of Appointment Committee, do hereby affix our signatures to this report to affirm our approval and confirm its accuracy, validity and authenticity:-

Members

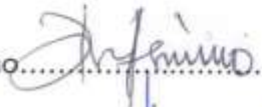
1. Hon. Josphat Kirui 
2. Hon. John Chepkwony 
3. Hon. Christopher Ngeno 
4. Hon. David Rotich Big Five 
5. Hon. Bency Too 

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1. Appointment Committee Meetings

Hon. Speaker,

During the period under review, Appointment Committee held twenty two meetings as per its work plan, the meetings were held on 31st October, 18th and 28th November, and 8th , 15th and 16th December 2014. 13th, 20th and 27th January and; 6th, 19th, 20th, 22nd and 24th February and; 12th, 17th, 20th, 24th, and 30th March and 15th April and: 26th and 30th June 2015. The meetings main agendas included:

- i. Deliberations on the Committee Monthly Work-plans
- ii. Preparation and Submission to the House of the Committee's Annual Progress Report for the FY2013/14
- iii. Vetting of the three (3) CECs nominees for Agribusiness, Children and Social Services and; Finance and Economic Planning
- iv. Follow up on the publishing and printing of the Bomet County Public Appointments (Assembly Approval) Act 2014.

The meetings were held as per the Committee's work plan. (See attached the minutes of the mentioned meetings.

2. Appointment of County Executive Committee Member for Agribusiness

Hon. Speaker,

Pursuant to Article 179(2)(b) of the Constitution, and Section 35 of the County Governments Act, 2012 the Governor forwarded the name of one Mr. **Alex Kibet Kirui** who had been nominated as the Executive Committee Member in charge of Agribusiness to the County Assembly for vetting and approval. The position had been left vacant after the resignation of Mr. Augustine Cheruiyot.

The committee vetted the appointed nominee and tabled its report to the House on 16th December 2014.

The report was thereafter debated on the 17th of December 2014 during the afternoon sitting.

The Majority report of the members of the committee had recommended to the Assembly not to approve the nominee due to the following reasons;

1. That the nominee was not competitively recruited by the County Government, since the position was not advertised and the interviews were not conducted by the County Public Service Board therefore the law was flouted especially the Constitution of Kenya Article 10(2)(c) and the Bomet County Public Appointments(Assembly Approval) Act, 2014.
2. That the nominee pursuant to section 35(3) (d) of the County Governments Act, 2012, the nominee was not suitable for the position.
3. The Majority of the members were of the view that the nominee was not competent to hold the position considering the fact that the docket of Agriculture is the backbone of the County's economy.

The Minority however recommended for the approval of the nominee since they were of the view that the nominee had scored above the 50% score mark that had been set by the committee.

The minority also felt that the nominee was innocent and should not be victimized for the mistakes done by the County Public Service Board.

The nominee was however approved by the County Assembly.

3. Appointment of County Executive Committee Member for Children and Social Services

Hon. Speaker,

Pursuant to Article 179(2)(b) of the Constitution, Section 35 of the County Government Act, 2012 and Standing Order No 44(2), H.E. the Governor, through the County Attorney forwarded to the Clerk of the County Assembly, the name of the nominee for CEC in charge of Children and Social Services **Mr. Samwel Kipkoech Barchok** via a letter dated 30th January 2015 for vetting by the committee on Appointments and considerations by the County Assembly for the appointment.

The committee vetted the appointed nominee and tabled its report to the House on 10th February 2015.

The report was thereafter debated on the 3rd of March 2015 during the afternoon sitting.

The Committee had approved the nominee due to the fact that;

1. The nominee satisfied all the requirements of Section 35 of the County Government Act, 2012.
2. The nominee having worked in the Education Sector and as an administrator (dealing with students, teachers, parents and other stakeholders in the Sector) he possessed the required knowledge to handle the Children and Social Services Sector.
3. To handle the Children and Social Services Sector the nominee did not necessary require the technical skills, but be knowledgeable and well experienced in the field, possess good interpersonal skills and be creative, which were demonstrated by the nominee.

The nominee was therefore approved by the County Assembly.

4. Appointment of County Executive Committee Member for Finance and Economic Planning

Hon. Speaker,

Pursuant to Article 179(2) (b) of the Constitution and Section 35 of the County Government Act, 2012, H.E. the Governor through the County Attorney forwarded to the Clerk of the County Assembly, the CEC nominee for Finance and Economic Planning **Dr. Peter K. A Koros** via a letter dated 6th March 2015 for vetting by the Committee on Appointments and consideration for approval by the County Assembly for the appointment.

The committee vetted the appointed nominee and tabled its report to the House on 10th March 2015.

The report was thereafter debated on the 16th April 2015 during the afternoon sitting.

The Committee thereafter approved the nominee due to the fact that;

1. The nominee satisfied all the requirements of Chapter six of the Constitution of Kenya 2010 and Section 35 of the County Government Act, 2012.
2. The nominee was at least partially conversant with some few sections of the Public Finance Management Act, 2012 and was also willing to learn from his juniors if given the position.
3. The nominee had no conflict of interest.

The nominee was therefore approved by the County Assembly.

5. Speaker's Ruling on Appointed Nominees Approvals and Rejections by the House

In regards, to nominees that have been rejected by the committees undertaking vetting and their reports are further rejected by the House, the procedure that follows should be clear to the Honourable members. An example is the one for the Chief Officer for Finance, that the Committee's report had recommended for rejection however the House rejected the Committee's recommendation. The National Assembly had a similar scenario in December 2011 during the approval of the three nominees to the Ethics and Anti-Corruption Commission namely: Mumo Matemu, Jane Onsongo and Irene Keino. The then, Hon. Speaker Kenneth Marende gave a precedent in such scenarios stated that the outcome of the overall vote cast by the legislators simply rejected the report by the Justice and Legal Affairs Committee, seeking to shoot down the three names, but had no bearing whatsoever on their fate.

He further urged the Leader of Government Business to make fresh preparations for the new vote which would determine whether or not Mumo Matemu was appointed as EACC Chairperson alongside Jane Onsongo and Irene Keino. He stated *"It is important that the government moves expeditiously to move a motion for the approval of the nominees of the anti-corruption commission so as to enable the House to make its decision such that the Executive may be appropriately advised by the Speaker,"*

Marende also assured the legislators that the three names would not be forwarded to the President and Prime Minister for appointment before the issue is resolved. He explained that their fate would be determined by the new vote which will be cast when the House breaks from recess. He further stated that *"The names of the nominees still remain before the House. Approval as contemplated by the Constitution and statutes is an affirmative and unequivocal approval by the House,"*

Therefore, this precedent will also be applicable to such scenarios within the Bomet County Assembly, where the Speaker's ruling will apply that once a committee report recommends the rejection of a nominee/s and this is further rejected by the County Assembly, the names of the nominees still remain before the House and the Leader of Government Business or whoever is

directed by the Speaker will be required to move a motion for the approval of the nominee within the timelines that will be directed by the Speaker.

6. Challenges

- Lack of adequate budget to ensure implementation of the Committee activities as per its work plan e.g. Training the Committee members.
- The Governor nominating and appointing office holders without following the due process especially for those required to be vetted and approved by the County Assembly e.g. the case of the County Attorney position
- The difference between vetting and interviewing not clearly understood by the County Assembly Committees, this has posed a great challenge during the committees vetting exercise and approval hearing debate in the House.
- The Public and other Stakeholders have not clearly understood their role in the vetting and approval hearing process.

7. Recommendations

- Allocation of adequate budget to the committee to ensure implementation of all its activities as per its work plan.
- The County Executive to appoint other office Holders in the County Public Service that are required by law to be approved by the Assembly.
- Thorough training on vetting and interviewing to be undertaken by all the County Assembly Committees with vetting and approval hearing mandates.
- The Committee members to get training in Public Appointments vetting.
- The Committee to create public awareness to the community on their role in Public appointments e.g. disseminate on the Bomet County Public Appointments (Assembly Approval) Act 2014.

- The Speaker's ruling shall apply on a committee report recommending rejection of a nominee/s and the house rejecting the same, that; the names of the nominee/s shall still remain before the House and the Leader of Government Business or whoever is directed by the Speaker will be required to move a motion for the approval of the nominee/s within the timelines that will be directed by the Speaker.

8. Conclusion

Hon. Speaker,

The Committee will continue to work tirelessly in the next financial year 2015/16 to deliberate on matters touching on its mandate and undertake all the activities as outlined in its work plan under the current financial year.