

REPUBLIC OF KENYA
MACHAKOS COUNTY ASSEMBLY
OFFICIAL REPORT

Wednesday, 20th March, 2019

The House met at 10.34 a.m.

[The Speaker (Hon. (Mrs.) Mwangangi) in the Chair]

PRAYERS

Hon. Speaker: Good morning Hon. Members. For those who are not yet settled please do so as quickly as possible so we can start the business. Mr. Clerk, proceed.

COMMUNICATIONS FROM THE CHAIR
STUDENTS FROM KYANGULI MEMORIAL SECONDARY SCHOOL

Hon. Speaker: Hon. Members, under this Order, I have various communications. The first one is to welcome in our midst students from Kyanguli Memorial Secondary School; I am informed that this is Form Four history class. I welcome you, I ask you to feel at home and for those who may want to be interested, you will find good company in me. I was a very good historian all the way from Form One to Form Six, so I am happy to hear that this is a history class and I know that you have a lot of ambition; like we wished the other groups who were here yesterday, we wish you well in your endeavors, we pray that someday we will see you playing leadership roles in this country and meaningful leadership roles.

So, feel at home amongst ourselves; open your eyes and if there are any issues which you are not clear with the gentlemen you see in uniform ask them when we are through with the Assembly they will clarify for you so that any matter coming up in your class about administrative procedures of County Assemblies, you will be able to place comfortably.

To the teachers; thank you, very much for thinking about it we will continue engaging the school in this manner thank you and welcome. I am aware that the member of your ward is present; he has been welcoming the others and I ask him equally to greet you and welcome you. Hon. Museku.

Hon. Museku: Thank you, Madam Speaker. Good morning, mine is to welcome you students of Kyanguli Secondary School, the reason why you see they have come many is because the class is big. The class is almost 100 students and therefore they were divided into three groups so that they can be able to fit in our gallery. Welcome very much and feel at home and learn from today's experience. As I talked to you in the morning I told you this is the County

Assembly of Machakos. You will be able to see how, first of all me as your member of County Assembly performs or does my work when I come here.

Whatever our people elected me to come and do and you will also be able to see what duties the Hon. Members do when they come here. So open your eyes as the Hon. Speaker, has said, learn this is part of your history and government class. I think there is a lot to deal with devolution and what happens in County Assemblies which you can be able to learn from here and take with you and it will assist you in your studies.

Today I know you are with your head teacher and I am really touched to see that a whole head teacher can actually accompany students to come to the County Assembly. So, Mwalimu thank you very much and feel welcome. Asanteni.

Hon. Speaker: Thank you, Hon. Museku for also pointing out that the group is led by the head teacher. Thank you, Mwalimu.

NOMINATION OF COUNTY EXECUTIVE COMMITTEE MEMBER FOR VETTING BY THE ASSEMBLY

The second communication Hon. Members under this order is on the nomination of County Executive Committee Member for vetting by this Assembly. Hon. Members, article 179(2)(b) of the Constitution provides that the County Executive Committee consists of:

- a. The County Governor and the Deputy County Governor;
- b. Members appointed by the County Governor with the approval of the Assembly from among persons who are not members of the Assembly.

Hon. Members, pursuant to this provision read together with sections 30(2)(d) and (e) and 42 of the County Governments Act, H. E the Governor Dr. Alfred Mutua forwarded to this Assembly the name of Dr. Ancent Kituku Nzioka so that the Assembly can vet and approve him for appointment in the position of County Executive Committee Member for Health and Emergency Services Department.

Hon. Members the nominee is hereby committed to the committee on Appointments pursuant to Standing Order 42(2) of this House for vetting as per the Public Appointments (County Assemblies Approvals) Act 2017 and any other relevant law.

REPORT OF THE AUDITOR GENERAL ON FINANCIAL STATEMENTS OF THE COUNTY ASSEMBLY OF MACHAKOS FOR THE YEAR ENDED 30TH JUNE, 2018

The other communication and the third one Hon. Members is on the report of the auditor general. The Assembly received a report from the Auditor General on 18th of March, 2019 in accordance with the provisions of Article 229(7) of the constitution. The report is on the financial statements of the County Assembly of Machakos for the financial year ended 30th June, 2018.

Hon. Members, that report is hereby committed to the Public Accounts and Investments Committee. The committee is required to interrogate the report and file its findings in the House within three months as per the provisions of Article 229(8) of the constitution. Thank you, Hon. Members. Mr. Clerk proceed

MOTIONS**REPORT ON APPROVAL HEARING FOR NINE PERSONS NOMINATED FOR THE POSITION OF MEMBER OF MACHAKOS MUNICIPALITY BOARD**

Hon. Speaker: Hon. Members, I want to give directions under Order No. 8, 9 and 10. The orders are similar; they are motions it is on reports of various committees on the proposed members for the municipality boards. Hon. Members, the House Business Committee balloted for these three businesses today in the morning and it also balloted for the report on the supplementary budget.

Yesterday the chairperson for Budget and appropriations committee informed me that the committee is not ready with the report on the supplementary budget for the financial year 2018-2019. So, what I am directing under the powers bestowed upon me under Standing Orders 1 is that this House will deliberate on Orders No. 8 and 9 this morning; they are relatively lengthy reports and then the House will deliberate on Order No. 10 in the afternoon at 2.30 p.m.

For the supplementary budget, it is going to come on Monday; I have already issued a gazette notice for a special sitting on Monday so that on Monday in the morning, you will deliberate on the supplementary budget report and you will also deliberate on the Appropriation Act for that supplementary budget. So, the Appropriation Bill 2018 will be deliberated on Monday under the special sitting so that the gazettment of that Bill is going to be done by this Friday, Hon. Members.

Now on Order No. 8, I am informed by Majority Leader Mark Muendo who is listed as the one to prosecute the business that he has requested Hon. Kisila to prosecute the business. Hon. Members, now the hard part comes; we agreed that you are going to be guided by our iPads and you have them. So, these are reports which are already posted on line on a link which is in your iPads.

The report has two parts, an executive summary which Hon. Kisila is going to read here and the full report which you will interrogate and I believe you have already started interrogating it and so that is what we are going to do and I call upon Hon. Kisila to take the floor.

Hon. Kisila: Thank you, Madam Speaker.

Hon. Speaker, that aware that section 8(1)(a) of the County Governments Act No. 17 of 2012 says that the County Assembly shall vet and approve nominees to appointment to the County public offices as maybe provided for in the act or any other law;

Aware that section four of the Public Appointments (County Assemblies Approval) Act No. 5 of 2017 provides that an appointment under the constitution or any other law for which approval of a County Assembly is required shall not be made unless the approval is made by the relevant County Assembly in accordance with the same act;

Aware that the members of the municipality board are appointed in accordance with section 13 as read together with section 14 of the Urban Areas and Cities Act No. 13 of 2011 which was later revised in 2016---

Hon. Speaker: And amended 2019.

Hon. Kisila:and amended in 2019, thank you, Madam Speaker.

Cognizant that the acting County Secretary, pursuant to section 13 and 14 of the Urban Areas and Cities Act forwarded to the Hon. Speaker of the County Assembly a notification of nomination of nine persons via letter reference number GMC/KUSP/BM/13 dated 25th---

Hon. Speaker: Point of order from Majority Leader.

Hon. Muendo: Thank you, Madam Speaker. I seek your guidance because some of these gadgets are not working and I can see most of the members do not even have them. I can see chairman finance struggling with his gadget. Mine also is in the office being maintained so I request before we get proper gadgets to be supplied with that copy because it is very important and also when we catch up...you know you have to allow a kid to grow not---

Hon. Speaker: Hon. Members, Hon. Majority Leader, I hear you. I just want to see those who have their iPads with them; just lift them. It is more than the members who are sited here and there is no member who was not given an iPad nearly one year ago Hon. Majority Leader. Yours is not working; when did it stop working, just this morning? I announced Hon. Members that we are going to use these documents in soft; did you hear me do that? So, why are you not listening to the announcements from the Chair because there is a good reason why we said we are going soft? Hon. Caleb yours is not also working? Or yours is working? I see that is very good.

(Laughter)

Hon. Majority Leader.

Hon. Muendo: Madam Speaker, I can see they have the gadgets but they are not even on the Order Paper.

Hon. Speaker: They are how many are not on the Order Paper? They are on the Order Paper.

Hon. Muendo: Thank you, Madam Speaker. What I was saying anyway is sometimes if there is hard working well we have no problem with having them hard copy is always---

Hon. Speaker: Let me do this; Hon. Members for those who want to remain analog ue, you will find it very difficult in this House because it is the way to go. Every document is going to be in soft and I announced that I have announced it again and again so these proceedings will continue. I see Hon. Majority Leader has been given a hard copy but in the afternoon, you are not going to have a hard copy. So you better get your iPad and if it is not working please see the IT people they are going to assist you. Hon. Matee, is it the same line you are going to trend?

Hon. (Ms.) Ndeti: Yes, thank you Madam Speaker. I wanted to say you can even access through your mobile phone if you do not have your iPad.

Hon. Speaker: So, you see you can even access through your smart phone only that the screen is small. So, we continue thank you very much we will continue. Proceed Hon. Kisila

Hon. Kisila: Most obliged, Madam Speaker. Actually, mine was not working yesterday but I made sure it is working today.

Madam Speaker, cognizant that acting County Secretary pursuant to section 13 and 14 of Urban Areas and Cities Act forwarded to the Hon. Speaker, of the County Assembly a notification on nomination of nine persons via letter reference number GMC/KUSP/BM/13 dated 25th October, 2018 which was received on the same day for consideration by the committee and subsequent approval by the County Assembly for appointment as Machakos Municipality Board Members; Hon. Speaker, I wish to move the motion that this Hon. House discusses and approves the report of the appointments committee on approval hearing for nine persons nominated for the position of member Machakos Municipality Board.

Thank you, Madam Speaker. I call upon Hon. Winfred Syonindi Mutua to second my motion.

Hon. Speaker: Thank you, Hon. Kisila. Hon. Winifred Syonindi.

Hon. (Ms.) Mutua: Thank you, Madam Speaker. I stand to second the motion.

Hon. Speaker: Thank you, Hon. Kisila. The report is immediately after the motions on your iPads.

Hon. Kisila: Thank you, Madam Speaker. Thank you, Mheshimiwa---

Hon. Speaker: I am assuming you are reading the executive summary.

Hon. Kisila: Yes, I am Madam Speaker.

Hon. Speaker: Alright, proceed.

Hon. Kisila: Madam Speaker, I proceed to read the report.

1.1 Introduction

Hon. Speaker, Section 8(1)(a) of the County Governments Act No.17 of 2012 provides that the County Assembly shall vet and approve nominees for appointment to County public offices as may be provided for in the Act or any other law. The members of a municipality board are appointed in accordance with Section 13 as read together with Section 14 of the Urban Areas and Cities Act No.13 of 2011 (Revised 2016).

In the Urban Areas and Cities Act, an urban area means a municipality or a town. Section 4 of the Public Appointments (County Assemblies Approval) Act No.5 of 2017 provides that an appointment under the Constitution or any other law for which the approval of a County Assembly is required shall not be made unless the appointment is approved by the relevant County Assembly in accordance with the same Act.

1.2 Committee on Appointments

Hon. Speaker, the Committee on Appointments is established pursuant to the Machakos County Assembly Standing Orders No. 184 (1) and its mandate provided for in Standing Order 184(4).

The Committee on Appointments comprises of the following Members:

1. Hon. Florence Muoti Mwangangi - Speaker (Chairperson)
2. Hon. Mark Muendo - Leader of the Majority Party
3. Hon. Alex Peter Kamitu - Leader of the Minority Party
4. Hon. Tariq Mulatya -Member
5. Hon. John Brian Kioko Kisila -Member
6. Hon. Winfred Syonindi Mutua -Member

1.3 Message from the Office of the County Secretary

Hon. Speaker, the Acting County Secretary pursuant to Sections 13 and 14 of the Urban Areas and Cities Act, forwarded to the Hon. Speaker of the County Assembly a notification on nomination of 9 persons vide letter Ref. GMC/KUSP/BM/13 dated 25th October, 2018 which was received on the same date for consideration by the committee and subsequent approval by the County Assembly, for appointment as Machakos Municipality Board members. The names of the nominees forwarded are as follow:

Nominee recruited through competitive process

1. Dr. Thomas Katua Ngui
2. Charles Muindi Mule
3. Malcolm Mwololo Kateta
4. Erick Kavivya Mutungi

Persons nominated by different organizations

5. Peninah Ngina Mutuku
6. Steve Mutuku Peter
7. Fridah Nzula Paul
8. Anus Ali Abdallah
9. Beatrice Loko

1.4 Committal to the Committee on Appointments

Hon. Speaker, in a sitting of the Assembly held on 7th November, 2018 the Hon. Speaker communicated to the House the message from the Office of the County Secretary, the notification on the nominations. Pursuant to Standing Order 42(1) and (2), the matter on the nominees for Machakos Municipality Board was committed to the Committee on Appointments, on the same day. The Committee was directed to report to the House within 21 sitting days in accordance with Section 9(1) of Public Appointments (County Assemblies Approval) Act, 2017.

Hon. Speaker, on behalf of the Committee on Appointments and pursuant to the provisions of Section 35(2) and (3) of the County Governments Act, 2012; Sections 7, 8, 9 and 10 of the Public Appointments (County Assemblies Approval) Act, 2017 and Standing Order 42(1) and (2), it is my pleasure and duty to present to this Hon. House the Committee's report on the approval hearings of the nominees.

2.0 BACKGROUND

Section 2 of the Urban Areas and Cities Act defines urban area as a municipality or town. Section 9(1) and (3) provides for the conferment of municipal status on a town. Section 14 of the Urban Areas and Cities Act provide that a Board of a municipality shall consist of not more than nine members of whom four shall be appointed and five nominated by:

- a) An umbrella body representing professional associations in the area;
- b) An association representing the private sector in the area.
- c) A cluster representing registered associations of the informal sector of the area;
- d) A cluster representing registered neighborhood associations in the area; and
- e) An association of urban areas and cities.

Section 14 as read with Section 13(4) of the Urban Areas and Cities Act provides that, a person shall not be appointed a member of the Board unless that person:

- a) Is a Kenyan Citizen.
- b) Is ordinarily resident or has a permanent dwelling in the municipality;
- c) Carries on business in the municipality; or
- d) Has lived in the municipality for at least five years.

It is important to note that as at the time the committee vetted the nominees, the existing law was as stated in the Urban Areas and Cities Act of 2011. However, as at the time of compiling this report the Act had been amended in the Urban Areas and Cities (Amendment) Act, 2019 which was assented to by the President on 10th March, 2019.

2.1 Criteria for the Approval Hearings

Hon. Speaker, the Committee was guided by Chapter Six and Articles 124(4), 179(2) (b), 195, 196 and 232 of the Constitution of Kenya, 2010; the County Governments Act, 2012; the Urban Areas and Cities Act, 2011 and the Public Appointments (County Assemblies Approval) Act, 2017.

Section 4 of the Public Appointments (County Assemblies Approval) Act, 2017 provides that an appointment under Constitution or any other law for which the approval of the County Assembly is required shall be done as per that law. Sections 7, 9 and 10 of the Act provides for the procedure and time line for the approval hearing, including the procedure for a candidate to withdraw from the approval process and rejection of a candidate. Further, Section 8 and the Second Schedule of the Public Appointments (County Assemblies Approval) Act, 2017 provides that the issues for consideration by the relevant House in relation to any nomination.

2.2 Integrity

Hon. Speaker, on the assessment of the nominees on matters of integrity, the Committee was guided by various provisions on integrity. The committee took into considerations the principles of leadership and integrity provided under Article 73(2) of the Constitution.

3.0 APPROVAL HEARINGS

3.1.0 Dr. THOMAS KATUA NGUI – Nominated through competitive process

Hon. Speaker, the nominee appeared before the Committee on 25th February, 2019 at 10.08 a.m.

3.1.1 Committee observations

Hon. Speaker, the nominee:

- i. Is a citizen of Kenya.
- ii. Is a resident of Machakos Municipality.
- iii. Has lived in Machakos Municipality for at least five years.
- iv. Has the necessary experience.
- v. Has a PhD in human resource management as his highest academic qualification.
- vi. Is confident and has good communication skills.
- vii. Is neat and presentable both in person and resume.
- viii. Has the necessary clearances for purposes of Chapter Six of the Constitution.

3.1.2 Committee recommendations

The committee recommends that the nominee be appointed as a member of the Machakos Municipality Board.

3.2.0 Mr. CHARLES MUINDI MULE – Nominated through competitive process

Hon. Speaker, the nominee appeared before the Committee on 25th February, 2019 at 11.40 a.m.

3.2.1 Committee observations

Hon. Speaker, the nominee:

- i. Is a citizen of Kenya.
- ii. Is a resident of Machakos Municipality.
- iii. Has lived in Machakos Municipality for at least five years.
- iv. Has the necessary experience.
- v. Has a Bachelor of Arts (Sociology and Mathematics) degree as his highest academic qualification.
- vi. Is confident and has good communication skills.
- vii. Is neat and presentable both in person and resume.
- viii. Has the necessary clearances for purposes of Chapter Six of the Constitution.

3.2.2 Committee recommendations

The committee recommends that the nominee be appointed as a member of the Machakos Municipality Board.

3.3.0 Mr. MALCOLM MWOLOLO KATETA – Nominated through competitive process

Hon. Speaker, the nominee appeared before the Committee on 25th February, 2019 at 12.23 p.m.

3.3.1 Committee observations

Hon. Speaker, the nominee:

- i. Is a citizen of Kenya.
- ii. Is a resident of Machakos Municipality.
- iii. Has lived in Machakos Municipality for at least five years.
- iv. Has the necessary experience.

- v. Has a Diploma in sales and marketing as his highest academic qualification.
- vi. Is confident and has good communication skills.
- vii. Is neat and presentable both in person and resume.
- viii. Has the necessary clearances for purposes of Chapter Six of the Constitution.

3.3.2 Committee recommendations

The committee recommends that the nominee be appointed as a member of the Machakos Municipality Board.

3.4.0 Mr. ERIC KAVIVYA MUTUNGI – Nominated through competitive process

Hon. Speaker, the nominee appeared before the Committee on 26th February, 2019 at 10.05 a.m.

3.4.1 Committee's observations

Hon. Speaker, the nominee:

- i. Is a citizen of Kenya.
- ii. Has a permanent dwelling in Machakos Municipality.
- iii. Has lived in Machakos Municipality for at least five years.
- iv. Has the necessary experience.
- v. Has a Bachelor of Science degree in International Business Administration as his highest academic qualification.
- vi. Is confident and has good communication skills.
- vii. Is neat and presentable both in person and resume.
- viii. Has the necessary clearances for purposes of Chapter Six of the Constitution.

3.4.2 Committee recommendations

The committee recommends that the nominee be appointed as a Board member of the Machakos Municipality.

3.5.0 PENINAH NGINA MUTUKU – Nominated by professional association

Hon. Speaker, the nominee appeared before the Committee on 26th February, 2019 at 10.30 a.m.

3.5.1 Committee observations

Hon. Speaker, the nominee:

- i. Is a citizen of Kenya.
- ii. Has a permanent dwelling in Machakos Municipality.
- iii. Has lived in Machakos Municipality for at least five years.
- iv. Has the necessary experience.
- v. Has a Bachelor of commerce (finance option) degree as her highest academic qualification.
- vi. Is confident and has good communication skills.
- vii. Is neat and presentable both in person and resume.
- viii. Has the necessary clearances for purposes of Chapter Six of the Constitution

3.5.2 Committee recommendations

The committee recommends that the nominee be appointed as a member of the Machakos Municipality Board.

3.6.0 STEVE MUTUKU PETER – nominated by the private sector

Hon. Speaker, the nominee appeared before the Committee on 26th February, 2019 at 11.30 a.m.

3.6.1 Committee observations

Hon. Speaker, the nominee:

- i. Is a citizen of Kenya.
- ii. Has a permanent dwelling in Machakos Municipality.
- iii. Has lived in Machakos Municipality for at least five years.
- iv. Has the necessary experience.
- v. Has a diploma in science education as his highest academic qualification.
- vi. Is confident and has good communication skills.
- vii. Is neat and presentable both in person and resume.
- viii. Has the necessary clearances for purposes of Chapter Six of the Constitution.

3.6.2 Committee Recommendations

The committee recommends that the nominee be appointed as a member of the Machakos Municipality Board.

3.7.0 Ms. FRIDAH PAUL – Nominated by Informal Sector

Hon. Speaker, the nominee appeared before the Committee on 27th February, 2019 at 9.57 a.m.

3.7.1 Committee Observations

Hon. Speaker, the nominee:

- i. Is a citizen of Kenya.
- ii. Is a resident of Machakos Municipality.
- iii. Has lived in Machakos Municipality for at least five years.
- iv. Has the necessary experience.
- v. Has a Diploma in Beauty as her highest academic qualification.
- vi. Is confident and has good communication skills.
- vii. Is neat and presentable both in person and resume.
- viii. Has the necessary clearances for purposes of Chapter Six of the Constitution.

3.7.2 Committee Recommendations

The committee recommends that the nominee be appointed as a member of the Machakos Municipality Board.

3.8.0 ANUS ALII ABDALAH Alias ANAS ALI ABDALLAH– Nominated by neighborhood

Hon. Speaker, the nominee appeared before the Committee on 27th February, 2019 at 10.56 a.m.

3.8.1 Committee Observations

Hon. Speaker, the nominee:

- i. Is a citizen of Kenya.
- ii. Is a resident of Machakos Municipality.
- iii. Has lived in Machakos Municipality for at least five years.
- iv. Has the necessary experience.
- v. Has a Diploma in Islamic Studies as his highest academic qualification.
- vi. Is confident and has good communication skills.
- vii. Is neat and presentable both in person and resume.
- viii. Has the necessary clearances for purposes of Chapter Six of the Constitution.

3.8.2 Committee Recommendations

The committee recommends that the nominee be appointed as a member of the Machakos Municipality Board.

3.9.0 Ms. BEATRICE LOKO MBITHI – Nominated by Associations Representing Urban Areas and Cities

Hon. Speaker, the nominee appeared before the Committee on 27th February, 2019 at 11.32 a.m.

3.9.1 Committee Observations

Hon. Speaker, the nominee:

- i. Is a citizen of Kenya.
- ii. Is a resident of Machakos Municipality.
- iii. Has lived in Machakos Municipality for at least five years.
- iv. Has the necessary experience.
- v. Has a certificate in Enterprise Development, and a certificate in clothing and textile as her highest academic qualification.
- vi. Is confident and has good communication skills.
- vii. Is neat and presentable both in person and resume.
- viii. Has the necessary clearances for purposes of Chapter Six of the Constitution.

3.9.2 Committee recommendations

The committee recommends that the nominee be appointed as a member of the Machakos Municipality Board. However, one member dissented on the recommendation on the basis of lack of academic qualification as the candidate only had certificates and not the minimum academic qualification of a diploma which the appointing authority had set in the advertisement for the position dated 28th June, 2018 in the Daily Nation newspaper.

Further, the member took into consideration the provisions of Sections 4 and 7(8) and the Second Schedule of the Public Appointments (County Assemblies Approval) Act, 2017.

4.0 GENERAL OBSERVATIONS

Hon. Speaker, the committee observed that:

- a) The nominations did not take into consideration the issues of gender, youth and persons living with disability as per the provisions of Articles 27(8), 54 and 55 of the Constitution and Section 13(3) of the Urban Areas and Cities Act, 2011 which stipulates that the executive committee shall, while appointing members of the board, ensure gender equity, representation of persons with disability, youth and marginalized groups.

- b) According to the provisions of Article 260 of the Constitution, "marginalized groups" means people who, because of laws or practices before, on, or after the effective date, were or are disadvantaged by discrimination on one or more of the grounds in Article 27(4). Further, Article 56 includes minorities in the category of marginalized groups. In that regard, the nomination took into account the nomination of marginalized groups.

5.0 RECOMMENDATIONS

Hon. Speaker, based on the above the committee recommends the following:

- i. The nomination of all the nine persons considered by the committee for appointment as board members of the Machakos Municipality be approved by the House.
- ii. The appointing authority must always take into consideration the Constitutional and statutory requirements of gender, youth, PWDs and marginalized groups in all county appointments. The committee recommends that if any vacancies arise in the Machakos Municipality Board, the youth and PWDs should be given first priority in filling the positions.
- iii. It is further recommended that in all County appointments, the appointing authority must always take into consideration the criteria of experience and academic suitability of the nominee for the appointment proposed.

6.0 ACKNOWLEDGEMENT

This is very important; Hon. Speaker, I take this opportunity to thank all the Members of the Committee for their dedication, undivided attention and contributions during the entire approval hearings. The Committee also appreciates the Hon. Speaker and the Clerk to the County Assembly for the administrative support accorded to it during the exercise.

This should be noted; further, the Committee is grateful to the sections of the media and members of the public who found time to attend the proceedings. The Committee also appreciates Mr. Mathew Muange and Susan Kiluva, Clerk Assistants to the committee; Luiza Kamau and Dorcas Njoki, HANSARD reporters for the committee and Dalmas Masila, research officer for the committee for the commendable job they did to make the work of the committee a success.

7.0 ADOPTION OF THE REPORT

Hon. Speaker, I do therefore recommend this report to this Hon. Assembly for consideration and approval. Thank you, Hon. Speaker.

(Applause)

(Question proposed)

Hon. Speaker: Hon. Members, the motion is now open for debate. Hon. Katumo.

Hon. Katumo: Thank you, Madam Speaker. I want take the earliest opportunity to thank this committee for work well done. I belong to the labor committee where we had a very intense

time trying to come up with the list, interrogation and making sure that we have done everything as per the law.

Of course, this is one of our mandates as the Assembly to make sure that we come with a board that is properly and legally constituted. Going straight to the observations; I was interested with the observations and of course they are citing that the nomination did not take into consideration the issues of gender, youth and persons living with disabilities as per that provision of Article 27(8), 54 and 55, 54(2) and sometimes I keep on wondering as we progress in the future if as a committee, as a House that has the powers to make proper policies and to make sure that we align the structures and the system to follow the law.

Then you can comment the committee recommendation 3.9.2 that the committee recommends that nominees be appointed; the committee says that they approve each and every candidate who came and then the provisions in those articles require us to properly legally constitute without leaving anybody behind.

Madam Speaker, you see sometimes you may talk too much in this House but nobody is listening. For how long are we going or we are making noise; I really don't understand. When are we going to follow the law to make sure if they are constituting every committee, in this case this municipalities board, that they are legally-constituted to make sure that everybody is not left behind?

We are leaving this constitution behind every other time and it is my worry if this tradition continues, then of course we are not doing the right thing. Therefore, as I stand today in this House, I need to be guided whether the Machakos Municipality board will be properly-constituted in absence of the marginalized. Thank you, Madam Speaker. I support.

Hon. Speaker: Thank you, Hon. Katumo. Hon. Museku.

Hon. Museku: Thank you, Madam Speaker. Madam Speaker I am also standing here in support of my brother Hon. Katumo on the issues he has raised concerning the criteria or the layout of the law as far as constitution of boards is concerned. Madam Speaker, as he has articulated very well, yes we noted as the committees, we noted that PWDs, people with disabilities and other marginalized groups like the youth were not represented in the nomination process. Yes, I can see we are giving recommendations that if there is a vacancy appears in future. So we are passing the buck.

I would have personally thought would have reserved a position or two and go back to the appoint authority and tell the appointing authority, 'yes, you have given us this number of people but we have noted that you have not nominated somebody with disability, you have not nominated anybody in the other marginalized groups so we have left these two slots to you to nominate for us those people so they committee can be properly constituted legally.'

That way will be advising the appointing authority that in future and in all other nominations which they are going to be doing, then the need to take into consideration PWDs and also the marginalized groups includes the youth and other marginalized groups.

Hon. Speaker: Hon. Museku, marginalized groups have been addressed. It is the youth and PWDs who are not indicated.

Hon. Museku: I said other. Thank you, Madam Speaker, for the guidance. So, I would propose personally that if this Hon. House approves all the positions and they are filled, it would

be very difficult for the appointing authority to create a chance for PWD or to create a position for a youth. So, it is upon us to give recommendations before the floor of the House and say 'we think PWDs and the youth need to be represented in Machakos municipal board' because it means in those three boards, Machakos Town Municipality, Tala/Kangundo and Mavoko will not have properly constituted boards legally. That is number one.

Secondly, I saw a nominee there whom one of the vetting officers highlighted Hon. Member, that they did not get a Diploma which was a minimum requirement in their advertisement. So, if in the minimum requirement in the advertisement by the appointing authority was that somebody should have at least a Diploma then that person has a certificate so that is it. That person even if they are nominated, to me, the committee should have said, 'you do not meet the minimum criteria as set by the appointing authority.'

So, my request and my submission before this House is that if somebody who did not meet the minimum criteria of a diploma, they had a certificate, then those ones did not qualify and then we look very keenly at this issue of ensuring we have people with disabilities and the youth represented in the boards. Thank you, Madam Speaker.

(Applause)

Hon. Speaker: Thank you Hon. Museku. Hon. Johana.

Hon. Munyao: Thank you, Madam Speaker. I wish to applaud the committee for the good work and a very nice report. I feel now very safe given that Mutituni Ward is within Machakos Municipality and with a board already in place, that is if it is going to be approved, I am sure that work is going to be done. Madam Speaker, as much as I would wish to concur with the observations on the slots for the youth and persons with disabilities, I will like also to ask ourselves whether the guidelines governing the nominations and the various institutions mandated to do the nominations for presentation to the appointing authority; whether it could be the guidelines which do not really come out clearly on how such categories of persons can be presented because from the Section 13 of the Urban Areas and Cities Act which was also amended, a person shall not be appointed a member of the board unless that person is to be a Kenyan citizen, is ordinarily resident or has a permanent dwelling in the area, carries on business in the city or has lived in the city for at least five years.

To me it is not very clear on the level of education as at that point if we are to go by that Act.

Again, if the various institutions are to nominate members, I don't know whether they are also guided on the level of education because sometimes we find ourselves faced with a challenge. For example, when one comes from very humble families, you may not have gone through formal education and that does not mean that you cannot lead or execute issues in the community.

So there are some considerations which are taken by the various institutions while nominating their persons for nomination into such a board. So, Madam Speaker, I want to differ with the member who was much concerned on the level of education because---

Hon. Museku: Point of information, Madam Speaker.

Hon. Speaker: Point of information from Hon. Museku. Hon. Johana, resume your seat.

Hon. Museku: Thank you Madam Speaker for granting me this opportunity to inform the member that if he listened to my submissions well, I said the criteria as set by the appointing authority in the gazetting. The person who advertised for those positions gave a minimum requirement of a Diploma.

So, we are saying if the appointing authority said that when they were shortlisting that the person should have a minimum of a Diploma, then the aim here is they should have submitted to us basis on that. It is not the provisions of that appointing authorization which Madam Speaker you have read to me, which is what I am referring to; I am referring to the criteria which was set as advertised. That is number one.

Secondly, the law is talking about in the appointment of the municipality boards and we need to look at what is superior, what comes superior, is it the constitution, an Act or is it those (??) and it is up to the appointing authority to ensure that anything which we do is constitutional and therefore anything else becomes subordinate to the constitution. Thank you, Madam Speaker.

Hon. Speaker: Thank you Hon. Museku. Hon. Johana.

Hon. Munayo: Madam Speaker, I thought the setting of the minimum academic qualification as a Diploma.....I am not very sure but I thought it was to be undertaken for those who were to be appointed through the competitive arrangement for that matter but the nominations by the various institutions, I am sure that may not have been taken in consideration. Otherwise, I wish to applaud this report and pray that it is approved for Machakos Municipality to embark on serious business. Thank you, Madam Speaker.

Hon. Speaker: Thank you Hon. Yohana. Hon. Kisini. I will come to you Hon. Mueni.

Hon. Kisini: Thank you, Madam Speaker. I just want to pass one or two three points. First, I want to highly recommend the committee for that competitive process and for the good report which you have given us. I just want to say it is the high time I request because I think there is some set timelines for the municipal board to take place. I would request the House to see to it that we are not locked out because of the set time because of the deadline and maybe recommend as the committee has done and pass those who have been vetted to have passed and taking into consideration those two groups which were left out.

If there is a way, the executive can be advised to take that consideration and then we pass over the other members who have passed so that the boards can be in place. To me it will be very good so that this money does not stagnate, does not go back as said by the World Bank. Thank you, Madam Speaker. My appeal is that we pass the report as recommended because of the deadline for the work to get in progress and then we take into consideration the two slots which were left out. Thank you, Madam Speaker.

Hon. Speaker: Thank you, Hon. Kisini. Hon. Mueni.

Hon. (Ms.) Mueni: Thank you, Madam Speaker. Mine is to say that the committee has done very good work but without those two slots, we are not going to pass this because of Hon.

Katumo. The people there outside are 'beating' him saying that he is doing a lot of nothing here and you know the way he does a lot of work.

So, Madam Speaker, this can come on Monday in the special sitting we pass it; we will not be having more to talk about it but we put those two people representing the disabled and then youth. Thank you, Madam Speaker.

Hon. Speaker: Thank you, Hon. Mueni. Hon. Angela.

Hon. (Ms.) Munyasya: Thank you, Madam Speaker. First, I will like to comment the committee for the time they took to get this report compiled and to present it to the House. Madam Speaker, I am for the opinion that this is a House of order. It is not a House of saying that this can pass because time is here or time is not there. If a right is a right and a wrong is a wrong; we should not appear to the public or to anybody whatsoever to be compromising on a point because of time or because of any other treason.

Let us have the lawful constitution of the requirements of the appointments stipulated and followed. That is my take. So, I don't think the report should pass because we don't have representation of people living with disabilities and the youth and also this other person who does not meet the minimum requirement.

Hon. Speaker: A point of information Hon. Angela from Hon. Johana. Hon. Johana, proceed.

Hon. Munyao: Thank you, Madam Speaker. Madam Speaker, I am still wondering which institution was to appoint..... at what level, for example, when we take like the private sector. If they were the ones to decide on who was to represent them in the board, I am not saying that we should not have the youth or persons with disabilities in such boards. So what was the guiding factor? If it is the private sector for example or the *mama mbogas*, if they had a slot to appoint somebody, at what level was their appointing authority to dictate who should bring in a youth, who should bring in a person with a disability?

I think it is a slot which can come up as a policy and then such that the persons with disabilities can be considered to be an institution which can also bring among themselves a person to represent them in the board but that was my information to Mheshimiwa. Thank you, Madam Speaker.

Hon. Speaker: Hon. Hellen Ndeti, what are you saying? Is it a point of information? Is it a point of order? Hon. Angela is still on her feet. Hon. Angela, proceed, please.

Hon. (Ms.) Munyasya: Thank you, Madam Speaker. The Hon. Speaker has informed me but Madam Speaker---

Hon. Speaker: The Hon. Speaker has informed you? There is only one Speaker in this House.

Hon. (Ms.) Munyasya: Thank you for the correction.

Hon. Speaker: The Hon. Member.

Hon. (Ms.) Munyasya: The Hon. Member who has informed me I think he is not in order because I am not expected to respond to that, Madam Speaker.

Hon. Speaker: Proceed then.

Hon. (Ms.) Munyasya: It is a law and it should be followed. So, Madam Speaker I still stand to say that anybody that does not meet the minimum criteria for appointment should not be appointed. It is stipulated and it locks out many other people who hold certificates and qualify with certificate for the same position but they did not submit their papers because the stipulated minimum requirements were the Diploma.

So, why should we take somebody with a certificate and it was not a requirement in the appointing criteria. I think that is all I have to submit. Thank you, Madam Speaker.

Hon. Speaker: Hon. Kisila, do you want to clarify the position on the issue of Diploma? It is your report and Members need to be put in the light.

Hon. Kisila: That is a tough one, Madam Speaker but I will try to clarify. I think what is important here, ladies and gentlemen, is we have got a person nominated through competitive process and to me those are the persons who were actually supposed to have these minimum criteria. Now, when we sat down as the committee, the criteria of nomination of other groups was not clear and I urge members that it is our time to think if we can put it clearer because even the way they were nominated, it was not very clear that people living with disabilities were supposed to nominate.

So, I think my humble submission is that let us consider those persons who were competitively recruited and who had where the minimum criteria of academic qualifications; let us critically look at those ones. The other ones on groups---

Hon. Speaker: Let Hon Kisila finalize, Hon. Maitha.

Hon. Maitha: It is about what he is talking about, Madam Speaker.

Hon. Speaker: Let him finalize then I will get back to you; he is in a line of thinking and if it is disturbed by a point of order and you remember he said it is very hard to talk about it and he may not be able to do it. Proceed, Hon. Kisila.

(Applause)

Hon. Kisila: Thank you, Madam Speaker. I was on the point of the nominating groups, the criteria was not very clear on who should be nominated and that is where the people with disabilities should have been given a slot, but the law is vague on that basis. So, I think we are in a dilemma here where members and if we played hard ball we would actually delay and I agree with Mheshimiwa Kisini; we will delay the process. Let us perfect it as we go on and that is my humble submission; let us perfect as we go on. Thank you very much, Madam Speaker.

Hon. Speaker: Hon. Members, let me also clarify about the law.

Hon. Maitha: Madam Speaker---

Hon. Speaker: Hon. Maitha, you want to address the Chair when the Chair is addressing the House? It is totally out of order; just hold on. So, Hon. Members, under the Urban Areas and Cities Act 2011 as revised in 2016, that is the law and you remember we did a caption that is the law that was applicable when we were doing the interviews. That particular law has no provision for the criteria on academic qualifications.

(Applause)

So, start from that point; that is the law as it existed when you were doing the interviews. However, the executive advertised for those who were to be competitively recruited advertised for a minimum of a Diploma and remember there is another category that was to be nominated by different groups. For that category, there was no specification by the executive of the minimum qualification.

So, when the interviews were done, it was on the basis that a member dissents because the executive had set a minimum criteria for those who were competitively recruited as a Diploma and so the feeling was that the same criteria should also have applied for those who were nominated by the different bodies and if you look at the report at length, you find that the nomination by the different groups like the private sector, they brought in somebody who is in the Matatu business but he has a Diploma, they brought in a lady who is doing informal in the informal sector who is a salonist and she has a Diploma in beauty and that was a big plus for her and they brought in other members, a religious leader who has a Diploma in religious studies.

So the feeling of the group was that you look at the law as it existed and then also apply common sense because if you look at the Public Appointments (County Assemblies Approval Act) requires that you need to be qualified academically and in experience on the position that you are being nominated for. Remember that law came after the Urban Areas and Cities Act. Now what happened on the 10th of March, 2019 after the interviews, the President assented to an amendment to the Urban Areas and Cities Act and then brought in specific academic qualifications.

For cities, the minimum is a degree, for municipalities the minimum is a Diploma but now you look at the constitution; you cannot apply a law retrospectively or backwards because if you do so then you are going to treat adversely the persons who had been nominated and interviewed before the law was signed. Are we together on that point?

I am talking about academic qualifications so the law that is ascended to by the President is to take place forward and not backwards. If you are going to do the interviews again, the law that would apply is as now signed by the President.

Now the issue of gender and marginalization, the issue of youth and the issue of persons living with disabilities has always been with us in the constitution and in the laws that we apply and that is where you now need to address the matters; are we clear on that? So for PWDs, youth, gender and marginalized groups, the law was already in existence but for academic qualifications, there was no law under the Urban Areas and Cities Act. Maybe with that information you would be able to continue with the debate from informed point of view. Hon. Betty, you wanted to say something?

Hon. (Ms.) B. Nzioki: Thank you, Madam Speaker. I think what I wanted to say through your advice you have made it through but I want first to applaud the committee that it has done a great job. Madam Speaker, it is our responsibility and duty to perform our duties as well and I want to say that us as the Assembly, through your guidance that you have given us, the report is well presented and when you go through the recommendations, Madam Speaker, I can say that they are fair and square.

So, it is my humble request through this Hon. House that we pass the report so that the members that have been nominated and if we approve them for them to take up the task. Thank you, Madam Speaker.

(Applause)

Hon. Speaker: Thank you, Hon Betty. Hon. Nzioka.

Hon. (Ms.) Nzioka: Ahsante Bi Spika kwa kunipa nafasi. Nishukuru kamati teuzi kwa kazi nzuri ambayo imefanya; Bi. Spika, kumbuka bodi ambazo tunaonea juu yao za munispaa, kumbuka pesa ambazo wanaenda kusimamia na kuanalia ni pesa ambazo tumepewa na zina masharti. Mimi naunga mkono hiyo ripoti imeletwa; wale walioteuliwa kwa uteuzi tupitishie ili kazi iendelee. Kumbuka Bi Spika Mheshimiwa Katumo ameleta malalamishi kwamba kuna sehemu ama kuna watu ambao hawajiwezi, kuna vijana lakini kulikuwa kumepewa nafasi kwa mashirika kuleta wawakilishi katika hii bodi.

Ilikuwa ni jukumu ya mashirika ambayo walipewa kuleta pengine mtu ambaye hajiwezi au kijana kwa hivyo nasema kamati teuzi kwa kazi ambayo imefanya uteuzi na uangalizi juu ya masomo wamefanya kazi nzuri. Nineuliza wenzanu wabunge, tupitishie ili kazi iendelee. Kwa mfano, Bi Spika, ukitembea sehemu kama Mlolongo, utaona kazi nzuri ambayo imetendeka; sehemu za barabara zote zimewekwa mwangaza, kazi inatendeka masaa ishirini na nne, kwa hivyo ni kazi nzuri imetendeka, tupitishie tupate bodi za manispaa ili waweze kuangalia kazi. Ahsante.

Hon. Speaker: Thank you, Hon. Alice Nzioka. Hon Cosmus Masesi.

Hon. Masesi: Thank you, Madam Speaker. First and foremost, I want to appreciate and applaud the committee for a good report and to start with, this House being a House of law and order, I always would imagine that the law supersedes the executive. Madam Speaker if the law does not call for some sort of education level, Madam Speaker, the House should always follow the law and in most cases we oversee what the executive had set on the gazette notice. Madam Speaker, we all know that these monies were probably released on the third quarter and we have like two to three months for the year---

Hon. Speaker: Proceed, Hon Masesi.

Hon. Masesi: I was saying probably the money has been released and most likely in the third quarter and we are almost the end of the year as per the government timelines. Madam Speaker, we have always been pushing for the executive to meet the timelines of submission of documents and on the same point, I wish this Assembly could always try and meet also our timelines for vetting these members.

Madam Speaker, I come from one of the municipalities and that is Tala/Kangundo and we would like and see that these members are approved so that to validate (??) their mandate on the same. Thank you, Madam Speaker.

Hon. Speaker: Thank you Hon. Cosmus Masesi. Hon. Members, I call upon the mover of the motion to reply; Hon. Kisila.

Hon. Kisila: Thank you, Madam Speaker. I would like to thank members for a wonderful contribution; I seriously, we do not take it for granted and very good points have come through and I want to highlight the point of Mheshimiwa Katumo. I think the House seriously takes, and I want to assure you seriously takes people with disabilities with the serious they deserves and we will ensure, we will continue ensuring that the executive does what it is supposed to do including even the budgeting process so let us ensure that we provide for people with disabilities. So, I just want to ensure you Mheshimiwa Katumo please kindly support the report as it is---

Hon. Speaker: Hon. Kisila, address the Chair; not a particular member of the House.

Hon. Kisila: Okay Madam Speaker; he is my brother so I want---

Hon. Speaker: He is your brother but not here.

(Laughter)

Hon. Kisila: Okay, Madam Speaker. So, I am urging Members, in summery please let us support this report with our recommendations because the points that you have highlighted have been taken care of in our recommendations and as we move forward, we will actually ensure that these recommendations are taken care of.

My last point is to appreciate you, Madam Speaker, it is always a pleasure working with you and the work we have done together on this very good job. So, *waheshimiwa tafadhali*, let us pass this recommendations, let us pass the report so that the Machakos municipality can take off because as Mheshimiwa Kisini has put it, we are lagging behind and we need to take off so that we can start seeing fruits of municipality taking place in Machakos.

It is our best town and the earlier we put this municipality in place, the better and faster the progress for our town. Thank you, Madam Speaker.

Hon. Speaker: Thank you, Hon Kisila.

(Question put and agreed to)

I am waiting for one of you to interrupt the business. Hon. Betty.

PROCEDURAL MOTION EXTENSION OF SITTING TIME

Hon. (Ms.) B. Nzioki: Yes, Madam Speaker. I am standing on point of order Under Standing Order 27 to request the extension of time.

Hon. Speaker, that aware that Standing Order 27(2) provides the Speaker shall interrupt the business at 12.30 p.m. for the morning sitting;
Aware that Standing Order 27(3) provides that the House may resolve to extend its sittings time;
Aware that standing Order 27(4) requires the motion to extend sitting to be moved at least 30 minutes before the time appointed for adjournment;
Hon. Speaker, I beg to move the motion that the House resolves to extend its sitting time until the business in the Order Paper is completed.

Thank you Madam Speaker and I would ask Hon. Mitaa to second my motion. Thank you, Madam Speaker.

Hon. Speaker: Hon. Betty, you are doing it with such pleasure

(Laughter)

Hon, Mitaa, are you going to second the motion?

Hon. Mitaa: Thank you, Madam Speaker. Owing to the importance of the business before us, I second. Thank you.

Hon. Speaker: Hon. Members, this is a procedural motion and I believe all the members are of the view that we extend time for purposes of transacting on the next business which is Order No. 9. So, the motion is granted.

(The House resumed business in the Order Paper)

REPORT ON APPROVAL HEARING FOR NINE PERSONS NOMINATED FOR THE POSITION OF
MEMBER OF MAVOKO MUNICIPALITY BOARD

Hon. Speaker: The next member who is supposed to prosecute the next business is Hon Kieti? Sorry, Hon. Kalumu. Hon. Kieti, please resume your seat, Hon Kalumu. The report is also on your iPads lower after the Order Paper and after the report on the trade committee.

Hon. Kalumu: Thank you, Madam Speaker. I will start by the motion.

Hon. Speaker, that aware that the management of the Municipalities shall be as provided under Section 12 of the Urban Areas and Cities Act, No 13 of 2011 (Revised in 2019)---

Hon. Speaker: Hon. Kalumu, if your iPad battery is low maybe the screen is not clear; we will excuse you read from the hard copy.

Hon. Kalumu: Thank you, Madam Speaker.

Hon. Speaker, that aware that the management of the Municipalities shall be as provided under Section 12 of the Urban Areas and Cities Act, No 13 of 2011 (Revised in 2019) which provides for the management of a city and municipality to be vested in the county government and administered on its behalf by:

- a. A board constituted in accordance with section 13 or 14 of this Act;
- b. A manager appointed pursuant to Section 28; and
- c. Such other staff or officers as the county public service may determine;

Further aware that in line with Section 12(1) of the Urban Areas and Cities Act, No 13 of 2011 and Section 8(1) of the County Governments Act, 2012, the Governor forwarded to the County Assembly nominees for vetting to the positions of Municipality Board Members;

Appreciating that the Labour, Public Service and ICT committee conducted the vetting exercise of nominees of members of the Mavoko Municipality Board on 25th to 27th February, 2019 and consequently compiled a report;

Hon. Speaker, I wish to move the Motion that this Hon. House discusses and approves the report of Labour, Public Service and ICT committee on the vetting of Nominees for Mavoko Municipality Board Member.

Thank you, Hon Speaker. I call upon Hon. Agatha to second the motion.

Hon. Speaker: Thank you Hon Kalumu Hon Agatha.

Hon. (Ms.) Mutunga: Thank you, Hon. Speaker---

Hon. Speaker: Hon. Kalumu, you should not go far we are going to need you just now.

Hon. (Ms.) Mutunga: I stand to second the motion. Thank you.

Hon. Speaker: Thank you, Hon. Agatha. Hon. Kalumu, proceed.

Hon. Kalumu: Thank you, Madam Speaker. I will start reading the report;

1.0 INTRODUCTION

Hon. Speaker, Section 8(1) of the County Governments Act No.17 of 2012 provides that the County Assembly shall *inter alia* vet and approve nominees for appointment to county public offices as may be provided for in this Act (County Governments Act No.17 of 2012) or any other law.

2.0 FORWARDING ON NOMINEES LIST

Hon. Speaker, pursuant to Sections 13 and 14 of the Urban Areas and Cities Act, the Office of H.E. the Governor, Machakos County during the Month of October, 2018 forwarded to the Hon. Speaker of the County Assembly a notification on nomination of nine persons for the position of Board Members. The letter was received for consideration by the committee and subsequent approval by the County Assembly, for appointment as Mavoko Municipality Board members.

Section 4 of the Public Appointments (County Assemblies Approval) Act No.5 of 2017 provides that an appointment under the Constitution or any other law for which the approval of a County Assembly is required shall not be made unless the appointment is approved by the relevant County Assembly in accordance with the same Act.

3.0 COMMITMENT OF NOMINEES FOR MAVOKO MUNICIPALITY BOARD TO THE COMMITTEE ON LABOR, PUBLIC SERVICE AND ICT

Hon. Speaker, in a sitting of the Assembly held on 7th November, 2018 the Hon. Speaker communicated to the House the message from the Office of the Governor, the notification on the nominations of the following nine persons nominated for the position of member of Mavoko Municipality Board for vetting by the County Assembly.

Nominee Board Members Recruited through Competitive Process

1. Mr. Stephen Kivuva
2. Mr. Urbanus Mativa
3. Ms. Florence Loko
4. Mr. Benedict Musembi

Nominee Board Members Nominated by different organizations

5. Mr. Shadrack Mbuta
6. Mr. Antony Ngunga
7. Ms. Jane Kavata
8. Ms. Juliet Wamiri
9. Ms. Caroline Ndung'u

Pursuant to Standing Order 42(1) and (2), the matter was committed to the Committee on Labor, Public Service and ICT, on the same day. The Committee was directed to report to the House within 21 days in accordance with Section 9(1) of Public Appointments (County Assemblies Approval) Act, 2017.

4.0 COMPOSITION OF THE COMMITTEE

Hon. Speaker, the Committee on Labor, Public Service and ICT comprises of the following Members:

1. Hon. Francis Kalumu - Chairman
2. Hon. Agatha Mutunga - Vice Chairperson
3. Hon. Alex Kamitu - Member
4. Hon. Christine Koki
5. Hon. Constance Nzioki
6. Hon. Dominic Ndambuki
7. Hon. Irene Mbivya
8. Hon. Jacinta Luka
9. Hon. Joshua Nzuki Muli
10. Hon. Justus Katumo
11. Hon. Nicholas Mutuku
12. Hon. Paul Nyanzi
13. Hon. Rozina Kanini

5.0 PREPARATIONS FOR THE APPROVAL HEARINGS

Hon. Speaker, Section 7(5) of the Public Appointments (County Assemblies Approval) Act, 2017 provides that the Committee shall, by notice in at least one newspaper of national

circulation, notify the public of the time and place for holding an approval hearing at least seven days prior to the hearing.

Further, Section 7(10) of the same Act provides that, any person may, prior to the approval hearing, and by written statement on oath, provide the Clerk with evidence contesting the suitability of a candidate to hold the office to which the candidate has been nominated.

Pursuant to the above provisions, the Clerk placed an advertisement on page 18 of the Standard Newspaper dated 5th February, 2019 informing members of the public and the nominees of the dates of the hearings and inviting the public to submit to the office of the Clerk in writing and under oath any relevant information concerning the nominees opposing their suitability to the respective offices in conformity with Section 7(10) of the Public Appointments (County Assemblies Approval) Act, 2017. The submissions were to be received on or before 14th February, 2019.

6.0 APPROVAL HEARINGS

Hon. Speaker, the approval hearings were conducted from the 25th to 27 February 2019. The Committee was guided by Chapter Six and Articles 124(4), 179(2) (b), 195, and 196 of the Constitution of Kenya, 2010; Section 14 of the Urban Areas and Cities Act and Sections 7, 8, 9 and 10 of the Public Appointments (County Assemblies Approval) Act, 2017.

Hon. Speaker, in addition to the above provisions, the Committee was also guided by Section 13(4) of the Urban Areas and Cities Act that provides that, a person shall not be appointed a member of the Board unless that person is:

- a. Is a Kenyan Citizen;
- b. Is ordinarily resident or has a permanent dwelling in the city;
- c. Carries on business in the city; or
- d. Has lived in the city for at least five years.

7.0 COMMITTEE OBSERVATIONS AND RECOMMENDATIONS

Hon. Speaker, after undertaking the approval hearing, the committee observed the following:

1. Ms. Florence Nzomo Loko – Competitively appointed

The nominee appeared for the approval hearing on 25th February, 2019. The nominee was nominated through a competitive process and had been subjected to an interview conducted by the County Public Service Board (CPSB) of Machakos County Government.

Committee Observations

The committee observed that the nominee:

- i. Is a citizen of Kenya.
- ii. Is a resident of Mavoko Municipality.
- iii. Has lived in Mavoko Municipality for at least five years.
- iv. Has the necessary experience.
- v. Proved to be confident and had good communication skills.
- vi. Was neat and presentable both in person and resume.
- vii. Had the necessary clearances for purposes of Chapter Six of the Constitution.

There was no memoranda received by the Committee either from the public or EACC opposing the approval of the nominee.

Committee Recommendations

The committee recommends that the nominee be appointed as a member of Mavoko Municipality Board.

2. Mr. Benedict Nzioki Musembi- Competitively appointed

The nominee appeared for the approval hearing on 26th February 2019. The nominee was nominated through a competitive process and had been subjected to an interview conducted by the County Public Service Board (CPSB) of Machakos County Government.

Committee Observations

The committee observed that the nominee

- i. Is a citizen of Kenya.
- ii. Is a resident of Mavoko Municipality.
- iii. Has lived in Mavoko Municipality for at least five years.
- iv. Has the necessary experience.
- v. Proved to be confident and had good communication skills.
- vi. Was neat and presentable both in person and resume.
- vii. Had the necessary clearances for purposes of Chapter Six of the Constitution.

There was no memoranda received by the Committee either from the public or EACC opposing the approval of the nominee.

Committee Recommendations

The committee recommends that the nominee be appointed as a member of Mavoko Municipality Board.

3. Mr. Shadrack Kyalo Mbuta- Professional Associations of Urban Areas

The nominee appeared for the approval hearing on 26th February 2019. The nominee was nominated to represent professional Associations of Urban Areas.

Committee Observations

The committee observed that the nominee

- i. Is a citizen of Kenya.
- ii. Is a resident of Mavoko Municipality.
- iii. Has lived in Mavoko Municipality for at least five years.
- iv. Has the necessary experience.
- v. Proved to be confident and had good communication skills.
- vi. Was neat and presentable both in person and resume.
- vii. Had the necessary clearances for purposes of Chapter Six of the Constitution.

There was no memoranda received by the Committee either from the public or EACC opposing the approval of the nominee.

Committee Recommendations

The committee recommends that the nominee be appointed as a member of Mavoko Municipality Board.

4. Mr. Antony K. Ngunga- Represent Private Sector

The nominee appeared for the approval hearing on 27th February 2019. The nominee was nominated to represent the Private Sector.

Committee Observations

The committee observed that the nominee

- i. Is a citizen of Kenya.
- ii. Is a resident of Mavoko Municipality.
- iii. Has lived in Mavoko Municipality for at least five years.
- iv. Has the necessary experience.
- v. Proved to be confident and had good communication skills.
- vi. Was neat and presentable both in person and resume.
- vii. Had the necessary clearances for purposes of Chapter Six of the Constitution.

There was no memoranda received by the Committee either from the public or EACC opposing the approval of the nominee.

Committee Recommendations

The committee recommends that the nominee be appointed as a member of Mavoko Municipality Board.

5. Mr. Stephen Muthami Kivuva- Competitively Appointed

The nominee appeared for the approval hearing on 25th February 2019 at 11.30 a.m. The nominee was nominated through a competitive process and had been subjected to an interview conducted by the County Public Service Board (CPSB) of Machakos County Government.

Committee Observations

The committee observed that the nominee

- i. Is a citizen of Kenya.
- ii. Is a resident of Mavoko Municipality.
- iii. Has lived in Mavoko Municipality for at least five years.
- iv. Has the necessary experience.
- v. Proved to be confident and had good communication skills.
- vi. Was neat and presentable both in person and resume.
- vii. Had the necessary clearances for purposes of Chapter Six of the Constitution.

Committee Recommendations

The committee recommends that the nominee be appointed as a member of Mavoko Municipality Board.

6. Mr. Urbanus Mutinda Mativa- Competitively Appointed

The nominee appeared for the approval hearing on 25th February 2019. The nominee was nominated through a competitive process and had been subjected to an interview conducted by the County Public Service Board (CPSB) of Machakos County Government.

Committee Observations

The committee observed that the nominee

- i. Is a citizen of Kenya.
- ii. Is a resident of Mavoko Municipality.
- iii. Has lived in Mavoko Municipality for at least five years.
- iv. Has the necessary experience.
- v. Proved to be confident and had good communication skills.
- vi. Was neat and presentable both in person and resume.
- vii. Had the necessary clearances for purposes of Chapter Six of the Constitution.

There was no memoranda received by the Committee either from the public or EACC opposing the approval of the nominee.

Committee Recommendations

The committee recommends that the nominee be appointed as a member of Mavoko Municipality Board.

7. Ms. Juliet Wamiri- Professional Associations of Urban Areas

The nominee appeared for the approval hearing on 26th February 2019. The nominee was nominated to represent the professional groups.

Committee Observations

The committee observed that the nominee

- i. Is a citizen of Kenya.
- ii. Is a resident of Mavoko Municipality.
- iii. Has lived in Mavoko Municipality for at least five years.
- iv. Has the necessary experience.
- v. Proved to be confident and had good communication skills.
- vi. Was neat and presentable both in person and resume.
- vii. Had the necessary clearances for purposes of Chapter Six of the Constitution.

There was no memoranda received by the Committee either from the public or EACC opposing the approval of the nominee.

Committee Recommendations

The committee recommends that the nominee be appointed as a member of Mavoko Municipality Board.

8. Ms. Carolyn Ndun'gu- Neighbourhood

The nominee appeared for the approval hearing on 27th February, 2019. The nominee was nominated by the Neighbourhood Association.

Committee Observations

The committee observed that the nominee:

- i. Is a citizen of Kenya.
- ii. Is a resident of Mavoko Municipality.
- iii. Has lived in Mavoko Municipality for at least five years.
- iv. Has the necessary experience.
- v. Proved to be confident and had good communication skills.
- vi. Was neat and presentable both in person and resume.

- vii. Had the necessary clearances for purposes of Chapter Six of the Constitution.

There was no memoranda received by the Committee either from the public or EACC opposing the approval of the nominee.

Committee Recommendations

The committee recommends that the nominee be appointed as a member of Mavoko Municipality Board.

9. Ms. Jane Kavata- Informal Sector

The nominee appeared for the approval hearing on 27th February, 2019. The nominee was nominated by the Informal Sector.

Committee Observations

The committee observed that the nominee

- i. Is a citizen of Kenya.
- ii. Is a resident of Mavoko Municipality.
- iii. Has lived in Machakos Municipality for at least five years.
- iv. Has the necessary clearances for purposes of Chapter Six of the Constitution.

However,

- i. The Nominee could not communicate well in English and Kiswahili.
- ii. General communication skills was poor.
- iii. Did not present both Primary and Secondary School certificates.
- iv. Did not understand the general functioning and structure of Municipalities and had no slight information on legal provisions governing establishment of Municipalities and Board Members.

There was no memoranda received by the Committee either from the public or EACC opposing the approval of the nominee.

Committee Recommendations

The committee has not recommended the nominee for appointment as a member of Mavoko Municipality Board. This is because the nominee had no documents to support her academic qualification. In addition, the nominee had no slight information on functioning of municipalities, their operations, existence and its legal provisions.

Again communication in both English and Kiswahili was a big problem. In view of this, the committee further recommends that H.E the Governor should forward ANOTHER nominee for vetting by the County Assembly preferably a Person Living with Disabilities (PWDs) as provided in Article 54(2) of the Constitution of Kenya, 2010 since in the whole list, NO single PWD was received for vetting by the committee.

8.0 ACKNOWLEDGEMENT

Hon. Speaker, I take this opportunity to thank all the Members of the Committee for their dedication, undivided attention and contributions during the entire approval hearings. The

Committee also appreciates the Office of the Hon. Speaker and the Clerk to the County Assembly for the administrative support accorded to it during the exercise.

Further, the committee commends Luke Maingi and Dennis Mwanza, Clerk Assistants, for the good work done in facilitating the vetting process, provision of related research work and assistance in compilation of this report.

Further, the Committee is grateful to the members of the public who found time to attend the proceedings. The Committee also appreciates the media fraternity for having been available to cover the proceedings of the Committee, thus enhancing accountability and transparency in the exercise.

On behalf of the Committee on Labor, Public Service and ICT and pursuant to the provisions Section 35(2) and (3) of the County Governments Act 2012, Sections 7, 8, 9 and 10 of the Public Appointments (County Assemblies Approval) Act, 2017 and Standing Order 42(1) and (2), it is my pleasure and duty to present to this Hon. House the Committee report on the approval hearings of the nominees for Board Members, Mavoko Municipality for discussion and adoption. Thank you, Hon. Speaker.

(Applause)

Hon. Speaker: Thank you Hon. Kalumu.

(Question proposed)

Hon. Members, the motion is now open for debate. Hon. Mitaa.

Hon. Mitaa: Thank you Madam Speaker for granting me this opportunity to air my views on the report by the Public, Labor and ICT committee. I want to applaud them for the good job they have done. I think we are setting a very good pace which I wish to thank my colleagues for upping the game on how we are doing our business in this Assembly. On that note, I cannot also forget to applaud for introducing this system of going paperless.

(Applause)

It is bringing so much convenience on how we are transacting business; I am actually enjoying. Madam Speaker, I think the issue which was in the previous reports on appointments in regard to PWDs, I think an opportunity has opened up and I must state that the nominee going to be brought to this House must be a person living with disability, Madam Speaker. On that note, I support the report. Thank you, Madam Speaker.

Hon. Speaker: Thank you, Hon. Mitaa. Hon. Constance Mbula.

Hon. (Ms.) C. Nzioki: Thank you, Madam Speaker. I want to thank this committee that has done a good job; it is quite nice. However, I want to speak on Jane Kavata from the informal sector. I see the recommendations she almost knows nothing but when we look at it, she came from some sector and it looks like that was the only learned person the sector could have brought and I want to say, if we request for another one obviously---

Hon. Speaker: Point of information from Hon. Ms. Ndeti.

Hon. (Ms.) Ndeti: Thank you, Madam Speaker. I stand to request the Member who is also a Member of this committee on why she is bringing this information when the committee has compiled the report and brought it to the floor of the House.

Hon. Speaker: Thank you, Hon. Ndeti. Hon. Constance Mbula, you are a Member of that committee?

Hon. (Ms.) C. Nzioki: Yes I am aware and I am---

Hon. Speaker: We have not seen a dissent on that ground so abandon that ground and proceed to another. If you do not have another ground, then you resume your seat because if you are a Member of a committee and you are dissenting on a finding of a committee you must have your dissent recorded.

Hon. (Ms.) C. Nzioki: Madam Speaker, I am very aware of that and we needed---

Hon. Speaker: Hon. Mbula, I have not seen any dissent from you on this report so you proceed on another point; abandon the one you had treaded on first.

Hon. (Ms.) C. Nzioki: Understood, Madam Speaker.

Hon. Speaker: Most obliged. Hon. Nziva.

Hon. (Ms.) Nziva: Thank you, Madam Speaker. I would wish to applaud the committee for a good report that the chairman has presented to the House and urge Members to approve the members whom the committee have approved and I think Hon. Katumo and the PWDs can now put a smile because the committee has requested that the nominee who will come for the vetting to be a PWD.

The report is in black and white so am in support of it bearing in mind that municipal charters will give leaders more options for improving governance and quality of life will be realized and increase revenue for the municipalities. I wish to support the report. Thank you, Madam Speaker.

Hon. Speaker: Thank you, Hon. Nziva. Hon. Musau

Hon. Musau: Thank you, Madam Speaker. In full support of the report, I would first wish to applaud the committee for the work well done. In as much as we are doing our work as the County Assembly, the public is watching and if the report says one person cannot talk in Kiswahili and English and those are our national languages; there is no reason of being used as a rubber stamp. We are not rubber stamps; we are doing our work so I comment the committee.

I would wish to recommend the committee for the language they have used; we urge H.E the Governor to bring another name; that is commendable and if they bring that person who can fluently speak Kiswahili and English and is disabled, then we are here to approve the person. Thank you, Madam Speaker.

(Applause)

Hon. Speaker: Thank you, Hon. Musau. Hon. Jacinta.

Hon. (Ms.) Luka: Thank you, Madam Speaker. I beg to contribute while seated. As we look at the recommendations of the committee, it is clear that there is a position that has been created because the person who was nominated did not qualify and I urge the Governor to nominate a person who is disabled so that the person can come and take that position because as the recommendation says, there was no single person with disability who was nominated in that vetting.

So, my urge is to the Governor that he may bring a PWD because there is a saying that goes 'nothing for us without us.' So we need PWDs in our county so that they can feel they are recognized. Thank you, Madam Speaker.

Hon. Speaker: Thank you, Hon. Jacinta. Hon. Ndalana.

Hon. (Ms.) Ndalana: Thank you, Madam Speaker. I thank God for this Assembly for discussing the nominees and I know God knew before they brought these names to this Assembly; he knew he will reject the name of Kavata so that we can get a name from the disabled. Thank you, Madam Speaker.

(Applause)

Hon. Speaker: Thank you, Hon. Ndalana. Hon. Irene.

Hon. (Ms.) Mbivya: Thank you, Madam Speaker. I am a Member of this committee and I was present when we were interviewing this lady. It is not that we are denying her the opportunity but she could barely even understand Kiswahili. So, if I am unable to communicate in neither Kiswahili nor English, how will I transact business in a board? Thank, you, Madam Speaker.

Hon. Speaker: Thank you, Hon. Irene. Hon. Katumo.

Hon. Katumo: Thank you, Madam Speaker. I am a Member of that committee and much has been said and I thank Members for being sincere. I said in the morning that we should not just sit and watch and do traditions; we should do the right thing and because we are the custodians of the law to make sure law and procedure is followed to the latter. In this particular committee, I want to commend the chairperson and Members for having that sight to make sure that the board we are going to constitute for Mavoko will be legally constitute and have all representation.

Madam Speaker, as we were doing the interviews, I also observed that we also need to be very careful as a House because before the interview of this particular lady, the documentation was saying that she has a Diploma in theology and when she came on the floor, I requested to know which institution, where the certificate was? I found that she was in the process of registering to a ministry in Mombasa to do a Diploma. How can you do a Diploma if you cannot read?

Having said that, I think the point is home. Members, I pray and plead that you always support me; these are our people, they are not my people. We should support one another to make sure that towards 2022, we have something to look back and say we have changed things in this county.

My second point is a small amendment in that report; in the committee recommendations on that particular nominee, page 10 it reads, 'again communication in both English and Kiswahili was a big problem. In the view of this, the committee further recommends His Excellency the Governor should forward another nominee for vetting by the County Assembly preferably a PWD as provided in Article 54(2) of the Constitution of Kenya 2010 since the whole list no single PWD was received for vetting by the committee.'

I want to replace and I think we did this when we were approving this report; it is a mistake and it should read, 'His Excellency the Governor should forward another nominee for vetting by the County Assembly for a PWD and not 'preferably.' You see you are giving him an option to either take this person or think otherwise. So it should be---

Hon. Speaker: Hon. Katumo, the Governor is given the powers to nominate but you are given the power to reject; so do not tie his power, give him the word preferably and if he brings somebody who is not of the choice of the Assembly, the Assembly will do its work accordingly.

Hon. Katumo: That is why I was saying Madam Speaker that when we approved the report and the chairperson is here he should say; we removed that 'preferably' for what I was saying to make sure that it is very particular.

Hon. Speaker: Hon. Kalumu, do you have the one where you removed the word preferably?

Hon. Kalumu: It was a suggestion of the committee yesterday when we adopted the report but I have found it the way it was before; so his sentiments are right.

Hon. Speaker: You are the mover of the motion; do you want to amend to delete the word preferably or to put it in whichever way you prefer?

Hon. Kalumu: Madam Speaker, laws have been made in this country one of them being the one-third gender rule and other---

Hon. Speaker: Do you want to amend?

Hon. Kalumu: I am coming to that.

Hon. Speaker: Do not do the history which we know.

(Laughter)

Go ahead and amend.

Hon. Kalumu: I will suggest we amend it so that we can give room for a PWD to come in.

Hon. Speaker: Please read out how you want it to be for recording on the HANSARD. If you want Hon. Katumo to assist you, you can appoint him to do so on the reading of what you want included there.

Hon. Katumo: Yes, because I moved the amendment and we all agreed as Members where Hon. Constance was not present, so it is also good for everyone to know---

Hon. Speaker: Hon. Katumo.

Hon. (Ms.) C. Nzioki: Point of information.

Hon. Speaker: Hon. Mbula, I have not allowed you. Hon. Katumo, do not bring matters which are not relevant to the issue you are raising; go ahead and read for us how you want it to read and bring other Hon. Members to what you are doing.

Hon. Katumo: I will not, Madam Speaker. Thank you for that direction. So, the amendments should read, 'His Excellency the Governor should forward another nominee for vetting by the County Assembly for person living with disabilities as provided in Article 54(2) of the Constitution of Kenya 2010 since in the whole list no single PWD was received for vetting by the committee.' I call upon Hon. Jacinta Luka to second my amendment.

Hon. Speaker: Hon. Jacinta Luka, do you agree to second?

Hon. (Ms.) Luka: Yes, Madam Speaker, I second the amendment.

Hon. Speaker: Hon. Members, I do not see any Member opposing that amendment; it is so noted.

(Applause)

Hon. Katumo, have you finalized your submission?

Hon. Katumo: Yes I did but I did not thank Members. Thank you Members for supporting me; I think this is the way to go forward.

Hon. Speaker: I want to call the mover of the motion to reply.

Hon. Kalumu: Thank you Madam Speaker for the time to thank the members for their contribution and support of the motion and the report. My urge is; just vote for the report to make sure that we put in the board members so that it may start its work. The issue of PWDs is an issue that we live with and the reason we took it in to account was because it is said...it is in Kiswahili, *hujafa hujambika* so it means all of us are vulnerable. Thank you, Madam Speaker.

(Applause)

Hon. Speaker: Thank you, Hon. Kalumu.

(Question of the Motion as amended put and agreed to)

ADJOURNMENT

Hon. Speaker: Hon. Members, at this point the sitting of the House stands adjourned to continue 20th March, 2019 at 2.30 p.m.

The House rose at 12.53