

REPUBLIC OF KENYA
MACHAKOS COUNTY ASSEMBLY
OFFICIAL REPORT

Wednesday, 20th March, 2019

The House met at 2.40 p.m.

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

PRAYERS

Hon. Speaker: Welcome, Members, to the afternoon sitting. Mr. Clerk, proceed.

MOTION

REPORT ON APPROVAL HEARING FOR NINE PERSONS NOMINATED FOR THE POSITION OF
MEMBER OF TALA/KANGUNDO MUNICIPALITY BOARD

Hon. Speaker: Hon. Members, under this Order, we have one business by the Hon. Cosmas Kieti. Hon. Cosmas Kieti.

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 2016) 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 Trade Economic planning and industrialization committee conducted the vetting exercise of the Tala/Kangundo Municipality Board members nominees 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 Trade Economic planning and industrialization committee on the vetting of Nominees for Tala/Kangundo Municipality Board Member.

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

Hon. Speaker: Thank you, Hon. Kieti. Hon. Mutiso. I can give you permission Hon. Kieti just to wait there.

Hon. P.J. Mutiso: Thank you Madam Speaker and Hon. Members. I second the motion.

Hon. Speaker: Thank you, Hon. Mutiso. Hon. Kieti, please proceed. This is a summary and the report is in soft copy in the iPads.

1.0 PREFACE

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 Message from the Office of the County Secretary

Hon. Speaker, H.E the Governor through 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 message of the nomination of Municipal Board members vide a letter Ref. GMC/KUSP/BM/13 dated 25th October, 2018 which was received on the same date for consideration by the relevant committees and subsequent approval by the County Assembly.

1.3 Committal to the Committee on Trade, Economic Planning and Industrialization

Hon. Speaker, during a plenary sitting held on 7th November, 2018, the Chair notified members of the nominations from H.E. the Governor. Pursuant to Section 13 and 14 of the Urban Areas and Cities Act, No. 13 of 2011 and Standing Order No. 42(1), (2) and (4), the following nominees for the Kangundo/Tala municipality board were committed to the Committee on Trade, Economic Planning and Industrialization;

1. Lawrence Muthusi Musee – Competitively recruited board member.
2. Rosemary Mutindi Kitonga – Competitively recruited board member.
3. Cecilia Ndinda Mulinge – Competitively recruited board member.
4. Kimeu Esther Mwikali – Competitively recruited board member.
5. Rebecca Nthenya Mutua – Representing professional associations.
6. Hellen Muthoki Jonathan – Representing the private sector.
7. John Kilinge – Representing the Informal sector.
8. Joshua Kitonga – Representing the Neighbourhood.
9. Joel Musyoki Wambua – Representing urban areas and cities Association.

1.4 Membership of the Committee

Hon. Speaker, the Committee on Trade, Economic Planning and Industrialization as constituted by this Hon. Assembly comprises the following Members:

1. Hon. Cosmas Kieti –Chairperson

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|--------------------------|-------------|
| | -Vice |
| 2. Hon. Anthony Mulu | Chairperson |
| 3. Hon. Brian Kisila | -Member |
| 4. Hon. Christine Koki | “ |
| 5. Hon. Anastacia Mutuku | “ |
| 6. Hon. Joseph Wambua | “ |
| 7. Hon. Josphat Kasyoki | “ |
| 8. Hon. Betty Nzioki | “ |
| 9. Hon. Winfred Mutua | “ |
| 10. Hon. Judas Ndawa | “ |
| 11. Hon. Mohammed Ali | “ |
| 12. Hon. Peter Mutiso | “ |
| 13. Hon. Mark Muendo | “ |

2.0 BACKGROUND

2.1 Forwarding of the Nominees to the Assembly

Hon. Speaker, H.E. the Governor forwarded the message of nomination of the 27 nominees which was received at a time when the Assembly was on a short recess running from Thursday, 25th October to Monday, 5th November, 2018.

Consequently, after the recess, during a sitting of the Assembly held on 7th November, 2018 through a communication No. 033 of 2018, the business was committed to the Committees for approval hearings pursuant to Standing Order 42(2).

2.2 Notification to the Public

Hon. Speaker, 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.

2.3 Submission of Documents by the Nominees

Hon. Speaker, the Committee through the office of the Clerk wrote to the nominees requesting them to collect vetting forms and submit them duly filled on or before 12th February, 2019. Further, the nominees were requested to submit copies of the following documents and bring the original on the approval hearing day:

- i. ID/Passport.
- ii. Curriculum Vitae, personal credentials and academic certificates.
- iii. Current Tax Compliance Certificate from the Kenya Revenue Authority (KRA).
- iv. Current Compliance Certificate from the Higher Education Loans Board (HELB).

- v. Current Clearance Certificate from the Credit Reference Bureau (CRB).
- vi. Current Police Clearance Certificate from the Directorate of Criminal Investigations (DCI).
- vii. Current Clearance from the Ethics and Anti-Corruption Commission (EACC).

2.4 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.

Hon. Speaker, Section 2 of the Urban Areas and Cities Act defines an urban area as a municipality or town. Section 9(1) and (3) provides for the conferment criteria 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 neighbourhood 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.

Hon. Speaker, at the time the committee vetted the nominees, the existing law was as stated in the Urban Areas and Cities Act of 2011. However, 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.

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 the issues for consideration by the relevant House in relation to any nomination.

2.5 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 consideration the principles of leadership and integrity provided under Article 73(2) of the Constitution.

3.0 APPROVAL HEARINGS

3.1.0 Mr. Lawrence Muthusi Musee – Competitively Recruited Nominee

Hon. Speaker, the nominee appeared before the Committee on 25th February, 2019 at 10.20 a.m.

3.1.1 Committee observations

Hon. Speaker, the nominee:

- i. Is a citizen of Kenya.
- ii. Is a resident of Kangundo-Tala Municipality.
- iii. Carries on a business in the Municipality.
- iv. Has the necessary experience.
- v. Is currently pursuing a Bachelor of Theology degree at the Carey Theological College.
- vi. Is a trained P1 teacher from Eregi Teachers College acquired in 1972.
- vii. Is confident and has good communication skills.
- viii. Is neat and presentable both in person and resume.
- ix. Has the necessary clearance 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 Kangundo-Tala Municipality Board.

3.2.0 Ms. Rosemary Mutindi Kitonga – Competitively Recruited Nominee

Hon. Speaker, the nominee appeared before the Committee on 25th February, 2019 at 11.45 a.m

3.2.1 Committee observations

Hon. Speaker, the nominee:

- i. Is a citizen of Kenya.
- ii. Is a resident of Kangundo-Tala Municipality.
- iii. Has lived in Kangundo-Tala Municipality for at least five years.
- iv. Carries on a Business in the Municipality.
- v. Has the necessary experience.
- vi. Has a Bachelor of Education degree (Arts) from the University of Nairobi acquired in 1977.
- vii. Is confident and has good communication skills.
- viii. Is neat and presentable both in person and resume.
- ix. The nominee provided a hand written and signed letter stating that she had not managed to get all the required clearance documents for purposes of Chapter six of the Constitution but was still following up on their issuance. She provided; Certificate of clearance from the Metropol Credit Reference Bureau dated 11th February, 2019 indicating no negative listing and a Police Clearance Certificate issued by the Directorate of Criminal Investigations (DCI) dated 6th August 2018 indicating nil offence.

3.2.2 Committee recommendations

The committee recommends that the nominee be appointed as a member of the Kangundo-Tala Municipality Board subject to providing all the necessary clearances for purposes of Chapter six of the Constitution as required.

3.3.0 Ms. Cecilia Ndinda Mulinge – Competitively Recruited Nominee

Hon. Speaker, the nominee appeared before the Committee on 25th February, 2019 at 2.40 pm

3.3.1 Committee observations

Hon. Speaker, the nominee:

- i. Is a citizen of Kenya.
- ii. Is a resident of Kangundo-Tala Municipality.
- iii. Has lived in Kangundo-Tala Municipality for at least five years.
- iv. Carries on a Business in the Municipality.
- v. Has the necessary experience.
- vi. Has a Diploma in Community Development.
- vii. Is confident and has good communication skills.
- viii. Is neat and presentable both in person and resume.
- ix. Did not provide the following documents as requested; a Self-declaration form from the Ethics and Anti-Corruption Commission (EACC), Current Tax Compliance Certificate, and a current clearance certificate from Credit Reference Bureau.
- x. There was discrepancy in the name on her National identification card and that indicated on her other documents. The nominee stated that both Cecilia Mulinge and Cecilia Sila Mwosa were her names but did not provide a sworn affidavit for the same.

3.3.2 Committee recommendations

The committee recommends that the nominee be appointed as a member of the Kangundo-Tala Municipality Board subject to providing a sworn affidavit to clear the inconsistency in her names and providing all the necessary clearances for purposes of Chapter six of the Constitution as required.

3.4.0 Ms. Kimeu Esther Mwikali – Competitively Recruited Nominee

Hon. Speaker, the nominee appeared before the Committee on 26th February, 2019 at 10.55 a.m

3.4.1 Committee observations

Hon. Speaker, the nominee:

- i. Is a citizen of Kenya.
- ii. Has a permanent dwelling in Kangundo-Tala Municipality.
- iii. Has lived in Kangundo-Tala Municipality for at least five years.
- iv. Has the necessary experience.
- v. Has a Bachelor of Science degree in hotel and restaurant management from the United States International University.
- vi. Is confident and has good communication skills.

- vii. Is neat and presentable both in person and resume.
- viii. Has the necessary clearance documents 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 Kangundo-Tala Municipality.

3.5.0 Ms. Rebecca Nthenya Mutua – Professional Associations Nominee

Hon. Speaker, the nominee appeared before the Committee on 26th February, 2019 at 11.00 a.m.

3.5.1 Committee observations

Hon. Speaker, the nominee:

- i. Is a citizen of Kenya.
- ii. Has a permanent dwelling in Kangundo-Tala Municipality.
- iii. Carries on a business in the Municipality.
- iv. Has lived in Kangundo-Tala Municipality for at least five years.
- v. Has the necessary experience.
- vi. Has a certificate in entrepreneurship from the United States International University.
- vii. Is confident and has good communication skills.
- viii. Is neat and presentable both in person and resume.
- ix. Has the necessary clearance documents 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 Kangundo-Tala Municipality Board.

3.6.0 Ms. Hellen Muthoki Jonathan – Private Sector Nominee

Hon. Speaker, the nominee appeared before the Committee on 26th February, 2019 at 12.15 p.m.

3.6.1 Committee observations

Hon. Speaker, the nominee:

- i. Is a citizen of Kenya.
- ii. Has a permanent dwelling in Kangundo-Tala Municipality.
- iii. Has lived in Kangundo-Tala Municipality for at least five years.
- iv. Has the necessary experience.
- v. Has a Master of Business Administration (Entrepreneurship) from the Kenyatta University acquired in 2017.
- vi. Is confident and has good communication skills.
- vii. Is neat and presentable both in person and resume.
- viii. Has the necessary clearance 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 Kangundo-Tala Municipality Board.

3.7.0 *Mr. John Kilinge -Informal Sector Nominee*

Hon. Speaker, the nominee appeared before the Committee on 27th February, 2019 at 10.00 a.m.

3.7.1 *Committee Observations*

Hon. Speaker, the nominee:

- i. Is a citizen of Kenya.
- ii. Is a resident of Kangundo-Tala Municipality.
- iii. Has lived in Kangundo-Tala Municipality for at least five years.
- iv. Has the necessary experience.
- v. Has a Bachelor of Education (Arts) degree from the Egerton University acquired in 2000.
- vi. Is confident and has good communication skills.
- vii. Is neat and presentable both in person and resume.
- viii. Does not operate any personal business in the Jua-kali sector.
- ix. Produced an original letter Ref. GMC/LUD/KUSP/13/Vol II(103) from the County department of Lands and Urban Development addressed to the Jua Kali Sector Association through the Kangundo sub-county Administrator requiring the sector to forward three names to the CEC Member in the Department for nomination as Kangundo-Tala Municipality board members.

3.7.2 *Committee Recommendations*

Hon. Speaker, the committee declines to recommend that the nominee be appointed as a member of the Kangundo-Tala Municipality Board because he does not operate any personal business in the Jua Kali sector. Further, his production of the original and official letter from the Chief Officer, Department of Lands and Urban Development and addressed to the Jua Kali Association compromised the nomination process and cast aspersions on his integrity.

3.8.0 *Mr. Joshua Musyoka Kitonga - Neighbourhood Nominee*

Hon. Speaker, the nominee appeared before the Committee on 27th February, 2019 at 11.10 a.m.

3.8.1 *Committee Observations*

Hon. Speaker, the nominee:

- i. Is a citizen of Kenya.
- ii. Is a resident of Kangundo-Tala Municipality.
- iii. Carries on a business in the Municipality.
- iv. Has lived in Kangundo-Tala Municipality for at least five years.
- v. Has the necessary experience.
- vi. Has a Diploma in Journalism from the Kenya Institute of Mass Communication acquired in 1974.

- vii. Is confident and has good communication skills.
- viii. Is neat and presentable both in person and resume.
- ix. Has the necessary clearance documents 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 Kangundo-Tala Municipality Board.

3.9.0 Mr. Joel Musyoki Wambua, Urban Areas and Cities Nominee

Hon. Speaker, the nominee appeared before the Committee on 27th February, 2019 at 12.02 p.m.

3.9.1 Committee Observations

Hon. Speaker, the nominee:

- i. Is a citizen of Kenya.
- ii. Is a resident of Kangundo-Tala Municipality.
- iii. Has lived in Kangundo-Tala Municipality for at least 5 years.
- iv. Has the necessary experience.
- v. As CPA section I and II Certificate from the Thika Technical Institute acquired in 2005.
- vi. Is confident and has good communication skills.
- vii. Is neat and presentable both in person and resume.
- viii. Has the necessary clearance documents 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 Kangundo-Tala Municipality Board.

4.0. GENERAL COMMITTEE OBSERVATION

Hon. Speaker, Articles 27(8), 54 and 55 of the Constitution of Kenya provides for the consideration of gender equity, representation of persons with disability, youth and marginalized groups. Further, section 13(3) of the Urban Areas and Cities Act, No, 13 of 2011 states that the executive committee shall, while appointing members of the board, ensure gender equity, representation of persons with disability, youth and marginalized groups.

The Committee did the following observations:

- i. Gender of the nominees who were competitively recruited is 1 Male and 3 Female, while those nominated by various associations were 3 Male and 2 Female bringing the total number to 4 Male representing a percentage of 44 per cent and 5 Female representing a percentage of 56 per cent. It is therefore the committee's observation that there was gender equity in the list of nominees for Board Members of the Kangundo-Tala Municipality.
- ii. Article 260 of the Constitution of Kenya states that "youth" means the collectivity of all individuals in the republic who have attained the age of eighteen years; but have not attained the age of thirty-five years. According to identification documents

- provided by the nominees, Ms. Kimeu Esther Mwikali, a competitively recruited nominee's date of birth is 5th January 1987. Taking 25th July, 2018 as the current date since it was the date the short listed candidates appeared in the newspaper, the nominee is thirty one (31) years of age and therefore it is the committee's observation that there is youth representation in the list of nominees for Board Members of the Kangundo-Tala Municipality.
- iii. Article 260 of the Constitution interprets "disability" to include any physical, sensory, mental, psychological or other Impairment condition, or illness that has or is perceived by significant sectors of the community to have substantial or long-term effect on an individual's ability to carry out ordinary day to day activities. No candidate declared having been a representative of Persons living with Disability (PWDs) neither was there information available to conclude that any of the nominees is a person living with disability. The committee did not observe person living with disability representation in the list of nominees during the approval hearing exercise.

5.0 RECOMMENDATIONS

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

- i. The nomination of eight of the nine persons considered by the committee for appointment as board members of the Kangundo-Tala Municipality be approved by the House.
- ii. That two nominees who did not provide some of the necessary clearance certificates for purposes of Chapter Six of the Constitution should avail them before assuming office.
- iii. That the nominee Cecilia Ndinda Mulinge provides the necessary documentation as provided for in the Committee observations before assuming office as Board a member of the Kangundo-Tala municipality.
- iv. With the appointing authority having not considered the Constitutional and statutory requirements of Persons with Disabilities in nominating the Board members, the committee recommends that the ninth position that arises following the committee's adverse recommendation on the nominee John Kilinge be filled by a Person living with Disability.

6.0 ACKNOWLEDGEMENT

Hon. Speaker, I take this opportunity to thank all the Members of the Committee for their dedication, attention and contributions during the approval hearings. The Committee appreciates the Office of the Hon. Speaker and that of the Clerk for the administrative support during the exercise.

The Committee is obliged to the members of the public and the media who attended and were able to cover the proceedings.

The Committee also appreciates Mr. Mutuku Kavita, Clerk Assistant to the committee; Wanyoike Njuguna HANSARD officer for the committee and Paul Keli, library and research officer for the committee for the admirable work they did to make the approval hearing exercise by the committee a success.

7.0 ADOPTION OF THE REPORT

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

(Applause)

Hon. Speaker: Thank you, Hon. Kieti; you deserve a glass of water which is just in front of you.

(Question proposed)

Hon. Katumo: Thank you, Madam Speaker and Hon. Members. I firstly want to thank this committee for work well done. Actually, when I was going through the steps and the process of writing this report, it is very clear.....I remember when we are doing this process of solving matrix in arithmetic, you had to follow a particular formula so that you arrive you take people in a sequence so that as you arrive, you deduce the steps and I think it is very clear from what I have seen from this committee that they have done a very, very excellent work to make sure that we really understand where they are coming from.

Firstly, let me say I have found a consistency in trying to refer to the PWDS; it is people with disabilities and not people living with disabilities. We are not living with it because we are it. You understand, so it is people with disabilities you might not know but now you know. Thank you.

Secondly, I want really to support the recommendation that the tradition, going forward, in every committee it should as per the constitution and the laws that guide us every day that we must live legally to make sure that we are on the right; we are the custodians of the law and we must live it and therefore, I support that recommendation that the appointing authority to consider that position that was declined to make sure that we have a person with a disability not living with a disability to take this position.

Why are we saying this: These are the board municipal boards that will control resources; actually as soon as they will be constituted, they start their work, sit down and make a strategic plan, make their plans. Now if these plans are not disabled-friendly, don't have anybody who can guide them with in issues to do with disability, we will of course be left behind.

I want us to move together. Even this season is a season of handshake, it is a season where we live as friends, a season where we are not leaving anybody, whether is a child, whether is a woman, whether is who we want to move together and I am saying that going forward, the committees in this Assembly, the decision-making organs should also follow suit so that we don't of course waste a lot of time trying to bring this here and like that and therefore I support this report and the recommendation. Thank you, Madam Speaker.

Hon. Speaker: Thank you Hon. Katumo. Hon. Ndalana.

Hon. Ms. Ndalana: Thank you, Madam Speaker. I said in the morning; let the will of God be done in everything. Thank you, Madam Speaker.

(Applause)

Hon. Speaker: Thank you, Hon. Ndalana. Hon. Members I call upon.....Hon. Jacinta, you want to say something?

Hon. (Ms.) Luka: Yes, Madam Speaker. There is something that I have noted since morning that persons with disabilities get chance when there is somebody who did not meet the requirements. So, Madam Speaker, my request is that we should be included from the beginning; we should have been having persons with disabilities from the beginning nominated to be vetted in this House. So, next time as we go home, my request is that we should be included in full. Thank you.

(Applause)

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

Hon. Kisila: Thank you, Madam Speaker. Sorry for taking you back; I just want refer to recommendation No. 5.0.3. It is a bit vague when you say that the nominee Cecilia Ndinda Mulinge provides the necessary documentation as provided for in the committee observations before assuming office as a board member of Kangundo/Tala Municipality

What if she does not provide? I think we need to be very clear if the documents were not there, if she does not provide the documents, committee needs to make a recommendation of what needs to be done. Sorry, Madam Speaker.

Hon. Speaker: Hon. Cosmos Masesi wants to inform the House on that. Go ahead.

Hon. Masesi: In fact, Madam Speaker, I was present during the vetting and the nominee requested to be given two days to bring the documents which were missing and that is why I want to believe the recommendation of the committee that before assuming office, she should have submitted the documents. Otherwise, Madam Speaker, if she doesn't submit her position ceases to be there.

Hon. Speaker: When did you do the vetting so that we can know whether she is within the two days as we debate the report now? When did you do the vetting?

Hon. Masesi: Madam Speaker, it was on 27th February, 2019.

Hon. Speaker: And today is 20th.....Hon. Nziva has an answer to that

Hon. (Ms.) Nziva: Thank you, Madam Speaker. I was in that vetting process and I don't think whether the nominee was given two days; I think the chairman can clarify on that.

Hon. Speaker: Now the chairman has a defense lawyer in the name of Hon. Nziva. Hon Cosmas Kieti, are you able to throw some light on the time limit and remember the question by Hon. Kisila is what if she does not avail; do you have a way of following up to know whether she has availed the documents? Then you have very many defence lawyers; Hon. Mutiso also raises his hand also to defend you but let's first hear from you. You may have an answer.

Hon. Kieti: Thank you, Madam Speaker. As a committee, we requested the nominees who did not have the documents to present the documents to the Clerk and then a communication is done to us. So, the documents were to be presented to the Assembly Clerk and then a communication is done to us so that we may know the fate of that candidate.

Hon. Speaker: Have you gotten a communication?

Hon. Kieti: Not yet, Madam Speaker.

Hon. Speaker: Hon. Mutiso, you wanted to add something to that.

Hon. P.J. Mutiso: Thank you, Madam Speaker. That is what I wanted to say because it was very clear; we had said that she was supposed to give her documents to the Clerk whereby if she has already done that, we are not aware of that. So it is the Clerk's office which is supposed to tell us whether she submitted the documents to the office.

Hon. Speaker: Hon. Maitha; on that point?

Hon. Maitha: Madam Speaker, it is my thinking that since this two people who did not have these documents have been appointed, it is my believe that they will provide the documents necessary so that they can assume duties. Thank you, Madam Speaker.

Hon. Speaker: The risk is that the House cannot afford to be assuming; it is supposed to be guided by hard facts. Remember the Clerk's office wrote and asked for those documents when they were coming for interviews but then in its discretion the committee decided to give them further time. The office of the Clerk had given a certain date by which the documents were to be brought; apparently they did not come to the committee by the time the people were being vetted but the committee, in its discretion gave them further time.

So, the question Hon. Kisila raised is; what if they do not submit the documents and then the Chair adds; do you have a way of following up to know whether they have brought them so that the recommendation is not hanging? Hon. Francis, you have something on that?

Hon. Kalumu: Thank you, Madam Speaker. I think this is like going for an interview and being given time to present a document. If, for example, the way Hon. Kisila has said that she does not bring the documents and in my view, i think it is good we put it clear that we should not give a leeway of bending the law.

So, the best way could be 'let the appointment be halted until she brings the document.' Bringing of the physical document to the Assembly will be the room for her or for both of them to have that the County Assembly has approved the appointment. Thank you.

Hon. Speaker: Alright, Hon. Kalumu. Hon. Kisini.

Hon. Kisini: Thank you, Madam Speaker. I am asking; can we stand guided because there seems to be some disconnection. Those certificates might have been brought and maybe they are somewhere in the office of the Clerk or the administrators and by the time of writing the

report, the committee might not have known if the certificates have come. That is why I am requesting for some guidance.

Hon. Speaker: The guidance would be a brief adjournment and the Clerk Assistants to go to the office of the Clerk find out whether those documents are here and then we resume to conclude the motion. Is that what Members want?

Hon. Mitaa: Thank you, Madam Speaker. I think we are in a situation where we need Marende wisdom. I do not know whether this report can be amended on that recommendation No. 5.0.3. to suit a situation whereby we tie that until a decision passed by this House is fulfilled, that is when this candidate can assume duties because my feeling is, postponing will be meaning activities at Kangundo-Tala municipality. Thank you, Madam Speaker.

Hon. Speaker: I will answer on the amendment of the report but let us hear from the Chair of that committee, Hon. Kieti.

Hon. Kieti: Thank you, Madam Speaker. My feeling is, let the report be passed as it is and then we request the office of the Clerk to write to those nominees; if they have not presented the documents and then they are given time to present and then if they do not, the communication to the Governor which gives the appointment, the Clerk will decline to recommend them for appointment.

Hon. Speaker: You can only do that if you amend the report now so that it is clear when it is going there so that the office of the Governor will be directed, in accordance with the resolution which you are going to pass. So, Hon. Mitaa asked whether the report can be amended; yes. You are not rubber stamps; you come here to interrogate and amend where you feel you should, reject, approve and so on.

So, if you wish to amend that those two persons that their taking of office should await their presentation of documents to this House through the Clerk, you can do so and that is a recommendation which will be clear. Hon. Maitha.

Hon. Maitha: Thank you, Madam Speaker. If you look at page five number nine about this Rosemary Mutindi Kitonga, that candidate brought a clearance certificate from DCI; her certificate was dated 6th August, 2018.

Hon. Speaker: Hon. Kisila, you need to know on the iPad is what page; what clause are you talking about?

Hon. Maitha: Clause 3:2:1:9.

Hon. Speaker: Clause 3:2:1:9, page six yes.

Hon. Maitha: The only document that lady did not bring was a current DCI police certificate of 2019 but she gave out one dated 6th August, 2018. That lady was---

Hon. Speaker: Which Roman letters which says did not provide self-declaration form from EACC, tax compliance and current clearance certificate from CRB; is that the same person we are referring to?

Hon. Maitha: No, it is not the same because nine ends with DCI dated 6th August, 2018.

Hon. Speaker: Which clause did you give Hon, Maitha because the clauses cannot be the same; you gave...

Hon. Maitha: 3:2:1, No. 9.

Hon. Speaker: Are you talking of the recommendations or the clauses?

Hon. Maitha: I am talking of the committee observations.

Hon. Speaker: Then those are not the clauses; the clauses of the report start differently. So what is the main clause?

Hon. Maitha: Committee observations 3:2:1:9

Hon. Speaker: Let us get it right, Hon. Members. Hon. Mitaa, can you help us.

Hon. Masesi: Madam Speaker, we are on one Rosemary Mutindi Kitonga

Hon. Speaker: They are on what clause of the report because the report has clauses for ease of reference.

Hon. Masesi: 3:1:2; committee recommendations.

Hon. Speaker: Hon. Mitaa; 3:2 or 3 what?

Hon. Mitaa: 3:2:0.

Hon. Speaker: Thank you, 3:2:0; Rosemary Mutindi Kitonga, then we come to 3:2:1, then we now go to Hon. Maitha, where is Hon. Maitha there?

Hon. Mitaa: Hon. Maitha is on 3:2:1; committee observations.

Hon. Speaker: 3:2:1, Roman letters; yes there we are now.

Hon. Maitha: Madam Speaker, that lady produced a DCI document dated 6th August, 2018; is that not a valid document, Madam Speaker? And this lady was seriously sick in hospital; she had spent two months.

Hon. Speaker: You sit in the committee?

Hon. Maitha: I was there when they were vetting.

Hon. Speaker: From the information now, unless we go to the detailed report but Hon. Kisila has a point of information.

Hon. Kisila: I just want to inform Hon. Maitha that we are not referring to that candidate please. We are referring to a candidate by the name Ms. Cecilia Ndinda Mulinge and in the report it says very clearly---

Hon. Maitha: Noted.

Hon. Kisila: I want to give you more information.

Hon. Speaker: Now, he has already noted; you want to inform him more?

Hon. Kisila: Yes, because---

Hon. Speaker: No, if you are on different.

Hon. Kisila: Did not provide---

Hon. Speaker: Hon. Kisila...

Hon. Kisila: Sorry.

(Laughter)

Hon. Speaker: Hon. Maitha was on a different candidate.

Hon. Maitha: And satisfied.

Hon. Speaker: So, he says he is withdrawn what he had said, he had referred to the wrong person. Hon. Kieti?

Hon. Kieti: Thank you, Hon. Speaker. I want to move the amendment so that we go ahead and approve the report.

Hon. Speaker: Hon. Kisila is...we hear your proposal but Hon. Kisila what is it you are saying and on what? Is it a point of order or point of information?

Hon. Kisila: It is a point of order, Madam Speaker. A candidate does not provide self-declaration form---

Hon. Speaker: What clause are you on?

Hon. Kisila: I am on Cecilia Ndinda Mulinge; 3.3.0 and nothing personal here. I do not know her. She did not provide the following documents it is 3.3.0.IX. Did not provide the following documents as requested; a self-declaration form from the Ethics and Anti-Corruption

Commission, she did not provide current tax compliance certificate and she did not provide a current clearance certificate form from the Credit Reference Bureau.

Are you trying to say, Mr. Chairman, that any candidate can just come and pass here and you want us to pass the candidate when they have not provided these key documents which guide any public officer? Are you trying to say that?

Hon. Speaker: Hon. Kieti was proposing some amendment? Yes or no. Hon. Mueni.

Hon. (Ms.) Mueni: Thank you, Madam Speaker. Madam Speaker, I think an interview is an interview and when you do not come with documents, you have failed. So, we are straining so much as if we are giving somebody work for forcing or favoring. There are so many people in Kenya and we can go to another person or the Governor can tell other people to apply or something like that.

All that time for bringing the documents and you do not have them so we cannot help you in any way. Thank you, Madam Speaker.

(Laughter)

Hon. Mueni: Thank you, Hon. Mueni. Hon. Cosmus Masesi?

Hon. Masesi: Madam Speaker, I want to believe the only solution for us is to amend the report and then pass it because I do not want to believe we can pass it when we can see a lot of illegalities, Madam Speaker. Madam Speaker, I want to believe it is on two nominees when you look at the committee's recommendations. They state very well it is two nominees who did not provide some of the necessary clearance certificates and that for the purposes of Chapter Six, they should avail them before assuming office.

So, Madam Speaker, if it calls for amendments, we should amend taking care of the two nominees. Thank you, Madam Speaker.

Hon. Speaker: Alright, Hon. Members. Let me give you the way forward. Hon. Kieti, this report of your committee is going to be suspended on the finalization. I will ask that the committee sits as soon as possible finalize on that issue of the two nominees who did not present documents and bring the appropriate report on the next sitting of this House. It is going to be when? Clerk.

(Consultations)

You bring back the report on 2nd of April, 2019 having addressed the issues that the members are talking about now.

(Applause)

PROCEDURAL MOTION

**ADJOURNMENT TO UNDERTAKE PUBLIC PARTICIPATION ON COUNTY FISCAL STRATEGY
PAPER 2019-2020**

Hon. Speaker: The next business that is under Order No. 9; the two of them were motions and this is by the Hon. Mark Muendo, Majority Leader. Who is holding brief for the Majority Leader? It is a procedural motion. A procedural motion.

Hon. Museku: Thank you, Madam Speaker. I will hold brief for the Majority Leader. Madam Speaker, that aware that the Third Session of the Second Assembly began on 12th February, 2019 and aware that the House approved an assembly calendar pursuant to Standing Order 24 and 25; Further aware that the calendar guides the House on when to have a break and when to resume sittings; Aware that the approved Assembly calendar indicates that the Assembly would adjourn for a short recess from 4th of April, 2019 and resume on 29th of April, 2019; Acknowledging that the Public Finance Management Act 2012 requires the County Treasury to prepare the County Fiscal Strategy Paper (CFSP) and submit it to the Assembly by the 28th of February of each year; Noting that the Assembly received the County Fiscal Strategy Paper 2019 on 28th of February, 2019 and that aware that one of the mandate of an Assembly is legislation; Aware that the Assembly has scheduled public participation on the County Fiscal Strategy Paper on 26th and 27th of March, 2019; Madam Speaker, I wish to move the motion that this Hon. House adjourns its sittings from today, Wednesday, 20th March, 2019 and resumes on Tuesday, 2nd of April, 2019 to enable the County Assembly conduct public participation for the County Fiscal Strategy Paper 2019-2020 on 26th and 27th March, 2019.

I call upon Hon. Peter Joseph Mutiso to second my motion.

Hon. Speaker: Thank you, Hon. Museku. Hon. Peter Mutiso?

Hon. P.J. Mutiso: Thank you, Madam Speaker and Members. I second the motion.

Hon. Speaker: There is a correction you want to make?

Hon. Museku: Yes, Hon. Speaker. I would like to make a correction.

Hon. Speaker: Sit down Hon. Mutiso.

Hon. Museku:

Madam Speaker, I wish to move the motion that this Hon. House adjourns its sittings from today, Wednesday, 20th of March, 2019 and resume on Tuesday, 2nd of April, 2019 to enable the County Assembly conduct public participation for the County Fiscal Strategy Paper 2019 on 26th and 27th of March, 2019.

Thank you, Madam Speaker.

Hon. Speaker: Hon. Mutiso now.

Hon. P.J. Mutiso: Thank you, Madam Speaker, and the Hon. Members. I second the motion.

Hon. Speaker: Thank you. Hon. Members do you get the gist of the motion? Do we have any member who is opposing it?

ADJOURNMENT

Hon. Speaker: So, now that there is no member that is opposing the motion; all the members are supporting the motion and so Hon. Members, the sitting of this House stands adjourned to the 2nd day of April, 2019 at 10.00 a.m. Have a good evening.

The House rose at 3.46 p.m.