



REPUBLIC OF KENYA
NYANDARUA COUNTY ASSEMBLY



1st ASSEMBLY-2nd SESSION

OFFICIAL (HANSARD) REPORT

10TH DECEMBER 2014

The assembly met at the Assembly Chambers at 11:30 AM

The Deputy Speaker, Hon. Wambugu King'ori on the chair

Prayer

Speaker: Clerk, confirm whether there is quorum

Clerk: Mr. Speaker sir, there is no quorum

Speaker: Let the bell be rang for 10 minutes or until such a time that quorum will have been achieved.

(Bell is rung for 5 minutes and quorum is achieved)

Speaker: First order

Clerk: Mr. Speaker sir, Administration of oath

Speaker: Next

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Clerk: Communication from the chair.

Speaker: Next.

Clerk: Messages.

Speaker: Next.

Clerk: Notices of motion; there are no notices of motion.

Speaker: Next order.

Clerk: Statements; there are no statements today.

Speaker: Next.

Clerk: Motions and bills; Mr. Speaker sir, there are no bills but there is a motion by the Hon. James Mwangi Gichuki

Speaker: Hon. Mwangi Gichuki.

Hon. Gichuki: Thank you Mr. Speaker sir. I beg to move that The Report of the House Business Committee on the vetting of the nominees on the suitability for appointment as Members of the County Executive Committee in Nyandarua County Government and its recommendations herein be adopted as a report of this House.

Mr. Speaker Sir, On behalf of the Members of the House Business Committee and pursuant to the provisions of the County Assembly Standing Orders Article No. 150, it is my duty and pleasure to present to the Assembly the Committee's Report on the vetting of the nominees for Office as Executive Committee Members of the County Government of Nyandarua. The County Assembly's House Business Committee as currently constituted comprises of the following Members;

1. Hon. James Ndegwa Wahome - Chairman

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2. Hon. Edinald Wambugu King'ori - Vice chairman
3. Hon. James Mwangi Gichuki - Member
4. Hon. Peter Githinji Ngumba - Member
5. Hon. John Kinyanjui Gachari - Member
6. Hon. Sammy D. Kamau Ngotho - Member
7. Hon. Michael Njoroge Kirumba - Member
8. Hon. Dorcas Nyambura Kihara - Member
9. Hon. Patriciah Wanjugu Njoroge - Member
10. Hon. Paul Maina Nderitu - Member
11. Hon. Miriam Wahura Ng'ang'a - Member

SECRETARIAT;

1. Mr. Kennedy Mwaniki -Principal Legal Counsel
2. Ms. Elizabeth Muthui -Legal Counsel
3. Mr. Peter G. Karanu -Second Clerk Assistant

COMMITTEE'S MANDATE

Mr. Speaker Sir, the Nyandarua County Assembly House Business Committee is constituted under the provisions of County Assembly Standing Orders.

Its mandate pursuant to Article 150 is to:-

- a) Prepare and, if necessary, from time to time adjust the Assembly's Calendar with the approval of the Assembly;
- b) Monitor and oversee the implementation of the Assembly Business and programmes;
- c) Implement the Standing Orders respecting the scheduling or programming of the business of the Assembly and the functioning of the Committees of the Assembly;
- d) Determine the order in which the reports of Committees shall be debated in the Assembly;

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- e) Take decisions and issue directives and guidelines to prioritize or postpone any business of the Assembly acting with the concurrence of the Leader of the Majority Party or the Leader of the Minority Party, as the case may be;
- f) Nominate Members to serve in Committees;
- g) Consider, for approval by the Assembly, appointments under Article 179 (2) (Members of County Executive Committee);
- h) Consider and report on all matters relating to these Standing Orders;
- i) May propose amendments to these Standing Orders and any such amendments shall upon approval by the Assembly, take effect at the time appointed by the Assembly;
- j) May propose rules for the orderly and effective conduct of Committee business and any such rules, shall upon approval by the Assembly, continue in force until amended or repealed by the Assembly, and such rules shall be annexed to the Standing Orders and shall be binding upon Committees to the same extent as these Standing Orders; and,
- k) Consider such matters as may from time to time arise in connection with the business of the Assembly and shall have and perform such powers and functions as are conferred on and ascribed to it by these Standing Orders or from time to time by the Assembly.

Mr. Speaker, Article 150 (g) of the County Assembly Standing Order provides that the House Business Committee shall vet and report on all appointments of the County Executive Committee Members. In this regard, through the Standing Orders, the House Business Committee is mandated to carry out the vetting of the nominees and report back to the House. Nomination of the Candidates for Positions of County Executive Committee Members for Lands, Housing and Physical Planning; Agriculture, Livestock and Fisheries; and Tourism, Wildlife and Sports

Mr. Speaker Sir, Pursuant to Article 179 (b) of the Constitution and the provisions of Section 35 of the County Government Act, 2012, H.E. the Governor, through a communication to the Honourable Speaker forwarded to the Office of Clerk the names of the nominees vide letters dated 28th November, 2014 and 1st December, 2014.

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The nominees were to be subjected to vetting by the relevant Committee and subsequent consideration for approval by the Nyandarua County Assembly for appointment as Members of the County Executive Committee.

On 1st of December 2014, the Honourable Speaker in a communication to the Assembly informed the Assembly that he had received the names of the said nominees vide letters dated 28th of November 2014, and 1st December, 2014 addressed to Clerk of the County Assembly.

His Excellency the Governor had communicated the nomination of the following candidates;

Mr. Peter Gitau Thabanja; Lands, Housing and Physical Planning

Mr. Frank Kanja Muchina; Agriculture, Livestock and Fisheries

Mr. Peter Mwangi Gathimba, Tourism, Wildlife and Sports

The names of the nominees had been forwarded for approval by the Assembly, under section 35 of the County Government Act 2012. Subsequently and taking into consideration the provisions of Section 8 of the Public Appointment (Parliamentary Approval) Act No. 33 of 2011 which applies *mutatis mutandis* (with the relevant modification) requiring the Assembly to consider and approve or disapprove the nomination of the said candidates within 14 days from the date of the communication by H.E the Governor, the matter was marked urgent.

Consequently, it was directed that the Curriculum Vitae and Certificates of the said nominees be referred to the relevant Committee i.e. House Business Committee for vetting and reporting to the Assembly.

The public was invited to participate in the vetting process through attendance and/or the submission of memoranda on the suitability or otherwise of the nominees.

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On Thursday 2nd December, 2014, the Clerk to the County Assembly placed an advertisement in the print media inviting the public to submit such memoranda by 8th December 2014 at 9.00am on the suitability or otherwise of the said three (3) nominees.

It is noteworthy that no memorandum was received from the public.

Further, as called for in the said notice in the print media, the nominees submitted copies of the following documents:

- National Identity Card
- Curriculum Vitae/ Personal credentials/ Academic certificates;
- Clearance certificate from the Ethics and Anti-Corruption Commission;
- Compliance Certificate from Kenya Revenue Authority (KRA);
- Clearance Certificate from the Higher Education Loans Board (HELB);
- Certificate of Good Conduct from Criminal Investigation Department (CID), And
- Credit Reference Bureau Certificate (CRB Certificate).

Committee Meetings;

Mr. Speaker Sir the Committee held a total of four (4) sittings among which Mr. Peter Gitau Thabanja, Mr. Frank Kanja Muchina, and Mr. Peter Mwangi Gathimba respectively appeared before the Committee and the Members of public where they were vetted in accordance with the provisions of the County Governments Act 2012 and the Public Appointments (Parliamentary Approval) Act No. 33 of 2011 for appointment as Members of the County Executive Committee.

I would like to thank the Members of the House Business Committee for their dedication, commitment, transparency, integrity and valuable contributions during the process.

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The Committee is grateful to the Office of the Speaker and the office of Clerk to the County Assembly for the support received as it discharged its mandate of vetting the nominees.

It is therefore my pleasant duty and privilege, on behalf of the House Business Committee to table this Report and recommend it to the House and the resolutions therein for adoption. Vetting Of the Nominees for Appointment as Members of the Nyandarua County Executive Committee

Mr. Speaker, in conducting the vetting process, on Monday 8th December, 2014 at the County Assembly Offices, Ol'kalou, the House Business Committee vetted the nominees against the following criteria, amongst others, in accordance with the Public Appointments (Parliamentary Approval) Act No. 33 of 2011.

- (i) Academic qualifications
- (ii) Employment record
- (iii) Professional affiliations
- (iv) Potential conflict of interest
- (v) Knowledge of the relevant field
- (vi) Overall suitability for the position
- (vii) Tax compliance
- (viii) Integrity

During its sittings, the Committee orally interviewed the nominees for appointment as Members of the County Executive Committee. The minutes of the vetting proceedings are annexed hereto and marked *Annexure iii*. The interrogation formed the basis for the Committee's observations and recommendations herein.

Mr. Peter Gitau Thabanja, the nominee for Appointment as the County Executive Committee Member for Lands, Housing and Physical Planning:

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Mr. Speaker, Mr. Peter Gitau Thabanja appeared before the Committee on Monday 8th December 2014. After introductions, the Chairperson informed the nominee that despite the Assembly inviting the public to make any submissions on his suitability for appointment to the public office none had been received.

The vetting ensued and the nominee, in regard to his suitability for appointment as the County Executive Committee Member for Lands, Housing and Physical Planning, stated to the Committee as follows;

Academic Qualifications; He is pursuing a Masters degree in Governance and Ethics since the year 2012 at the Mt. Kenya University. He holds a Bachelor's Degree (Second Class Honors) in Education (Economics and Business Administration) from Kenyatta University. He completed his Kenya Certificate of Secondary Education from Kangui Boys High School in the year 2003 and attained a mean grade of B+ (Plus)

He completed his Kenya Certificate of Primary Education in the year 1998 from Nyahururu Chapa Academy. Employment Record; He has served as a Member of the Nyandarua County Land, Planning and Development Taskforce between the months of March 2014 to November 2014.

He served in the Administration of Mount Kenya University main campus, Thika, as an assistant Public Relations Officer in the department of Customer care and Marketing between the period January 2012 and October 2014;

He served as Researcher at Peman Consultants Nairobi in the period beginning January 2010 to March 2014 where he was involved in development of strategic plans, analysis of social economic studies, feasibility studies, change of users, extension of user and lease, subdivisions among others; and,

He served as a Relations Officer at Equity Bank of Kenya, Karatina in the year 2010;

Professional Affiliation; The Committee noted that he was not a Member of any professional body.

Potential Conflict of Interest; His filled questionnaire indicated that he had no relatives/family Members working in or with the Nyandarua County. He also indicated that there were no areas that would create potential conflict of interest and in case of such, he shall declare interest accordingly.

Overall Suitability for the Position; the nominee submitted to the Committee that he was qualified to be appointed to the position because he had the requisite academic qualifications.

He is a holder of a first degree from a university recognized in Kenya; was pursuing a relevant Master's Degree and is computer literate.

He is youthful and dynamic.

The Committee noted that he has an experience of 5 years in the specific area with the necessary familiarity with the job nominated for having worked with the Nyandarua County Task force on Land and Peman Consultants Limited, a renowned consultancy firm.

Knowledge in the Relevant Field; He has acquired knowledge in management of land matters relating to physical planning, surveying, urban and regional planning and strategic planning. His role as a Member of the Taskforce on Land in Nyandarua has given him immeasurable knowledge and hands on experience with issues of land in the County.

This wealth of knowledge gives him the required expertise and experience as required for the job in management of Land matters. Having worked in the various capacities, he is conversant with administrative procedures in line with the job. He has gained good management skills suitable for the job nominated for. Further he portrayed knowledge on

the roles and functions of the County Executive Committee as established in the County Government Act No 17 of 2012.

Tax Compliance; He has fully complied with all his tax obligations. He provided a tax Compliance Certificate confirming that.

Integrity; He has no integrity issues and provided a police clearance certificate to substantiate this. He also has been a beneficiary of the Higher Education Loans Board Scheme and has met all his obligations and provided a clearance Certificate from the body. In addition, the nominee provided a copy of a Certificate from the Ethics and Anti-Corruption Commission and Credit Reference Bureau.

And therefore Mr. Speaker, He has fully complied with the laid down requirements of being appointed to the said position.

Mr. Frank Kanja Muchina, Nominee for Appointment as the County Executive Committee Member for Agriculture, Livestock and Fisheries:

Mr. Speaker, Mr. Frank Kanja Muchina appeared before the Committee on Monday 8th December 2014. After introductions, the Chairperson informed the nominee that despite the Assembly inviting the public to make any submissions on his suitability for appointment to the public office none had been received.

The vetting ensued and the nominee, in regard to his suitability for appointment as the County Executive Committee Member for Agriculture, Livestock and Fisheries, stated to the Committee as follows;

Academic Qualifications; He holds an Executive Masters degree in business administration from JKUAT (2009). He holds a Bachelor's Degree (Second Class Honours) in Arts (Anthropology) from University of Nairobi year 1989. He holds a Higher Diploma in Human Resource Management (KNEC). He completed his Kenya Certificate of Secondary Education from Thika High School in the year 1982.

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Employment Record; the nominee has had exemplary service in the public sector for a considerable number of years.

He served as the head of Human Resource Department in the National Cereals and Produce Board for a period of Nine (9) years. He worked as an Associate Management Consultant and as a Human Resource Consultant with Polished Management Consultant and Integrated Development Consultants for two (2) years.

Prior to that, he worked with Kenya Power & Lighting Company Ltd for a period of fourteen years (14) serving in various capacities from Human Resource Officer to Assistant Regional Manager.

He has also worked with the Ministry of education as a personnel officer.

Professional Affiliation; The nominee, Mr. Frank Kanja, is a Member of the Institute of Personnel Management Kenya, the Institute of Human Resource Management and the Kenya Institute of Management. He provided the Certificates of Membership from the three bodies as evidence.

Potential Conflict of Interest; His filled questionnaire indicated that he had no relative/family Member working in or with the Nyandarua County. He also indicated that there were no areas that would create potential conflict of interest and in case of such he will declare interest accordingly.

Overall Suitability for the Position; the nominee submitted to the Committee that he was qualified to be appointed to the position because he had the requisite academic credentials:

He is a holder of an Executive Masters degree in Business Administration of JKUAT year 2009. He holds a Bachelor's Degree (Second Class Honours) in Arts (Anthropology) from the University of Nairobi year 1989. He holds a Higher Diploma in Human

Resource Management (KNEC).He is well versed in matters of administration and has demonstrated versatility in public affairs and management in the public sector.

Knowledge in the Relevant Field; He has acquired knowledge in management of public affairs in his long distinguished career in various institutions. He has been awarded severally in his career in management as the best performing manager as evidenced in his certificates of recognition provided to the Committee.

His working stint with the National Cereals and Produce Board has versed him with diverse matters on agriculture. This wealth of knowledge gives him the required expertise as required by the job in management, development of policy and personnel management which will enable him develop the agricultural sector in the County. Having worked in the various capacities, he is conversant with administrative procedures in line with the job. He has gained good management skills suitable for the job he has been nominated for. Further, he portrayed knowledge on the roles and functions of the County Executive Committee as provided for in the County Government Act No 17 of 2012.

Tax Compliance; He has fully complied with tax obligations. A tax Compliance Certificate was provided as evidence for this.

Integrity; He has no integrity issues and he provided a police clearance certificate to this effect. He has been a beneficiary of the Higher Education Loans Board Scheme and has met all its obligations. In addition, the nominee did provide a copy of a Certificate from the Ethics and Anti-Corruption Commission and Credit Reference Bureau.

And therefore Mr. Speaker, he has fully complied with the laid down requirements of being appointed to the said position.

Mr. Peter Mwangi Gathimba, Nominee for Appointment as the County Executive Committee Member for Tourism, Wildlife and Sports.

Mr. Speaker sir, Mr. Peter Mwangi Gathimba appeared before the Committee on Monday 8th December 2014. After introductions, the Chairperson informed the nominee that despite the Assembly inviting the public to make any submissions on his suitability for appointment to the public office, none had been received.

The vetting ensued and the nominee, in regard to his suitability for appointment as the County Executive Committee Member for Tourism, Wildlife and Sports, stated to the Committee as follows;

Academic Qualifications; he holds a Masters degree in Business Administration from Jomo Kenyatta University of Agriculture and Technology and a Bachelors degree in Commerce from the University of Nairobi.

The nominee is trained as a quality Management Systems Internal Auditor.

He attended Thika High School and graduated in 1974 with Division I. He is also a trained accountant and a Member of the Institute of Certified Public Accountants of Kenya.

Employment Record; he has recently worked as the Managing Partner of Mwangi Gathimba and Associates, Certified Public Accountants from May 2013 to date. He has previously worked as a finance expert for the Kisumu Urban Project with Kisumu City Council. He worked as Finance and Administration Manager with the Rift Valley Water Services Board from 2005 to 2012. The nominee worked for the Nyahururu Water and Sanitation Company as a Commercial Manager. He also served in the defunct Local Authorities in various capacities

- Ag City Treasurer Nairobi City Council.
- Municipal Treasurer Naivasha Municipal Council
- Chief Accountant and Acting Municipal Treasurer Nyahururu Municipal Council
- Accountant/Internal Auditor/ Acting County Treasurer Nyandarua County Council

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Professional Affiliation; the nominee is a Member of the Institute of Certified Public Accountants of Kenya (ICPAK).

Potential Conflict of Interest; His filled questionnaire indicated that he had no relative/family Member working in or with the Nyandarua County. He also indicated that there were no areas that would create potential conflict of interest and in such a case, he would declare interest accordingly.

Overall Suitability for the Position; the nominee submitted to the Committee that he was qualified to be appointed to the position because he had the requisite academic qualifications:

He is a holder of a Bachelor and Master's Degree.

He has vast experience in the local governments that existed in the previous constitutional dispensation.

Knowledge of the Relevant Field; he has acquired knowledge in management in the public sector and has the relevant training to enable him to manage a public office in the Tourism, Wildlife and Sports department.

Having worked in various capacities, he is conversant with administrative procedures required in the job. He has gained management skills suitable for the job nominated for. Further, he portrayed vast knowledge in the roles and functions of the County Executive Committee as established in the County Government Act No 17 of 2012.

Tax Compliance; He has fully complied with all his tax obligations as evidenced by a tax Compliance Certificate.

Integrity; He has no integrity issues and he provided a Police Clearance Certificate to substantiate this. He has not been a beneficiary of the Higher Education Loans Board Scheme. In addition, the nominee did attach a copy of a Certificate from the Ethics and

Anti-Corruption Commission and Credit Reference Bureau and therefore Mr. Speaker, He has fully complied with the requirements of being appointed to the said position.

Committee's Observations:

After conducting the oral interviews of the nominees on Monday, 8th December, 2014 the Committee dedicated the next sitting to scrutiny of the nominees' oral submissions, Curriculum Vitae and Credentials with the aim of establishing their suitability for appointment as Members of the County Executive Committee in Nyandarua County.

The Committee made the following observations in regard to the general suitability of the nominees to be appointed as the Members of the Nyandarua County Executive Committee:

The nomination of the three gentlemen to the Executive Committee falls short of the requirement as stipulated by Article 197(1) of the Constitution and Section 35(2) (a) of the County Governments Act which require nominations to the Executive Committee not to exceed two thirds of either gender. Having the three male nominees, the Committee thus noted there would not be, in the Executive Committee a third gender minimum requirement as required by law.

The Committee was guided by Section 35(3) of the County Government Act which states:

(3) A person may be appointed as a Member of the County Executive Committee if that person—

(a) Is a Kenyan citizen;

(b) Is a holder of at least a first degree from a university recognized in Kenya;

(c) Satisfies the requirements of Chapter Six of the Constitution; and

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(d) Has knowledge, experience and a distinguished career of not less than five years in the field relevant to the portfolio of the department to which the person is being appointed.

(4) A Member of the County Executive Committee shall not hold any other State or public office.

Section 35 (3) (d) requires a nominee to have knowledge, which according to the oxford dictionary's definition is:

'Facts, information, and skills acquired through experience or education; the theoretical or practical understanding of a subject; awareness or familiarity gained by experience of a fact or situation:

In its sitting held on Tuesday 9th December 2014, the House Business Committee scrutinized the documents and unanimously voted to approve the appointment of the following nominees as the Members of the Nyandarua County Executive Committee: that is, Mr. Peter Gitau Thabanja satisfied the Committee that he has the requisite training, knowledge and experience to qualify him for approval to the position through His young age, education, knowledge and experience in a span of five years. He has demonstrated expertise, integrity and dedication in his work with the Taskforce on Land, Planning and Development in Nyandarua County.

His nomination to the department of Lands, Housing and Physical Planning thereby meets all the requirements and the Committee finds him fit and suitable to serve as the County Executive Member in the department.

Mr. Peter Mwangi Gathimba has had a long and fruitful career in the public service. He served in the defunct local authorities and Water Authorities. In his undertakings as a Municipal and City treasurer as well as Financial and Administration Manager he has been widely involved in matters of management, planning and policy development.

He has been proven a man of integrity. The Committee believes that his wealth of experience and knowledge will put him in a position to manage and steer the Tourism, Wildlife and Sports department towards the right direction. The Committee found him suitable to hold the office.

Mr. Frank Kanja has had a distinguished career in affairs of public service having worked in the public sector for the greater period of his career. He has received recognition and honour in his previous workplaces. This can be attributed to the dedication, hard work and integrity which he exhibited throughout the vetting process. He has immense knowledge and experience in agriculture having worked with an agricultural produce organization whose mandate is to market and sell cereals.

The nominee has exemplary experience in personnel management and policy development gained from his expansive career. This will go a long way to steer the agricultural sector in the County to greater heights.

This Committee found Mr. Frank Kanja Muchina highly qualified and a man of integrity.

The Committee however drew itself to the reality of the fact that there already exists a County Executive Committee Member in charge of Agriculture, Livestock and Fisheries. The Constitution of Kenya under Article 179 stipulates that the County Executive Committee will comprise of the Governor, The Deputy Governor and Members appointed who do not exceed ten. Further, section 35 of the County Government requires the Governor to nominate Membership to the County Executive Committee. This is to be followed by the approval of the nominees by the County Assembly. It is important to note that upon approval by the Assembly, the nominees will, by law, be duly appointed.

The Committee takes cognisance of the existence of an Executive Committee Member in the department of Agriculture, Livestock and Fisheries. By approving this nomination, the County Assembly will thereby be acting contrary to the provision of the Constitution and the law by approving more than ten Members to the County Executive Committee. It

would also not be prudent to create mishaps in the operation of the Executive Committee by having two Members serving in the same department, tasked with the same mandate.

Mr. Speaker, from the foregoing, the Committee therefore, approves the nomination of;

- i. Mr. Peter Gitau Thabanja for Appointment as the County Executive Committee Member for Lands, Housing and Physical Planning; and,
- ii. Mr. Peter Mwangi Gathimba for Appointment as the County Executive Committee Member for Tourism, Wildlife and Sports

The Committee, however, disapproves the nomination of Mr. Frank Kanja Muchina for appointment as the County Executive Committee Member for Agriculture, Livestock and Fisheries as it would be in breach of Article 179(3) Constitution which states;

The number of Members appointed under clause (2) (b) shall not exceed—

- (a) One-Third of the number of Members of the County Assembly, if the Assembly has less than thirty Members; or
- (b) Ten, if the Assembly has thirty or more Members.

Committee's Recommendations; Mr. Speaker Sir, in conclusion and pursuant to the provisions of Section 35 of the County Government Act 2012 and Standing Orders Article 150(g), the House Business Committee recommends that:

This House does adopt the report of the House Business Committee on the vetting of the nominees on the suitability for appointment as Members of the County Executive Committee in Nyandarua County Government.

Mr. Speaker, those were the deliberations of the Committee and the only thing to note is that, in the appointment of Frank Muchina, it is unfortunate that we are missing out on the best. This particular candidate was the best but the technical issues arising from this aspect need to be addressed because, they would put the said nominee in a difficult situation. Through the letter

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that was written to him by His Excellency the Governor, it is clear that he was working in a high level office in the cereals and produce board from which he resigned, having heard communication from the Governor on his appointment and I can only imagine how difficult it is going to be for him when this resolution gets to him as he is no longer an employee of the cereals and produce board and now due to the complexities that are not of his making, you can see the kind of situation he will be thrust into.

Looking at his documents with keen interest you will note, as the Committee did, that this candidate has shown exemplary performance especially in human resource. There are also other aspects that were not captured in the report, one of them being that he was voted manager of the year, he has transformed various institutions on the verge of collapsing. I do not want to be quoted but this is one man who would serve exemplary well given the opportunity to restructure this County.

It is in the interest of the appointing authorities to know the circumstances surrounding the nomination of this gentleman. For that reason I would urge the Members of this Assembly to adopt this report by House Business Committee and to agree to the recommendations that have been made so that we can move forward. It is good to note that work is not being done because we have inadequate CEC Members and it is only prudent to have these structures in place as soon as possible. I beg to move and ask Hon. Kirumba to second.

Speaker: Hon. Kirumba.

Hon. Kirumba: Thank you Mr. Speaker. The constitution is very clear that the County Secretary is not a Member of the cabinet which put us in a quagmire when we were trying to draft this report. All the candidates met the minimum threshold. There are some areas that we thought would be addressed in the next level and it is not the mandate of the Assembly.

There has to be another re-engineering by the Executive to realign the whole cabinet so that it is in line with the constitution and the County Governments Act 35. We have highlighted the areas we thought were a problem for Members to see and appreciate what the Committee went through. In terms of the second candidate, Mr. Peter Gitau Thabanja, the constitution is very clear on gender and composition. His background is that he went through Kangui Secondary which is in this County. He went through primary school in this County. We therefore thought that he is a good candidate. He will blend very well with the Executive as currently constituted. He will bring the youth agenda into the cabinet.

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Mr. Frank Kanja Muchina presented himself as a person who has transformed many big organizations. He has put compensation policies in terms of merit. This is a man from this County who can really help us. For the last one year, what we have seen are issues to do with the staff and human resource. People were put in the wrong places and they messed up big time. If we have the systems put right, the rest will fall into place. What we have been missing is people to shape things from the word go. So I second this report and request all Hon. Members to support this report because it will help us as the Assembly to re-engineer and change the set up as it is currently. With those few remarks, I second this report.

(Question on the motion proposed)

Hon Kibebo: Thank you Mr. Speaker sir. I rise to support the motion. I first congratulate the House Business Committee for coming up with this document. This is not the first document that has been brought to this House so that we can go through the vetting process...

(Loud consultations)

Speaker: Let us have order Hon Thuita and Hon. Josphat. Consult in low tones. Proceed Hon. Kibebo.

Hon Kibebo: Thank you Mr. Speaker. Some time back, a list of some CEC Members was brought to this House. The Members perused the documents and one was disqualified.

The House Business Committee has done a good job although they had a short time to peruse the documents, conduct the interview and write a report. When we adjourned the House, I tried to peruse through the documents and found the three people were qualified. They all have a first degree and enough experience. We have the right people to drive our County because we need expertise. We are almost in the third year of our term and we need to move fast. What is important after our term in this Assembly ends is what we have been doing for our wards. How many culverts have been installed, how many bridges have been constructed, how many hospitals have been constructed and how many roads have been made. That will be the question

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we have to answer to the people who elected us. We cannot do that if we don't move fast in our County. And because as Members we have read the report, I support this motion.

Speaker: Hon. Gachari.

Hon. Gachari: Mr. Speaker I rise to support the motion on the Members who have been proposed to join the Executive. To me, they are qualified as it has been stated. They are learned and have experience. Mr. Gathimba has worked in this country and will fit in the tourism docket as we want Nyandarua to be a tourist destination. Mr. Muchina is also a learned person who is youthful and energetic. He has a fresh mind fit for work. That is why we need to support this document. The House Business Committee worked for four days looking at these documents. These are the right people for the jobs. I support the report as it is and request Members to adopt it.

Speaker: Hon. Kagiri

Hon. Kagiri: Thank you Mr. Speaker. I rise to support the report with some few reservations. We have the qualifications of the Members who were supposed to be vetted by this Assembly. They are all qualified and persons of high integrity. I believe they will perform. But Section 35(3) (d) of the County Government Act states that any person appointed to the Executive Committee should have relevant knowledge in the department that they were appointed in. With that in mind, I went through the qualifications of the Members, and though they have experience, we need to ask ourselves if they have the experience in the portfolios they have been appointed to.

Regarding Mr. Frank Kanja, the Committee disapproves his nomination. But have they given the direction on what will happen in this report? I have heard what the Leader of Majority and his deputy have said but I thought it was prudent if they could have put that information in this report. They have not given the direction on what will happen to that person.

(Hon Dorcas rises on a point of information)

Speaker: Hon. Kagiri, do you require any information?

Hon. Kagiri: Yes Mr. Speaker

Speaker: Proceed Hon Dorcas.

Hon. Dorcas: Thank you Mr. Speaker. I am a Member of this Committee and I want to inform Hon. Kagiri that we could not include what he is asking in this report because it is not within our mandate to give recommendations on what is fit for Mr. Frank. That is why we left it as it is. Thank you.

Speaker: Proceed Hon Kagiri.

Hon. Kagiri: Thank you for the information. The Committee rejected the appointment of Mr. Frank no matter how qualified he is or how best he can perform. According to the report, the man is out. My reservations are two: one; all of them have degrees unrelated to the docket they will hold and two, the issue of Mr. Frank. However, I will support the report as we don't have time to quarrel or argue here. What we need is performance. I beg to second.

Speaker: Hon. Peter Kamoche.

Hon. Kamoche: Thank you Mr. Speaker sir. I rise to support this report on the vetting of nominees for CEC portfolios. I agree that the three are qualified and are capable. There is no law that states that the Agriculture CEC must be an agricultural officer. The Cabinet Secretary in the Ministry of Health in the National Government is an educationist.

You don't have to be a professional in a certain field to be a Member of the cabinet in that field. The person who ought to be a professional is the Chief Officer who is the Principal Secretary in the National Government. The CEC works with advice from the Chief Officer. I support this report and say that those nominated are fully qualified. The only sad part is the disqualification of Mr. Frank Muchina. However, I will support it because there are the technical details that must be considered. The other two were approved. In future such should be avoided.

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I am addressing this to the chair of the House Business Committee. When someone has tendered his resignation in his previous job with the hope of getting another but fails to be approved, there are inconveniences that arise.

(Loud consultations)

Mr. Speaker, I need protection.

Speaker: Order Members. Hon Thuita and Hon Nyangati. Order!

Hon Kamoche: The Leader of Majority and Member for Engineer has given the legal side of it. This document is very valid. I support it fully. The advice the House should give to the Governor is that in the future there should be a clear gap to be filled before nominating somebody. There was no vacancy in the post that Kanja was nominated to fill.

According to all legal instruments and procedures, Mr. Kanja was not supposed to be brought before a vetting Committee. There was nowhere for him to be fixed. They should first consult because they have a lawyer and a County Attorney. I support this report, and request that the Executive be properly advised by this House. The law must be followed because we are lawmakers in this House. We cannot legalize something which is illegal. As the chair of the committee on delegated County legislation i have observed that this is not the first time they are doing something like this which is unprocedural. Thank you Mr. Speaker, I support this report.

Speaker: Member for Gatimu, Hon. Kieru Wambui.

Hon Kieru: Thank you *Bwana* Speaker. I want to go directly to the contentious issues. I have no problem with this report and the spirit behind it.

Speaker: Hon Kieru, are you proposing or opposing?

Hon Kieru: Mr. Speaker, it will be evident when I finish. I have an issue on page 29 of 31 the last paragraph. It states:

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The Committee however drew itself to the reality of the fact that there already exists a County Executive Committee Member in charge of Agriculture, Livestock and Fisheries.

Mr. Speaker, I would want to raise an issue here. I want the Committee to justify and quantify, maybe as the mover responds, how the Committee realized that there already exists a CEC member for Agriculture. With me I have a reshuffle document where the Governor has proposed three names in his cabinet. Amongst the ten CECs, he proposes three new ones whom he has forwarded to this House for vetting and approval. Mr. Frank Muchina lies in the docket of CEC for Agriculture. He came here for vetting with respect to what the Governor proposed in his line-up. In my own thinking as Kieru, the former CEC for Agriculture, according to the Governor's letter which is in the County Government's website and in the notice board of the Executive, and which I have a soft...

(Hon Kirumba rises on a point of order)

Hon. Kirumba: I think Mr. Speaker it would be good practice if the document the Hon. Member is talking about can be tabled so that we can read from the same script. Thank you.

Speaker: Hon Kirumba, with some reservations a Member is allowed to contribute and deliberate and later furnish this House with the document. And if he does not have the document in hard copy, it will be out of order to make submissions that have no evidence to this House. Proceed Hon Kieru.

Hon. Kieru: Thank you Mr. Speaker for our guidance. There is a Standing Order that requires that a matter be substantiated and if not practically possible to substantiate at that particular time, the speaker can allow the Member to table that document later. I will read in soft copy and then provide it in soft copy. This is the Governor...

(Hon Kamoche rises on a point of order and the Speaker grants)

Hon. Kamoche: Mr. Speaker I remember there was a time that we were looking at a Memorandum of Understanding. A report was brought and adopted by the House and it stated

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that any informal document should not be subjected to this House. A document in soft copy cannot be read in this House. It should first be tabled in this House. That is the order Mr. Speaker.

Speaker: I understand that the document you intend to submit to this House, Hon. Kieru is in soft copy. It is a public document. Since it was a gazette notice, and you have the number of that gazette notice, I can allow you to proceed but first you have to give the number of that gazette notice to this House and later you should submit the document in hard copy to this House. Hon Kieru proceed.

Hon. Kieru: Okay. It is the Governor's reshuffle letter. I don't know whether it was gazetted. What I have is a copy of the original and not a copy of the gazette notice signed by the Governor. It is dated 24th of November 2014 at 9:00 a.m.

Speaker: Proceed.

Hon. Kieru: It has the Governor, the deputy Governor and Agatha Thuo as the County Secretary. As it concludes, there is Frank Muchina as the CEC for Agriculture. The Governor concludes and says:

Meanwhile I am forwarding the Personal Files of the County Executives to the County Assembly for vetting and approval.

The Governor has done that. He has forwarded the files for vetting and approval. With that letter, I cannot buy the argument that the said an individual is already a CEC member for Agriculture.

(Hon Gichuki rises on a point of order)

Hon. Gichuki: I did not want to bring this argument on board at this stage, but as an Assembly, is it in order to discuss a letter that is an illegality in itself? Can such a document find its way into the floor of this House even for discussion Mr. Speaker? You need to advise us on that.

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(Members consult for about two minutes)

Speaker: Order, Members. This is a House of procedures and all the legalities must be followed. Hon. Kieru has every right to proceed as a Member of this House. All what I request Hon. Kieru to do is not to make his submissions in reference to the letter. To this House the letter is not official. If it was, it would have been brought to this House through the office of the clerk and the House Business Committee would have considered it. You cannot therefore base your argument on that Hon. Kieru. So you can proceed but try as much as possible not to base your argument on that letter.

Hon Kieru: Thank you Mr. Speaker, It is okay, though I don't know why the Governor's letter is being disregarded. I don't know how illegal it is. We shall discuss that just in case the matter comes up in the future.

Mr. Speaker, we once visited Ranges Hotel even though it was not an official gathering. I don't know whether you were there when the introductions were being done. You can remember the nature of introductions that were being done. In as much as there was no Hansard, I cannot lie. Agatha is actually the former or outgoing CEC for agriculture and now the County Secretary. I am really getting confused. I don't know whether the Committee sourced for this information and if the Governor provided the information or not. In as much as it was a confusion, did the Committee try to find out whether the said individual has been reappointed or not? This should be part of the annexure quantifying that the person is already a CEC Member. I do not know why the Governor forwarded the letter of nomination of Frank K. Muchina reading in part:

Following my cabinet reshuffle and new appointments on 24 Monday 2014, I hereby forward academic copies of Frank K. Macharia and testimonials for vetting by the House.

I appointed Mr. Muchina as the County Executive Committee Member for Agriculture, Livestock and Fisheries.

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This letter is actually signed by the Governor. I do not really understand why the Committee cannot follow up to interrogate why the Governor, who is a person that was elected by the people of Nyandarua, should append his signature to this kind of a letter. It should be in the report. As *Mheshimiwa* Kirumba put it, it was against the requirements of gender as provided for in the Constitution of Kenya 2010 to approve the said CEC Member. There were three male nominees. On the basis of that, I fail to understand why we should sacrifice Mr. Muchina and leave the other two, Mr. Gitau and Mr. Gathimba.

As observed by *Mheshimiwa* Mwangi Gichuki, there is no resignation letter showing that Madam Agatha had resigned from her previous position of CEC Member for Agriculture, Livestock and Fisheries. Did the Committee ask for this letter? The mover of this motion should clarify this when he rises to respond. Mr. Speaker, allow me to read part of Section 2 of the Public Appointments Parliamentary Approval Act;

That appointment includes any reappointment to the same body whether or not in the same capacity.

I do not want to tread on that path but the argument on Madam Agatha was that she was not legitimately appointed to that office because she was supposed to be competitively sourced. We do not have any report for adoption of somebody to the County Secretary's position. What we have is a report to adopt three nominees. If the report on the adoption of the County Secretary comes to this House we shall know whether she was competitively recruited or not and whether she is on reappointment or not.

(Hon. Kamau Ngotho rises on a point of order)

Speaker: Yes Hon. Kamau Ngotho.

Hon. Kamau Ngotho: The Hon. Member is misleading the House. Can he re-read the Public Appointments Parliamentary Approval Act...

Speaker: Hon. Kieru, resume your seat.

(Hon. Kieru resumes his seat)

Hon. Kamau Ngotho: It talks of reappointment within the same capacity. The capacity of a County Secretary is different from that of a CEC Member. So saying that Mrs Agatha has been reappointed as a County Secretary is not only misleading to this House but also in bad taste from the Hon. Member.

Speaker: Hon. Kieru I think you have gotten the point by Hon. Kamau Ngotho.

Hon. Kieru: Yes I have gotten the point. But I want to reread what I read;

That appointment includes any reappointment to the same body whether or not in the same capacity.

Speaker: Hon. Kieru what are you referring to?

Hon. Kieru: I am responding to Hon. Kamau Ngotho's argument but let me drop the matter because we would be treading on dangerous grounds. Furthermore there is no motion in this House to be debated for the approval of a County Secretary.

I will, however, not agree to the argument that there already exists a CEC Member in charge of Agriculture, Livestock and Fisheries. The mover of this motion can make an amendment on this in the report. But Mr. Speaker I will not agree to any illegality. Thank you Mr. Speaker.

Speaker: Are you opposing or supporting the report by your contribution?

Hon. Kieru: Mr. Speaker I oppose the report.

Speaker: Thank you. Yes Hon. Ngotho.

Hon. Kamau Ngotho: Mr. Speaker sir I rise to support the report. I wish to laud the Governor for appointing a young man aged 31. Going by his papers, the young man can be a very good source of motivation to the young people. I noticed that he failed his forth form examinations

and went back to class again. Now he is doing a Masters degree. That is a sign of dedication. It shows that people need to work hard despite the outcome of something.

Having said that let me now go directly to this matter before us. Section 35 of the County Government Act clearly provides for the process of becoming a CEC Member. The first step is nomination by the Governor. If you consider the previous presidential system, once one was appointed to the position of a minister, they automatically became a minister. You know president Moi could reshuffle his cabinet at any time.

He would oust someone from office and bring another one at any time. But the law has changed. Upon nomination one does not automatically become a minister, or a County Secretary or a CEC Member for that matter. There is one more step upon nomination by the Governor and that is the approval for the appointment. That is done by this House. That is very important. On the other hand, how does one get out of office? There are various ways by which one can get out of office; by resigning, by being sacked or natural attrition passing on.

Madam Agatha is alive and she has not resigned because we have not seen any proof of her resignation. In addition, she has not been sacked. That is in line with the fact that this House approved Madam Agatha as the CEC Member in charge of Agriculture, Livestock and Fisheries. It does not require rocket science to know that Madam Agatha is the acting CEC Member for Agriculture, Livestock and Fisheries. Even an architect can see that.

(Laughter)

In this light, the House Business Committee was properly informed upon the foregoing.

Mr. Kanja portrayed himself as a wise and way above the rest – a star on his own – as was witnessed by those who attended his interview. I never attended the interview. I have never seen him but I heard of him first during the last political campaigns leading to the general election. Why sacrifice him? One of the reasons is that the docket of Agriculture, Livestock and Fisheries has a CEC Member. So nominating and approving him would be an irregularity. The other

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reason is on gender basis. The Constitution of Kenya 2010 is very clear. It provides that the County Assembly shall not approve where that threshold of affirmative action is not met. In fact, on the basis of cultural diversity the Constitution uses the words ‘*to the fullest extent possible ensure.*’ So there is an extent to which it cannot be possible. On affirmative action, it is crystal clear that we should ensure that there is gender balance.

The other thing is about the acting County Secretary. Why should there be an acting County Secretary if there is a permanent County Secretary in Nyandarua as one of the Hon. Members purports? Right now the office of the County Secretary is held by Dr. Irungu. How then can the Hon. Member stand on the floor of this House and purport that there is a permanent County Secretary yet there is an acting County Secretary? It means that there is an office that is vacant...

(Hon. Kieru rises on a point of information)

Speaker: Hon. Kamau Ngotho do you require the information by Hon. Kieru?

Hon. Kamau Ngotho: Yes.

Speaker: Proceed Hon. Kieru.

Hon. Kieru: Mr. Speaker, the said individual that is the CEC for Agriculture, Livestock and Fisheries has been appointed to the office of the County Secretary. Bearing that in mind, the nominated CEC for Agriculture, Livestock and Fisheries has not been approved by this House. Therefore the said individual that is the one who has been appointed to the office of the County Secretary should hold the office of the CEC Member for Agriculture, Livestock and Fisheries until this House approves a candidate to that docket. Thank you.

Speaker: Hon. Kamau Ngotho, is that information relevant?

Hon. Kamau Ngotho: Mr. Speaker that information is misleading. We have not been provided with any document proving that Madam Agatha is the acting CEC Member in charge of

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Agriculture, Livestock and Fisheries. Right now Madam Agatha is the CEC Member in charge of Agriculture, Livestock and Fisheries and we have Dr. Irungu as the acting County Secretary. That means that the office that is vacant right now is the office of the County Secretary because the person holding it is doing so on an acting capacity.

On the issue of a state officer, let me bring it out clearly that Article 35 (3) (d) of the County Government Act, 2012 is very clear and categorical that for one to be approved (not to be appointed) he/she must not be a state officer or a public officer. His Excellency the President appointed a state officer by the name of Nkaisery but before Nkaisery appears before the vetting Committee, he must have tendered his resignation because he is a state officer. Mr. Kanja and Mr. Thabanja submitted their resignation letters to the Governor which are attached to the report. Mr. Gathimba was working in a private firm. Similarly, when Madam Agatha was appointed to the office of the County Secretary, the first thing that she should have done is to render a letter of resignation as a CEC Member. There is no shortcut to this. Thank you Mr. Speaker.

Speaker: Thank you Hon. Kamau Ngotho. Yes Hon. Kariuki Muchiri.

Hon. Kariuki Muchiri: I rise to support this report Mr. Speaker. The House Business Committee did a wonderful job of vetting the three officers and coming up with recommendations.

I want to echo Hon. Kamau Ngotho's sentiments on Article 35 (2) (a) of the County Government Act, 2012 which provides that;

The County Assembly shall not approve nominations for the appointment to the Executive Committee that do not take into account not more than two thirds of either gender.

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This is very important and critical. We are aware that Madam Agatha was moved from the office of the CEC Member to that of the County Secretary. If the Committee would have approved the three officers, it would have breached the Constitution and the County Government Act.

(Hon. Kieru rises on a point of order)

Speaker: Proceed Hon. Kieru.

Hon. Kieru: Mr. Speaker Hon. Kariuki Muchiri is selective in what he is telling this House. That ‘the Assembly shall not approve nominations for the appointment to the Executive Committee that do not take into account not more than two thirds of either gender’ is one of the requirements. There are requirements (b) and (c) as provided by Article 35 (2) of the County Government Act 2012. The Article itself provides that;

The County Assembly shall not approve nominations for appointment to the Executive Committee that do not take into account—

- (a) not more than two thirds of either gender;
- (b) representation of the minorities, marginalised groups and communities; and
- (c) community and cultural diversity

Why should we apply one of the requirements and leave the others?

(Murmurs)

Speaker: Hon. Kieru, resume your seat. I understand that Hon. Kariuki Muchiri was in the process of quoting Article 35 (2) of the County Government Act. So you cannot say that he was selective. Proceed Hon. Kariuki Muchiri.

Hon. Kariuki Muchiri: Thank you Mr. Speaker. By the way I was not done with my contribution. Why would Hon. Kieru jump into a conclusion while I was not even half way through my contribution?

The question is, why should we pick Mr. Muchina and not Mr. Gathimba and Mr. Thabanja? But I agree with the report.

I have no issues with (b) and (c) of Article 35 (2) of the County Government Act. If any Member has any issue with the two they can articulate them on the floor of this House.

On page 31 of the report it is written that;

‘The Committee however disapproves of the nomination of **Mr. Frank Kanja Muchina** for appointment as the County Executive Committee Member for Agriculture, Livestock and Fisheries as it would be in breach of Article 179(3) Constitution which states;’

The number of Members appointed under clause (2) (b) shall not exceed—

(a) one-third of the number of Members of the County Assembly, if the Assembly has less than thirty Members; or

(b) Ten, if the Assembly has thirty or more Members.

Considering Mr. Kanja’s experience and expertise, I thought that the House Business Committee would have added a sentence saying that ‘this person is fit for any other office in the County’. It would have revealed the good CV of this person. By avoiding that, the report is not good enough. We do not want to lose this kind of a brain in this County.

Mr. Speaker if it is allowed I wish to move a motion of amendment on the part of the report that disapproves the nomination of Mr. Kanja that we insert a sentence to read; ‘Mr. Frank Kanja Muchina be considered for nomination to any other office in this County’. I wish to call Hon. Mwangi Gichuki to second.

Speaker: Hon. Mwangi Gichuki.

Hon. Mwangi Gichuki: I wish to second the amendment bearing in mind that it is necessary. I must admit that it must have been an omission by the Committee. We have indicated how qualified Mr. Frank Kanja Muchina is. It is only fair to make the amendment in the report. I therefore second the amendment as proposed.

(Question on the amendment proposed)

Speaker: Yes Hon. Kirumba:

Hon. Kirumba: I support the amendment. That amendment should have been in the report right from the word go. But as a Committee we were concerned that putting that recommendation in the amendment would

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pre-empt what Members would observe. I believe Members voiced that concern in their contributions. It is important to appreciate the feelings and inputs of the Members so that when the report is forwarded to the Executive, they will take notice of what we have recommended; that the said person is exemplary and would have been the best County Secretary. The amendment should be included as part of the recommendations before the report is forwarded to the Executive for action. I support the amendment. Thank you Mr. Speaker.

Speaker: Thank you Hon. Kirumba. Yes Hon. Kieru.

Hon. Kieru: That is a very good amendment. I support it fully. But what is the procedure of moving an amendment to a motion? Thank you Mr. Speaker?

Speaker: Standing Order no. 53 (1) is very clear. It states that;

Unless otherwise provided in these Standing Orders, any amendment to a Motion which a Member wishes to propose in accordance with these Standing Orders may be moved and, if necessary seconded at any time after the question upon the Motion has been proposed and before it has been put.

For your information Hon. Kieru, we are amending the report and not the motion.

(Question on the amendment put and agreed to)

Yes Hon. Dorcas Kihara.

Hon. Dorcas Kihara: I rise to support this report with the amendment. Many Members have contributed on the motion. The House Business Committee went through many challenges in coming up with the report. I thank the Members for helping the Committee solve some of the challenges, especially on Mr. Kanja. That is why I support the report.

We will go on record as a County for having a CEC Member who is youthful and very energetic. The Committee honoured the Constitution. When we were being sworn in we said that we were going to defend the Constitution. The procedures which the Committee followed in vetting and preparing the report were constitutional.

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The nominee to the position of CEC Member for Lands, Housing and Physical Planning has extensive knowledge on the history of land in this County. He will be of great help in solving land issues in this County. With those remarks I support.

Speaker: Yes Hon. Mumba.

Hon. Mumba: Thank you Mr. Speaker. I rise to support the report. I congratulate the House Business Committee for the work they have done. They upheld transparency and integrity.

I however want to raise some issues in this report. All the nominees have met the requirements; they had all the documents required. If you go through the documents you will realise that the nominees have the capability to work in the relevant offices. Mr. Peter Gitau Thabanja's documents are very satisfying. He is qualified to handle the docket of Land, Housing and Physical Planning. Even God paved the way for him by giving him a position in the Task Force. That created a path for him to become the CEC Member in charge of Lands, Housing and Physical Planning.

If you go through the documents of the second nominee, Mr. Frank, you can see that he is qualified and it is unfortunate that the office for which he has been nominated is held by somebody else. We should request the County government to consider him in another position...

(Hon. Kirumba rises on a point of order)

Speaker: What is it Hon. Kirumba?

Hon. Kirumba: Mr. Speaker I think some Hon. Members are taking the proceedings of this House casually. I can see an Hon. Member walking in without a tie and comfortably sitting. Thank you Mr. Speaker

(Laughter)

(Hon. Kamoche rising on a point of order)

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Speaker: Hon. Kamoche.

Hon. Kamoche: Mr. Speaker, is it that we are not getting the order of the House?

Speaker: Hon. Kirumba has failed to substantiate his allegations and I therefore call upon Hon. Mumba to proceed.

Hon. Mumba: Thank you Mr. Speaker. I was just saying that we should adopt the report as it is. I support it.

Speaker: Yes Hon. Josphat Kamau.

Hon. Josphat Kamau: Thank you Mr. Speaker, I rise to support the document. However, I have a concern. This House has unanimously agreed that Frank Kanja was the best nominee of all those vetted by this Committee, please Mr. Speaker protect me from Hon. Ngotho, he is making a lot of noise. However, he is the only one who was dropped by the Committee.

The same Committee has recommended that he be appointed for another office within the County. What we should understand as a House is that we do not have the powers to recommend appointees. If the name of Francis Kanja never finds its way into this Assembly for approval, we shall have lost some of the best brains we have in this County. I would recommend that if the seat of County Secretary will be filled competitively, let the name of Kanja appear and the Assembly to consider; I am not saying that he must become the County Secretary but he should be considered. I call upon the over to respond.

Speaker: The mover, Hon. Gichuki.

Hon. Gichuki: Thank you Mr. Speaker, I take this opportunity to thank the Members. There is no much emphasis that we can put on this. We acknowledge the work done by the Committee and note the few issues that have been raised. Probably for the benefit of the Executive...

(A mobile phone rings loudly)

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Mr. Speaker, it is good to have some music around... and it did not come from Hon. Patricia.

The only error that has occurred was during the communication from the office of the Governor. May be, as an Assembly we can advise the Governor on the need to create an office of a legal advisor as soon as possible. When the CEC member for Agriculture was moved, there ought to have been clear indication on whether the office is being held in acting capacity or otherwise. That silence is the one that has given us that major problem. I appreciate every Member and I beg to move.

(Hon. Kieru rises on a point of order)

Hon. Kieru: Mr. Speaker, he has not addressed the issue I raised.

Speaker: The mover has moved.

(Loud consultations)

Order Members! Hon. Kieru the Speaker is on the floor!

(Question on the adoption of the motion put and agreed to.)

Next order.

Clerk: Mr. Speaker sir there is another motion by Hon. Gichuki

Speaker: Hon. Gichuki

Hon. Gichuki: Thank you Mr. Speaker. I beg to move a motion under article 28 of the Standing Orders that this House does adjourn its sittings until the 10th day of February 2015 at 2.30 pm. Mr. Speaker I need to clarify that there is need for adjournment since it is provided for. As an Assembly there is a calendar we adopted, that is the calendar for the senate and it is the one that dictates the day of sitting which is the first Tuesday of February.

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Actually Mr. Speaker, there are a lot of festivities and we need to visit the sick, the orphans and the other disadvantaged Members of our society and we need this time. We need to meet with the electorates. This is made necessary by the calendar that we adopted. I wish to call Hon. Kirumba to second.

Speaker: Hon. Kirumba

Hon. Kirumba: Thank you Mr. Speaker. I rise to second the motion of adjournment. It is in line with the requirement of the calendars that we have. This recess comes at a time when the Hon. Members need to join their families after a very busy schedule and it is fair that they have some rest and interact with the electorates. There is also information that some of the Members will be ‘tying knots’ and they will have that time Mr. Speaker.

I second that motion of adjournment as proposed.

(Loud consultations)

Speaker: Hon. Members, we need to adhere to the Standing Orders. When the speaker is on the floor no one is supposed to speak.

(Question on the motion on recess proposed)

Hon. Kamoche: Thank you Mr. Speaker. I agree that the motion is legally on the floor of the House and I support it with an amendment...

Speaker: Hon. Kamoche you have said that you are supporting the motion with an amendment right?

(Loud consultation and laughter)

Hon. Kamoche: Mr. Speaker, protect me from some Members who are asking me questions...

Speaker: The question is from the chair. Are you supporting the motion with an amendment?

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Hon. Kamoche: Yes Mr. Speaker, I am supporting the motion with an amendment.

Speaker: Hon. Kamoche, I would like to refer you to Standing Order 28 (3) I would like you sit and read Standing Order 28 (3).

(Hon. Ngotho rises on a point of information)

Speaker: Proceed Hon. Ngotho.

Hon. Ngotho: Mr Speaker he is allowed by the Standing Orders

28 (4) Despite paragraph (2) the Assembly may, by resolution, alter its Calendar or the adjournment date.

I know that part three talks about the majority party and the Minority Party Leader. The first one is about determination by the House Business Committee. Number four has given power to the House in case the leader of majority party or minority party is influenced. I know that the spirit that informed the House Business Committee is 27 (1) but we need to ask ourselves whether this House can really adjourn for two months with the knowledge that we have 8 to nine bills that are waiting. Do we have the luxury, like the National Assembly that has structures and everything, to adjourn until the second Tuesday of February?

(Hon. Gichuki rises)

Speaker: What is it Hon. Gichuki?

Hon. Gichuki: I think it is a point of order.

Speaker: But Hon. Ngotho is on a point of information to Hon. Kamoche.

Hon. Gichuki: May be Mr. Speaker the only information that...

(Hon. Kamoche rises on a point of order)

Speaker: Hon. Gichuki is on a point of order.

Hon. Kamoche: Mr. Speaker can someone raise a point of order when the information is not clarified? Who is out of order? That is unprocedural.

Hon. Gichuki: Mr. Speaker the reason why I rose...

Speaker: Hon. Gichuki resume your sit. Procedurally there was no one that was out of order. Let us now allow Hon. Kamoche to proceed and there will be no problem if a Member rises on a point of order later. Proceed Hon. Kamoche.

Hon. Kamoche: I support the motion with an amendment. Even if there is a calendar or the County government act, there is nothing that...

Speaker: Hon. Kamoche I want to refer you back to the Standing Order I told you, 28 (3). You are supposed to restrain your argument to Standing Order 28 (3)

(Hon. Ngotho rises on a point of information)

Speaker: Do you need any information Hon. Kamoche?

Hon. Kamoche: Yes.

(The Speaker consults with the clerk-at-the-table)

(Hon. Gichuki rises on a point of order citing gross misconduct)

Hon. Ngotho: How can standing be gross misconduct? My face must be very bad...

(The Speaker consults with the clerk-at-the-table)

(Loud consultations)

(Hon. Ngotho resumes his seat)

Hon. Ngotho: I was on the floor.

Speaker: You were giving information to Hon. Kamoche right?

Hon. Ngotho: Yes. I was telling him that he has the power to change the date proposed by the Majority Party Leader to another date under Standing Order 28 (4). 28 (3) does not give him any power, but according to Standing Order 28 (4), he can move an amendment to the date given by Hon. Gichuki.

Speaker: Okay but let's go back to Standing Order 28 (4).

It reads:

28 (4) Despite paragraph (2) the Assembly may, by resolution, alter its Calendar or the adjournment date.

If the Member rises on that Standing Order, the motion we have here is under 28 which clearly states the time that the House should be adjourned. It reads:

...the House Business Committee shall move a Motion of adjournment which shall be debated for not more than three hours after which the Assembly shall adjourn without question being put.

If the Member rises to move an amendment, it may not be allowed at this time. The Member could have done that earlier. Let us go back to Standing Order 23...

(Hon. Kamoche rises)

Resume you seat Hon. Kamoche, the Speaker is saying something.

54. (1) The proposer of an amendment to a Motion shall, before moving it, hand the proposed amendments in writing, signed by the proposer, to the Clerk at least two hours before the order is read.

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(2) Despite paragraph (1), the Speaker may, in exceptional circumstances, allow a Member to move an amendment to a Motion before the House at any time during consideration of that Motion.

Has Hon. Kamoche given the reason for the amendment to this House? Is the Speaker really convinced that there is need for the amendment of the motion? Hon. Kamoche should proceed and now convince the chair that there is need for that amendment.

(Hon. Gichuki rises)

Speaker: Yes Hon. Gichuki

Hon. Gichuki: Mr. Speaker we are debating on this and we need to come to a consensus. The Members should agree on the dates they find best. However the procedure is the issue here. I am advised by the clerk that the motion to change the date should be an independent motion.

I tend to agree with Hon. Ngotho and Hon. Kamoche. Once we move this motion of adjournment and the Member do not agree to it...

(Loud consultations)

Speaker: Order Members

Hon. Gichuki: I have also noted that there will be some other engagements for the Members during that recess period. For example I can confirm that between 11th and 16th January there will be some training for the Members. If we change the dates then it can only be after 16th January

(The Speaker consults with the clerk- at-the-table)

Speaker: Members, after a long and healthy consultation with the clerk, we have come to a conclusion that if a Member rises to amend this motion, as provided in Standing Order 28 (4), the alteration of the calendar is allowed but not for the adjournment. The Member should rise in support of the motion while moving the amendment.

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We also have the office of the clerk and there are some activities that are going to be done during recess, we can suspend the House for 10 minutes so that we can consult with the clerk, the board and the Members. Hon. Thuita

Hon. Thuita: I think the bone of contention here is not the adjournment or the number of days. The issue is that the mover of the motion has not explained why we are breaking for all those number of days. If we can highlight the activities to be carried out during that time, we can decide whether those days are enough. It is important that the mover highlights the activities that will take place during the recess.

Speaker: I think he has done that. Hon. Kamoche.

Hon. Kamoche: Mr. Speaker, I still support this motion but with an amendment. Standing Orders and article 185 of the constitution allows the Assembly to alter the resumption dates. I propose that we adjourn the sittings to 20th January 2015 and call upon Hon. Kieru to second.

Speaker: Hon. Kieru before you second this motion, if only you could heed to what I said earlier we can suspend this House... *(To Hon. Gichuki)* you have some information to give?

Hon. Kamoche: I do not require any information Mr. Speaker.

Speaker: Hon. Kamoche the information could be important.

Hon. Gichuki: Mr. Speaker the House is aware that there are two critical documents that were tabled here. There is one that explains the workings of auditors that was done for the purpose of PIC/PAC. The other one was from the controller of budget on how to check budgets and interrogate them. As the House Business Committee we agreed that these documents need to be discussed and Members need to be trained on them. We found that the only time that we could be able to do this was during recess.

The board looked into the matter and it is facilitating the following. Between 14th and 19th January 2015 all the Members will be required to be in Nairobi for the training on one of the

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books. The other one will be between 11th and 16th in Nairobi (KSMS) and it will be for the other book. There is another activity that will be taking place immediately after recess, that is tomorrow and the Member who understands it better can explain that and with the leave of the Speaker he can do that.

Speaker: Hon. Ngotho.

Hon. Ngotho: Thank you Mr. Speaker. There is an event, End of Year Performance Review Workshop for the County Assembly. Today is the travelling day. Therefore you will be required to be at Crayfish, those who do not know Crayfish; it is at the lakeside of Lake Naivasha, at 8.30 am. We are in teams and you will be required to have a t-shirt; Ol-bolosat- white t-shirt, happy valley-blue t-shirt, Aberdare-green t-shirt and Mau-Caves- black t-shirt. It will be your t-shirt.

(Some members loudly disapprove)

Hon. Ngotho: It is very unfortunate for some Members like Hon. Kagwe when they say no to buying a t-shirt that costs about 100 shillings but he can afford to give over 50,000 shilling to electorates every day. The reason why we said that is because we only have two sets of uniform, white one for the staff and maroon for the Members.

The Members and the staff could be in one team and it is not possible to have both white and maroon uniforms in one team. We have selected the best colours so that you can use it as your Sunday best. The programme will be photo copied so that every Member will have it. The climax will be at 8.00 pm. After the awards, we shall have dinner and refreshments and then we shall have a dance at the Discotheque and everyone can show case their moves. The Members of the Assembly and the staff will be there but as for spouses, it was never discussed.

On 13th and 14th, the football teams shall be at Ndunyu-Njeru where we shall be meeting teams from Nyeri County and Veterans from Kinangop and another team from the same place. From today people are engaged and the Assembly will facilitate the activities.

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Speaker: Hon. Members, the necessary information has been given. Can we have the motion seconded? Hon. Kieru can proceed.

Hon. Kieru: Thank you Mr. Speaker. I rise to second the amendment motion that sought to amend the dates from 10th February to 20th January 2015.

(Hon. Ngotho crosses the floor of the House without bowing to the mace)

Look at this gentleman!

Speaker: Hon. Ngotho is moving from one side to the other without bowing to the mace!

Hon. Kieru: Mr. Speaker we cannot go for very many days because we have an Executive that requires to be watched closely. We know how it has been operating. There is bursary disbursement and although we can do this while still in recess, I would wish that we would all be here as it is done. Going for recess for close to 40 days is okay. The training will be coming to an end on 16th and it will be possible to come back that Tuesday. I second the motion.

(Question on the motion on the amendment on the motion of adjournment proposed)

Speaker: Hon. Gachari.

Hon. Gachari: I support that we go for recess so that we can come back with fresh minds. We need to rest after a long period of working. I call the mover of the motion to respond.

(Question on the motion on the amendment of the adjournment put and agreed to)

Speaker: Members you can continue deliberating towards that direction. Hon. Gichuki

Hon. Gichuki: Mr. Speaker, having seen that my motion has been accepted, I thank the Members for their deliberations. I am happy and I would like to see them after recess.

Speaker: Next order.

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Clerk: The order paper is exhausted.

(House adjourns to 20th January 2015 at 2.30 p.m.)