

KITUI COUNTY ASSEMBLY

FIRST COUNTY ASSEMBLY- THIRD SESSION

OFFICIAL REPORT
(HANSARD REPORT)

Wednesday, 17th June, 2015

The County Assembly met at 9.32 a.m.

(The Speaker (Hon. Ndotto) in the Chair)

PRAYERS

MOTION

1) **ADOPTION OF THE REPORT OF THE COMMITTEE ON APPOINTMENTS ON CONSIDERATION AND VETTING OF MEMBERS OF THE KITUI COUNTY LAND MANAGEMENT BOARD**

The Speaker (Hon George Ndotto): Hon Kasinga

Hon Titus Kasinga (The Member for Muumoni ward): Thank you Mr Speaker Sir. I wish to move the following Motion on Adoption of the report of the Committee on Appointments on Consideration and Vetting of Members of the Kitui County Land Management Board:-

THAT, pursuant to the provisions of section 8(1) (a) of the County Government Act and Standing Order No. 185(4), this Assembly adopts the Report of the Committee on Appointments on Consideration and Vetting of Members of the Kitui County Land Management Board.

Mr Speaker Sir, this is the report on the vetting of Members of the Kitui County Land Management Board, and it was an appeal by his Excellency the Governor of Kitui on the previous list which was presented to this Assembly and rejected by the House on 2nd of December, 2014.

Mr. Speaker Sir, on behalf of the Members of the Committee on Appointments and Pursuant to Provisions of Standing Order No. 185, I take this opportunity to present to the Assembly the report and recommendations on the appointments of the Land Management Board following the Governor's appeal to re-consider our earlier decision.

Mr Speaker sir, the Committee derives its mandate from Standing Order No. 185 which states that:-

“There shall be a Select Committee to be designated the Committee on appointments to be appointed by the County Assembly consisting of the Speaker as the Chairperson, Leader of Majority Party, the Leader of Minority Party and not more than three other members nominated by the County Assembly Business Committee on the basis of Proportional Party Membership in the County Assembly, taking into consideration the numerical strength of the parties and interests of independent Members”.

Mr. Speaker Sir, as the name of the Committee suggests, the mandate of this Committee is to solely vet Appointments by the Executive before approval of the same by the Assembly.

Composition of the committee

The committee is comprised of the following members;

Hon. George M. Ndotto-	Chairperson
Hon. Jacob M. Kilonzi-	Vice Chairperson
Hon. Alex Nganga-	Member
Hon. Titus Kasinga-	Member
Hon. Francis Mwalili-	Member
Hon. Jane Mutua-	Member

Mr. Speaker Sir, the matter that was being considered was vetting of the selected members of the Kitui County Land Management Board. Following the appeal by His Excellency the Governor to reconsider the case of the four (4) nominees who were among the eight (8) initially selected and whose names were forwarded to the Assembly but there were no grounds to reject them. Thus upon receiving the appeal, the Committee held a total of three (3) sittings on 13th May, 2015, 4th June, 2015 and 9th June, 2015 whereby serious deliberations and consultations were done.

Legal Frame Work:

Mr. Speaker Sir, The National Land Commission Act No.5 of 2012 Section 18 provides as follows on the establishment and composition Of County Land Management Boards:-

- (1) The Commission shall, in consultation and cooperation with the National and County Governments, establish County Land Management Boards for purposes of managing Public Land.
- (2) A County Land Management Board shall comprise:-
 - a. ***Not less than three and not more than seven Members appointed by the commission and,***
 - b. ***A Physical Planner or a Surveyor who shall be nominated by the County Executive Member and appointed by the Governor.***
- (3) A Member of the Board, unless ex-officio shall be appointed for a single term of five years and shall not be eligible for re-appointment.
- (4) The Chairperson of the Board shall be elected by the Members in their first sitting.
- (5) The Secretary to the Board shall be appointed by the commission.
- (6) The appointment of the members shall be approved by the County Assembly and shall take into account the national values referred to in Article 10 and Article 232 of the Constitution and shall reflect gender equity and ethnic diversity within that County.
- (7) The Chairperson, members and the Secretary of the Board shall, before assuming office, make and subscribe, before a Judge to the Oath or affirmation set out in the third schedule.
- (8) In the discharge of their functions, the Board shall comply with the regulations made by the Commission under this Act.

Criteria for Vetting:

The Committee applied the criteria of vetting provided by the Public Appointment (Parliamentary Approval) Act. Section 3 of the Public Appointments (Parliamentary Approval) Act No. 33 of 2011 states that: ***“An appointment under the constitution or any other Law for which the approval of Parliament is required shall not be made unless the appointment is approved or deemed to have been approved by Parliament in accordance with this Act”*** In this regard Mr. Speaker sir, approval is done by the Assembly.

RECOMMENDATIONS OF THE COMMITTEE ON THE NOMINEES:**1. Pamela Mathanga Kimwele**

This nominee had been recommended by the Committee in an earlier vetting held on between 27th and 28th of October, 2014. She hails from Matinyani and her academic and professional certificates were verified by the Committee.

2. Reuben Ngui

This nominee was not vetted again since he had been vetted between 27th and 28th October 2014 and recommended by the Committee to the Assembly for approval. He hails from Mwingi Central.

3. Jennifer Mwangangi

This nominee was vetted by the Committee on 13th May, 2015. Her academic and professional certificates were verified by the Committee after which they recommended her appointment. The Committee found her legally and academically qualified. She hails from Kitui South

4. Jane Mwendu Kibati

This nominee is academically and legally qualified. The Committee thus recommends her appointment. She hails from Kitui Rural.

5. Francis Kiminza

This nominee was vetted and found to be academically and legally qualified. His academic and professional certificates were verified by the Committee. The Committee do therefore recommend his appointment. He hails from Kitui Central.

Conclusion:

Mr. Speaker Sir, it is important to note that three more slots for the Board remain vacant as no names were forwarded in the Governor's Appeal. It is therefore this Committee's recommendation that the same be reserved for Mwingi North, Mwingi west and Kitui East Sub Counties to complete the regional balance equation. The National Land Commission should therefore fast track appointments for the same.

It is Mr Speaker the prayer of this Committee that this Assembly approves the above nominees to be Members of the Kitui County Land Management Board in line with Section 18 Subsection 6 of the National Land Commission (Act No. 5 of 2012).

Appreciation:

The Committee wishes to record its appreciation for the support offered by the offices of the Speaker and Clerk of the County Assembly in preparation of this report.

Now on behalf of the whole Committee I now wish to table the report and request the House to adopt it and the recommendations, there in.

Mr. Speaker, it is in everyone's memory that on 2nd of December, 2014 we presented to this Assembly six names of the Governor's nominees to the Board for Approval but the list was democratically rejected by the Members. The office of the Speaker did advice the Governor accordingly and on 31st the Governor resubmitted the five names out of the seven but one was left out which is that of the surveyor namely Mr. Francis Kiminza for at least.....to enable the Board begin its work. Those names are among the ones I have read here namely Pamela Mathanga Kimwele, Reuben Ngui, Jennifer Mwangangi, Janet Mwendu Kibati and Francis Kiminza. There are three more names remaining which will be forwarded to the Assembly as I have already indicated in the report. There was a contention that Francis Kiminza was not supposed to be vetted by the Appointments Committee being an appointee of the Governor, but Mr Speaker I take this opportunity to appreciate your efforts in resolving the issue and also Francis Kiminza for availing himself for vetting by the committee. Indeed, as we have said, we were satisfied that he is qualified for the job and for avoidance of doubt by the Members, he (Mr. Francis Kiminza) is not the one who was once served as the MP for Kitui South. Initially, there were fears by some Members that this nominee is a politician who if endorsed will have an opportunity to get involved in land matters. I don't want to speak much about him but it appeared some Members of the Committee were not ready to accept him. However, we want to thank you (the Members of the Committee) and the person who appointed him (the Governor) and hope that he really will be of good use to the Board.

Mr. Speaker I don't want to waste much of our time. However, I just want to point out that the qualification papers of the vetted nominees are not attached to this report but the records which the committee verified are available. The Assembly administration is holding their academic certificates and information regarding their including and interested Members can have access to the information. The Committee checked everything regarding the nominees including their integrity and good conduct certificates. However that does not stop any Member of this Assembly from taking a divergent position on this matter. If you feel somebody has a criminal record, integrity issues and you have evidence on the same, you are much welcome to present it to the Committee or this House and it will be looked into. Otherwise Mr. Speaker, as the Appointment Committee, we all agreed on this matter. I know many of Members may not be aware of what is required of these nominees. Their duties and it is important to know that without this Board, Mr. Speaker, many of the pending land issues in our county will not be addressed at all. Actually, the county has been at a standstill regarding land transactions due to lack of the crucial Board

Mr. Speaker, allow me now to highlight the duties of these nominees so that the Members may know, as we start debating to approve or reject the list, what will befall us. The people of Kitui have property in form of land but they cannot transact any business genuinely because some records must be verified by the said Board. People who have not registered their land want to do so but it is only Board that will do all that work.

Mr. Speaker, now allow me to enumerate the duties of the Board and one of them is that;

- i. It will be processing transactions which will be approved by the National Land Commission
- ii. It will oversee allocation of public land, change of user, subdivision of public land, renewal and extension of leases.
- iii. Inspecting all the public land allotment for adherence to planning requirements.
- iv. Encouraging use of alternative and traditional dispute resolution mechanisms in land disputes.
- v. Perform any other duties that may be assigned to them by the Commission or any other written law.

Mr. Speaker, the Board will help in clearing the backlog of the prevailing land disputes. We have a lot of land disputes in Kitui. Instead of people going to courts and wasting a lot of time and resources there and may be some of the litigants do not even have money to hire lawyers, the Board will of great help. In addition, people are unable to carry out land transfers due to lack of the Board. Those challenges existed even when the councilors were there and now we are serving as the County Assembly. So things have not been working but the engine has already been started and we need to move Mr Speaker and it is the duty of this Assembly to approve these nominees so that we can start working. The appointment of the three remaining members of the Board must be done by the National Land Commission in consultation with the County Government of Kitui but the matter should of course be referred to this Assembly. This hopefully should be done within the shortest time possible so that we will be able to finalize with this report. With those remarks Mr Speaker, I want to request hon Jane Mutua, who is a Member of the Committee on Appointments to second the Motion.

(Hon Jane seconded the Motion by rising and bowing)

(Question proposed)

Hon. Speaker: The Motion was ably moved by hon Kasinga. I wonder whether there is anything to discuss because he has said what needed to be said. The matter is now for you to decide. Who wants to contribute on the Motion?

(Hon Katumbi stood up in his place)

The Speaker: Yes, hon. Katumbi.

Hon. Katumbi (the Member for Kyangthya East): Thank you Mr Speaker. I stand to support the report by the Committee on Appointments. I thank the Committee for doing a good job. Firstly Mr Speaker, I want to congratulate the Committee for observing gender balance as far as list of the five nominees is concerned. They have also tried in as far as selecting the representatives from the Sub counties is concerned. However, there is no sub-county called Matinyani as referred in the report. The Committee should have cited Kitui West instead.

I mainly support the report because Land Management Board is very important. We have so many pending land issues including ownership and transfers which had affected development in this county just as the mover of this report pointed out. If this Assembly approves the board, the affected residents will be relieved of the outstanding challenges. I am one of the victims of those problems because I unsuccessfully tried to change ownership of a plot I had bought earlier but I was informed that nothing can be done without the Land

Management Board. I therefore urge the hon Members to support adoption of the report so that we can benefit from operationalization of the Board. In addition Mr Speaker, there are so many land disputes in the county. We know the dangers posed by land disputes. People waste a lot of money hiring lawyers to defend them in land cases which are referred to courts. Those problems will be sorted out if this Assembly facilitates operationalization of the Board by endorsing the five nominees which will in turn enable People to invest their monies in other development projects instead of using the same to hire lawyers to represent them in court disputes. Mr Speaker, the County has lost a lot in terms of revenue collection because there have been no proceeds from land rates. If we pass this report, I think the county will benefit from increased revenue collection. With those few remarks Mr Speaker, I support the report. Thank you.

Hon Speaker: Very well. Who else wants to contribute?

(Hon Mbiti stood up in his place)

The Speaker: Hon Deputy Speaker (Hon Mbiti).

Hon. Mbiti (The Member for Nguutani ward): Thank you Mr Speaker for giving me the opportunity to contribute. I stand to support this Motion. This is one of my happiest days as a Member of this Assembly because, if you remember, I was one of those agitating for the approval of the list of nominees presented to this House previously. This is because the Board will address land issues.

Mr Speaker, I come from Nguutani ward which happens to be one of the areas affected by sensitive land matters. When I was campaigning, I was being told not to go back if I don't resolve the problems. I am very happy that the opportunity to find a lasting solution to the matter has opened up and I beg my hon colleagues to support adoption of the report. One of the businesses of the Land Management Board as the mover of this Motion has said is to address land issues which are of concern to members of the public and that will be helpful to me. There are boundary issues pitting Kitui, Tana River and Garissa counties and it is only the Board that will help in getting solution to such issues. Further, people have been travelling all the way to Nairobi to get certain services on land ownership/allocation and transfers but that will cease once the Board is established.

It is just the other day that the people of Wajir County started reaping the benefits of devolution and realised that they are part of Kenya. We read in the press yesterday that CORD leaders Raila Odinga and Kalonzo Musyoka were in Wajir the other day to assess the progress of devolution. I am saying so because the people of Wajir could hardly believe in having home-made solutions to their problems. So the Land Management Board will bring homemade solutions to land problems in our county. This is because we know the issues affecting us. Hence, I am requesting the House to approve the nominees so that we can move forward. With those few remarks, I say thank you Mr Speaker for giving me the opportunity to speak.

Hon Speaker: Right.

(Hon Kisee stood up in her place).

Hon Kisee (nominated): Thank you Mr Speaker Sir. I start by thanking the Committee for doing a good job in vetting the nominees who come Kitui County. I belong to Land Control Board for Mwingi West that handles land matters in the area. I know that local residents have been submitting many applications on land issues. Subdivision of land has been done in Mwingi West but effecting transfers has not been possible because that requires the consent of the County Land Management Board which has not been operational. Hence, I

am urging the hon. Members to approve this report so that the nominees can start sorting out the many pending land issues in the county. Some of us were not ready to approve the list of nominees presented to the House previously and there were reasons for that but now I am pleading with my colleagues to endorse the list to enable the Board to do its work. Thank you Mr Speaker Sir.

(Hon Mbivi rose to contribute)

The Speaker: Hon Mbivi

Hon. Mbivi (The Member for Mbitini ward): Thank you Mr Speaker. I have risen to support the recommendation. However, I seek some clarification. Regarding membership to the Board, the law states that there shall be not less than three members and not more than seven. Whereas the committee has in its conclusion stated that three more representatives to the Board should be recruited and not two. We have five already, then why is the Committee recommending recruitment of three more members and not two as specified by law? Thank you.

(Hon Mbiti stood up on a point of information)

Hon Speaker: Hon....Order! Order! Yes hon Mbiti, what is the information?

Hon. Mbiti: Mr Speaker I wanted to inform the Member that although he has already taken his seat, but if you allow me I will inform him.

Hon Speaker: Yes.

Hon. Mbiti: I wanted to inform him that the remaining Members of the Board should be three. There is one to be nominated by the executive and this House has no business with that.

Hon Speaker: Yeah, hon members the members of the board are seven, plus the surveyor. So we have three more. The members who should be appointed by the commissioner and approved by the assembly are seven and then the Governor is supposed to appoint the surveyor whom we have insisted we must also approve. Hon Mbiti (Jemimah) you wanted to say something.

Hon. Mbiti (Jemimah) (Specially elected): I stand to first say thank you for the nominees who have already been vetted by the Committee because I have a land problem which could not be resolved due to lack of the Board. However, my only worry is that persons with disability are not represented in the Board as required by the constitution which advocates for consideration of such people in public appointments. Hence, I would like to ask why? Is it that they did not apply or what? In case they apply and are qualified, then they should be given the two remaining slots. Thank you.

Hon Speaker: Some of the issues raised by hon Mbiti are beyond the powers of this House because it is not the appointing authority but the approving authority. In forwarding the names to the appointing authority, I want to assure you hon Mbiti we will point that one out.

(Question put and agreed to)

(Applause)

Hon Speaker: With that we come to the end of the session this morning, I want to adjourn the House so that we meet again at 2.30pm.

ADJOURNMENT

Hon Speaker: Hon members the House now stands adjourned until this afternoon at 2.30 p.m.

The County Assembly rose at 10.10 a.m.