

COUNTY GOVERNMENT OF NAIROBI CITY



NAIROBI CITY COUNTY ASSEMBLY
SECOND ASSEMBLY-FIRST SESSION

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REPORT

OF THE SELECT
COMMITTEE ON APPOINTMENTS
ON

THE VETTING OF THE NOMINEE FOR THE POSITION OF COUNTY
SECRETARY

*Approved to be tabled
Blairi
5/12/17*

TABLE OF CONTENTS

1.0	PREFACE.....	4
2.0	BACKGROUND.....	7
3.0	VETTING OF COUNTY SECRETARY NOMINEE	10
3.1	Appearance before the committee by Mr. Peter Kariuki	10
4.0	COMMITTEE'S OBSERVATIONS AND FINDINGS	17
6.0.	RECOMMENDATION	20

ANNEXES

ANNEXES

- (i) **Annexure (1)–Clearance Certificates**
 - 1) Kenya Revenue Authority
 - 2) Higher Education Loans Board
 - 3) Ethics and Anti-Corruption Commission
- (ii) **Annexure (2)**
 - Minutes
- (iii) **Annexure (3) – Curricula Vitae**
 - Mr. Peter Kariuki

1.0 PREFACE

1.1. Committee Mandate

Hon. Speaker,

The Select Committee on Appointments is established under Standing Order No. 196, and its mandate amongst others, as outlined under Standing Order 196 (4) includes “*to consider, for approval by the County Assembly, appointments under Articles 179(2) (Members of County Executive Committee).*”

1.2. Committee Membership

Hon. Speaker,

The Committee on Appointments was constituted by the Assembly on 4th October, 2017 comprising of the following Members:-

- 1) Hon. Beatrice Elachi, MCA - Speaker (Chairperson)
- 2) Hon. Abdi Ibrahim Hassan, MCA - Leader of the Majority party
- 3) Hon. Elias Otieno Okumu, MCA - Leader of the Minority party
- 4) Hon. Chege Mwaura, MCA
- 5) Hon. Millicent Wambui Mugadi, MCA
- 6) Hon. Peter Wanyoike, MCA
- 7) Hon. Peter M. Warutere, MCA
- 8) Hon. Emily Ondeje Oduor, MCA
- 9) Hon. Peter Imwatok, MCA
- 10) Hon. David Njilithia Mberia, MCA

1.3. Message from His Excellency the Governor

Hon. Speaker,

Pursuant to Section 44(2) (b) of the County Governments Act, 2012, **H.E. the Governor, Hon. Mbuvi Gideon Kioko Mike Sonko** vide a letter dated 7th November, 2017 forwarded to the Speaker of the Nairobi City County Assembly, the name of Mr. Peter Kariuki for vetting by the Select Committee on Appointments and consideration for approval by the County Assembly for appointment to the position of the County Secretary.

1.4 Committal to Committee on Appointments

Hon. Speaker,

Pursuant to Standing Order 43(1), the Honorable Speaker informed the Assembly on 9th November, 2017 that she had received the notification of the nomination. The notification of nomination was therefore referred to the Select Committee on Appointments on 9th November, 2017 for vetting and reporting to the Assembly within 21 sitting days in accordance with Section 9(1) of the Public Appointments (County Assemblies Approval) Act, 2017.

Subsequently, the Clerk of the County Assembly placed an advertisement in the in the local dailies, specifically the Standard Newspaper and the Daily Nation Newspaper on Friday 10th November, 2017, inviting the public to submit memoranda by way of written statements on oath (sworn affidavits) on the suitability or otherwise of the nominee in conformity with Section 7(10) of the Public Appointments (County Assemblies Approval) Act, 2017.

1.5 Committee Meetings

Hon. Speaker,

The nominee appeared before the Committee on Monday 27th November, 2017 and was vetted in accordance with the provisions of the Constitution, Public Appointments (County Assemblies Approval) Act, 2017, and the County Assembly Standing Orders on his suitability for appointment to the position of County Secretary. In total, the Committee held two Sittings to consider this matter.

1.6 Acknowledgement

Hon. Speaker,

May I take this opportunity to thank Members of the Committee for their input and valuable contributions during the deliberations and vetting exercise. The Committee also takes this opportunity to thank the Offices of the Speaker and of the Clerk of the County Assembly for the logistical support accorded to it during the vetting exercise. The Committee is grateful to the staff of the County

Assembly attached to the Committee for their services rendered to the Committee. Their efforts and input made the work of the Committee and the production of this Report possible. The Committee is also grateful to the media for their coverage of the proceedings of the Committee, thus enhancing accountability and transparency of the vetting exercise.

Finally, on behalf of the Select Committee on Appointments, it is my pleasure and duty to present to the Assembly, the Committee's Report on the vetting of Mr. Peter Kariuki nominee for appointment to the position of County Secretary to the Assembly for adoption pursuant to the Standing Orders of the County Assembly and other enabling provisions of the Law.

Thank you.

Signed 

Hon. Beatrice Elachi, MCA
(Chairperson)

Select Committee on Appointments

Dated this 29.....day of Nov.....2017

2.0 BACKGROUND

2.1. Establishment of the Select Committee on Appointments

The Select Committee on Appointments is one of the Select Committees established under Standing Order No. 196 with the mandate to consider, for approval by the County Assembly, appointments under Articles 179(2) of the Constitution and Section 35 of the County Governments Act, 2012. Pursuant to Section 44(2) (a) and (b) of the County Governments Act, 2012, H.E. the Governor, Hon. Mbuvi Gideon Kioko Mike Sonko nominated the nominee to be considered for by the County Assembly for appointment to the position of County Secretary.

Additionally, Section 10(1) of the Public Appointments (County Assemblies Approval) Act, 2017 (No. 5 of 2017) provides thus:-

“Where the nomination of a candidate is rejected by a County Assembly, the appointing authority may submit to the relevant County Assembly the name of another candidate, and the procedure for approval specified in this Act shall apply accordingly.”

2.2 Appointment process of the County Executive Committee Member Nominees

Section 44 of the County Governments Act, 2012, provides for the Governor’s power to appoint a County Secretary with the approval of the Assembly. The person so appointed is required to have been competitively sourced from persons who are university graduates with at least ten years experience in administration and management. In this regard, a letter from the Office of the Governor dated 7th November, 2017, addressed to the Speaker of the County Assembly indicated that pursuant to Section 44 (2) (a) and (b) of the County Governments Act, 2012, H.E. the Governor, Hon. Mbuvi Gideon Kioko Mike Sonko had nominated Mr. Peter Kariuki to be considered for approval by the County Assembly for appointment to the position of County Secretary.

V. With respect to the measures he will undertake in order to manage the hawker's (informal traders) menace-

The nominee stated as follows –

That he:

- a) Will facilitate conversations with the Micro and Small Enterprises Authority and the informal traders to come up solutions that will be acceptable to all the stakeholders.
- b) Will facilitate the capturing of data of all the hawkers within the city to enable the County Government put in place mechanisms/facilities such as markets that will enable the hawkers carry out their trade smoothly without interfering with the environment and the livelihoods of other residents.

VI. On what quick fixes he will institute in order to improve the living conditions for Nairobians-

The nominee stated as follows –

That he:

- a) Will seek to create order within the County and ensure services are provided in an efficient and effective manner.
- b) Will come up with a programme on how to deal with issues affecting Nairobians such that each year the County Government shall identify an area of impact and address conclusively the particular problem for instance roads maintenance. This he will achieve by partnering with Members of the County Assembly who shall lead in identifying priority areas to be addressed in each Ward.

VII. With respect to how he will address the huge legal fees incurred by the County Government :-

The nominee stated as follows –

That he:

- a) Is equally aware and appalled by the huge legal fees incurred by the previous administrations amounting to about Kshs 2.7 billion and thus

he will advocate for the streamlining of the Legal Department which shall include strengthening of its internal capacity so that legal issues can be handled internally hence reducing costs on legal fees.

- b) Will support the auditing of the existing legal fees incurred by the previous administrations with a view of preventing loss of public funds.
- c) Will ensure that procurement contracts are only executed if there are funds.
- d) Will institute processes to resolve matters through other channels outside the court system which is lengthy and expensive.

VIII. Regarding his integrity, net-worth and how he will handle pressure from family and friends who may seek favors from his office:-

The nominee stated as follows –

That he:

- a) Is worth Kshs 30 million as contained in the documents submitted to the Committee which demonstrates his integrity such that he is not out to fraudulently amass wealth despite holding influential positions in Government. In addition, he has been cleared by the Kenya Revenue Authority (KRA) and Ethics and Anti-Corruption Commission (EACC).
- b) Shall be a dedicated public servant upholding strict government procurement procedures and shall not be swayed by family or friends who may seek favors. In any case, he has never used his current position to favour friends or influence processes.

IX. Regarding the recruitment processes in the County and officers serving on an acting capacity:-

The nominee stated as follows –

That he:

- a) Believes that the current wage bill cannot allow the recruitment of additional staff without first conducting a staff realization exercise. He

will therefore be advising the County Public Service Board (CPSB) on the same.

- b) Does not support the concept of officers serving on an acting capacity, however, if there is need for the same, he will be advising the CPSB to either confirm the officers or not, based on the law.

4.0 COMMITTEE'S OBSERVATIONS AND FINDINGS

4.1 General Observations

The Committee having considered the nominee's filled Questionnaire pursuant to the Public Appointments (County Assemblies Approval) Act, 2017, his Curriculum Vitae and having heard his oral submissions during the vetting exercise made the following observations:

THAT: -

1. The nominee satisfy the requirements of Chapter Six of the Constitution of Kenya on leadership and integrity in that:-
 - a) The nominee has been cleared by the Ethics and Anti-Corruption Commission (EACC), Directorate of Criminal Investigations (DCI), Kenya Revenue Authority (KRA), Higher Education Loans Board (HELB) and the Credit Reference Bureau (CRB).
 - b) The nominee has not been charged in a Court of Law.
 - c) The nominee does not exhibit a potential conflict of interest.
2. The nominee meets the requirements of Section 44(2) (a) of the County Governments Act, 2012 since he:-
 - a) Holds a degree and a postgraduate Diploma in Law.
 - b) He has over ten (10) years relevant working experience in administration and management having worked both in the civil society and the public service.
 - c) He was competitively sourced from among persons interviewed by the County Public Service Board.

Therefore, the Committee found the nominee suitable for appointment to the position of County Secretary having met both the Constitutional and the statutory requirements. A summary of the Committee's specific observations on the nominee are highlighted below:-

- a) He holds a Bachelor of Laws (LLB) Degree from Nagpur University, India and also a Diploma in Law from the Kenya School of Law.

- b) He is an advocate of the High Court of Kenya with an experience in human rights advocacy and public policy work.
- c) He is currently a Governance advisor at the Office of the President.
- d) He attended other professional courses at various institutions, as well as seminars and workshops. The professional courses include; Applied Budgeting from Institute for Democracy in South Africa (IDASA), International legislative Drafting from Tulane University, New Orleans.
- e) He is a member of the following professional associations;
 - (i) Law Society of Kenya (LSK); and
 - (ii) The International Commission of Jurists (Kenya Chapter).
- f) He previously worked as the Executive Director, Socio-Economic Rights Foundation between 2005 and 2012, Basic Rights Campaign National Coordinator from 2002 to 2005, a Programme Assistant at the Public Law Institute between 1998 and 2001, and a Litigating Counsel at Ombaka & Associates from 1998 to 2001.
- g) He has also worked as a professional consultant with the following bodies amongst others:-
 - (i) September 2012 – Unicef, Legal consultant and drafter of Breast Milk Substitutes(Regulation and Control) Bill 2012;
 - (ii) April 2012 – Inter Parliamentary Union, Rapid Review of Legal Framework on Maternal, New born and Child Health in Kenya;
 - (iii) April 2012 – Pharmaceutical Society of Kenya, Review of pharmaceutical sector and development of a new regulatory framework;
 - (iv) May 2011- Ministry of Planning, National development and Vision 2030/UNICEF, Consultant on Revision of Social Budgeting Guidelines;
 - (v) April 2011- Ministry of Finance, Member of Technical Working Committee on Social Development.

- h) He has never been charged in a Court of Law, has no potential conflict of interest, and has fully complied with his tax obligation and other relevant clearances from state agencies as required.
- i) He has never been dismissed from office for contravention of the provisions of Article 75 of the Constitution which deals with conduct of state officers that are adversely mentioned in any investigatory report of Parliament or any Commission of Inquiry.
- j) The Committee found the nominee suitable and qualified for appointment to the position of County Secretary.**

6.0. RECOMMENDATION

Pursuant to Section 44(2) (b) of the County Governments Act, 2012 and Section 9 of the Public Appointments (County Assemblies Approval) Act, 2017, the Committee recommends:-

THAT, this Assembly approves Mr. Peter Kariuki for appointment by H.E. the Governor to the position of County Secretary.