



## NAIROBI CITY COUNTY ASSEMBLY

### OFFICIAL REPORT

#### Second County Assembly – Fourth Session

Thursday 23<sup>rd</sup> July 2020

The House met at 2.30 p.m.

*[Hon. Speaker (Ms. Beatrice Elachi) in the Chair]*

PRAYER

#### COMMUNICATION FROM THE CHAIR

##### GUIDANCE ON BUSINESS BEFORE THE ASSEMBLY

**Hon. Speaker:** Hon. Members, remember that I said that this is a virtual meeting but I have agreed that there are some members and for only those who are within the precincts of this assembly they will be walking in quietly. We have a quorum to start this meeting and therefore I will read my communication and going forward a virtual meeting is a virtual meeting; this should be the last one.

Hon. Members this is a communication and for those who are on virtual: guidance on business before the assembly. As you can recall, during our last sitting, I directed that in order to adhere to the government guidelines on containment of Covid-19, we shall be holding our sittings virtually. Indeed, today we are running a test of the virtual system by combining both virtual and restricted physical siting.

However, Hon. Members, we shall go full virtual beginning next week Tuesday, 28th July, 2020 at 9.30 a.m. I will allow members in and those who are outside because we have others on virtual; kindly adhere because the noise will be too much for them. Can you kindly take your seats?

*(Members took their seats)*

Sergeant-at-Arms, the rest can wait until I finish my communication. Hon. Members we are on virtual, the rest of the members can join us on virtual. HANSARD, you mute everyone as we read this communication.

Hon. Members, without appearing to pre-empt debate on the business of today's sitting, I am compelled to guide the Assembly on the business appearing as Order No. 8 in the Supplementary Order Paper. This business has been scheduled by the Assembly Business Committee in today's meeting.

Hon. Members, following the advent of devolution under the Constitution of Kenya (2010), the Transition Authority seconded to County Governments Interim Officers from the National Government to

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guide/aide the transition process. Interim Clerks of County Assemblies were among officers seconded to serve during the transition period. The Transition period lapsed after three (3) years.

Upon conclusion of the transition period, officers seconded had an option to revert to their previous work stations or compete for positions in the devolved units. While the law was explicit on the procedure of appointment or assuming the position of the Clerk, Mr. Jacob Ngwele circumvented the law and assumed the Office of the Clerk in the year 2017.

Hon. Members, the County Assembly in full exercise of its oversight mandate on County Government entities (which includes the County Assembly Service Board), conducted an in-depth inquiry on the employment of Mr. Ngwele as the Clerk of the Assembly. The Officer and Members of the defunct Board were given an opportunity to appear before a Committee established to inquire into this matter but declined to appear before it. The Committee's report brought to fore the irregularities committed in confirming Mr. Ngwele as the Clerk of the Assembly.

Consequently, on 14th November, 2019, the Assembly revoked his employment and resolved that the same be regularized. The Officer was properly informed of the decision of the Assembly. Consequently, Hon. Members, a Member of the County Assembly having realized that the Service Board had not regularized the employment of the Clerk as resolved by the County Assembly, sued the Board under Employment and Labour Relations Petition No. 71 of 2020 demanding that the Board regularizes the employment of the Clerk as provided for in Section 13 of the County Governments Act, 2012 and Section 18 of the County Assembly Services Act, 2017.

Accordingly, in order to avoid a long litigation process, the Board being aware of the facts regarding this matter, resolved to consent with the petitioner and agreed to regularize the employment of the Clerk within 45 days as decreed. Hon. Members, in compliance with this decree of the Court, the advertisement for the position of the Clerk was published in the Star, the Daily Nation and the Standard newspapers on 29th June 2020. Mr. Jacob Ngwele was given an opportunity to compete for the position. The deadline for submission of applications was 13th July 2020 at 5:00 pm.

By the close of the deadline, a total number of 18 applications were received and recorded. However, one applicant submitted a double application therefore the actual applicants were 17. Hon. Members, based on a criteria set in the advert, the shortlisting committee shortlisted a total of eleven (11) eligible candidates. Consequently, the following candidates were shortlisted: -

S/No.	Name	Gender	County
1	Sammy Kiptoo Kiplimo	Male	Male Elgeyo Marakwet
2	Arnold Jefwa Nkare	Male	Kilifi
3	Ibrahim Ali Leruk	Male	Marsabit
4	Edward Gichana Ombwori	Male	Kisii
5	James Kinyanjui Njenga	Male	Unknown
6	Mbugua Kbiro Chispine	Male	Trans Nzoia
7	Ngigi David Gitau	Male	Nakuru
8	Abel Nyagwa Apiyo	Male	Migori
9	Evans Makori Ombongi	Male	Unknown

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10	Joseph Lemarkat	Male	Samburu
11	Gad Otieno Awuonda	Male	Migori

The Service Board constituted an interview panel on 16th July 2020 comprising two (2) Members of the Board, two officers from the public service, one council member from the Institute of Human Resource Management (IHRM), one consultant on legislative matters and one officer from Scan Group to enhance the independence of the panel and provide technical support. The interviews were conducted at Windsor Golf Hotel & Country Club, Kiambu County on 18th and 19th July 2020. The Leader of the Majority and the Leader of the Minority observed the process.

Hon. Members, following the interviews, the candidates scored as follows: -

S/No.	Name	Score
1	Edward Gichana Ombwori	79.13
2	Gad Otieno Awuonda	69.63
3	Sammy Kiplimo Kiptoo	66.00
4	Ngigi David Gitau	60.25
5	Mbugua Kabiro Chrispine	60.00
6	Evans Makori Ombongi	56.13
7	Joseph Lemarka	54.25
8	Ibrahim Ali Leruk	50.75
9	Arnold Jefwa Mkare	Did not attend interview
10	James Kinyanjui Njenga	Did not attend interview
11	Abel Nyagwa Apiyo	Did not attend interview

In that regard, Hon. Members, the report before you is the report of the Board after the interview and the candidate who ranked first is automatically the candidate who has been forwarded for approval by the Assembly pursuant to Section 13 of the County Governments Act, 2012. I want also to reiterate that after the report has been forwarded to the Assembly Business Committee, it becomes the business of the House and as such, the Majority Whip shall be tabling and moving the report. Indeed, this was a practice adopted during the approval of the Clerk of the National Assembly Mr. Michael Sialai on 25th January, 2017. You are so guided! Thank you.

#### PAPERS LAID

**Hon. Speaker:** There is somebody who is to lay Papers.

**Hon. Juliet Ndegwa:** Hon. Speaker, pursuant to Section 13 (1) of the County Government Act 2012, I beg to lay the following Paper on the Table of the Assembly today Thursday 23<sup>rd</sup> July 2020; the report of the Nairobi City County Assembly Board on the recruitment of the Nairobi City County Assembly Clerk. Madam Speaker, I beg to lay.

*(The Paper was laid on the Table of the assembly)*

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**Hon. Speaker:** Proceed with the next report.

**Hon. Juliet Ndegwa:** Pursuant to Article 226 of the Constitution, I beg to lay the following Paper on the Table of the Assembly today Thursday 23<sup>rd</sup> July 2020; the report of the Controller of Budget on National and County Governments Budget Implementation Review for the first nine months for the financial year 2019-2020. I beg to lay, Hon. Speaker.

*(The paper was laid on the Table of the assembly)*

### NOTICE OF MOTION

**Hon. Speaker:** Whip, proceed.

**Hon. Juliet Ndegwa:** I beg to move that this assembly gives Notice of the following Motion; the report of the Nairobi City County Assembly Board on the recruitment of the Nairobi City Assembly Clerk laid on the Table of the Assembly today Thursday 23<sup>rd</sup> July 2020 and pursuant to the provision of Section 13 (1) of the County Government Act 2012, that, this assembly approves the appointment of Mr. Edward Gichana Ombwori as the Clerk of the County Assembly.

**Hon. Speaker:** Order! That was a Notice of Motion.

### MOTIONS

#### REPORT OF COUNTY ASSEMBLY SERVICE BOARD ON THE RECRUITMENT AND APPROVAL OF EDWARD GICHANA OMBWORI AS CLERK OF THE COUNTY ASSEMBLY

**Hon. Speaker:** Proceed, Whip.

**Hon. Juliet Ndegwa:** I beg to move that, this assembly notes that the report of the Nairobi City County Assembly Board on the recruitment of the Nairobi City County Assembly Clerk, laid on the Table of the Assembly today Thursday 23<sup>rd</sup> July 2020 and pursuant to the provision of Section 13 (1) of the County Government Act 2012, approves the appointment of Mr. Edward Gichana Ombwori as the Clerk of the County Assembly.

Hon. Speaker, as I move this motion, I want to point to point out a few issues if you allow me in one minute. We are happy that this assembly has been able to recruit a Clerk after a long struggle with the alleged Clerk Mr. Jacob Ngwele. I also want to congratulate Hon. Mbugua Kabiro who was number four among the top. One of our own who came forth in that interview and I want to tell fellow members that the sky is the limit, nothing can stop us.

I also want to congratulate Sammy Kiptoo, I really hope that he could have applied quietly. But I thank God that he has finally agreed to the results of the interview and he has given Nairobians a chance. We realize that he is not even a voter in Nairobi and so he has given Nairobi voters a chance. He comes from Elgeyo Marakwet, the same way we gave him a chance to work in this county, he has also given a chance to one of us.

Madam Speaker, I also want to note that there is a lot of political interference when it comes to the people who are working in the administration and I want to crack that whip in the highest and the harshest words possible in this Assembly. It is sad that today we have a visitor by the name Jacob Ngwele who I

understand he is seated somewhere in the office of one of our Board Members, Hon. Mark Ndun'gu, and it has brought a lot of tension in this Assembly.

We want you to spell out that Mr. Jacob Ngwele is *persona non grata* in this Assembly until he gets clear orders.

*(Applause)*

He cannot come to the precincts of this Assembly to confuse 122 members plus the staff who are working here; it is not possible. I want to commend you and the team that did this job because we have finally shown Nairobians that merit can take you places and that is what we want in this Assembly.

*(Applause)*

We have chosen Mr. Ombwori on merit, not tribal or anything else. I want everyone to embrace this. As I sit down I would like to request my colleague Hon. Imwatak, to second. Kindly Madam Speaker, I withdraw, can I ask Hon. Mberia to second.

**Hon. David Mberia:** Thank you Madam Speaker. Thank you Majority Whip. I rise to second this very important motion and congratulate the team, the panelists and you Madam Speaker and also members of my party.

Madam Speaker, as the Leader of the Minority Party in this House, and as the ODM Party, we value and we promote meritocracy. Therefore, I want to urge the Members present in this House and those who are contributing through Zoom that the Clerk of a county assembly is a servant of the Members and the staff.

As much as there were serious political inclinations during and after the recruitment, I wish through the Chair to ensure that there is now healing after this recruitment. I want to say this, that, we don't want more divisions in this House among our membership and the staff.

*(Applause)*

Madam Speaker, this is the first time this House is approving a Clerk. I was a pioneer MCA in this House in the First Assembly but I never saw any name of a Clerk being approved on this floor. I therefore urge you as mother, let us stop further divisions. I want to congratulate my colleague, Hon. Mbugua Kabiro, who was there and scored highly. I also want to congratulate our member of staff, Sammy Kiptoo for doing very well as well. But they all did not attain the highest mark, of which the Clerk we are approving, Mr. Edward Gichana Ombwori scored the highest mark. As a party, I was given instructions that we support merit.

*(Applause)*

We would have done our homegrown, but then again I lead a party in this House, that is ODM/NASA. The instructions were very clear- reward merit. I am here to urge my Members to support this Motion. The Clerk whom we are approving here is not a Clerk of an individual. I have known Gichana since 2007 when I was first elected as a councillor in the defunct Nairobi City Council. He is an auditor, and has been director of Internal Audit since then. Therefore, he is our Clerk. He is the Clerk of Members of this House and members of staff. He must be impartial. We are his boss, that is why after appointment, his name is tabled here on this floor.

Madam Speaker, we have had a lot of political interference, but then again we have job to do in this House. As a leader, I support the approval of one Mr. Edward Gichana Ombwori as our second Clerk.

*(Applause)*

Therefore, I urge my Members and the Members of the Government side to support this approval of the Clerk. Madam Speaker, take it upon yourself to bring healing. We have very less time left. As a mother, take upon yourself to bring about healing. There are a lot of divisions, and whatever happened today in the morning is an embarrassment. As the Chair of the County Assembly Service Board, take it, it is your job. We as leaders will help you. We are not going to afford any further divisions and infightings. I urge you to kindly heal this House. Heal the wounds among the staff because one of them who applied for this job is a staff. If we continue with more fighting, we have one year left before elections in 2022.

With our help, including the Deputy Speaker, let us form a small committee of elders and leadership which will be chaired by you, Madam Speaker, to bring this House together. I leave you with that. I know you are a wise mum, please heal us. This House is sick. Let us pray for staff and Members, but most importantly, let us love each other. I second the Motion, thank you.

*(Question proposed)*

**Hon. Geophrey Majiwa:** Thank you, Madam Speaker. As I rise to support this Motion, allow me to say a few things. In our Constitution, Article 232 (1) (g) is very clear that whenever we are dealing with matters of such nature, we have to be fair and integrity must prevail. Our integrity cannot prevail when we want to leave aside the element of meritocracy. We cannot be leaders who are here because of our integrity but want to use that integrity for our own selfish interests. It is important that we obey the Constitution because that is what we swore to obey and observe. It is important that we know that whatever we are doing in this House is of rules and procedures. The rules and procedures emanate from the Constitution of Kenya. We cannot be superior than any other Houses of legislation in this country that follows the same Constitution. We can't just sit here and believe that we can do things contrary to what the Constitution guides.

In the Public Service Act, Section 10 (1) states that when you conduct an interview, there are certain things that you must look at as guidelines. When you have the requirements of persons who are sitting for the interview, you must be able to line them up in their order of performance. This is where we call for merit because you cannot go to school and obtain several certificates and somebody calls you for an interview and grades you position one but wants to tell you that position five or six will take the position yet you scored highly. That is not something that we want to encourage in this country because we are law abiding citizens.

We are just coming from a dark past. The Minority Leader has just said that from the time he joined this place, he has never seen an application for a County Assembly Clerk brought here. The other day we passed a resolution here that one who was in the office of the Clerk was never brought to this Assembly for any approval. Therefore, we have an opportunity this time to look at these people who applied for this job with our eyes open and clear in our minds that we have to deal with Kenyans who are legally right to have their share of this cake in Nairobi. If you have qualified more than the others, the best thing we can do as leaders is to give you what belongs to you, just the way we also want to be given what belongs to us.

Madam Speaker, it is important that we observe the rules of procedure in this House and observe the Constitution of Kenya. Above all, we must observe the Public Service Act which guides all these public officers whom we are vetting and giving these jobs. It is for our future and the future of Nairobi that we have to do things the right way. We cannot live in confusion for the five years we have been here and leave confusion behind us again for those who are going to come after us to live in the same confusion. Why are we here if we can't correct anything?

Madam Speaker, it is an opportunity, and I beg Members who are in this House that we correct this mess once and for all so that those who will come after us will say there was a problem but we sorted. That is why leaders are elected. If you cannot sort out a problem as a leader, you have no business being in leadership. With those few remarks, I beg to support.

*(Applause)*

**Hon. Speaker:** Hon. Jagero, on virtual. Unmute your mic, Hon. Jagero. As we wait for her, Hon. Millicent Mugadi, you can contribute.

**Hon. Millicent Mugadi:** Thank you, Madam Speaker. I rise to support this Motion. Thanks for giving the Board an opportunity to give us a candidate who they personally feel that he will serve this Assembly with integrity and proper guidance. I happen to have known a bit of each candidate. I would like to congratulate each of them; it is not the end of the journey. Congratulations to Kiptoo. I am impressed by our own, Hon. Mbugua Kabiro who really tried and he has shown us that it is not only being an MCA; our dreams are valid and we can achieve more. As for Gichana, who I have an experience of him in the County Executive side, he is a very straightforward person who is strict and mature.

With all these shenanigans, it is allowed for people to lobby but as an Assembly we have been under a lot of scrutiny. The whole country is watching us. Today will determine if we are people who speak our words or we preach water but we drink wine. We have been given three candidates but we have decided to settle for the best, not for our own interest but for the interest of the Assembly and Nairobi. I would like to remind Members, how we behave really tells people what to do in the next dispensation of Nairobi. We are still not sure whether we are going to be accommodated in the BBI or being done away with. So, it is important we set an example and convince Nairobians on the way we carry out things that Nairobi needs to be left intact so that the Government does not do away with us.

As for the three candidates, I would say congratulations. As for our staff, Kiptoo, good job and keep up. We love and care so much about him. He should not feel disappointed. We will work hand in hand with him. If there is another opportunity, all the staff will be given an opportunity to apply. Thank you.

*(Applause)*

**Hon. Peter Imwatok:** Thank you, Madam Speaker for giving me an opportunity to contribute on this. As you said in your communication that this process of nominating and subsequent transmission of the name to this Assembly was born out of a court process. Personally, I am a believer of the rule of the law. Everything that we do, we must always try our level best to go with conformity with the law. I also want to appreciate our able judges of this country that there are times we may not have faith with them, but most of the times some of them prove us wrong. Out of the petitions presented before the court, Petition 71--- as a

veteran of this House since inception in 2013, I have been given an opportunity to express myself and approve someone to be the Clerk of this Assembly.

Madam Speaker, the law defines itself progressively, it will never work retrogressively. I must applaud Hon. Kabiro. Before he went for the interview, he called me, I was driving towards Uhuru Highway. He told me to pray for him since he is going for the interview. I asked him if he is prepared to resign as MCA if he wins. He told me, "yes." I asked him, "why?" But there are things we can do better.

Hon. Kabiru, ever in the history of this Assembly, you've earned a name, that a Member despite all the challenges of being an MCA can sit down, put together his papers, present in an application, which is voluminous as I saw and present yourself before a panel of men and women of standing in the society and emerged among the best. As the president of CASA the sports association in Kenya and also the vice president of EALASCA, in sports the number one is given a golden cup, number two is given a silver, number three is given a bronze and the best player is given a golden boot. *Mheshimiwa* Kabiro I give you a golden boot today.

*(Applause)*

You have made us so proud as our fellow colleague. As I was talking with the Majority Whip, she told me, 'how I wish it could be Kabiro that I am going to present as the Clerk of this County Assembly, I could have written history as one of the Majority Whips who presented her own Member as the Clerk.'

Madam Speaker this HANSARD will forever be read in this County, that we did what is right. My candidate never made it, and I have always told the Members that my candidate was one Gad Awuonda, but he never made it; he was number two. I and Madam Catherine, Osman we say team 'Gad Awuonda', but Gad Awuonda never made it, he was number two. When I spoke to him at Astrol Petrol Station, I told him 'my brother as a party and as my leader has just spoken, we believe that whoever is ahead is ahead'. Even during our party nomination, I have just seen my Secretary General writing on a page somewhere, that even our party primaries of ODM, number one is given his due.

Thank you to the members of the Jubilee Party, led by the Majority Whip, the Deputy Speaker, Majority, Deputy, elder Njogu and the rest, that this will define us. I am just reliably informed that more than 48 Members of this County Assembly are virtual, Madam Speaker. In a nutshell we are more than 80 people who are eager today to write this history and indeed Madam Speaker you've been part of that history that we are writing today, that one Edward Gichana will come to serve us.

I may not have interacted with him for too much, but during the first regime of Dr. Evans Odhiambo Kidero, I remember very well when the interviews of the directors were done, everybody was routing for one Gichana to be the CFO of the County. How he landed to be the director of Audit, I may not tell. Maybe during his swearing in, Madam Speaker, he'll have to explain some few issues to us. How did he land there? And how did he now land as the Clerk.

As a Seventh Day believer, I believe that God places us everywhere, in His own opportune time. As the book of Romans 8:28 says 'All things work together for the good of them who are called by God and for His purpose'. One of my favourite preachers T.D. Jakes, Madam Speaker, puts it this way, 'not only those things that make you happy, that make you smile, are for the good of God, even those things that make you cry, one day they'll explain themselves'.

As a message to my clerk, my brother Sammy Kiptoo, a very hardy young man, he has an edge, he came number three and we respect him so much and we know he's among those this Assembly will always count on to bring the staffs together, to serve the Hon. Members. I've just gone through a report, Gichana is only 46,47,48. Gichana has less than 10 years in this County Assembly. Who knows, I will be walking in this Assembly fifteen years from now, one Sammy Kiptoo will be my Clerk, and I will be a very glad man.

And to the members of staff, Madam Speaker, I want to urge them, let's end it there, let's start a new journey by supporting the new Clerk, supporting the Speaker, supporting the Minority Leader, Majority Leader, the Service Board, the Whips and also respecting each other across the aisle.

Madam Speaker I am a proud man. Today if there's anything I have never done in life I can do today. I pray to God to keep me as I have seen history written and this history may it grant us peace, tranquility and honesty to each other. Madam Speaker, I pray to Gichana to hold on to this Assembly as a Clerk and to steer this Assembly to different heights. For those who lost, to my brother Gad Awuonda, you still remain one of the best lawyers I have ever known. I pray for you, as you practice in your law firm, who knows, one day you will be the Clerk of the National Parliament and I will be there or Clerk of the Senate and I will be there, so we will walk again, we will try our luck again. Thank you, Madam Speaker.

**Hon. Speaker:** Hon. Jeremiah Themendu, he's online. Is he able? He should unmute. Proceed Ogeto.

**Hon. Moses Ogeto:** [*The Member spoke via virtual link*] Hon Speaker, first and foremost I want to support this Motion and encourage the Members that we have a new Clerk and I thank you for ensuring the regulations of the Covid 19 have been adhered to.

Hon Speaker this will be a milestone in the history of this Assembly and I believe that as we move forward everything will work and we will leave this institution for other people to guide it, Hon. Speaker.

Hon. Speaker I also want to thank the Board for ensuring that one of us as a community, from Kisii, has got the very serious position in the republic of Kenya as the Clerk and as a community we thank you and we thank the Board Members by ensuring that this has happened and I also thank all other Board members who ensured this has come to pass. Hon Speaker I beg to support, thank you.

**Hon. Speaker:** It was by merit not community, but we thank you Hon. Member. Hon. Jeremiah Themendu. Proceed!

Mover! They want to hear the voice of Hon. Kabiro, can you give Hon. Kabiro the mic, coz I can't see him on my screen.

**Hon. Mbugua Kabiro:** Thank you very much Madam Speaker. It is indeed a humble honor to grace this occasion having come from a grilling exercise that happened in one of the restaurants in Nairobi and it is an experience that I will not forget for the rest of my life, having started the whole exercise of first identifying an imposter and culminating the whole exercise by sitting in an interview that generated someone of merit who would then serve in this Assembly as Clerk and we will be able to close that chapter once and for all.

*(Applause)*

I would want to say that I really would have wished to be the one, I really would have wished. I had solutions lined up for you but probably I will package them nicely and hand it over to Gichana who having attained the requisite qualifications and beating me for that position, and many others who were interviewed and I laud them all. I would like to congratulate them and congratulate Kiptoo, I would also want to congratulate Ngige, I would like to congratulate Gad for participating in that process. And once that has happened and the Board has agreed on a criterion, I don't think there's any other way of getting back to that process again. We would wish that that it is closed once and for all, and if it's re-opened it is not because we were unable to do it, but it is re-opened because it is due time for re-opening that process again.

I would want to thank you for the kind words from the 'President' himself, indeed he is a very good friend and if he had that opportunity, I think he would have not had any other person but give it to me. I heard him say Gad, but I know it is Gad at mouth but Kabiro at heart.

*(Laughter)*

It is very important for the progression of this Assembly. I would want to just thank you more sincerely for the opportunity to serve you. I know greater things are ahead of us and we will do it diligently as if we are serving this nation and without fear or favour. Thank you very much Madam Speaker.

**Hon. Speaker:** Thank you very much and we owe you as our Chair, you are the one who started this process and we thank God it has come to where it has reached. Mover.

**Hon. Millicent Mugadi:** Thank you Hon Speaker, I would like to thank all the Members who supported this motion. Indeed, Madam Speaker we have gotten into a time in this Assembly, in this Honorable House, and in our political life where we can be able to say that we were part of history making; we were part of organizing an institution that was very disorganized, Madam Speaker. We are leaving prosperity of succession in this Assembly that even those who come after us will know what to do and will follow the rule of law that we had not seen earlier being followed, Madam Speaker.

Madam Speaker I would also like to end by saying that charm strikes the sight but merit wins the soul, Madam Speaker. And I would like to congratulate each and every one of us who has supported Gichana not because of his tribe, not because of the color of his skin, not because of the denomination that he belongs to but because of merit, Madam Speaker.

Madam Speaker I always say and I always end my submissions by quoting from the book of Esther Chapter 4 verse 14 which says 'perhaps you were born for such a time as this'. Each and every one of us needs to look at why and for what and how we are here, we were meant to come here to meet these people to work with these people and even to face the challenges and even to just conquer together, Madam Speaker.

So Madam Speaker I want to thank each and every Member who has contributed, I want to thank Mbugua Kabiru most sincerely, I am sure he will table the solutions he said he has, he can table them on the floor of the House the day that we are swearing in the Clerk and the Clerk can receive them as part of the package. Madam Speaker I want to thank you and I beg to move.

**Hon. Speaker:** Okay, Hon. Members, I want to clarify that we have quorum as we connect the voices of those [Members] in the Chamber and also those on zoom.

*(Question put and agreed to)*

COMMITTEE ON LABOUR AND SOCIAL WELFARE REPORT REJECTING THE NOMINATION OF PHILIP POLLAND GEORGE KAINGU AS SECRETARY TO THE COUNTY PUBLIC SERVICE BOARD

**Hon. Speaker:** Chair

**Hon. Geoffrey Nganga:** Thank you, Madam Speaker. Pursuant to Section 58 1(c) of the County Government Act, 2012 and Section 58 of the Public Appointments (County Assemblies Approval) Act 2017, H.E Mike Gideon Mbuvi Sonko forwarded vide a letter dated 2<sup>nd</sup> March 2020 to the Speaker of the Nairobi City County Assembly, Mr. Phillip Polland George Kaingu's name as nominee to the position of Secretary to the County Public Service Board for vetting by the Sectoral Committee on Labour and Social Welfare and consideration for approval by the County Assembly for appointment as Secretary to the County Public Service Board.

The Hon. Speaker conveyed the message to the Assembly and directed relevant Committee, being this Committee, to take up the vetting process. The Assembly subsequently placed an advertisement in the local dailies, specifically the Daily Nation and The Star inviting the nominee for vetting before the Assembly Sectoral Committee on Labour and Social Welfare on Wednesday 1<sup>st</sup> July 2020 at 11am at the Assembly precincts.

Hon. Speaker, the Committee having considered the nominees' filled Questionnaires, his CV and having heard his oral submissions during the vetting exercise, made the following general observations: That the nominee satisfied the requirements of Chapter Six of the Constitution of Kenya on leadership and integrity which is a requirement under section 35(3)(c) of the County Governments Act, 2012 in that: -

- a) The nominee has been cleared by EACC, DCI, KRA, HELB and CRB.
- b) The nominee has not been charged in a Court of Law.
- c) The nominee did not exhibit a potential conflict of interest.

Madam Speaker, the nominee did not have the experience of leadership as he was working in his private firm since 2013, yet managing only four staffs.

The Committee further, observed that Section 58 (1) (c) of the County Governments Act provides that the CPSB shall comprise - 'a certified public secretary of good professional standing nominated and appointed by the Governor, with the approval of the County Assembly, who shall be the secretary to the Board yet he did not have the certificate in certified public secretary (CPS); and

The nominee was not qualified as per the requirements of the said position since he is not a Certified Public Secretary (by the Kenya Accountant and Secretaries National Examination Board) as required under Section 58(1) (c).

Pursuant to Section 45 (1) (a) and (b) of the County Governments Act, 2012, Section 9 of the Public Appointments (County Assemblies Approval) Act, 2017, and Standing Order No. 203 (6) (f) of the Nairobi City County Assembly Standing Orders, the Committee recommends: -

That, this Assembly does not approve the name of Mr. Philip Polland George Kaingu as a nominee to the position of secretary to the County Public Service Board since he is not a Certified Public Secretary as required under Section 58(1) (c) of the County Governments Act, 2012.

Hon. Speaker, that is the submission from vetting Committee on Labour and Social Welfare and I hereby invite my fellow Member in that committee, Hon. Immapet to support these submissions.

**Hon. Immapet Kemunto:** Thank you, Hon Speaker and the House at large, all those who are following this procedure under the virtual platform and those who are in the House. We appreciate your time and it is actually a timely time that we were told to come to the Assembly to do our duty.

Madam Speaker, I want to appreciate the Labour Committee. We sat down, indeed, and we took our legislative role by grilling Mr. Philip Polland George Kaingu and we appreciated the time each person who interviewed the said person.

Madam Speaker, Indeed the year 2020, as we said earlier, is a unique year of not letting but a year whereby we say the truth as it is. We have undertaken a very critical role as legislatures of this House by ensuring that our own as per the merit of those people who went and were interviewed and we managed that Mr. Gichana has taken his role as the County Clerk of this Assembly.

Hereby, we as Labour Committee through our able chair Hon. Mbuthia and all other Members who were there - if you can see you can go and through the report that we have in front of this desks. You can be able to see that Mr. Kaingu indeed, has no leadership skills and as per the Committee observation this person, under second last page, you can see that the nominee was not qualified for the position and was not certified public secretary.

He did not have experience in leadership as he was working in his private firm and yet managing only four staff and here you are coming to lead a magnitude of Members and staff as a Secretary of the Board which, really, I do not think if the person was really prepared for this job. Maybe he was just trying to ensure that his luck is passed, but this is not the Assembly he knows.

We select people with integrity, people who have the experience, even when you are vying of position in your wards you cannot lead only four people which is like leading your own house and that means you are not competent. Leading a magnitude needs someone who has undergone and surpassed the leadership criterial of being just a leader in so many institutions. For me, I want to second this Motion by ensuring that every Member should also put his inputs and we put forward the Assembly. Thank you.

*(Question proposed)*

**Hon. Fredrick Okeyo:** Thank you Madam Speaker, just a point of information, for those who do not know, certified public secretary is a professional course that is done by people who have studied law. For some of us who have done accounting, we have the CPA. It is a professional course, and it is currently mandatory in East Africa.

Madam Speaker, if you look at this good report by the Sectoral Committee on Labour on page nine, the last paragraph which says very clear, "*While under oath they proceeded to inform the committee as follows, with the regards to whether he has a Master's degree as provided in the job advert and whether he has a CPS as per the requirement of the said position, the nominee responded he is not a holder of a Master degree and he has no CPS.*"

Madam Speaker, when you apply for a job and some of us who are working for various companies in the advert it was indicated very clearly the minimum qualification. I think some of these people who send these letters here for the Assembly to re-look at them, should rethink on what they are doing because we

are not jokers. We are here to perform our duties. If someone does not meet the minimum requirement and we have talked that this year is a unique year and things should be done on merit.

*(Applause)*

Someone who has studied the law and CPS should have been considered and brought here. The whole country, out of 47 million, you want to tell us that you are bringing someone who is not qualified to be approved! It is not a matter of friendship; it is a matter of performance.

*(Applause)*

On the same note, it is indicated that he managed less than five employees and here is a county with thousands of employees to be managed. It is a joke. I therefore support the Committee 100% and the Motion should continue that way. If you do not meet the merit, go home and give chance to someone who has worked hard, gone to school and sacrificed to read and given powers at the University. When the chancellor and vice-chancellor tell you during graduation that have given you powers to go and read and perform the duties, it is not a joke. It is something that should be taken seriously and we should reward people who deserve. Thank you.

**Hon. Geoffrey Mbutia:** I would like to talk this opportunity to first thank the Governor who gave us the nominee for us to vet and we want to appreciate that he had a willingness to fill the position of the Secretary to the Public Service Board.

*(Applause)*

We would like to request him to give us a qualified nominee and we would like to commit ourselves as the Committee that we are supporting his desire to fill that position and it is only that we cannot do what is contrary on what we are supposed to do as a Committee.

*(Applause)*

I would also like to thank my Committee Members to sat down and resisted external influence that could bring something that was not fair to the filing of that position. I would like to thank them and I am very committed that when we get the right nominee we shall pass the nominee.

*(Applause)*

I would like also to take this opportunity to thank all Members who are in this Chamber and who are on virtual platform for supporting this Motion. I thank you and I promise that we shall work together even in the future. Thank you Madam Speaker and I beg to move.

*(Applause)*

**Hon. Speaker:** Therefore, when you say “Aye” you support your Chair and when you say “Nay” you are not supporting. I was guiding because I know people might get confused you have to support it the chair. If you do not support the Chair, then you would have not supported his report. I think that is the best way I can put it. I would like the HANSARD team to unmute for the ones who are online so that we have a vote together.

*(Question put and agreed to)*

*(Applause)*

## ADJOURNMENT

**Hon. Speaker:** There being no any other business, this Assembly adjourns to Tuesday 28<sup>th</sup> July 2020 at 9.30 a.m. strictly on a virtual platform. It is only the leadership that will be in the House: The Majority leader, Minority leader, the Whips and the Deputies, the mover of any Motion and the seconder, and the Speaker. The rest will be on a virtual platform.

**The House rose at 4.30 p.m.**