

COUNTY GOVERNMENT OF NAIROBI CITY



**NAIROBI CITY COUNTY ASSEMBLY
SECOND ASSEMBLY-FOURTH SESSION**

**REPORT OF THE SECTORAL
COMMITTEE ON LABOUR AND SOCIAL WELFARE
ON**

THE VETTING OF NOMINEES TO THE NAIROBI CITY COUNTY PUBLIC SERVICE BOARD

Clerk's Chambers
City Hall Building
NAIROBI

OCTOBER, 2020

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- (i) **Annexure (2)**
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- (ii) **Annexure (1)–Clearance Certificates**
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 - b) Higher Education Loans Board
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 - d) Credit Reference Bureau
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- (iv) **Assessment Forms**

1.0. PREFACE

1.1. Committee Mandate

Hon. Speaker,

The Sectoral Committee on Labour and Social Welfare is one of the Sectoral Committees established under Standing Order 203. The Committee is mandated under the Third Schedule of the Standing Orders to ***“investigate, inquire into and report on all matters related to labour, trade union relations, manpower or human resource planning; County Public Service; gender and social welfare, youth.”***

1.2. Committee Membership

Hon. Speaker,

The Committee comprises the following Members:-

- 1. Hon. Anthony Ngaruiya, MCA Chairperson**
- 2. Hon. Rose Ogonda, MCA Vice Chairperson**
3. Hon. Peter Wanyoike, MCA
4. Hon. Mellab Atemah, MCA
5. Hon. Peter Wahinya Kimuhu, MCA
6. Hon. Wilson Ochola, MCA
7. Hon. Fredrick Okeyo, MCA
8. Hon. Stephen Gikonyo, MCA
9. Hon. Emmamet Kemunto, MCA
10. Hon. Joseph Ndonji, MCA
11. Hon. Esther Nyangweso, MCA
12. Hon. Evans Otiso, MCA
13. Hon. Jared Akama, MCA
14. Hon. Beatrice Gakuru, MCA
15. Hon. Hon. Fredrick Njogu, MCA
16. Hon. Solomon Magembe, MCA
17. Hon. Samuel Mwangi, MCA
18. Hon. June Ndegwa, MCA
19. Hon. Paul Ndungu, MCA
20. Hon. Jairus Omayo, MCA

21. Hon. David Okello, MCA
22. Hon. Joyce Muthoni, MCA
23. Hon. Maina Njoka, MCA
24. Hon. Fredrick Omondi, MCA
25. Hon. Asli Mohammed, MCA

1.3. Message from His Excellency the Governor

Hon. Speaker,

Pursuant to Article 235 (1) of the Constitution of Kenya 2010 and Section 57-59 of the County Governments Act 2012, **H.E. the Governor, Hon. Mike Gideon Mbuvi Sonko** vide a letter dated 8th September, 2020 forwarded to the Speaker of the Nairobi City County Assembly, the names of the following nominees for vetting by the Sectoral Committee on Labour and Social Welfare and consideration for approval by the County Assembly for appointment as Secretary and Member of the County Public Service Board as follows:-

NO	NAME OF NOMINEE	POSITION
1.	Mr. Philip Polland George Kaingu	Secretary
2.	Mr. Jack Babji Owino	Member

1.4. Committal to Committee on Labour and Social Welfare

Hon. Speaker,

In accordance with Standing Order 43 (3) (c) which provides that:-

“(3) When a message from the Governor or the Senator of the County is read, the message shall be deemed to have been laid before the County Assembly and the Speaker may either-

(c) refer the message to the relevant Committee of the County Assembly for consideration”

The notification of nominations was referred to the Sectoral Committee on Labour and Social Welfare on 22nd September, 2020 for vetting and **reporting to the Assembly within 21 days in accordance with Section 9(1) of the Public Appointments (County Assemblies Approval) Act, 2017 (hereinafter referred to as “the Act”)**.

Subsequently, the Clerk of the County Assembly placed an advertisement in the in the local dailies, specifically the Daily Nation on **Thursday 24th September, 2020**, inviting the public to submit memoranda by way of written statements on oath (sworn affidavits) on the suitability or otherwise of the nominees in conformity with Section 7(10) of the Act.

The Committee noted that the nominee for the position of Secretary, Nairobi City County Public Service Board, **Mr. Philip Polland George Kaingu** had earlier on been nominated for the same position and vetted by the Committee and his nomination was disapproved by the County Assembly on grounds that he was not a Certified Public Secretary as required under Section 58(1)(c) of the County Governments Act, 2012”.

1.5. Committee Meetings

Hon. Speaker,

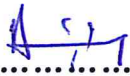
The nominee for the position of member to the County Public Service Board (C.P.S.B) appeared before the Committee on Monday 5th October, 2020 and was vetted in accordance with the provisions of the Constitution, the Public Appointments (County Assemblies Approval) Act, 2017, and the County Assembly Standing Orders on their suitability for appointment to the CPSB. However, vide a letter dated 1st October 2020, the nominee for the position of Secretary to the Board declined to appear before the Committee for vetting. In total, the Committee held three sittings in consideration of 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.

Finally, on behalf of the Sectoral Committee on Labour and Social Welfare, it is my pleasure and duty to present to the Assembly, the Committee’s Report on the vetting of one (1) nominee for appointment to the Nairobi County Public Service Board Member for adoption pursuant to the Standing Orders of the County Assembly and other enabling provisions of the Law.

Signed

Hon. Anthony Ngaruiya, MCA, Chairperson , Sectoral Committee on Labour and Social Welfare

Dated this 13th day of Oct 2020

2.0. BACKGROUND

2.1. Mandate of the Sectoral Committee on Labour and Social Welfare

The Sectoral Committee on Labour and Social Welfare is one of the Sectoral Committees established under Standing Order No. 203 with amongst others, the mandate to vet and report on all appointments where the Constitution or any law requires the County Assembly to approve, except those under Standing Order 196 (*Committee on Appointments*).

2.2. Appointment process of the County Public Service Board Nominees

Article 235 (1) of the Constitution of Kenya provides for the Governor's power to appoint persons to hold offices in the County Public Service with the approval of the Assembly, from among persons competitively sourced.

A letter from the Office of the Governor dated 8th September, 2020 addressed to the Speaker of the County Assembly indicated that the names of two (2) nominees had been forwarded for vetting by the Sectoral Committee on Labour and Social Welfare and consideration for approval by the County Assembly for appointment as a Secretary and a Member of the County Public Service Board.

2.3. Notification to the Public

Section 7(5) and (10) of the Public Appointments (County Assemblies Approval) Act, provides that, *"the committee shall, by notice in at least one newspaper of national circulation, notify the public of the time and place for holding an approval hearing at least seven days prior to the hearing"* and *"any person may, prior to the approval hearing and by a written statement on oath, provide the Clerk with evidence contesting the suitability of a candidate to hold the office to which the candidate has been nominated"*.

Pursuant to the above provisions of the law, the Clerk of the County Assembly placed an advertisement in the local dailies, specifically the Daily Nation on Thursday 17th September, 2020 inviting the public to submit memoranda by way of written statements on oath (sworn affidavits) on the suitability or otherwise of the nominees. At the close of business on Tuesday 29th September, 2020, no memoranda contesting the suitability of the two nominees to the Board had been received.

In accordance with the provisions of Article 196 of the Constitution and section 7(5) of the Public Appointments (County Assemblies Approval) Act, the general public was also notified in the local

dailies by the Clerk of the County Assembly of the intention of the Sectoral Committees to conduct the vetting and approval hearing of the nominees on Monday, 5th October, 2020.

The nominee to the position of Member of County Public Service Board was vetted by the Sectoral Committee on Labour and Social Welfare on Monday, 5th September, 2020 at the County Assembly Committee room 5. However, vide a letter dated 1st October 2020, the nominee for the position of Secretary to the Board declined to appear before the Committee for vetting.

2.4. Clearance Requirements

To ensure compliance with the provisions of Chapter 6 of the Constitution, the nominees were required to submit their clearance status with the following institutions for the vetting exercise –

- a) Kenya Revenue Authority (KRA)
- b) Criminal Investigation Department (CID)
- c) Higher Education Loans Board (HELB)
- d) Credit Reference Bureau (CRB) and
- e) The Ethics and Anti-Corruption Commission (EACC)

The clearance by the foregoing institutions was primarily meant to provide information about the nominees on: -

- a) Matters touching on integrity;
- b) Tax compliance;
- c) Loan repayments; and
- d) Presence or absence of criminal records.

3.0. VETTING OF THE NOMINEES FOR MEMBER AND SECRETARY, COUNTY PUBLIC SERVICE BOARD

In conducting the vetting process, the Sectoral Committee on Labour and Social Welfare examined the nominees against the following criteria, amongst others, as set out in the Public Appointments (County Assemblies Approval) Act No. 5 of 2017–

- i. Academic qualifications
- ii. Employment record
- iii. Professional associations
- iv. Potential conflict of interest
- v. Knowledge of the relevant subject

- vi. Overall suitability for the position
- vii. Tax compliance
- viii. Integrity

During its Sitting held on **Monday, 5th October, 2020** at Committee Room 5, County Assembly Precincts, City Hall Buildings the Committee conducted face to face interview of the nominee. The minutes of the vetting proceedings are attached to this report.

3.1. Appearance before the Committee by Mr. Jack Babji Owino – Nominee for Member, County Public Service Board

The nominee for County Public Service Board member, Mr. Jack Babji Owino, appeared before the Committee on **Monday, 5th October 2020** at 11.00 am and was informed by the Chairperson that in line with the provisions of the Public Appointments (County Assemblies Approval) Act No. 5 of 2017, the Committee had invited submissions from the Public on his suitability or otherwise for appointment to Public office, and none had been received by close of business on Friday 29th September, 2020.

While under oath, he proceeded to inform the Committee as follows:-

A. With respect to self-introduction, knowledge, experience and qualification, the nominee informed the Committee that he was born in 1980 and:-

- a) He holds a Bachelors degree in management and leadership from University of Management University of Africa;
- b) He also holds a diploma in Logistics from Chattered Institute of Logistics;
- c) Certificate in Food Production Management from Utalii College;
- d) He has worked in Sarova Stanley for 9 years in positions of a supervisor and Executive Chief Chef; and
- e) He is currently the director of Jacan Engineering, Akwa Ventures and Owins Transporters for the last 6 years

B. In response to his employment history and its relevance to the position, the nominee stated as follows:-

He has worked for nine (9) years as a supervisor and run has his own business for 6 years and therefore has the skills of human resource, administration, finance and public relations.

He will use the skills acquired and experiences to help the Board deliver its mandate as stipulated in the Constitution; and

C. Regarding his understanding to the position he applied for and the relevant experience he will bring, the nominee stated that:

- He understands that a member of the Board should hold office for a term of six years and is ready to give his services till end of the term;
- He understands that the key objective of the Board is hiring and firing of the staff and will assist in the decision making; and
- He has experience in managerial skills from previous employment and being a CEO in his company and therefore this will give him a better opportunity to serve in the Board

D. With regards to what motivated him to apply for the position and the relevant experience he will bring, the nominee stated that:-

He stated that he was passionate about serving people and therefore the position will assist in giving back to the society, as he will be able to serve them within the management of the County. He further showed his passion in serving by indicating his involvement in politics both in his rural home and in Nairobi.

E. On functions of the County Public Service Board, the nominee informed the Committee that the Board has powers to:-

- Establish and abolish offices in the County;
- Make recommendations to the Salaries and Remuneration Commission, on behalf of the county government;
- Hiring qualified staff; and
- Serving people with Integrity and fairness for all as key objective

F. Regarding what he considers as the main challenges and to address the challenges:-

- He will ensure there is good communication between Board Members to help address issues of conflict management such as strikes;
- With his experience he will ensure that the Board is transparent and everyone treated fairly with no discrimination; and
- He understands that the county has challenges of salaries being late and therefore will help sort out by ensuring it is paid within the stipulated time.

G. In terms of decision making and what he will do to navigate the relationship between himself, other Board Members, members of the assembly to ensure that the County Government respects its Constitutional mandate and deliver services to Wananchi:-

- He will ensure the law as stipulated in the Constitution is followed to guide in solving problems;
- He will ensure that there is communication among all the stakeholders and will come up with solutions on where there are challenges;
- He will ensure services are delivered by embracing team spirit and avoiding any discrimination; and
- Ensure there is good working conditions between the staff, the executive, the Assembly and National Government

H. Regarding how he will handle the budget preparation:-

The nominee informed the Committee that the process should start with public participation for transparency, accountability and that the rule of law should be followed

I. Regarding on how he will handle the pressure from family and friends who will be seeking services and favour:-

He stated that he will avoid conflict of interest by applying high standard of professionalism without fear or favour

J. Regarding the past experience in his life which demonstrates his commitment to the requirements of Chapter six of the Constitution, on leadership and integrity:-

The nominee stated that he is honest, never been arrested and has never had any problems with anyone and thus the interest to hold the position.

K. On any unique component, he will bring on board to help the residents of Nairobi:-

The nominee stated that the residents should expect a person of:-

- integrity;and
- Professionalism

L. On response to whether he renders any community service within Nairobi:-

He does community service by giving donations to the Community, Dandora dumpsite being the latest beneficiary

M. In response to how he will handle political and staff pressure due to his academic qualifications:-

He stated that he had worked in busy environments before and learnt to contain himself as well as follows the rule of law and that his education qualifications were as a result of challenges he faced as a bread winner and that what he learnt in college had improved his skills in management.

N. In response to his change of career, from food to logistics and transportationn and finally to management.

The nominee stated that the reason he left hotel industry is to start his own business. And it is for the same reason that he had to go back to college and attain his diploma in logistics as well as his Bachelors degree.

O. On what Nairobi residents can expect from him if approved:-

The nominee stated that the people of Nairobi should be assured of a committed person who believes in integrity and fairness for all.

P. In response to why he did not appear for the hearing of previous appointment for the same position of a member to the Public Service Board:-

He mentioned that he was out of town at the day of vetting due to unavoidable family duties that he had to attend to, presented his papers later but was rejected due to time limits.

3.2. Mr. Philip Polland George Kaingu – Nominee for the position of Secretary, County Public Service Board

The nominee to the position of the Secretary to the County Public Service Board, Mr. Philip Polland George Kaingu, **did not appear** before the Committee on **Monday 5th October 2020** as invited. The Committee noted that the nominee had collected vetting forms and submitted clearance documents from the listed institutions as required but later vide letter dated **1st September 2020** informed the office of the Clerk of his withdrawal to attend the approval hearings.

The Committee noted that that the same nominee had been considered by the County Assembly and his nomination was **rejected** following the adoption of the report of the Committee on the following grounds:-

“THAT, this Assembly does not approve the name of Mr. Philip Polland George Kaingu as 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**”.

Section 10 of the Public Appointments (County Assemblies Approval) Act, 2017 provides as follows:-

10. Rejection of nomination

- i) Where the nomination of a candidate is rejected by a County Assembly, the appointing authority **shall submit to the County Assembly the name of another candidate**, and the procedure for approval specified in this Act shall apply accordingly.
- ii) A nominating authority **shall not resubmit the name of a candidate whose nomination has been rejected by the County Assembly** unless the circumstances relied on for the rejection of the appointment of the candidate did not exist or ceased to exist at the time of rejecting the nomination of the candidate.

In this regard, it should be demonstrated that Section 10 (ii) of the Public Appointments (County Assemblies Approval) Act, 2017 has been complied to.

4.0. COMMITTEE’S OBSERVATIONS AND FINDINGS

The Committee having considered the nominee’s Curriculum Vitae and heard his oral submissions during the vetting exercise, made the following observations and findings.

A. Mr. Jack Babji Owino – Nominee for Member, County Public Service Board

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 general observations:

- i) 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 nominees have 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 nominees have not been charged in a Court of Law.
 - c) The nominees do not exhibit a potential conflict of interest.

- ii) That the nominee met the requirements of Section 35(3) (d) since he exhibited impressive knowledge of topical and legal issues touching on the respective dockets and have the requisite abilities, qualifications and experience

B. Mr. Philip Polland George Kaingu – Nominee for Member, County Public Service Board

As already indicated the nominee had initially been vetted by the Committee and his nomination rejected by the County Assembly on grounds that he is not a Certified Public Secretary as required under Section 58(1) (c) of the County Governments Act, 2012.

Pursuant to Section 10 (ii) of the Public Appointments (County Assemblies Approval) Act, 2017 the nominee needed to demonstrate that the conditions upon which his rejection was based had been fulfilled. However, the nominee failed to attend the approval hearing and hence the Committee did not make any observations with regard to his nomination.

5.0. COMMITTEE'S RECOMMENDATIONS

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:-

1. **THAT**, this Assembly approves the following Nominee for appointment by **H.E. the Governor Hon. Mike Gideon Mbuvi Sonko** as Member of the Nairobi City County Public Service Board as follows:-

NAME OF NOMINEE	POSITION
Mr. Jack Babji Owino	Member, Nairobi City County Public Service Board

- II) **THAT**, the approval of **Mr. Philip Polland George Kaingu** for appointment to the position of Secretary to the Nairobi City County Public Service Board be **pended** until the provisions of Section 10 (ii) of the Public Appointments (County Assemblies Approval) Act, 2017 are demonstrated to have been complied with.

AGENDA

1. Prayers
2. Adoption of the Agenda
3. Adoption of the report of the vetting of the Member, County Public Service Board
4. Any other business
5. Adjournment

MIN. 2/ VETTING/OCT /2020 – ADOPTION OF THE REPORT OF THE VETTING OF THE SECRETARY, COUNTY PUBLIC SERVICE BOARD

The Committee adopted the report of the vetting of the member, County Public Service Board.

The report was adopted as proposed by Hon. Jared Akama and seconded by Hon. Rose Ogoda.

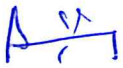
MIN. 3/ VETTING/OCT/2020 - ANY OTHER BUSINESS AND ADJOURNMENT

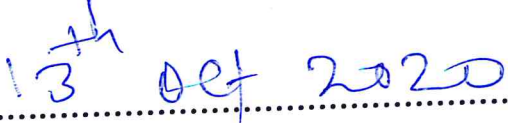
Members deliberated on the Committee's retreat and resolved to change the dates from Monday 19th to Thursday 15th October, 2020 since most members were affected by the scheduled date.

MIN. 4/ VETTING/OCT/2020 - ADJOURNMENT

There being no any other business to consider, the meeting was adjourned at 12.00pm.

CONFIRMED AS TRUE RECORDS OF PROCEEDINGS

CHAIRPERSON.....

DATE.....

MINUTES OF ADOPTION OF VETTING REPORT OF THE NOMINEE TO THE POSITION OF THE MEMBER TO THE COUNTY PUBLIC SERVICE BOARD BY THE NAIROBI CITY COUNTY ASSEMBLY'S SECTORAL COMMITTEE ON LABOUR AND SOCIAL WELFARE HELD ON MONDAY, 12TH OCTOBER, 2020 AT 11.00 A.M. AT THE ASSEMBLY PRECINCTS, COMMITTEE ROOM 5

PRESENT

1. Hon. Anthony Ngariuya, MCA Chairperson
2. Hon. Rose Ogoda, MCA Vice Chairperson
3. Hon. Peter Wanyoike, MCA
4. Hon. Mellab Atemah, MCA
5. Hon. Peter Wahinya Kimuhu, MCA
6. Hon. Wilson Ochola, MCA
7. Hon. Fredrick Okeyo, MCA
8. Hon. Stephen Gikonyo, MCA
9. Hon. Joseph Ndonji, MCA
10. Hon. Esther Nyangweso, MCA
11. Hon. Evans Otiso, MCA
12. Hon. Jared Akama, MCA
13. Hon. Beatrice Gakuru, MCA
14. Hon. Hon. Fredrick Njogu, MCA
15. Hon. Paul Ndungu, MCA
16. Hon. David Okello, MCA
17. Hon. Emmamet Kemunto, MCA
18. Hon. Joyce Muthoni, MCA
19. Hon. Asli Mohammed, MCA

ABSENT

1. Hon. June Ndegwa, MCA
2. Hon. Solomon Magembe, MCA
3. Hon. Samuel Mwangi, MCA
4. Hon. Jairus Omayo, MCA
5. Hon. Maina Njoka, MCA
6. Hon. Fredrick Omondi, MCA

SECRETARIAT – COUNTY ASSEMBLY

1. Ms. Mercy Riunga – Senior Clerk Assistant
2. Mr. Paul Gesore - Senior Researcher

MIN 1/VETTING/OCT/2020– PRELIMINARIES

The Chairperson called the meeting to order at 11.15 a.m and begun with a word of prayer. The Chairperson then took Members through the agenda which was adopted as proposed by Hon. Peter Wahinya and seconded by Hon. Emmamet Kemunto as follows:-