

GOVERNMENT OF NAIROBI CITY COUNTY



THE NAIROBI CITY COUNTY ASSEMBLY

OFFICE OF THE CLERK

THIRD ASSEMBLY
(FIRST SESSION)

NCCA/TJ/PL/2022(33)

23rd December, 2022

PAPER LAID

SUBJECT: REPORT OF COMMITTEE

Pursuant Standing Order 196, I beg to lay the following Paper on the Table of this Assembly, today Friday 23rd December 2022.

— **THAT**, this Assembly Adopts **THE REPORT OF THE SECTORAL COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES THE VETTING OF NOMINEE FOR CHIEF OFFICER ENVIRONMENT SUB-SECTOR** laid on the Table of the Assembly today, Friday, 23rd December 2022.

(The Chairperson, Sectoral Committee on Environment and Natural Resources)

Copies to:
The Speaker
The Clerk
Hansard Editor
Hansard Reporters
The Press

*Papers laid by the chairperson
on 23rd Dec, 2022
[Signature]
23/12/22*

GOVERNMENT OF NAIROBI CITY COUNTY



THE NAIROBI CITY COUNTY ASSEMBLY

THIRD ASSEMBLY

(FIRST SESSION)

23rd December 2022

NOTICE OF MOTION

Subject: Adoption of report

Hon. Speaker, I beg to give notice of the following motion:-

- **THAT**, this Assembly Adopts **THE REPORT OF THE SECTORAL COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES THE VETTING OF NOMINEE FOR CHIEF OFFICER ENVIRONMENT SUB-SECTOR** laid on the Table of the Assembly today, Friday, 23rd December 2022.

(Chairperson, Sectoral Committee on Environment and Natural Resources)



COUNTY GOVERNMENT OF NAIROBI CITY



NAIROBI CITY COUNTY ASSEMBLY

THIRD ASSEMBLY– FIRST SESSION

REPORT

OF THE SECTORAL
COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES
ON

THE VETTING OF A NOMINEE FOR APPOINTMENT OF CHIEF OFFICER FOR
ENVIRONMENT SUB- SECTOR

*Paper laid by the
Chairperson on 22nd Dec 2022*

Clerk's Chambers
City Hall Buildings
NAIROBI

23/12/22

DECEMBER, 2022

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(i) Annexure (1) – Clearance Certificates

- 1) Kenya Revenue Authority
- 2) Higher Education Loans Board
- 3) Ethics and Anti-Corruption Commission
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(ii) Annexure (2)

- 1) Minutes

(iii) Annexure (3) – Curricula Vitae

- 1) Mr. Hibrahim Otieno Nyakach

(iv) Annexure (4) – Correspondences

- 1) Filled Questionnaire

1.0. PREFACE

1.1. Committee Mandate

Hon. Speaker,

The Sectoral Committee on Environment and Natural Resources is established under Standing Order No. 209 (1). Its mandate pursuant to Standing Order 209 (6) is to:-

- a) investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned departments;
- b) study the programme and policy objectives of departments and the effectiveness of the implementation;
- c) study and review all county legislation referred to it;
- d) study, assess and analyze the relative success of the departments as measured by the results obtained as compared with its stated objectives;
- e) investigate and inquire into all matters relating to the assigned departments as they may deem necessary, and as may be referred to them by the County Assembly;
- f) vet and report on all appointments where the Constitution or any law requires the County Assembly to approve, except those under Standing Order 202 (Committee on Appointments); and
- g) make reports and recommendations to the County Assembly as often as possible, including recommendation of proposed legislation.

1.2 Committee Membership

Hon. Speaker,

The Committee on Environment and Natural Resources was constituted by the Assembly on Thursday 27th October, 2022, comprising of the following Members:-

- | | | |
|----|---------------------------------|------------------|
| 1. | Hon. Silas Matara Ongwae, MCA | Chairperson |
| 2. | Hon. Thuo Fiunifiu, MCA | Vice Chairperson |
| 3. | Hon. Kennedy Odhiambo, MCA | |
| 4. | Hon. Paul Kados, MCA | |
| 5. | Hon. Catherine Apiyo Okoth, MCA | |
| 6. | Hon. Nyantika Ricardo, MCA | |
| 7. | Hon. Fatuma Abduwahid Abey, MCA | |
| 8. | Hon. Nasra Nanda, MCA | |

9. Hon. Fuad Hussein, MCA
10. Hon. Dan Oria, MCA
11. Hon. Peter Imwatok, MCA
12. Hon. Joel Munuve, MCA
13. Hon. Agnes Wambui, MCA
14. Hon. Susan Makungu, MCA
15. Hon. Allan Maina, MCA
16. Hon. Simon Mugo Maina, MCA
17. Hon. Joseph Ndungu Karanja, MCA
18. Hon. Agnes Njeri, MCA
19. Hon. Jeremiah Themendu, MCA
20. Hon. Joy Muthoni Mwangi, MCA
21. Hon. Farhiya Aden, MCA
22. Hon. Brian Itenya, MCA
23. Hon. Joyce Muthoni Kamau, MCA

Committee secretariat

1. Mr. Joseph Njuguna - Senior Clerk Assistant
2. Ms. Yvonne Wamucii - Researcher

1.3 Message from His Excellency the Governor

Hon. Speaker,

Pursuant to Section 45 of the County Governments Act, 2012, H.E. the Governor, Hon. Johson Arthur Sakaja vide a letter Ref. NCC/GOV/Legal/438/2022 dated 2nd December, 2022 forwarded to the Speaker of the Nairobi City County Assembly, the names of the nominees for vetting by the Sectoral Committees and consideration for approval by the County Assembly for appointment as Chief Officer responsible for Environment Sector as follows:-

NO	NAME OF NOMINEE	SECTOR
1.	Mr. Hibrahim Otieno Nyakach	Environment

1.4 Committal to Committee on Environment and Natural Resources

Hon. Speaker,

Pursuant to Standing Order 45, the Honorable Speaker informed the Assembly on Tuesday 13th December, 2022 that he had received the notification of the

nominations. The notification of nominations was therefore referred to the Sectoral Committees on 13th December, 2022 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 local dailies, specifically the Daily Nation Newspaper and the Standard Newspaper of Wednesday 14th December, 2022, inviting the nominees for vetting before the Assembly Sectoral Committee on Environment and Natural Resources on Thursday 22nd December, 2022 at 9.00am at the County Assembly Chambers. The advertisement as well invited 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.

1.5 Committee Meetings

Hon. Speaker,

The nominee appeared before the Committee on Thursday 22nd December, 2022 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 Chief Officer for the Environment Sub- Sector. In total, the Committee held two 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 services they offered. 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 Sectoral Committee on Environment and Natural Resources, it is my pleasure and duty to present to the Assembly, the Committee's Report on the vetting of the nominee for appointment to the position of Chief Officer 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. Silas Matara Ongwae, MCA (Chairperson)
Sectoral Committee on Environment and Natural Resources

Dated this 23.....day of DECEMBER.....2022.

2.0. BACKGROUND

2.1 Establishment of the Sectoral Committee on Environment and Natural Resources

The Sectoral Committee on Environment and Natural Resources is one of the Sectoral Committees established under Standing Order No. 209 with the mandate to consider, for approval by the County Assembly, section 45 of the County Governments Act, 2012. The Section require H.E. the Governor of Nairobi City County, Hon. Johnson Arthur Sakaja to nominate and with the approval of the County Assembly, appoint County Chief Officers.

Additionally, Section 10(1) of the Public Appointments (County Assemblies Approval) Act, 2017 (No. 5 of 2017) provides that “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 Chief Officer Nominee

Section 45 of the County Governments Act, 2012, provide for the Governor’s power to appoint Members of the County Chief Officers, with the approval of the Assembly, from among persons who are not members of the County Assembly.

A letter from the Office of the Governor dated 2nd December, 2022, addressed to the Speaker of the County Assembly indicated that pursuant to the provisions of Section 45 of the County Governments Act, 2012, H.E. the Governor, Hon. Johnson Arthur Sakaja had nominated one nominee to be considered for approval by the County Assembly for appointment as County Chief Officer responsible for the Environment Sub- Sector.

On Tuesday 13th December, 2022, the Honourable Speaker in a Message to the Assembly informed the Assembly that his office had received the name of the nominee, and directed that the name and curriculum vitae of the said nominee be referred to the Sectoral Committee on Environment and Natural Resources for vetting and reporting to the Assembly pursuant to Standing

Order 209 (6) and Section 10 (1) of the Public Appointments (County Assemblies Approval) Act, 2017(No. 5 of 2017).

2.3 Notification to the Public

Section 7 (10) of the Public Appointments (County Assemblies Approval) Act, 2017 respectively provides that-, *“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”* and *“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”*.

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 Newspaper and the Standard Newspaper on Wednesday 14th December, 2022 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 20th December, 2022, no memoranda contesting the suitability of the nominee had been received from the public.

In accordance with the provisions of 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 Committee on Environment and Natural Resources to conduct the vetting and approval hearing of the nominee on Thursday, 22nd December, 2022 at 9:00 am at the County Assembly Chambers.

2.4 Clearance Requirements

To ensure compliance with the provisions of Chapter 6 of the Constitution, the nominee was asked to submit his 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 nominee on: -

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

3.0 VETTING OF COUNTY CHIEF OFFICERS NOMINEES

In conducting the vetting process, the Sectoral Committee on Environment and Natural Resources examined the nominee 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 Sittings held on Thursday, 22nd December, 2022 at Assembly's Chambers, City Hall Buildings from 9:00am, the Committee conducted face to face interviews of the nominee. The minutes of the vetting proceedings are attached to this report.

3.1 APPEARANCE BEFORE THE COMMITTEE BY MR. HIBRAHIM OTIENO NYAKACH- CHIEF OFFICER NOMINEE FOR ENVIRONMENT SECTOR

The Chief Officer nominee for the Environment Sub- Sector, Mr. Hibrahim Otieno Nyakach, appeared before the Committee on Thursday, 22nd December, 2022 at 9.00 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 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 20th December, 2022.

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

3.1.1 With respect to self-introduction, knowledge, experience and qualification, the nominee informed the committee that he was born on 23rd August 1986 and;

- a) He is currently serving the Nairobi City County Government Deputy Director of Environment.
- b) He is currently undertaking a Master of Arts in Environmental Planning and Management at the University of Nairobi from January 2020.
- c) He holds a Degree of Bachelor of Arts (Geography and Environmental Studies) from University of Nairobi
- d) He possesses a Diploma in Strategic Management Water Sector Governance and operations from Alison Ireland Online University of Copenhagen.
- e) He further possesses a Diploma in Green and Circular Economy from Denmark Technical University.
- f) Attended other professional courses at various institutions, as well as seminars and workshops and attained Certificates in;
 - Planning for Climate Change for African Cities from Institute of Housing and Urban Development Studies/ Erasmus University Rotterdam.
 - Noise pollution control from Kenya School of Government. and
 - Strategic Environmental Impact Assessment and Audit from Kenya School of Government.
- g) The nominee previously worked as;
 - The Nairobi City County Government Deputy Director of Environment (2018),
 - The Nairobi City County Government, Sub- County Environment Officer (2016-2018),
 - Geographic Information System (GIS),Data Clerk at Azimath Limited (2014-2016),
 - Assistant hydrologist at Individual Consultant (2013-2014), and
 - Geographic Information System (GIS),Data Clerk at Geomaps Africa Limited (2012-2012).

3.1.2 In his response Mr. Hibrahim Otieno Nyakach stated as follows:-

1. With respect to his suitability for the Position Nominated -

The nominee stated as follows :-

That he:

- a. Had very good training in Environmental issues having undertaken a degree course in Geography and Environmental Studies and currently undertaking a masters of arts in Environmental Planning and Management.
- b. Has done a course in planning for climate change for African Cities and a certificate course in strategic Environmental Impact Assessment and Audit and also a course on Noise Pollution Control.
- c. Served as the Deputy Director of Environment in Nairobi City County Government he has a wide knowledge on the field and also having served in the Sub-County level as an Environment Officer.
- d. Overall, experience and technical knowledge demonstrated will suffice in position nominated.

2. With respect to why he applied for the position nominated and what interested him most about the position-

The nominee informed the committee as follows;-

- a. he has served in the field of Environment and was well versed with the responsibilities that comes with the position
- b. He was a professional and an expert in Environmental issues both academically and in experience having worked and being in the service on the sector for the last six years..
- c. Having worked in the position of a Deputy Director in the County he needed to grow in the field which was more motivational to see one grow in the line of duty.
- d. He had an urge to serve the County and a passion to serving the public in the Sector being his field of study.

3. With respect to concrete steps he will take to help the Governor achieve his vision and plans for Nairobi within the sector if appointed

The nominee informed the committee as follows;-

He would work closely with the other officers in the County Government to make sure that all the Governor's plans subjected to his sector are fully implemented and would also work closely and with consultation with the County Assembly Members to ensure that all the Sector's legislations runs smoothly.

4. With respect to professional, business, fraternal, scholarly, civic, charitable or other organizations, to which he belong or have belonged

The nominee informed the committee as follows:-

He is a lead member of the Environment Institute of Kenya, a member of the Environment Impact Assessment and a member of the National Environmental Management Authority of Kenya.

5. With respect to public offices he have held or he is currently holding, including the terms of service and whether such positions were elected or appointed

The nominee informed the committee as follows:-

He is currently the Deputy Director Environment, Nairobi City County under permanent and pensionable terms of service, was previously a Sub- County Environmental Officer in the County and before then was a Data Clerk in Geographic Information System with Azimath Limited, a Data Clerk in Geographic Information System with Geomaps Africa Limited and an Assistant Hydrologist with Individual Consultant.

6. With respect to how he will balance the interests of garbage collectors and the need to develop a proper mechanism for garbage disposal

The nominee informed the committee as follows:-

He will be looking forward to reversing the current situation whereby the County contracts over 70% of the garbage produced collection and disposal to contractors and the County does the remaining 30%. He would be working towards mobilizing resources and employment of youths to provide cheap labour to see to it that most of the work of garbage collection and disposal would be done by the Sector.

7. With respect to the concrete steps he would take to help the Governor achieve his vision and plans for Nairobi within your sector if appointed

The nominee informed the committee as follows:-

He would work closely with the other officers in the County Government to make sure that all the Governor's plans subjected to his sector are fully implemented and would also work closely and with consultation with the County Assembly Members to ensure that all the Sector's legislations are implemented fully.

8. With respect to Sewerage system in Nairobi being in a mess, especially in low income neighborhoods, on his plans to fix the situation

The nominee informed the committee as follows:-

He would work hand in hand with the Chief Officer for Water and Sanitation to make sure that the problems of sewer line are taken care of to improve functioning of the informal settlements within the County.

9. With respect to Corruption being a major hindrance to proper garbage collection and disposal, and how he propose/ intend to deal with the mess in the sector

The nominee stated that:-

He would be working towards mobilizing resources and employment of youths to provide cheap labour to ensure that most of the work of garbage collection and disposal would be done by the Sector. He would as well legislate on the gaps to ensure that there would be smooth running of the sector. In addition he would as well work with the Members of the Assembly for increased resources through the budgetary allocation.

10. With respect to how he would solve some of the challenges facing implementation of Environmental policies in the City and whether he had any clear plans and timelines

The nominee stated as follows:-

Lack of awareness by the public is a major hindrance to implementation of environment policies and that he would carry out civic education to sensitize

the public through the available means on the presence of the policies and their objectives as well as formulating new legislations in order to strengthen implementation of the enacted laws.

11. With respect to the most money he has ever managed at any one time and whether he was up to the task of managing such a big fund as a County departmental budget

The nominee stated as follows:-

That he has been in the sector for long and was working closely with the former Chief Officers before Nairobi Metropolitan Services came in and had been assisting the Chief Officer as deputy in performing some duties and implementation of the budget through projects and hence had no problem dealing with huge sum of money at any one time.

12. With respect to his net worth and how he has attained his wealth

The nominee stated as follows:-

That he was worth fifteen (15) million which he has attained from his salary from the various institutions he worked and some from allowances from his consultancies.

13. With respect to whether he has ever been dismissed or otherwise removed from office for a contravention of the provisions of Article 75 of the Constitution and whether he has ever been adversely associated with practices that depict bias, favoritism or nepotism in the discharge of public duties -

Nominee informed the Committee that;--

He has never been dismissed or removed from office for contravention of any law nor has he been adversely mentioned or associated with any ill activities or will.

14. With respect to handling pressure from the political environment and how best do to cope, once appointed -

The nominee informed the Committee as follows:-

That his availability will be paramount and at any time if any assistance will be required he will be willing to assist. That he was privy to provisions of chapter six of the Constitution of Kenya and has no conflict of interest; and that he upholds and will uphold the financial integrity, moral authority and code of conduct for the position.

4.0 COMMITTEE'S OBSERVATIONS AND FINDINGS

The Committee having considered the nominees curriculum vitae and heard his oral submissions during the vetting exercise made the following observations and findings.

4.1 General Observations

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

THAT: -

1. the nominee (Mr. Hibrahim Otieno Nyakach) satisfy 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 Directorate of Criminal Investigations (DCI), Kenya Revenue Authority (KRA), Higher Education Loans Board (HELB) and the Credit Reference Bureau (CRB).
 - b) The nominee has never been charged in a Court of Law.
 - c) The nominee does not exhibit a potential conflict of interest.
 - d) The nominee does not exhibit a potential conflict of interest.
 - e) The nominee meets the requirements of Section 35 (3) (d) since he exhibited knowledge of topical and current issues touching on the respective docket and has the requisite abilities, qualifications and experience.

A summary of the Committee's specific observations for the nominee is highlighted as follows:-

4.2 MR. HIBRAHIM OTIENO NYAKACH - NOMINEE FOR THE CHIEF OFFICER FOR ENVIRONMENT SUB- SECTOR

- a) He is currently the Nairobi City County Government Deputy Director of Environment.
- b) He is currently undertaking a Master of Arts in Environmental Planning and Management at the University of Nairobi from January 2020.
- c) He holds a Degree of Bachelor of Arts (Geography and Environmental Studies) from University of Nairobi
- d) He possesses a Diploma in Strategic Management Water Sector Governance and operations from Alison Ireland Online University of Copenhagen.
- e) He further possesses a Diploma in Green and Circular Economy from Denmark Technical University.
- f) He holds other professional courses at various institutions, as well as seminars and workshops and attained Certificates in;
 - Planning for Climate Change for African Cities from Institute of Housing and Urban Development Studies/ Erasmus University Rotterdam.
 - Noise pollution control from Kenya School of Government. and
 - Strategic Environmental Impact Assessment and Audit from Kenya School of Government.
- g) The nominee previously worked as;
 - The Nairobi City County Government Deputy Director of Environment (2018),
 - The Nairobi City County Government, Sub- County Environment Officer (2016-2018),
 - Geographic Information System (GIS),Data Clerk at Azimath Limited (2014-2016),
 - Assistant hydrologist at Individual Consultant (2013-2014), and
 - Geographic Information System (GIS),Data Clerk at Geomaps Africa Limited (2012-2012),
- 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.

The Committee found the nominee suitable and qualified for appointment as the Chief Officer for Environment Sector.

5.0. COMMITTEE'S RECOMMENDATIONS

Pursuant to Section 45 (1) (a) and (b) of the County Governments Act, 2012, Section 9 (2) of the Public Appointments (County Assemblies Approval) Act, 2017, and Standing Order No. 203 (6) of the Nairobi City County Assembly Standing Orders, the Sectoral Committee on Environment and Natural Resources recommends;

That, this Assembly approves Mr. Hibrahim Otieno Nyakach for appointment by His Excellency the Governor as the Chief Officer for Environment Sub- Sector, Nairobi City County.

