

COUNTY GOVERNMENT OF NAIROBI CITY



NAIROBI CITY COUNTY ASSEMBLY

THIRD ASSEMBLY-SECOND SESSION

COMMITTEE ON APPOINTMENTS

SECOND REPORT ON THE VETTING OF THE NOMINEE FOR THE POSITION OF
COUNTY SECRETARY.

Clerk's Chambers
City Hall Buildings
NAIROBI

MARCH, 2023

Papers laid
Today Wednesday
15th March 2023
by the leader
of majority
party
PCAC
15/03/23

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- 1) Kenya Revenue Authority
- 2) Ethics and Anti-Corruption Commission
- 3) Directorate of Criminal Investigations (DCI)

(ii) Annexure (2)

- 1) Minutes

(iii) Annexure (3) – Curricula Vitae

Dr. Jairus Musumba, PhD.

LIST OF ABBREVIATIONS AND ACRONYMS

CS	-	County Secretary
NMS	-	Nairobi Metropolitan Services

1.0. FORWARD

Pursuant to Section 44(2) (b) of the County Governments Act, 2012, H.E. the Governor, Hon. Johnson Arthur Sakaja vide a letter dated **8th February, 2023** forwarded to the Speaker of the Nairobi City County Assembly, the name of **Dr. Jairus Musumba** for vetting by the Select Committee on Appointments and consideration for approval by the County Assembly for appointment to the position of County Secretary.

Accordingly, pursuant to Section 7 of the Public Appointments (County Assemblies Approval) Act, 2017 and Standing Orders 45 and 48 of the Nairobi City County Assembly Standing Orders the Speaker of the County Assembly on **Tuesday, 14th February, 2023** conveyed the message to the County Assembly and committed the name of the nominee to the County Assembly Committee on Appointments for vetting and reporting to the Assembly within twenty-one (21) sitting days.

Consequently, pursuant to Section 7(4) of the Public Appointments (County Assemblies Approval) Act, 2017, the Clerk of the County Assembly placed an advertisement in the local dailies, specifically the Standard Newspaper and the Star Newspaper on **Friday 24th February, 2023**, inviting the public to submit memoranda by way of written statements on oath (*sworn affidavits*) on the suitability or otherwise of the nominee in conformity with Section 7(10) of the Act. The advertisement indicated that the submissions were to be received by **Friday 10th March, November, 2023**.

Further, in the fulfilment of the provisions of Section 7 of the Public Appointments (County Assemblies Approvals) Act, 2017, the Clerk notified the general public that the approval hearing of the nominee would be held on **Wednesday 15th March, 2023**.

The nominee appeared before the Committee as scheduled pursuant to the provisions of the Public Appointments (County Assemblies Approval) Act, 2017. Pursuant to the provisions of Section 8 of the Public Appointments (County

Assemblies Approval) Act, 2017, the Committee observed that while the nominee met the integrity threshold he did not demonstrate strict academic qualification, capacity and honesty for the position he has been nominated to serve.

Having conducted the approval hearing of the nominee pursuant to Article 179(2)(b) of the Constitution, Section 44(2)(b) of the County Government Act, 2012, Section 9 of the Public Appointments (County Assemblies Approval) Act, 2017 and Standing Order 202(4) the Committee recommends that the House **rejects the nomination of Dr. Jairus Musumba for appointment by H.E. the Governor to the position of County Secretary.**

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

Finally, on behalf of the Select Committee on Appointments, it is my pleasure and duty to present to the Assembly, the Committee's Report on the vetting of **Dr. Jairus Musumba** nominee for appointment to the position of County Executive Committee Member to the Assembly for adoption pursuant to the Standing Orders of the County Assembly and other enabling provisions of the Law.



Hon. Kennedy O. Ngondi, MCA

Speaker Nairobi City County Assembly /Chairperson, Committee on Appointment.

2.0. PREFACE

2.1. Establishment and Mandate of the Committee

1. Section 14 (3) of the County Governments Act, 2012 provides that when a County Assembly considers any appointment for which its approval is required under the Constitution, an Act of Parliament or county legislation, the appointment shall be considered first by a committee of the County Assembly.
2. The Select Committee on Appointments is therefore established under Standing Order No. 202, and its mandate amongst others, as outlined under Standing Order 202 (4) includes *to consider, for approval by the County Assembly, appointments under Articles 179(2) of the Constitution (Members of County Executive Committee).*”

2.2. Committee Membership

3. The Committee was constituted by the Assembly on **26th October, 2022** comprising of the following Members: -
 1. Hon. Kennedy Ng’ondi, MCA – Chairperson
 2. Hon. Peter Imwatok, MCA – Majority Leader
 3. Hon. Anthony Kiragu, MCA – Minority Leader
 4. Hon. Moses Ogeto, MCA – Majority Whip
 5. Hon. Mark Mugambi, MCA – Minority Whip
 6. Hon. Wilfred Odalo, MCA
 7. Hon. Oscar Lore, MCA
 8. Hon. Emily Oduor, MCA
 9. Hon. Chege Mwaura, MCA
 10. Hon. Susan Makungu, MCA

2.3. Committee Secretariat

4. The Secretariat comprises: -
 1. Edward Gichana – Clerk of the County Assembly
 2. Sammy Kiptoo – Director, Legislative Services

3. Shadrack Makokha - Principal Clerk Assistant
4. Guyo Sankala - Ag. Principal Clerk Assistant (Committees)
5. Kevin Kokebe - Principal Legal Counsel
6. Hellen Mutie - Senior Clerk Assistant
7. Timothy Kiprop - Hansard Officer
8. Edward Atanga - Audio Technician

3.0. BACKGROUND

3.1. Notification of Nominations

5. Pursuant to , pursuant to Section 44(2) (b) of the County Governments Act, 2012, H.E. the Governor of Nairobi City, **Johnson Arthur Sakaja** vide a letter Ref. **NCC/GOV/ADM/3/049/2023** dated **8th February, 2023** submitted to the County Assembly the name of **Dr. Jairus Musumba**, as the nominee for approval for appointment as the **County Secretary**.

3.2. Notification to the House and referral to the Committee on Appointments

6. On **Tuesday 14th February, 2023** and pursuant to Standing Order 45(1), the Honorable Speaker read the message from His Excellency the Governor communicating the name of the nominee to the Assembly for the position of County Secretary.
7. Pursuant to Section 9(1) of the Public Appointments (County Assemblies Approval) Act, 2017 the name of the nominee was referred to the Committee on Appointments for vetting and reporting to the Assembly within twenty-one (21) sitting days.

3.3. Notification to the Public

8. Article 196(b) of the Constitution of Kenya provides that the County Assembly shall facilitate public participation and involvement in the legislative and other business of the Assembly and its Committees.
9. Section 7 of the Public Appointments (County Assemblies Approvals) Act, 2017 requires the Committee 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.
10. Further Section 7(10) of the Act provides that *“any person may, prior to the approval hearing, and by 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”*.

11. Consequently, pursuant to Section 7(4) of the Public Appointments (County Assemblies Approval) Act, 2017, the Clerk of the County Assembly placed an advertisement in the local dailies, specifically the Standard Newspaper and the Star Newspaper on **Friday 24th February, 2023**, inviting the public to submit memoranda by way of written statements on oath (*sworn affidavits*) on the suitability or otherwise of the nominee in conformity with Section 7(10) of the Act. The advertisement indicated that the submissions were to be received by **Friday, 10th March, 2023**.
12. Further, in the said advertisement and pursuant to Section 7 of the Public Appointments (County Assemblies Approvals) Act, 2017, the Clerk notified the general public that the approval hearings of the nominee would be held on **Wednesday 15th March, 2023**.

3.4. Notification to the Nominee

13. On **Friday 24th February, 2023** the Clerk invited the nominee through the print media and thereafter through direct message, for the approval hearing in accordance with Section 7 (4) of the Public Appointments (County Assemblies Approvals) Act, 2017.

3.5. Clearance and Compliance Requirements

14. On **13th March, 2023** and vide a letter **Ref. NCCA/CCA/2023/03(19)**, the Clerk wrote to the Ethics and Anti-Corruption Commission (EACC), the Directorate of Criminal Investigations (DCI), Kenya Revenue Authority (KRA) requesting for reports of the nominee on the following matters: -
- (a) Ethics and integrity;
 - (b) Tax compliance; and
 - (c) Criminal records.
15. While the said institutions had not responded to the above letter by the Clerk, the nominee submitted clearances from the said institution.

3.6. Issues for consideration during the Approval Hearings

3.6.1. Procedure for Nomination.

16. Section 44(2) (b) of the County Government Act, 2012 confers upon H.E the Governor the power to appoint a County Secretary with the approval of the County Assembly. The person so appointed is required to have been competitively sourced from persons who are university graduates with at least ten years' experience in administration and management.
17. Section 6 of the Public Appointments (County Assemblies Approval) Act, 2017 further requires the appointing authority, upon nominating a person for appointment, to notify the County Assembly.
18. In this regard, a letter from the Office of the Governor dated 8th March, 2023, addressed to the Speaker of the County Assembly indicated that pursuant to Section 44 (2) (a) and (b) of the County Governments Act, 2012, H.E. the Governor, had nominated **Dr. Jairus Musumba** to be considered for approval by the County Assembly for appointment to the position of County Secretary.

3.6.2. Suitability of the Nominee for the proposed appointment having regard to whether the nominee's abilities, experience and qualities meet the needs of the position the nomination is made.

19. The suitability of the nominee was assessed following scrutiny of his academic credentials, professional training and experience, personal integrity, background qualities as well as his performance during the approval hearing conducted on Wednesday 15th March, 2023.

3.6.3. Memorandum from Members of Public in respect of the Nominee

20. Pursuant to Section 7(10) of the Public Appointments (County Assemblies Approval) Act, 2017 which provides that *"any person may, prior to the approval hearing, and by 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”, the Clerk placed an advertisement in the print media on 24th February, 2023 inviting the public to submit any memoranda by way of written statements on oath (affidavit) on the suitability or otherwise of the nominee but none had been received by close of business on **Friday 10th March, 2023**.

4.0. APPROVAL HEARINGS OF THE NOMINEE – DR. JAIRUS MUSUMBA

21. During its Sitting held on **Wednesday 15th March, 2023**, at Charter Hall, Assembly Precincts, City Hall Buildings at **9:00am**, the Committee conducted face to face interview of the nominee. The minutes of the vetting proceedings are attached to this report.

4.1. Submissions by the Nominee

22. While under oath, the nominee informed the Committee as follows : -

Date and Place of Birth

23. The nominee is a male Kenyan born on **23rd March, 1968** in Luanda, Vihiga County and does not hold dual citizenship.

Academic and Professional Qualifications

24. The nominee holds a Ph.D. in Public Health (2015 to 2020) and a Master of Science in Public Health (2016-2019) from Jomo Kenyatta University of Agriculture and Technology, and Bachelor of Science (BSc) degree in Environmental Health from Moi University (2001 to 2005).

Employment Record

25. The nominee is currently the **Acting County Secretary** and Head of County Public Service, Nairobi City County. He previously worked with Nairobi City County Government as the Chief Officer Health Services (2017-2021), Ag. Deputy Director Public Health (2014 -2017) and Ag. Assistant Chief Public Health Officer.

Income and net worth

26. The nominee estimated his net worth to be **Kshs. 70 million**.

Potential Conflict of Interest

27. The nominee declared that he currently does not have any persons or matter that would present any potential conflict of interest should he assume the position of County Secretary.

Integrity

28. The nominee stated that he has neither been charged in a court of law nor mentioned in any investigatory report of Parliament, County Assembly or any Commission of inquiry in the last three (3) years. He has also never been dismissed or otherwise removed from office for contravention of the provisions of Article 75 of the Constitution.

Responses to questions put to him by Members of the Committee

29. The Committee posed several questions to the nominee on his knowledge of the position he had been nominated to and his conduct in public and private life. The nominee responded as follows: -

Alleged misappropriation of funds under the Liquor Licensing Board during his tenure as Chief Officer Trade and failure to honor Assembly invitations

30. That contrary to allegations raised by the Committee, he has never misappropriated any public funds and that he has fully responded to all audit queries. Further, he has faithfully honored Assembly invitations.

Indecisive nature of the nominee

31. That it is not true that he is indecisive, to the contrary, his over 21 years in public service reveals instances where he has made critical decisions

Conflict of interest between the nominee's private business and County duties.

32. That while he owns various businesses, he has never used his previous positions in the county to favor them.

Nominee's take on the defunct Nairobi Metropolitan Services (NMS) and the apparent miss-advise of the H.E. the Governor on the former NMS employees

33. That if he was asked to advise or make a decision at the time when NMS was being created he would have advised that the national government only allocated funds to the transferred functions but the County Government would retain the implementation of the said functions.

34. That he gave his advice to H.E. the Governor on the former NMS employees was based on the contract the officers had by NMS and the PSC.

Executive-Assembly relations

35. That he has done all within his powers to ensure that the Assembly's interests are catered for. However, he could not do much in instances where other departments of the county government had a role especially with regards to the financial requirements of the County Assembly. However, he undertook that if approved, he would ensure that Assembly interest are protected as far as his mandate under the law requires him. In addition, he promised to navigate well with Members of the County Assembly.

Discrepancies in the nominees' various appointments and the implications of the letter Ref. NCC/GOV/HRM/1988075241 dated 14th November, 2022 by H.E. Sakaja Arthur Johnson renewing his appointment as Chief Officer.

36. That while he was initially appointed as the Chief Officer, Health Services, in 2017, he was moved to various other Departments such as Trade and Industrialization, Urban Planning Commerce, Food, Agriculture and Forestry and eventually Ag. County Secretary under the tenure of H.E. Governors Mike Sonko, Anne Kananu and now Johnson Arthur Sakaja.

37. On the letter Ref. NCC/GOV/HRM/1988075241 dated 14th November, 2022 by H.E. Governor Sakaja, he stated that the letter was to regularize his holding of the position of Chief Officer which had expired for him to be eligible for appointment to the position of Ag. County Secretary. The nominee could not explain which portfolio/department he was being appointed to pursuant to the renewal and the appointing authority/author was in a better position to explain.

Nominees' take on the shrinking county internal revenues

38. That while it is true that there have been challenges in revenue collection leading to revenue shortfalls, the County Government during his tenure has tried to put in place mechanisms such as adoption of automated revenue collection systems to ensure optimal revenue collection. This include the transfer of the function to KRA amongst other administrative changes

Priority legislative support

39. That he would implore upon the County Assembly to pass the Finance Bill in order to enable the County Government collect enough revenues to fund its operations.

On whether his academic qualifications and experience are relevant to the position he has been nominated to.

40. That he holds a PhD in Public Health and in all his course work there has been an element of management which is critical for the position of CS. In addition, he has served the County in various top positions including chief officer and currently as the Ag. County Secretary and therefore he has gained extensive experience and knowledge in management.

5.0. COMMITTEE OBSERVATIONS ON THE SUITABILITY OF THE NOMINEE

41. The Committee having considered the nominee filled questionnaire pursuant to Section 7(9) of the Public Appointments (County Assemblies Approval) Act, 2017, his curriculum vitae and having heard his oral submissions during the approval hearing, made the following observations on his suitability for appointment as County Secretary: -

- (i) **THAT**, in accordance with Article 78 (1) and (2) of the Constitution, the nominee is eligible for appointment to State and Public Office since he is a Kenyan Citizen born on **23rd March, 1968**.
- (ii) **THAT**, the nominee meets the requirements of Chapter 6 of the Constitution on leadership and integrity having obtained clearance from the following statutory bodies; the EACC, KRA, and DCI.
- (iii) **THAT**, the nominee has not been charged or convicted by a Court of Law in the past three (3) years.
- (iv) **THAT**, the nominee has never been removed from office under Article 75 of the Constitution for contravention of Articles 75(1) (*conflict of interest*), Article 76 (*financial probity*), Article 77 (*restriction of activities of State Officers*), and Article 78 (2) (*dual citizenship*) of the Constitution.
- (v) **THAT**, the nominee lacks suitable academic and professional background and qualifications to serve in the position of County Secretary having spent almost the entire of his academic work and experience in public health. It is the opinion of the Committee that such a position should be occupied by a person with strong academic background in either law, public/business administration or human resource management to be able to navigate with the strict demands of the office to avoid the several changes in the office during the former regime thus destabilizing the County Government. Further, a lack of requisite academic background explains the several occasions the nominee while acting in the position he has been nominated to has been miss-advising former and current County Governors on the

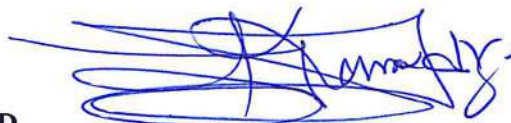
human resource issues as was the case with former NMS staff and legal positions on the various functions of the County Government.

(vi) **THAT**, in his own admission and as evidenced in the letter Ref. **NCC/GOV/HRM/1988075241** dated **14th November, 2022** by **H.E. Sakaja Arthur Johnson** renewing the nominees' appointment as Chief Officer albeit to a non-existent or imaginary Department/Portfolio the nominee portrays himself as a dishonest and not genuine individual since he only accepted the letter in order for him to continue being eligible for appointment as County Secretary in an Acting capacity when in actual sense he was not eligible.

6.0. COMMITTEE RECOMMENDATIONS

42. **THAT**, having conducted the approval hearing of the nominee pursuant to, Section 44 of the County Government Act, 2012, Section 9 of the Public Appointments (County Assemblies Approval) Act, 2017 and Standing Order 202(4) and taking into account observation 41 (vi) & (vi) above, the Committee recommends that: -

- (i) The Assembly **REJECTS** the nomination of Dr. Jairus Musumba for appointment as County Secretary by His Excellency the Governor.
- (ii) The appointing authority (being H.E. the Governor of Nairobi City County) **APPOINTS ANOTHER** officer other than the nominee within seven (7) days of adoption of this report to act in the position of County Secretary pursuant to the applicable laws until the position is substantively filled.


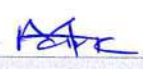



SIGNED

HON. KENNEDY O. NG'ONDI, MCA
SPEAKER, NAIROBI CITY COUNTY ASSEMBLY

COMMITTEE ADOPTION SHEET

Adoption of the Committee Report on the vetting of Dr. Jairus Musumba, nominee for County Secretary position

No.	Name	Signature
1.	HON. KENNEDY NG'ONGI	
2.	HON MOSES OGETO	M.O.O
3.	Phil Imwani	
4.	Mark Mugambi	
5.	HON WILFRED ODIAO	W.O.O
6.	Hon Oscar LORE	LORE
7.	Anthony Kigaya	AKK
8.	Emuel ODUTOR	
9.		
10.		

MINUTES OF THE 1ST SITTING OF THE SELECT COMMITTEE ON APPOINTMENTS HELD ON 20TH FEBRUARY, 2023 IN THE CHAMBER BOARDROOM, CITY HALL BUILDINGS AT 10.30AM

PRESENT

- 1) Hon. Kennedy Ngondi, MCA – Chairperson
- 2) Hon. Anthony Kiragu, MCA – Minority Leader
- 3) Hon. Moses Ogeto, MCA – Majority Whip
- 4) Hon. Mark Mugambi, MCA – Minority Whip
- 5) Hon. Oscar Lore, MCA
- 6) Hon. Chege Mwaura, MCA
- 7) Hon. Emily Oduor, MCA

ABSENT

- 1) Hon. Peter Imwatok MCA – Majority Leader
- 2) Hon. Susan Makungu, MCA
- 3) Hon. Wilfred Odalo, MCA

IN ATTENDANCE

- | | |
|-------------------------|-------------------------------------|
| 1. Mr. Edward Gichana | - Clerk |
| 2. Mr. Sammy Kiptoo | - Director Legislative Services |
| 3. Mr. Kevin Kokebe | - Principal Legal Counsel |
| 4. Mr. Shadrack Makokha | - Principal Clerk Assistant (C) |
| 5. Mr. Guyo Sankala | - Ag. Principal Clerk Assistant (C) |
| 6. Ms. Hellen Mutie | - Senior Clerk Assistant |

MIN. NO./SCA/FEB/001/2023:

- PRELIMINARIES

The Chairperson called the meeting to order at 10.50 am and opened the meeting with a word of prayer. He briefed the Members on the day's agenda which was adopted as follows:-

AGENDA

1. *Preliminaries (prayers & adoption of the Agenda)*
2. *Consideration and adoption of the work plan for the vetting of Dr. Jairus Musumba, nominee for County Secretary position*
3. *Any Other Business*
4. *Adjournment*

MIN. NO./SCA/FEB/002/2023: CONSIDERATION AND ADOPTION OF THE WORK PLAN FOR THE VETTING OF DR. JAIRUS MUSUMBA, NOMINEE FOR COUNTY SECRETARY POSITION

- The Chairperson informed the Committee that pursuant to Section 44(2) (b) of the County Governments Act, 2012, H.E. the Governor of Nairobi City, Johnson Arthur Sakaja vide a letter Ref. NCC/GOV/ADM/3/049/2023 dated 8th February, 2023 submitted to the County Assembly the name of Dr. Jairus Musumba, as the nominee for approval for appointment as the County Secretary
- He further informed the Members that pursuant to Section 7 of the Public Appointments (County Assemblies Approval) Act, 2017 and Standing Orders 45 and 48 of the Nairobi City County Assembly Standing on **Tuesday, 14th February, 2023** he conveyed the message to the County Assembly and committed the name of the nominee to the Committee for vetting and reporting.
- The Clerk tabled the draft vetting work plan. After extensive deliberations it was adopted as below;

S/NO	ITEM	DATE
1.	Message from the Governor	8 th February, 2023
2.	Committal to Committee on Appointments	14 th February, 2023
3.	1 st Committee Meeting on preparation of the vetting-consider and adopt the vetting work plan	Monday 20 th February, 2023
4.	Advert placed on the dailies notifying the nominee and inviting written memoranda and public participation	Friday 24 th February, 2023
5.	Receiving memoranda	On or Before Friday 10 th March, 2023
6.	2 nd Committee meeting: <ul style="list-style-type: none"> - Consideration of memoranda; - preparation of vetting to deliberate on: <ul style="list-style-type: none"> ✓ nominee checklist of submitted documents ✓ brief on data capture form; ✓ guiding questions ; and ✓ affidavits for any written submissions 	Tuesday 14 th March, 2023
7.	Vetting of the nominee	Wednesday 15 th March, 2023

	- Consideration and Adoption of the report on vetting of nominee to the position of the County Secretary	
9.	Assembly Sitting: - Approval of the Reports on vetting of the of nominee to the position of the County Secretary	Tuesday 21 st March, 2023 at 2:30pm

MIN. NO./SCA/FEB/003/2023: - **A.O.B & ADJOURNMENT**

There being no other business to transact, the Chairperson adjourned the meeting at thirteen minutes to Twelve O'clock

SIGNATURE.....

(Chairperson)

DATE

MINUTES OF THE 2ND SITTING OF THE SELECT COMMITTEE ON APPOINTMENTS HELD ON 14TH MARCH, 2023 IN THE CHAMBER BOARDROOM, CITY HALL BUILDINGS AT 2.00PM

PRESENT

- 1) Hon. Kennedy Ngondi, MCA – Chairperson
- 2) Hon. Peter Imwatok MCA – Majority Leader
- 3) Hon. Moses Ogeto, MCA – Majority Whip
- 4) Hon. Mark Mugambi, MCA – Minority Whip
- 5) Hon. Wilfred Odalo, MCA
- 6) Hon. Chege Mwaura, MCA
- 7) Hon. Emily Oduor, MCA

ABSENT

- 1) Hon. Anthony Kiragu, MCA – Minority Leader
- 2) Hon. Oscar Lore, MCA
- 3) Hon. Susan Makungu, MCA

IN ATTENDANCE

- | | |
|-------------------------|---------------------------------|
| 1. Mr. Edward Gichana | - Clerk |
| 2. Mr. Sammy Kiptoo | - Director Legislative Services |
| 3. Mr. Shadrack Makokha | - Principal Clerk Assistant (C) |
| 4. Ms. Hellen Mutie | - Senior Clerk Assistant |

MIN. NO./SCA/MARCH/004/2023:

- PRELIMINARIES

The Chairperson called the meeting to order at 2.00 pm and Hon. Peter Imwatok opened the meeting with a word of prayer. The Chair briefed the Committee on the day's agenda which was adopted on proposal by Hon. Moses Ogeto and seconded by Hon. Emily Oduor as follows:-

AGENDA

1. *Preliminaries (prayers & adoption of the Agenda)*
2. *Deliberation on the process of the vetting of Dr. Jairus Musumba, nominee for County Secretary position*
3. *Any Other Business*
4. *Adjournment*

MIN. NO./SCA/MARCH/005/2023: DELIBERATION ON THE PROCESS OF THE VETTING OF DR. JAIRUS MUSUMBA, NOMINEE FOR COUNTY SECRETARY POSITION

- The Chairperson mentioned that pursuant to Section 44(2) (b) of the County Governments Act, 2012, H.E. the Governor of Nairobi City, Johnson Arthur

Sakaja vide a letter Ref. NCC/GOV/ADM/3/049/2023 dated 8th February, 2023 submitted to the County Assembly the name of Dr. Jairus Musumba, as the nominee for approval for appointment as the County Secretary

— Members discussed the process to follow in vetting and resolved:

THAT;

- a) the Committee in vetting the nominee will stick to the criteria set out in the Public Appointments (County Assemblies Approval) Act, 2017 which provides a questionnaire to be filled out by the nominee and a score sheet to be filled during the approval hearing.
- b) the Committee establishes the knowledge and suitability of the nominee on the position he had been nominated to.
- c) the Committee in conducting the vetting exercise should not go far back as if it was conducting the interview exercise as that had already been undertaken.
- d) after the vetting exercise, the Committee could either recommend appointment of the nominee or recommend that the nominee be rejected, and the Governor to forward another nominee for consideration by the Assembly.
- e) the Members would be very objective during the vetting exercise

MIN. NO./SCA/MARCH/006/2023: - **A.O.B & ADJOURNMENT**

There being no other business to transact, the Chairperson adjourned the meeting at twenty eight minutes past Two O'clock. Next meeting would be held on Wednesday 15th March, 2023 at 9.00am in Charter Hall.

SIGNATURE.....

(Chairperson)

DATE

MINUTES OF THE 3RD SITTING OF THE SELECT COMMITTEE ON APPOINTMENTS HELD ON 15TH MARCH, 2023 IN CHARTER HALL, CITY HALL BUILDINGS AT 9.00AM

PRESENT

- 1) Hon. Kennedy Ngondi, MCA – Chairperson
- 2) Hon. Peter Imwatok MCA – Majority Leader
- 3) Hon. Anthony Kiragu, MCA – Minority Leader
- 4) Hon. Moses Ogeto, MCA – Majority Whip
- 5) Hon. Mark Mugambi, MCA – Minority Whip
- 6) Hon. Wilfred Odalo, MCA
- 7) Hon. Oscar Lore, MCA
- 8) Hon. Emily Oduor, MCA
- 9) Hon. Chege Mwaura, MCA

IN ATTENDANCE

Hon. Susan Makungu, MCA

IN ATTENDANCE

- | | | |
|-------------------------|---|-----------------------------------|
| 1. Mr. Edward Gichana | - | Clerk |
| 2. Mr. Sammy Kiptoo | - | Director, Legislative Services |
| 3. Mr. Shadrack Makokha | - | Principal Clerk Assistant (C) |
| 4. Mr. Guyo Sankala | - | Ag. Principal Clerk Assistant (C) |
| 5. Mr. Titus Muiruri | - | Senior Clerk Assistant |
| 6. Ms. Hellen Mutie | - | Senior Clerk Assistant |
| 7. Mr. Timothy Kiprop | - | Hansard Reporter |
| 8. Mr. Edward Atanga | - | Audio Technician |

MIN. NO./SCA/MARCH/007/2023: - PRELIMINARIES

The Chairperson called the meeting to order at 9.00 am and opened the meeting with a word of prayer. He briefed the meeting on the process to follow during the vetting and informed that the Committee was scheduled to vet Dr. Jairus Musumba the nominee for County Secretary position. He then invited the nominee for the approval hearing.

MIN. NO./SCA/MARCH/008/2023:- VETTING OF THE NOMINEE FOR COUNTY SECRETARY POSITION

Submissions by the Nominee

While under oath, the nominee informed the Committee as follows: -

Date and Place of Birth

1. The nominee is a male Kenyan born on **23rd March, 1968** in Luanda, Vihiga County and does not hold dual citizenship.

Academic and Professional Qualifications

2. The nominee holds a Ph.D. in Public Health (2015 to 2020) and a Master of Science in Public Health (2016-2019) from Jomo Kenyatta University of Agriculture and Technology, and Bachelor of Science (BSc) degree in Environmental Health from Moi University (2001 to 2005).

Employment Record

3. The nominee is currently the **Acting County Secretary** and Head of County Public Service, Nairobi City County. He previously worked with Nairobi City County Government as the Chief Officer Health Services (2017-2021), Ag. Deputy Director Public Health (2014 –2017) and Ag. Assistant Chief Public Health Officer.

Income and net worth

4. The nominee estimated his net worth to be **Kshs. 70 million**.

Potential Conflict of Interest

5. The nominee declared that he currently does not have any persons or matter that would present any potential conflict of interest should he assume the position of County Secretary.

Integrity

6. The nominee stated that he has neither been charged in a court of law nor mentioned in any investigatory report of Parliament, County Assembly or any Commission of inquiry in the last three (3) years. He has also never been dismissed or otherwise removed from office for contravention of the provisions of Article 75 of the Constitution.

Responses to questions put to him by Members of the Committee

7. The Committee posed several questions to the nominee on his knowledge of the position he had been nominated to and his conduct in public and private life.

The nominee responded as follows: -

Alleged misappropriation of funds under the Liquor Licensing Board during his tenure as Chief Officer Trade and failure to honor Assembly invitations

8. That contrary to allegations raised by the Committee, he has never misappropriated any public funds and that he has fully responded to all audit queries. Further, he has faithfully honored Assembly invitations.

Indecisive nature of the nominee

9. That it is not true that he is indecisive, to the contrary, his over 21 years in public service reveals instances where he has made critical decisions

Conflict of interest between the nominee's private business and County duties

10. That while he owns various businesses, he has never used his previous positions in the county to favor them.

Nominee's take on the defunct Nairobi Metropolitan Services (NMS) and the apparent miss-advise of the H.E. the Governor on the former NMS employees

11. That if he was asked to advise or make a decision at the time when NMS was being created he would have advised that the national government only allocated funds to the transferred functions but the County Government would retain the implementation of the said functions.
12. That he gave his advice to H.E. the Governor on the former NMS employees was based on the contract the officers had by NMS and the PSC.

Executive-Assembly relations

13. That he has done all within his powers to ensure that the Assembly's interests are catered for. However, he could not do much in instances where other departments of the county government had a role especially with regards to the financial requirements of the County Assembly. However, he undertook that if

approved, he would ensure that Assembly interests are protected as far as his mandate under the law requires him. In addition, he promised to navigate well with Members of the County Assembly.

Discrepancies in the nominees' various appointments and the implications of the letter Ref. NCC/GOV/HRM/1988075241 dated 14th November, 2022 by H.E. Sakaja Arthur Johnson renewing his appointment as Chief Officer.

14. That while he was initially appointed as the Chief Officer, Health Services, in 2017, he was moved to various other Departments such as Trade and Industrialization, Urban Planning Commerce, Food, Agriculture and Forestry and eventually Ag. County Secretary under the tenure of H.E. Governors Mike Sonko, Anne Kananu and now Johnson Arthur Sakaja.
15. On the letter Ref. NCC/GOV/HRM/1988075241 dated 14th November, 2022 by H.E. Governor Sakaja, he stated that the letter was to regularize his holding of the position of Chief Officer which had expired for him to be eligible for appointment to the position of Ag. County Secretary. The nominee could not explain which portfolio/department he was being appointed to pursuant to the renewal and the appointing authority/author was in a better position to explain.

Nominees' take on the shrinking county internal revenues

16. That while it is true that there have been challenges in revenue collection leading to revenue shortfalls, the County Government during his tenure has tried to put in place mechanisms such as adoption of automated revenue collection systems to ensure optimal revenue collection. This include the transfer of the function to KRA amongst other administrative changes

Priority legislative support

17. That he would implore upon the County Assembly to pass the Finance Bill in order to enable the County Government collect enough revenues to fund its operations.

On whether his academic qualifications and experience are relevant to the position he has been nominated to.

18. That he holds a PhD in Public Health and in all his course work there has been an element of management which is critical for the position of CS. In addition, he has served the County in various top positions including chief officer and currently as the Ag. County Secretary and therefore he has gained extensive experience and knowledge in management.

Committee Observations on the suitability of the nominee

19. The Committee having considered the nominee filled questionnaire pursuant to Section 7(9) of the Public Appointments (County Assemblies Approval) Act, 2017, his curriculum vitae and having heard his oral submissions during the approval hearing, made the following observations on his suitability for appointment as County Secretary: -

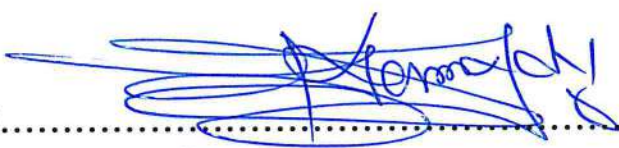
- (i) **THAT**, in accordance with Article 78 (1) and (2) of the Constitution, the nominee is eligible for appointment to State and Public Office since he is a Kenyan Citizen born on **23rd March, 1968**.
- (ii) **THAT**, the nominee meets the requirements of Chapter 6 of the Constitution on leadership and integrity having obtained clearance from the following statutory bodies; the EACC, KRA, and DCI.
- (iii) **THAT**, the nominee has not been charged or convicted by a Court of Law in the past three (3) years.
- (iv) **THAT**, the nominee has never been removed from office under Article 75 of the Constitution for contravention of Articles 75(1) (*conflict of interest*), Article 76 (*financial probity*), Article 77 (*restriction of activities of State Officers*), and Article 78 (2) (*dual citizenship*) of the Constitution.
- (v) **THAT**, the nominee lacks suitable academic and professional background and qualifications to serve in the position of County Secretary having

spent almost the entire of his academic work and experience in public health. It is the opinion of the Committee that such a position should be occupied by a person with strong academic background in either law, public/business administration or human resource management to be able to navigate with the strict demands of the office to avoid the several changes in the office during the former regime thus destabilizing the County Government. Further, a lack of requisite academic background explains the several occasions the officer while acting in the position he has been nominated to has been miss-advising former and current County Governors on the human resource issues as was the case with former NMS staff and legal positions on the various functions of the County Government.

(vi) **THAT**, in his own admission and as evidenced in the letter **Ref. NCC/GOV/HRM/1988075241** dated **14th November, 2022** by **H.E. Sakaja Arthur Johnson** renewing the nominees' appointment as Chief Officer albeit to a non-existence or un-explained Department/Portfolio the nominee portrays himself as a dishonest and not genuine individual since he only accepted the letter in order for him to continue being eligible for appointment as County Secretary in an Acting capacity when in actual sense he was not eligible.

MIN. NO./SCA/MARCH/009/2023: - **A.O.B & ADJOURNMENT**

There being no other business to transact, the Chairperson adjourned the meeting at Thirty Minutes Past Eleven O'clock. Next meeting would be communicated by the Chairperson.

SIGNATURE.....
(Chairperson)

DATE

MIN. NO./SCA/MARCH/ 011/2023: - CONFIRMATION OF MINUTES

- The minutes of the 1st sitting held on Monday 20th February, 2023 were read by the Chairperson. Hon. Moses Ogeto proposed, Hon. Emily Oduor seconded, and the same were confirmed to be the true record of the proceedings.
- The Chairperson took the Committee through the minutes of the 2nd sitting held on Tuesday 14th March, 2023 at 2.00pm. Hon. Mark Mugambi proposed, Hon. Wilfred Odalo seconded and the same were confirmed to be the true record of the proceedings.
- The minutes of the 3rd sitting held on Wednesday 15th March, 2023 at 9.00am were read by the Chairperson. Hon. Peter Imwatok proposed, Hon. Anthony Kiragu seconded, and the same were confirmed to be the true record of the proceedings.

MIN. NO./SCA/MARCH/012/2023: - ADOPTION OF THE COMMITTEE REPORT ON THE VETTING OF VETTING OF DR. JAIRUS MUSUMBA, NOMINEE FOR COUNTY SECRETARY POSITION

- The Clerk submitted the report to the Committee.
- The Chairperson took Members through the report which was thereafter unanimously adopted by the Committee.

MIN. NO./SCA/MARCH/ 013/2023: - A.O.B & ADJOURNMENT

There being no other business to transact, the Chairperson adjourned the meeting at Twenty Four minutes past Two O'clock.

SIGNATURE.....

(Chairperson)

DATE

MINUTES OF THE 4TH SITTING OF THE SELECT COMMITTEE ON APPOINTMENTS HELD ON 15TH MARCH, 2023 IN THE CHAMBER BOARDROOM, CITY HALL BUILDINGS AT 2.00PM

PRESENT

- 1) Hon. Kennedy Ngondi, MCA – Chairperson
- 2) Hon. Peter Imwatok MCA – Majority Leader
- 3) Hon. Anthony Kiragu, MCA – Minority Leader
- 4) Hon. Moses Ogeto, MCA – Majority Whip
- 5) Hon. Mark Mugambi, MCA – Minority Whip
- 6) Hon. Wilfred Odalo, MCA
- 7) Hon. Oscar Lore, MCA
- 8) Hon. Emily Oduor, MCA
- 9) Hon. Chege Mwaura, MCA

ABSENT

Hon. Susan Makungu, MCA

IN ATTENDANCE

- | | | |
|-------------------------|---|-----------------------------------|
| 1. Mr. Edward Gichana | - | Clerk |
| 2. Mr. Sammy Kiptoo | - | Director Legislative Services |
| 3. Mr. Shadrack Makokha | - | Principal Clerk Assistant (C) |
| 4. Mr. Guyo Sankala | - | Ag. Principal Clerk Assistant (C) |
| 5. Ms. Hellen Mutie | - | Senior Clerk Assistant |

MIN. NO./SCA/MARCH/010/2023: - **PRELIMINARIES**

The Chairperson called the meeting to order at 2.00 pm and opened the meeting with a word of prayer. He then briefed the Members on the agenda which was adopted as follows:-

AGENDA

1. *Preliminaries*
2. *Confirmation of Previous Minutes*
3. *Adoption of the Report on the Vetting of Dr. Jairus Musumba, nominee for County Secretary position*
4. *Any Other Business*
5. *Adjournment*