



REPUBLIC OF KENYA



**COUNTY GOVERNMENT OF NYAMIRA
THE COUNTY ASSEMBLY**

SECOND ASSEMBLY- THIRD SESSION

**REPORT OF THE COMMITTEE ON APPOINTMENTS
ON THE VETTING OF THE NOMINEE TO THE
COUNTY EXECUTIVE COMMITTEE MEMBER FOR
TRADE, TOURISM AND COOPERATIVE
DEVELOPMENT**

OFFICE OF THE CLERK

COUNTY ASSEMBLY OF NYAMIRA

APRIL, 2019

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PREFACE

Mr. Speaker, Sir,

The County Assembly of Nyamira Committee on Appointments is constituted pursuant to the provisions of Standing Order No. 185 (1) and has executed its mandate in accordance with the provisions of the said Standing Order 185 sub-paragraph (4), which mandates the Committee;

To consider for approval by the County Assembly Appointments under Article 179(2) of the Constitution of Kenya (2010) (Members of County Executive Committees)

Mr. Speaker, Sir,

The following are the Members of the Committee: -

- i) Hon. Moffat Teya - Chairperson
- ii) Hon. Duke Masira - Member
- iii) Hon. Dennis Kebaso - Member
- iv) Hon. Richard Onyinkwa - Member
- v) Hon. Callen Atuya - Member
- vi) Hon. Daniel Raban Masira - Member

ACKNOWLEDGEMENT

Mr. Speaker Sir,


The Committee wishes to value the time and extensive effort made by all parties who volunteered information before it. In particular and with humility, I wish to express gratitude to the Members of this Honourable Committee and the Members of the County Assembly who attended the Committee Sitzings for their thoughtful input and commitment in consideration of this matter.

Further the Committee thanks the office of the Speaker and Clerk of the County Assembly for facilitating all actions that led to the production of this report. We particularly appreciate the technical and professional input of the following members of staff;

- | | |
|-----------------------|------------------|
| 1. Mr. Joshua Orangi | D/Clerk |
| 2. Mr. David Ombego | Dir. Legal |
| 3. Silvanus Nyamora | Hansard |
| 4. Ms. Felis Osoro | Committee Clerk |
| 5. Mr. Gilbert Onduko | Member |
| 6. Michael Ocharo | Serjeant-at-Arms |

Mr. Speaker, Sir,

With profound humility and pleasure, I present this report to this Honorable House for debate and adoption.

Signed.....

HON. MOFFAT TEYA

Chairperson, Committee on Appointments
County Assembly of Nyamira

FORMATION & MANDATE OF THE COMMITTEE ON APPOINTMENTS

Mr. Speaker, Sir,

The Committee on Appointments is constituted and draws its mandate from the provisions of the County Assembly Standing Order No. 185 (4);

185. (4) *The Committee on Appointments shall consider, for approval by the County Assembly, appointments under Articles 179(2) (Members of County Executive Committees).*

LEGAL FRAMEWORK

Mr. Speaker, Sir,

The Committee confined its activities within the following statutes *inter alia*;

(i) The Constitution of Kenya, 2010 Article 179(2) (b)

(2) *The county executive committee consists of –*

(a) *the county governor and the deputy county governor; and*

(b) *members appointed by the county governor, **with the approval of the assembly**, from among persons who are not members of the assembly.*

(ii) Chapter 6 of the Constitution of Kenya (2010) - *Leadership and Integrity*

(iii) Article 232 of the Constitution of Kenya (2010)

(1) *The values and principles of public service include –*

(a) *high standards of professional ethics;*

(b) *efficient, effective and economic use of resources;*

(c) *responsive, prompt, effective, impartial and equitable provision of services;*

(d) *involvement of the people in the process of policy making;*

(e) *accountability for administrative acts;*

(f) *transparency and provision to the public of timely, accurate information;*

(g) *subject to paragraphs (h) and (i), fair competition and merit as the basis of appointments and promotions;*

(h) *representation of Kenya's diverse communities; and*

(i) affording adequate and equal opportunities for appointment, training and advancement, at all levels of the public service, of--

(i) men and women;

(ii) the members of all ethnic groups; and

(iii) persons with disabilities.

(2) The values and principles of public service apply to public service in –

(a) all State organs in both levels of government; and

(b) all State corporations.

(iv) Section 8(1) (a) of the County Governments Act, 2012

8. (1) the county assembly shall –

(a) Vet and approve nominees for appointment to county public offices as may be provided for in this Act or any other law;

(v) Section 14 (3) of the County Governments Act, 2012

In considering any appointment for which approval of the county assembly is required under the Constitution, an Act of Parliament or county legislation--

(a) the appointment shall be considered first by a committee of the county assembly;

(b) the committee's recommendation shall be tabled before the county assembly for approval; and

(c) the proceedings of the committee and the county assembly shall be open to the public.

(vi) Order No.172 of Nyamira County Assembly Standing Orders.

Powers and privileges of committees

172. Committees shall enjoy and exercise all the powers and privileges bestowed on County Assembly by the Constitution and statute, including the power to summon witnesses, receive evidence and to request for and receive papers and documents from the Government and the public.

(vii) The Committee strictly adhered to the procedures provided for in the Public Appointments (County Assemblies Approval) Act, 2017

(viii) The County Government Act, 2012 Section 35

35. (1) the governor shall, when nominating members of the executive committee –

(a) ensure that to the fullest extent possible, the composition of the executive committee reflects the community and cultural diversity of the county; and

(b) take into account the principles of affirmative action as provided for in the Constitution.

(2) The county assembly shall not approve nominations for appointment to the executive committee that do not take into account –

(a) not more than two thirds of either gender;

(b) representation of the minorities, marginalised groups and communities; and

(c) community and cultural diversity within the county.

(3) A person may be appointed as a member of the county executive committee if that person –

(a) is a Kenyan citizen;

(b) is a holder of at least a first degree from a university recognised in Kenya;

(c) satisfies the requirements of Chapter Six of the Constitution; and

(d) has knowledge, experience and a distinguished career of not less than five years in the field relevant to the portfolio of the department to which the person is being appointed.

(4) A member of the county executive committee shall not hold any other State or public office.

1.0 INTRODUCTION

1.1 Notification by H.E the Governor of nominees to the County Executive Committee

Mr. Speaker, Sir,

Pursuant to Article 179 (2) of the Constitution of Kenya 2010 and Section 6(1) of the Public Appointments (County Assemblies Approval) Act 2017, H.E the Governor forwarded to the Clerk of the County Assembly of Nyamira, the name of 1 nominee vide a letter dated 19th November 2018 (Annexure 1) for approval by the County Assembly and subsequent appointment as County Executive Committee member as per the table below.

No.	NAME OF NOMINEE	DEPARTMENT
1.	Ms. Pauline Kerubo Oyugi	Trade, Tourism and Cooperatives Development

1.2 Notification to the Nominee and Members of the Public

Mr. Speaker, Sir,

On 30th November, 2018, the Clerk of County Assembly of Nyamira, Pursuant to Section 6(2) and 7(4) of the Public Appointments (County Assemblies Approval) Act of 2017, notified the nominees and members of the public of the time and place for holding of the approval hearings. The Clerk further notified the public of Section (7) 10 of the said Act 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”* (Annexure 2).

The Committee complied with the Constitutional requirements, legal provisions and established procedures throughout the vetting process. The committee facilitated public participation and openness in all vetting proceedings.

Mr. Speaker, Sir,

It is against this background that the Committee produced this Report.

2.0 THE VETTING PROCESS

Mr. Speaker, Sir,

The vetting exercise was conducted on Thursday 13th December, 2018. The committee was guided by among other documents, the Public Appointments (County Assemblies Approval) Act, 2017.

In addition, the Select Committee on Appointments examined the nominee following the guidelines below:

- i) Academic qualifications
- ii) Employment record and work experience
- iii) Professional association
- iv) Public office, political activities and affiliations
- v) Potential conflict of interest
- vi) Knowledge of relevant Subject
- vii) Suitability to the position
- viii) Tax compliance
- ix) Integrity

2.1 Committee Preliminary Observations

Mr. Speaker, Sir,

Before commencement of the vetting process, the Committee made the following preliminary observations and findings

2.1.1 Statutory Requirements for Nominees

Mr. Speaker, Sir,

- (i) The nominee has the requisite qualifications and experience as required by law.
- (ii) That the nominee meets the requirements of Chapter Six of the Constitution of Kenya: tax compliance Certificate, Police Clearance Certificate, Higher Education Loans Board Compliance, clearance by the Ethics and Anti-Corruption Commission (EACC) and Credit Reference Bureau.

2.1.2 Petitions against the Candidate

Mr. Speaker, Sir,

The committee did not receive any petition contesting the suitability of the candidate to the position he is nominated to.

2.1.3 Composition of the County Executive Committee

No.	NAME OF ECM	DEPARTMENT	WARD	CONSTITUENCY
1.	Ms. Jackline Kemunto Momanyi	Finance and Planning	Gachuba	Kitutu Masaba
2.	Mr. John Moenga Omanwa	Transport, Roads and Public Works	Bonyamatuta	West Mugirango
3.	Mr. Johnstone Obike Ndege	Public Service Management	Bokeira	North Mugirango
4.	Mr. Zablon Oero Onchiri	Lands, Housing and Urban Development	Bosamaro	West Mugirango
5.	Ms. Gladys Bogonko Momanyi	Education and Youth Empowerment	Nyansiongo	Borabu
6.	Mr. Douglas Oseko Bosire	Health Services	Gesima	Kitutu Masaba
7.	Ms. Peris Nyaboke Oroko	Agriculture, Livestock and Fisheries	Esise	Borabu
8.	Mr. Benard Mang'aa Osumo	Gender, Sports, Culture and Social Services	Nyamaiya	West Mugirango
9.	Mr. Peter Omwanza Muga	Trade, Tourism and Cooperatives	Magwagwa	North Mugirango
10.	Mr. Samwel Mokua Maiko	Environment, Water, Mining and Natural Resources	Bomwagamo	North Mugirango

2.1.4 Analysis of Composition of the County Executive Committee per Constituency

No	CONSTITUENCY	NO OF ECMs
1.	Kitutu Masaba	1
2.	West Mugirango	3
3.	North Mugirango	3
4.	Borabu	2
	TOTAL	9

NOTE: Ms. Jackline K. Momanyi resigned from her position as the Executive Committee Member for Finance and Planning, which resignation triggered the current process of filling the said vacancy.

3.0 VETTING PROCESS

3.1 Nominee Personal Details

Mr. Speaker, Sir,

The Nominee is a lady aged 57 years old, married in Gesima Ward and hails from Nyansiongo Ward.

3.2 Academic, Professional Qualifications and Working Experience

Mr. Speaker, Sir,

Ms. Pauline Kerubo Oyugi is a holder of Master of Business Administration, a Bachelor of Science in Horticulture and a Diploma in Horticulture. The Nominee has worked for the Kenya Tea Development Agency as a Factory Unit Manager from 1996 to date. Hitherto, she worked as a Crops Officer in the Ministry of Agriculture & Livestock Development between the years 1983 to 1986. She has a total working experience of 35 years.

3.3 Committee Findings on Ms. Pauline Kerubo Oyugi

Mr. Speaker, Sir,

The committee found the Nominee to be academically and professionally qualified for the position. She has the requisite experience and therefore can handle the portfolio of County Executive Committee Member for Trade, Tourism and Cooperative Development.

The Nominee also has an in-depth understanding and interest in the portfolio nominated to. She is precise, coherent, eloquent and prompt. She exhibited ability to solve professional matters diligently.

She scored an average of 81% from the assessment made by the Select Committee on Appointment using Schedule 2 criteria set out in the Public Appointments (County Assemblies Approval) Act, 2017.

COMMITTEE RECOMMENDATION



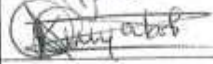



Mr. Speaker, Sir,

In view of the above, the Committee, therefore, recommended for the approval of Ms. Pauline Kerubo Oyugi for appointment to the position of County Executive Committee Member – Trade, Tourism and Cooperative Development.

However, there was a dissenting opinion as per the attached report.

CONFIRMATION

We, the Members of the Public Appointments Committee affix our signatures to confirm the accuracy, validity and authenticity of this report.

S/N	NAME	DESIGNATION	SIGNATURE
1.	Hon. Moffat Teya	Chairperson	
2.	Hon. Duke Masira	Member	
3.	Hon. Dennis Kebaso	Member	
4.	Hon. Callen Atuya	Member	
5.	Hon. Richard Onyinkwa	Member	
6.	Hon. Raban Masira	Member	

DISSENTING REPORT

Pursuant to Order No. 180(5) of Nyamira County Assembly Standing Orders which states thus *"A report having been adopted by a majority of members, a minority or dissenting report may be appended to the report by any member(s) of the Committee"*

"A without Prejudice Opinion"

While Ms. Pauline Oyugi has all the requisite qualifications and experience and would indeed deserve the said position; Pursuant to our Standing Order No. 180(5) on a dissenting report, I hereby state as follows;

1. That the current appointment will complete the composition of the Executive Committee as a whole which if approved will be unconstitutional because it will be without a youth and a person living with disability as per the constitutional requirement.
2. That article 27(4) on Equality and Freedom from discrimination the state shall not discriminate directly or indirectly against persons on any ground including... ethnic origin, disability, conscience...;
3. That Article 232 (1)(h) of the Constitution on the Values and Principles of Public Service calls for representation of Kenya's diverse communities.
4. That Article 232 (1)(i) holds that "Affording adequate and equal opportunities for appointment, training and advancement at all levels of public service of;
 - a. Men and Women
 - b. Members of Ethnic Group
 - c. Persons Living With Disabilities
5. That the County Government Act at Section 35(2) holds that "the Assembly shall not approve nominations for appointment to the Executive Committee that do not take into account:
 - a. Representation of the Minorities, Marginalized groups and communities
 - b. Community and cultural diversity within the county
6. That it is my honest opinion as a member of this Assembly and without prejudice that this house must stand in arms to protect the rule of Law and principle of Justice.
7. That the remaining position be accorded a female who shall meet the following conditions.
 - a. Be a youth
 - b. Be a person living with disability
 - c. May possess both (a) and (b)
8. That this house to support my dissenting report.

Drafted by Hon. Richard Onyinkwa

On this day of 21st April, 2019

Signed: _____

