



REPUBLIC OF KENYA
COUNTY GOVERNMENT OF NYAMIRA
THE COUNTY ASSEMBLY
OFFICE OF THE SPEAKER



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When replying please quote our reference

9th AUGUST, 2021

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H.E AMOS KIMWOMI NYARIBO,
THE GOVERNOR,
COUNTY GOVERNMENT OF NYAMIRA.

Your Excellency,

DR. JAMES ONDICHO GESAMI - DEPUTY GOVERNOR NOMINEE

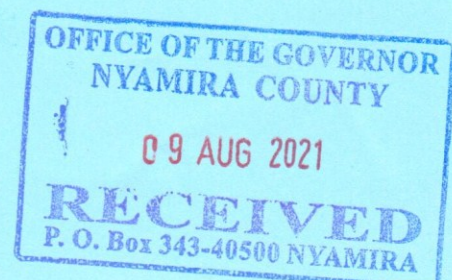
The above matter and yours vide letters *Ref. No.NCG/GVN/CAN/VOL 1(2) dated 27th July 2021* and *Ref. No.NCG/GVN/CAB/VOL 1/7 dated 13th May 2021* refers.

The County Assembly, in its Special Sitting of Monday, 9th August 2021 has considered and approved the Report of the Committee on Appointments on the Vetting of **Dr. James Ondicho Gesami** Nominee for **Deputy Governor** - County Government of Nyamira.

Forwarded herewith, please find the said Committee Report for your reference.

Thank you.

HON. MOFFAT TEYA
SPEAKER
COUNTY ASSEMBLY OF NYAMIRA.





REPUBLIC OF KENYA



COUNTY GOVERNMENT OF NYAMIRA THE COUNTY ASSEMBLY

SECOND ASSEMBLY - FOURTH SESSION

REPORT OF THE COMMITTEE ON APPOINTMENTS ON THE VETTING OF DR. JAMES ONDICHO GESAMI - DEPUTY GOVERNOR NOMINEE, COUNTY GOVERNMENT OF NYAMIRA

**OFFICE OF THE CLERK
COUNTY ASSEMBLY OF NYAMIRA
AUGUST, 2021**

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ACRONYMS

| | |
|------|---|
| CDF | Constituency Development Fund |
| CRB | Credit Reference Bureau |
| EACC | Ethics & Anti-Corruption Commission |
| HELB | Higher Education Loans Board |
| IEBC | Independent Electoral and Boundaries Commission |
| KRA | Kenya Revenue Authority |
| MP | Member of Parliament |
| PFMA | Public Finance Management Act |

1.0 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 Standing Order 185 sub-paragraph (4), which mandates the Committee:

To consider for approval by the County Assembly Appointments under Article 182[2] of the Constitution of Kenya (2010), as read together with Section 32D of the County government (Amendment) Act, 2020 (Vacancy in the Office of the Governor)

Mr. Speaker Sir,

As currently constituted, the Committee on Appointments comprises of the following members:

- | | | |
|-------------------------|---|-------------|
| i) Hon. Moffat Teya | - | Chairperson |
| ii) Hon. Duke Oyagi | - | Member |
| iii) Hon. Dennis Kebaso | - | Member |
| iv) Hon. Alfayo Ngeresa | - | Member |
| v) Hon. Monica Mwamba | - | Member |
| vi) Hon. George Mosiori | - | Member |

2.0 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, the Committee wishes to express gratitude to the Members of this Honourable Committee and the Members of the County Assembly who attended the Approval Hearing for their thoughtful input and commitment in consideration of this matter.

Further, the Committee wishes to thank the Office of the Speaker and the 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 secretariat.

Mr. Speaker Sir,

With pleasure and humility, I present this report to this Honourable House and recommend for its adoption.



HON. MOFFAT TEYA,

Chairperson - Committee on Appointments,

County Assembly of Nyamira

9th AUGUST, 2021

3.0 FORMATION AND 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 Committee).

4.0 LEGAL FRAMEWORK

Mr. Speaker Sir,

The Committee confined vetting and approval hearings process within and under the armpit of the provisions of the Constitution of Kenya, Statute laws and Regulations, Practices and legal procedures of Assemblies *inter alia*;

The process was substantively conducted within the confines of the County Governments (Amendment) Act, 2020. Section 32D (1) (a) (b) (3) (a) (b) (4) that provides thus: -

Where a vacancy arises in the office of a deputy governor as provided for under section 32C, the governor shall –

- a) within fourteen days, nominate the deputy governor, and*
- b) with the approval of the county assembly, appoint a deputy governor*

(3) The county assembly shall –

(a) consider a motion for approval for the appointment of the deputy governor, within fourteen days, and resolve whether to approve the motion; and

(b) be deemed to have approved the motion for the appointment of the deputy governor upon the lapse of fourteen days and having failed to make a resolution.

(4) A motion for the approval for appointment of a deputy governor shall be supported by a majority of the members of a county assembly.

Mr. Speaker Sir,

The Constitution of Kenya, 2010 in Article 179 (2) (a) (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.*

Mr. Speaker Sir,

The Committee vetted the Candidate against the provisions of Chapter 6 of the Constitution of Kenya, 2010 - ***Leadership and Integrity***

Mr. Speaker Sir,

Section 8(1) (a) of the County Governments Act, 2012 which thus states:

(1) the county assembly shall —

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

Mr. Speaker Sir,

As provided for in 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.

Mr. Speaker Sir,

Cognizant of Section 32 (1) (2) (3) (4) of the County Governments Act, 2012 on the functions of the Deputy Governor –

(1) The deputy governor shall take and subscribe to the oath or affirmation as set out in the Schedule to this Act before assuming office.

(2) The deputy governor shall deputize for the governor in the execution of the governor's functions.

(3) The governor may assign the deputy governor any other responsibility or portfolio as a member of the county executive committee.

(4) When acting in office as contemplated in Article 179 (5) of the Constitution, the deputy governor shall not exercise any powers of the governor, to nominate, appoint or dismiss, that are assigned to the governor under the Constitution or other written law.

Mr. Speaker Sir,

The County Assembly of Nyamira Standing Order 42 (1) (2) (3) –

Committal to committees

- (1) Upon receipt of a notification of nomination for appointment to an office as is under the Constitution or under any other legislation required to be approved by the County Assembly, the nomination shall stand committed to the relevant Sectoral Committee of the County Assembly for consideration.*
- (2) Despite paragraph (1), appointments under Article 179(2) (b) of the Constitution shall stand committed to the Committee on Appointments*
- (3) Before holding an approval hearing, the Committee to which proposed appointments have been referred shall notify the candidate and the public of the time and place for the holding of the approval hearing at least seven days prior to the hearing*

Mr. Speaker Sir,

Standing Order No.172 of the County Assembly of Nyamira Standing bestows 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.

Mr. Speaker Sir,

The Committee strictly adhered to the procedures provided for in Section 4, 5(1), 6(1) (2) (3)(a)(b), (4) (5), 7(1) (2) (3) (4) (5) (6) (7) (8) (9) (10) (11), 8 (a) (b) (c), 9 (1) (2), 10 (1) (2), 11 (1) (2) of the Public Appointments (County Assemblies Approval) Act, 2017 (*Annexure 1*).

5.0 INTRODUCTION

5.1 Notification by H.E., the Governor of the nominee to the position of Deputy Governor, County Government of Nyamira

Mr. Speaker Sir,

H.E the Governor, pursuant to the provisions of the law, sent a notification letter to the Hon. Speaker of the County Assembly dated 27th July 2021 informing him of the ruling and the court order in the Constitutional Petition Case No.1 of 2021 to the effect that the matter has been settled and therefore indicated that the County Assembly was at liberty to proceed with the process of Vetting the nominee. *(Copies marked Annexure 2, 3 & 4)*

Subsequently, and pursuant to Article 235(1) of the Constitution of Kenya (2010), and Section 32D (1) (a) (b), 2,3(a) (b) and 4 of the County Governments (Amendment) Act as read together with Sections 6(2), 7(4)(5) of the Public Appointment (County Assemblies) Approval Act (2017), the Clerk scheduled the nominee to appear before the County Assembly Committee on Appointments on 5th August 2021 *(Annexure 5)*

Mr. Speaker Sir,

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

6.0 THE VETTING PROCESS

Mr. Speaker Sir,

The vetting exercise was conducted on Friday the 5th August, 2021 under the purview of the Constitution of Kenya 2010, the County Governments Act, 2012, the County Governments (Amendment) Act, 2020, Public Appointments (County Assemblies) Approval Act, 2017, and the County Assembly of Nyamira Standing Orders among other enabling laws.

6.1 Vetting Guidelines

Mr. Speaker Sir,

The Select Committee on Appointments examined the nominee following the guidelines below as per Section 7(8), (9) and Section 8 of the Public Appointments (County Assemblies Approval) Act, 2017:

Section 7-

- (8) An approval hearing shall focus on a candidate's academic credentials, professional training and experience, personal integrity and background.*
- (9) The criteria specified in the First Schedule and the assessment form specified in the Second Schedule shall be used by a committee during an approval hearing for the purposes of vetting a candidate.*

Section 9-

- (1) Unless otherwise provided in any law, a committee shall consider a nomination and table its report in the County Assembly for debate and decision within twenty-one sitting days from the date on which the committee first sits to consider the nomination.*
- (2) At the conclusion of an approval hearing, the committee shall prepare its report on the suitability of the candidate to be appointed to the office to which the candidate has been nominated and shall include in the report such recommendations as the Committee may consider necessary, including a recommendation on whether or not the nominee should be approved for appointment to public office.*

6.2 Committee Observations

Mr. Speaker Sir,

1. The nominee is a Kenyan citizen, aged 68 years, hails from Bogichora Ward, Nyamira South Sub-county.
2. The nominee holds a Master of Medicine (in Medicine) (1990), Bachelor of Medicine and Bachelor of Surgery (1983), from the University of Nairobi. He is a registered member of the Medical Practitioners and Dentist Board - Registration Number 2332 dated 28th January, 1985.
3. The Nominee has a cumulative work experience of **37 years** having worked in Government of Kenya in different capacities, including senior positions up to the portfolio of Assistant Minister in the Ministry of Public Health and Sanitation, Member of Parliament for West Mugirango, Assistant Director of Medical Services, Provincial Medical Officer, Medical Superintendent, Hospital Chief Administrator and Medical Officer 1.
4. The Nominee submitted a valid Credit Bureau Reference Certificate (*Annexure 6*).
5. The Nominee submitted a valid KRA Tax Compliance Certificate (*Annexure 7*).
6. The Nominee submitted a letter from HELB dated 29th January 2021 indicating that he was issued with a Certificate **No.HELBO2871**, however, he did not produce the said certificate. (Annexure 8).
7. The nominee submitted all his Academic certificates and testimonials (*Annexure 9*), save for his A-Level Certificate from Shimo La Tewa.
8. On ethical requirements, the nominee submitted a valid EACC Clearance dated 3rd August 2021 (*Annexure 10*) indicating that he is currently in self-employment whereas he confirmed on oath that he is serving the County Government of Nyamira as Director Special Programmes.
9. The nominee submitted a letter from the Orange Democratic Movement (ODM) Party dated 27th May 2021 signed by the Chairperson nominating him to the position of Deputy Governor County Government of Nyamira. (*Annexure 11*)

7.0 COMMITTEE RECOMMENDATION


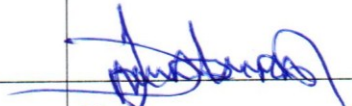
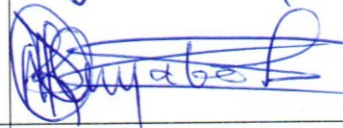
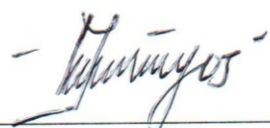

Mr. Speaker Sir,

Having considered the Constitutional, statutory requirements, academic credentials, abilities, experience, personal integrity, background, qualities of the nominee; the Committee recommends that **DR. JAMES ONDICHO GESAMI- BE APPROVED BY THIS COUNTY ASSEMBLY FOR APPOINTMENT AS DEPUTY GOVERNOR COUNTY GOVERNMENT OF NYAMIRA.**

ADOPTION

Mr. Speakers Sir,

We, the Members of the Committee on Appointments, do hereby affix our signatures to avow the accuracy and authenticity of this report.

| NAME | | DESIGNATION | SIGNATURE |
|------|---------------------|-------------|---|
| 1. | Hon. Moffat Teya | Chairperson |  |
| 2. | Hon. Duke Oyagi | Member |  |
| 3. | Hon. Dennis Kebaso | Member |  |
| 4. | Hon. Alfayo Ngeresa | Member |  |
| 5. | Hon. Monica Mwamba | Member | |
| 6. | Hon. George Mosiori | Member |  |