

REPUBLIC OF KENYA
COUNTY ASSEMBLY OF KIAMBU
THE HANSARD

Wednesday, 19th September, 2018

The County Assembly met at the Assembly
Chamber at 10.00 A.M

(Temporary Speaker (Hon. Kimani) in the Chair)

PRAYER

(Consultations)

Temporary Speaker, (Hon. Kimani): Hon. Members, I think the empty seats are more than the occupied and this is very surprising. Leader of Majority, I do not know what is happening. I think I have seen so many Members outside.

I think it will be prudent to order that according to Standing Orders No.45 for the quorum bell to be rung for ten minutes.

(Quorum Bell rung For Ten Minutes)

Temporary Speaker, (Hon. Kimani): Order Hon. Members and according to our Serjeant, we need four more Members. I therefore order for the quorum bell to be rung for five more minutes and then we proceed. Thank you!

(Quorum Bell Five Minutes)

MOTION

APPROVAL OF NOMINEE, MR. MORISS WAITHAKA WANJOHI FOR
APPOINTMENT AS COUNTY ATTORNEY

Temporary Speaker, (Hon. Kimani): Mover?

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Vice Chairperson, Implementation and Law Affairs, (Hon. (M/s) Yvonne): Thank you Mr. Speaker and I beg to move the Motion:

That, this Assembly adopts the report of Implementation and Law Affairs on vetting of Mr. Morris Waithaka Wanjohi, the nominee for the position of County Attorney and in accordance with Section 4(3) of the Kiambu County Office of the County Attorney Act, 2018 approves the appointment of Mr. Morris Waithaka Wanjohi as the County Attorney.

Hon. Speaker, in moving this Motion, I wish to begin by saying that the County Attorney office came into being following the initiative of the former Attorney General of this Country and former Senator of Busia County Hon. Amos Wako who saw the need and necessity for establishment of County Attorney Offices in all 47 counties of this country.

These offices would replicate the services offered by the office of the Attorney General and in this regard, several Counties have since enacted the County Attorney Office Act.

In the context of Kiambu, this Motion is a culmination of the process that began in March this year when this House enacted Kiambu County Office of the Attorney Act in March. According to the provisions of Section 4(2), the County Attorney shall be appointed by the Governor subject to the approval of the County Assembly.

Hon. Speaker, on Tuesday 4th September, 2018 you informed this Assembly of the Communication by His Excellency the Governor, Ferdinand Waititu Babayao of the nomination of Mr. Morris Waithaka Wanjohi for the position of the County Attorney.

Further, he forwarded the name of the nominee and his credentials to the Committee on Implementation and Law Affairs in order for it to conduct approval hearings and subsequently table a report in this Assembly regarding the suitability or otherwise of the nominee.

Mr. Speaker Sir, the Committee conducted the approval herein on 13th September, 2018 during which it was able to establish the suitability of the nominee for this position based on the following criteria as set out under Section 7(8) of the public Appointments (County Assemblies) Approval Act, 2017.

These include academic qualifications, employment record, professional affiliations, knowledge of the relevant subjects and integrity. I draw the attention of the Hon. Members of this House, the report has been provided to them, providing the nominee CV and all the supporting documents for their information.

Mr. Speaker, using the above mentioned criteria, the Committee was able to establish that Mr. Morris Waithaka Wanjohi was indeed the most suitable person to hold this office based on his vast work experience, knowledge of the legal field and good understanding of the role of the County Attorney and overall vision and plan he has for the position of which he was nominated.

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In particular Mr. Speaker, the nominee stated his intention to promote Alternative Dispute Resolution mechanisms in the County to avoid unnecessary litigations which takes time and is also costly. He said this is one of the things he will vigorously pursue.

Hon. Speaker, the Committee recommendations regarding the suitability of the nominee was unanimously made after consideration of nominee's curriculum Vitae and filled questionnaire as well as oral submissions made before the Committee during the approval herein.

I also wish to draw the attention of the Members to the score sheets that were made by all the Members of Committee and he got an average of 81%. I believe and you can see that I actually gave him the highest marks, 90%, because he expressed himself in a manner that suggests that he is well capable in this position.

Hon. Speaker, it is also noteworthy to note that despite the Committee having invited memoranda from the public on the suitability or otherwise of the nominee through newspaper as provided for in Section 7(5) of the Public Appointments (County Assemblies) Approval Act, no memorandum was received for or against the suitability of the nominee.

In concluding, Mr. Speaker let me say that an approval by this Hon. House is not an automatic right but it is an earned honour. Having considered suitability, capability and integrity of the nominee and pursuant to Section 7(9)(2) of the Public Appointments (County Assemblies) Approval Act No.5 of 2017, it is without a doubt and beyond conviction that this Committee recommends that this Honorable House approves the nomination and subsequent appointment of Mr. Morris Waithaka Wanjohi as the County Attorney.

At this time and point, I would like to call the Hon. Deputy Majority Leader, Hon. Kabuu to second this Motion, thank you.

Temporary Speaker, (Hon. Kimani): Thank you for such a wonderful presentation, yes you can give to Hon. Kabuu.

Deputy Leader of Majority, (Hon. Kabuu): Thank you Hon. Speaker and let me take this opportunity and second this Motion on approval of Mr. Morris Waithaka Wanjohi for the position of the County Attorney. I would also like to inform my sister Hon. Yvonne, I am Hon. Alex Kabuu Wainaina lest she forgets.

Mr. Speaker, let me second this Motion saying that we live in a high litigious time which has a tendency to derail the most promising goals. The importance of a County Attorney office in dealing with County matters cannot be overemphasized.

The County Government of Kiambu has on several occasions been sued by various parties. Litigation processes are very expensive and often result to tremendous loss of revenue by the County.

The appointment of Mr. Morris Waithaka Wanjohi to the position of the County Attorney is vital as he shall represent the County Government in court and any legal proceedings including those arising from County legislation or any other legislation to which the County Government is a party or has interest in normal proceedings.

Hon. Speaker may be, to mention but a few functions of office of Kiambu County Attorney like for instance to be the Principal legal advisor of the County Government; to be responsible for drafting and publication of legislation, proposals or amendments of the county Governments. Another one is to be responsible for negotiating, drafting, vetting and interpreting legal documents and agreements for or on behalf of the County Government and its agencies.

Another one is to handle the public interest litigations or represent any Member of the Public in matters that the Governor or the County Attorney deems to be of the public interest. The other function Mr. Speaker is to undertake legal audits and advice to the County Government on compliance with the Country National legislation.

The office of the County Attorney is to be the County Government printer and responsible for publications for the County Gazette, Bills, Act of County Assembly amongst others. Hon. Speaker, it is our hope and expectations that the office that Mr. Morris Waithaka Wanjohi will diligently execute these functions for the betterment of the County.

As I conclude Mr. Speaker, in view of the Committee findings and observations during the vetting exercise members of the Committee on implementation and Law affairs found that the nominee was suitable and fit to be appointed as County Attorney.

The Committee therefore strongly recommends that this Assembly approves the nomination of Mr. Morris Waithaka Wanjohi for the appointment the County Attorney, thank you Mr. Speaker

I beg to second.

(Question Proposed)

Temporary Speaker, (Hon. Kimani): Leader of Majority!

Leader of Majority,(Hon. Ikonya): Thank you Mr. Speaker, I wish to also pronounce myself on the same and let me take this early opportunity to, one, thank the Committee that did that wonderful job. I want to thank you for the many hours spent in preparation of that very good report.

Mr. Speaker, I wish to state a few things and before I do that, I want to take this House back, on why we need to establish the office of the Attorney. One of the things that that office is going to help this County with, remember in the previous regime we had numerous litigations that found their way in court. What the County would do, is that we would go out there and hire law firms that would come and litigate on behalf of the County.

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Mr. Speaker, as we speak right now, we have a pending bill of over Ksh. 38 Million of money owed to lawyers in the previous regime, money that you cannot exactly tell, what happened because they lost most of the matter in court. Whether it is worth paying that money, it was a pending bill, they need to be paid, they would still need to pursue that money in court to make sure that they are paid. So, to avoid doing all those things, it was important that we create an office of the County Attorney that would deal with all the litigation matters within the County.

The other good thing is that, when you hire a Law firm to do a certain litigation for you, that Law firm has numerous of other litigations that are within that office and so they do not concentrate on your matter, until the day it gets to court, that is when they remind themselves that we are supposed to do this and that but when you have an office of the Attorney, it will deal purely with the matters that have risen within the County and it will take its time to delve into the Law and look at all issues and look at a solid substantive case in court.

So, Mr. Speaker, I think that it is important that we have that office and again we shall come and make recommendations in publication, legislation and drafting of Laws within various departments.

Mr. Speaker, we have been speaking about how departments within this County will draft further Laws that will guide their operations. It is now this office that will now advise various departments, whether it is the Finance, Roads, Planning departments, for example, we need to customize our own planning Laws and have the Kiambu County Planning Act, in order to look at the issues that are unique in Kiambu.

This is the office that will now align whatever legislative agenda that we have with the National Laws and make sure that we do not override any other Law. It is therefore important that we have this office established. That is in as far as that office is concerned.

When you look at the person who has been proposed by the Governor and has been given a nod by this Committee which we ably believe and we have a lawyer in that Committee, so we can ably believe that they did their work thoroughly.

One of the things that you must look for is a credible person, because this is a person who will lead other legal minds. We need a person who is dynamic in terms of thinking, who has a grip on what he does, and again has experience in litigations that pertains into County and I am sure, Mr. Wanjohi, based on what I have seen in this report, is the right person for that job and I would gladly recommend that this House adopts this report and have Mr. Wanjohi become the first Kiambu County Attorney and make sure that the legislative agenda of this County is well taken care of and we will not again have so many pending bills because they will now get into the system of payment. So, we will no longer have to get some outrageous bills from Law firms.

With that, I wish to support that report and ask this Hon. House to approve and support that report and it will go a long way in making sure that we take this County to greater heights. Thank you, Mr. Speaker.

Temporary Speaker, (Hon. Kimani): Thank you Leader of Majority, it is time for debate, if you have any contribution, in regard to this Motion, this is your time. I have seen the hand of Hon. Lucy Njoki.

Specially Elected MCA, (Hon. (M/s) Njoki): Thank you Mr. Speaker, just as the Leader of Majority has said, the Committee has done a very good job. I would like to appreciate them and agree with them that Mr. Wanjohi is the right person for the job considering his experience.

I have seen that having contributed in preparation of Alcoholic Bill, he really assisted us, meaning that the fact that he has experience and already aware of what we are doing in the County, he is the best person for the job.

I have seen that he has experience of 17 years, means that this knowledge and experience in these various capacities, he is going to assist us as the County Attorney. I support.

Temporary Speaker, (Hon. Kimani): Thank you, before Hon. Wanjiku contributes and since the microphone is very near to Hon. Taki, he can take the opportunity.

Witeithie MCA, (Hon. Taki): Thank you Mr. Speaker, mine is just to appreciate the good work done by the Committee and also raise some few pertinent issues I have realized.

The Committee in the declaration form, you can see that Members who signed, most of them were not present during the interview. If you look at page 14 or 15, the Chairperson, Hon. Naphtali did not even give the marks!

Hon. Chris too did not award the marks, but when you come to the signing of the report, they were there. That leaves some pertinent issues which we should also be careful of. That means that they were either not in the Committee during that day or the form was just passed for signing.

(Interruption)

Temporary Speaker, (Hon. Kimani): Excuse me Hon. Member, I actually want to be on that page, I was there initially but I do not know if it is not only mine that is not well labelled...

*(Hon. Members Perused
Through the Report)*

I am there now.

Witeithie MCA, (Hon. Taki): Minutes of the 29th Sitting, the same said Hon. Members were absent during that day, but when you come to the signing of the report, they were there. That to me leaves some few questions about the report. Thank you.

Temporary Speaker, (Hon. Kimani): I can see the Members of the same Committee want to respond to the same, let them respond to that one, then we come to you Hon. Wanjiku. Hon Yvonne!

Vice Chairperson, Implementation and Law Affairs Committee, (Hon. (M/s) Yvonne): Thank you Mr. Speaker and also Hon. Taki for that comment and it is indeed true that some Members were not present during the vetting but the signed the report. Mr. Speaker, I would like to draw to the attention of this House, that those were two separate Sittings. We did the vetting on the 28th Sitting and then we met as a Committee to discuss among other issues, the report to adopt the report. So, I think it is in order for them to still sign the report, even if they were not part of the vetting because, we were adopting the report as it had been presented by that previous meeting.

Temporary Speaker, (Hon. Kimani): Thank you that is very well put.

POINT OF ORDER

(By Hon. Ikonya)

Hon. Ikonya has something to add on the same.

Leader of Majority, (Hon. Ikonya): Mr. Speaker, I think that in the one year that we have been in this House, it would be fair enough to know that despite the fact that you do not participate in an interview, when the Committee retreats to do its report and the Member who never participated in vetting of the said Member, by virtue of perusing and having a look at the CV, would have a contribution towards the report that would be made and has a right to append his signature on that report.

I therefore think that is neither here nor there and I think Mr. Speaker, we should now get over those things.

Temporary Speaker, (Hon. Kimani): Thank you very much Leader of Majority, I think the House totally agrees with the report from the Committee and we can now proceed on with the debate. Welcome Hon. Wanjiku.

Specially Elected MCA, (Hon. (M/s) Kariuki): Thank you Mr. Speaker, I am a Member of this Committee and having been present during the vetting of Hon. Wanjohi, I stand to support his appointment. One, if you check on his credentials, his papers are good, having gone through Kenya School of Law, he understands Kenyan law, though the degree he acquired from another Country, but if you check what he has been doing since he was given an opportunity to serve as a Kenyan lawyer, his experience is good.

Two, Mr. Wanjohi has served at the County since the time he was given to serve us last year November. So, I think the experience he has garnered is good on the litigation issues of the County. I

therefore think that it is not a new docket for him because he has good experience that he is going to help in litigation issues.

Again, during vetting, Mr. Wanjohi seemed to have a lot of knowledge in litigation and the way he gave feedback, Mr. Speaker, we have no doubt that he is going to do quite a good job.

I support his appointment and this is the kind of person we would wish to have to deal with the legal issues of the County, I support.

Temporary Speaker, (Hon. Kimani): Thank you Hon. Wanjiku!

Yes Hon. Mburu!

Kamburu MCA, (Hon. Gathuru): Thank you Mr. Speaker!

First of all I would like to congratulate the Committee for doing their job pretty well. But I would also like to mention two issues; one on page 11 about knowledge and relevant work experience. The nominee has 17 years of accumulated experience in legal work. This is no mean feat for somebody who is slated for such a position.

Mr. Speaker, on page 13, on pro bono and charity work, the nominee indicated that in private practice, each year he took two deserving pro bono jobs to give back to society, especially from poor backgrounds.

Mr. Speaker related to that, turning to page 8 where we have functions of the County Attorney, (f) is about handling public interest litigation or represent any Member of the public in matters that the Governor or the County Attorney deems to be of public interest.

Mr. Speaker, I support this nominee mainly because of that specific aspect. If you look at our County, we have a lot of injustices that are happening. Looking at the way people who are poor are being marginalized, the way their rights are being violated, I am hoping that the County Attorney will innovatively look for a way of establishing an office or assigning some legal minds to specifically support poor people whose rights are being violated in this County by people who have money.

Mr. Speaker, as I speak, I am handling one case where a person has diverted a public road from where it is supposed to be and directed it on to other people's land, and when they raised their concerns, since that person has a lot of money, he went to court, and he took them from Kamburu, on the western side of Kiambu, to Thika which is on the eastern side of Kiambu, just to make sure that those people suffer because they are raising their voices against an injustice.

So Mr. Speaker, I am supporting this because I am looking for a day when I will see the County coming forward to legally support people whose rights are being marginalized or whose rights are being

violated in that case. I do support because I see the nominee has a heart to support or help those whose rights are being violated.

I support Mr. Speaker!

Temporary Speaker, (Hon. Kimani): Thank you Hon. Mburu!

Hon. Peter Njoroge, and after that we will give Hon. Ngigi!

Karuri MCA, (Hon. Njoroge): Thank you Mr. Speaker!

Mr. Speaker, I rise in support of the nominee, and having looked at his credentials, he is up to the task, and at the same time, with the input of the implementation Committee, and more so that of the Vice Chairperson as a lawyer.

I think it is only fair to support the nominee and wish him well as he does his work. Thank you Mr. Speaker!

Temporary Speaker, (Hon. Kimani): Thank you Hon. Peter Njoroge!

We will now give this opportunity to Hon. Karuga!

Limuru East MCA, (Hon. Karuga): Thank you Mr. Speaker!

For the record, I am Hon. Karuga Ngigi, Member for Limuru East!

Mr. Speaker, may I first take this opportunity to congratulate the Committee for a job well done. It is usually stipulated that when an alligator tells you that a crocodile is sick, you do not have any reasons whatsoever to doubt the story.

Mr. Speaker, from the marks of the Committee that vetted this person, I see that this is a first class for this nomination. He has been awarded 81% and this is way high above the average.

Mr. Speaker, as I was perusing through the papers, I see that this is a person with wealth of experience. This is a person who will bring experience in litigation and drafting legal legislation in our County.

Mr. Speaker, it is worth noting that he has a hand in the drafting of the Kiambu County Alcoholics Control Act, 2018. He has also drafted the Kiambu County Office of the Attorney Act, 2018. This clearly shows that he has experience in drafting County legislations. I am looking forward to him drafting various legislations. Worth noting is legislation on revenue collection and management, which this County dearly needs.

Mr. Speaker, I am also looking forward to Mr. Wanjohi assisting this County in reclaiming lands that have been grabbed by few selfish individuals in this County which has left most of our Wards without social amenities.

(Applause)

One worth noting is Limuru East Ward where we are still fighting on where we can construct a dispensary and a polytechnic, yet those lands are there. I am looking forward to seeing this person springing into action immediately and embarking on those pertinent issues.

Mr. Speaker, it is also worth noting that in the past, this County has been having litigation war in courts and this has delayed the collection of revenue because Finance Bills have been taken to court because of one or two issues that have not been at par with the law. But with this kind of person, we will see our legislations not seeing the lights of the courts because we will have a person who will be advising this County, who will be advising the Governor, and more so, one person who will come and salvage the mess in the County, like the insurance mess. This is one person who could have sprung into action and have some litigation in court so that Members of this House can have the best of services.

With that Mr. Speaker, I urge this Hon. House to support this member so that work can start immediately.

Temporary Speaker, (Hon. Kimani): Thank you very much Hon. Karuga Ngigi from Limuru East for your substantial contribution.

From the look of the House, I can see there is no other Member who has something to add or even to deduct from the same.

*(Question Put and
Agreed To)*

I really want to thank this House for your very substantial contributions on today's Motion, and it will go into record that it is in this House, the second dispensation of the County Government System, that is here in Kiambu was able to pass such an important Motion.

ADJOURNMENT

Temporary Speaker, (Hon. Kimani): Hon. Members, there being no other Business, this Assembly stands adjourned until Wednesday, 19th September, 2018 at 2.30 P.M.

Thank you!

The House rose at 10.51 A.M.

