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SCA  
4/06/2021

COUNTY GOVERNMENT OF EMBU



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How Speaker  
in approval for  
taking in the Assembly  
Approved DCEA  
04/03/2021

COUNTY ASSEMBLY OF EMBU

REPORT OF THE COMMITTEE ON APPOINTMENTS ON THE VETTING OF  
THE NOMINEE TO THE POSITION OF COUNTY EXECUTIVE COMMITTEE  
MEMBER FOR LANDS, WATER, IRRIGATION, PHYSICAL  
PLANNING, HOUSING, URBAN DEVELOPMENT, ENVIRONMENT AND  
NATURAL RESOURCES

SUBMITTED FOR APPROVAL BY THE COUNTY ASSEMBLY

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DPLCS  
T.N.A  
Approved  
04/03/2021

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CCA  
for further directions  
DPLCS  
4/3/2021

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DPLCS  
Forwarded  
Approved  
DPCA-CS  
04/03/2021

Clerks Chambers  
County Assembly of Embu  
P O Box 140-6010  
EMBU

MARCH, 2021

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## LIST OF ACRONYMS AND ABBREVIATIONS

|          |   |  |
|----------|---|--|
| CECM     | - | County Executive Committee Member                                |
| CRB      | - | Credit Reference Bureau  |
| EACC     | - | Ethics and Anti-Corruption Commission                            |
| HELB     | - | Higher Education Loans Board                                     |
| HIV/AIDS | - | Human Immunodeficiency Syndrome                                  |
| IFS      | - | International Foundation for Science                             |
| K.A.C.E  | - | Kenya Advanced Certificate of Education                          |
| K.C.S.E  | - | Kenya Certificates of Secondary Education                        |
| KNEC     | - | Kenya National Examinations Council                              |
| KRA      | - | Kenya Revenue Authority  |
| MASHAV   | - | Israel's Agency for International Development Cooperation        |
| MOEST    | - | Ministry of Education, Science and Technology                    |
| NEMA     | - | National Environmental Management Authority                      |
| RUFORUM  | - | Regional Universities Forum for Capacity Building in Agriculture |

## LIST OF ANNEXURES

- ANNEXURE I - Letter from H.E the Governor on notification of the nomination  
which included the nominee's academic and professional  
testimonials
- ANNEXURE 11 - Copy of newspaper advertisement for approval hearing
- ANNEXURE III- Vetting questionnaire
- ANNEXURE 1V - Judgment cause No. 9 of 2019
- ANNEXURE V Affidavit

## 1.1 EXECUTIVE SUMMARY

### 1.1.1 Introduction

This report arises from the vetting exercise that was conducted by the Committee on Appointments on the nominee to the position of County Executive Committee Member in the portfolio of Lands, Water, Irrigation, Physical Planning, Housing, Urban Development, Environment and Natural Resources on 1<sup>st</sup> March 2021.

The notification for nomination of Mrs. Mugambi Jayne Ndegi, proposed for the position of County Executive Committee Member of this portfolio was forwarded by his H. E. the Governor through a letter which included the nominees academic and professional testimonials dated 15<sup>th</sup> February 2021 and **Ref:No. EBU/C.GVT/GVN/CAE/VOL.2/003** (*Annexure I*)

The notification of the nomination was tabled in the County Assembly on 18<sup>th</sup> February 2021 and subsequently committed to the Committee on Appointments for vetting and subsequent reporting to the County assembly for a resolution.

The County Assembly in compliance with **Section 8(3)** of the Embu County Public Appointment (County Assembly Approval) Act, 2015, notified the candidate and members of the public of the time and place of holding the approval hearings vide an advertisement in the **Standard Newspaper on Sunday 21<sup>st</sup> February 2021.** (*Annexure II*)

Pursuant to **Sections 8 and 9** of Embu County Public Appointments (County Assembly Approval) Act, 2015 and the various provisions of the Embu County Assembly Standing Orders, the Committee successfully conducted the vetting exercise publicly on **1<sup>st</sup> March 2021** in the Embu County Assembly Board room.

The Committee, however, regretted that no member of the public appeared during the vetting exercise and no memorandum was received.

It was noted that the nominee had the requisite qualifications as confirmed by her testimonials and experience. The nominee also understood the position into which she had been nominated and was

willing to work for the prescribed remuneration. The Committee observed that the nominee indicated she would be available to perform the duties of the CECM always during her service in office.

Upon completion of the exercise, and after a thorough interrogation of the submitted documents, the Committee recommended that Mrs Mugambi Jayne Ndegı be appointed to the position of the CECM Lands, Water, Irrigation, Physical Planning, Housing, Urban Development, Environment and Natural resources.

### 1.1.2 Mandate of the Committee

The Committee on Appointments was formed pursuant to **Standing Order Number 198 (4)** of the County Assembly of Embu Standing Orders which provides that, the committee shall consider, for approval by the County Assembly, Appointments under **Article 179(2)(b)** of the Constitution (Members of County Executive Committee). The present committee was formed by a resolution of the Assembly passed on the **13<sup>th</sup>September 2017**. This is also provided for under **Section 14(3)** of the County Governments Act 2012 (Revised )

### 1.1.3 Membership of the Committee

The committee on Appointments was constituted via a motion passed in the House on 13<sup>th</sup> September 2017 comprising of the following members;

1. Hon. Josiah Muriithi Thiriku, SCA - Chairperson
2. Hon. Michael Njeru Kariuki MCA - Member
3. Hon. Masters Leonard Mwaniki, MCA - Member
4. Hon. Margaret Lorna Kariuki, MCA - Member
5. Hon. Peter Muriithi Nyaga MCA - Member
6. Hon. Robert Njiru Ireri, MCA - Member
7. Hon. Elizabeth Ndeleve Kibai, MCA -Member
8. Hon. Nathan Kariuki Mwari, MCA - Member

## **1.2 PROBLEM STATEMENT**

This report is compiled in fulfillment of the requirements of the provision of **Section 35** of the County Governments Act, 2012 as read together with **Section 8** of the Embu Public Appointments (County Assembly Approval Act), 2015 which gives guidelines on the nomination and approval of nominee to the Embu County Executive Committee.

H.E the Governor, forwarded the message on the appointment of the nominee to the position of County Executive Committee Member, Lands, Water, Irrigation, Physical Planning, Housing, Urban Development, Environment and Natural Resources which was tabled in the Assembly on **18<sup>th</sup> February 2021** and subsequently committed to the committee on Appointments.

The committee was therefore required to consider the matter and table a report within fourteen days as outlined in the Embu County Public Appointment (County Assembly Approval) Act, 2015 section 10

## **1.3 OBJECTIVES**

1. To consider and vet the nominee for suitability to the position of the County Executive Committee Member for the portfolio of Lands, Water, Irrigation, Physical Planning, Housing, Urban Development, Environment and Natural Resource.
2. To prepare and table a report on the nominee before the County Assembly of Embu for consideration and approval.

## **1.4 METHODOLOGY**

The Committee on Appointments applied the following methods to come up with this report:

1. Committee meetings
2. Conducting vetting exercise publicly in the County Assembly Boardroom
3. Perusing and analyzing testimonials and other documents
4. The Committee also made reference to the relevant statutes and rules of procedure to ensure compliance by the nominee.
- 5.



### 1.5 TOOLS OF REFERENCE

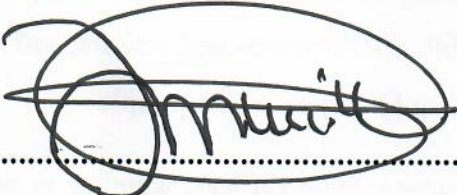
The following tools of reference were used for this report;

1. The Constitution of Kenya, 2010.
2. The County Governments Act, 2012
3. The Embu County Public Participation Act, 2015
4. The County Assembly of Embu Standing Orders, 2017 edition
5. The Embu County Public Appointments (County Assembly Approval) Act, 2015
6. Nominee's academic and professional testimonials

### 1.6 ACKNOWLEDGEMENT

On behalf of members of the Committee on Appointments, I have the honor and pleasure to present the Committee's Report on the nominee for appointment as County Executive Committee Member Lands, Water, Irrigation, Physical planning, Housing, Urban Development, Environment and Natural resources.

The Committee takes this opportunity to thank the offices of the Speaker and the Clerk to the County Assembly for the logistical support accorded to it during the vetting exercise.

SIGNED:  DATE: 3/03/2021

HON. JOSIAH MURIITHI THIRIKU,

CHAIRMAN/SPEAKER

## 2.0 LEGAL FRAMEWORK

### 2.1 Constitution of Kenya 2010

The Constitution of Kenya sets out certain requirements with regards to appointments to Public office which include;

#### (i) Leadership and Integrity

The Committee in consideration of the nominee took into consideration the provisions of Chapter Six of the Constitution of Kenya 2010 and in particular Articles;

**I. Article 73 (2)** the guiding principles of leadership and integrity include:-

- a) selection on the basis of personal integrity, competence and suitability, or election in free and fair elections;
- b) objectivity and impartiality in decision making, and in ensuring that decisions are not influenced by nepotism, favoritism, other improper motives or corrupt practices;
- c) selfless service based solely on the public interest, demonstrated by—
  - i. honesty in the execution of public duties; and
  - ii. the declaration of any personal interest that may conflict with public duties;
- d) accountability to the public for decisions and actions; and
- e) discipline and commitment in service to the people

**II Article 75(1)** of the Constitution requires a State Officer, whether in public or Private life to behave in a manner that avoids conflict between personal interest and public official duties and Article 75(3) of the Constitution that prohibits a State Officer who has been removed from office under that Article from holding any other State Office.

**III Article 77(2)** of the Constitution prohibits an appointed State officer from holding Office in a political party

**IV Article 78** of the Constitution disqualifies persons who are not Kenyan Citizens and persons holding dual citizenship from appointment as State Officers.

**(ii) Composition of The County Executive Committee**

**Article 179(2)** of the Constitution provides that;

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.

**(iii) Public Participation**

**Article 196(1) and (2)** of the Constitution of Kenya, 2010 provides Public participation and County Assembly powers, privileges and immunities

1. A County Assembly shall:-

- a) conduct its business in an open manner, and hold its sittings and those of its committees, in public; and
  - b) facilitate public participation and involvement in the legislative and other business of the assembly and its committees.
2. A County assembly may not exclude the public, or any media, from any sitting unless in exceptional circumstances the speaker has determined that there are justifiable reasons for doing so.

**2.2 The County Governments Act, 2012**

**Section 35** of the County Governments Act provides the criteria to be considered by the Governor in nominating members for the County Executive Committee as well as the issues that the County Assembly needs to take into consideration when considering nominations i.e.

35(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, marginalized groups and
- c) communities; and 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

### **2.3. Embu County Public Participation Act, 2015**

**Section 19** provides Public participation and County Assembly powers, privileges and immunities

(1) A County Assembly shall—

- (a) conduct its business in an open manner, and hold its sittings and those of its committees, in public; and
- (b) facilitate public participation and involvement in the legislative and other business of the assembly and its committees.

(2) A County Assembly may not exclude the public, or any media, from any sitting unless in exceptional circumstances the speaker has determined that there are justifiable reasons for doing so.

### **2.4 The Embu County Public Appointments (County Assembly Approval) Act, 2015**

The procedures for public appointments are set out under the abovementioned Act and specifically as follows;

**Section 9** of the Embu County Public Appointments (County Assembly Approval) Act, 2015 provides that the issues for consideration by the relevant House in relation to any nomination shall be:

- i. The procedure used to arrive at the nominee.
- ii. Any constitutional or statutory requirements relating to the office in question; and

- iii. The suitability of the nominee for appointment proposed having regard to whether the nominee's abilities, experience and qualities meet the needs of the field to which nomination is being made.

Prior to the vetting, notification to the Public must be done. Section 8(3)(a) of the Embu County Public Appointments (County Assembly Approval) Act, 2015 provides that the Committee shall, by notice in at least one newspaper of national circulation, notify the public of the time and place for holding an approval hearing at least seven days prior to the hearing.

Further, Section 8(9) of the same 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.

It's of importance to note that the, the Clerk placed an advertisement in Standard Newspaper informing members of the public and the nominee of the date of the hearing, and inviting the public to submit to the office of the Clerk in writing and under oath any relevant information concerning the nominees opposing their suitability to the respective offices in conformity with Section 8(9) of the Embu Public Appointments (County Assembly Approval) Act, 2015.

**Section 8(10)** of the Embu County Public Appointments (County Assembly Approval Act ) 2015 provides that a candidate may, at any time, by notice in writing addressed to the Clerk, withdraw from the approval process and the candidate's nomination shall thereupon lapse

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 14 days from the date on which the notification of the nominee was given under section 7 of Embu county public Appointments(county Assembly Approval Act )2015 .

### 3.0 COMMITTEE DELIBERATIONS

The Committee, in the course of discharging its mandate conducted the vetting process, examined the nominee against the vetting criteria in accordance with the Embu County Public Appointments (County Assembly Approval) Act 2015, Section (5). The Committee particularly checked on the following matters;

- (i) Academic credentials
- (ii) Professional training
- (iii) Experience
- (iv) Personal integrity
- (v) Background
- (vi) Compliance with statutory obligation (EACC clearance, HELB, Certificate of Good conduct, CRB and Tax compliance )

The Nominee, Mrs. Mugambi Jayne Ndegi made her presentation under oath after which she took the committee through the Vetting questionnaire as the members thoroughly scrutinized her testimonials. (*Annexure III*)

The nominee while defending her case and answering to the committee member's questions stated that she would;

1. Steer policy formulation and implementation on matters pertaining the said portfolio.
2. Advise H. E the Governor on matters pertinent to lands portfolio
3. Maintain strategic direction to the department

She also stated that, she was willing to work for the prescribed remuneration by the Salaries Remuneration Commission. and that she had demonstrated her ability to serve in that office as she has been undertaking duties pertaining to that office in her position as acting CECM in the past few months (1<sup>st</sup> December 2020 to date)

#### 4.0 COMMITTEE FINDINGS AND OBSERVATIONS

The committee having considered her curriculum vitae and heard her oral submissions during the vetting exercise, made the following observations.

1. **THAT** His Excellency the Governor complied with provisions of Section 7 of the Embu County Public Appointment (County Assembly Approval) Act, 2015 on the notification of the nominee to the County Assembly.
2. **THAT** no Memorandum was received from the members of the public on the suitability or otherwise of the nominee in question.
3. **THAT**, interrogation of Mrs. Mugambi Jayne Ndegi yielded the results as outlined in the table below;

| S/N | Criteria   | Satisfactory |
|-----|--|--------------|
| 1   | Questionnaire to be filled in full   | Yes          |
| 2   | A minimum of a degree from a recognized university                               | Yes          |
| 3   | Understanding of the position to which the candidate is proposed for appointment | Yes          |
| 4   | Experience relevant to the position<br>- 5 years' experience                     | Yes          |
| 5   | Clearance from Ethics and Anti-Corruption Commission (EACC)                      | Yes          |
| 6   | Clearance from Higher Education Loans Board (HELB)                               | Yes          |
| 7   | Clearance from Kenya Police Service<br>(Certificate of Good Conduct)             | Yes          |
| 8   | Clearance from Credit Reference Bureau (CRB)                                     | Yes          |
| 9   | Clearance from Kenya Revenue Authority (KRA)                                     | Yes          |

|    |   |     |
|----|---|-----|
| 10 | Willingness to work for the prescribed remuneration   | Yes |
| 11 | Knowledge of government management systems related to being a County Executive Committee Member | Yes |
| 12 | Understanding of relationship with County Executive Committee Member and County Assembly        | No  |
| 13 | Response to any matters raised by public  | N/A |
| 14 | Response to any matters raised by the Members of the County Assembly                            | No  |

4. **THAT** the nominee was eloquent in her presentation and exhibited alot of knowledge in the work shehad been nominated to oversee.
5. **THAT** she has the following Academic qualifications;
- i. Master'sDegree in Agricultural Entomology from Kenyatta University
  - ii. Bachelor degree in Education (Science in Botany and zoology)from Kenyatta University
  - iii. Diploma in Agricultural Education and Extension from Egerton University College,Njoro
  - iv. K.A.C.E ;Kangaru School
  - v. DIVISION 11 ; Highlands Moi Girls high school
6. **THAT** she has over 30 years' experience in the Education sector as a career teacher and social services having worked for the following institutions;
- A. 2016 March to date –County Government of Embu**
- As a Chief Officer for Gender,Culture, Children and Social services ,In 2018 she moved to the department of Public Service where she served fora while before going to start a new department of Administration and Devolution, and currently serving in the department of Public service and the acting CECM in the department of Lands
- B. 2013 to 2015 –Embu University College**



Tutor and Dean of students in the department of Agriculture Resource Management,

**C. 2010 to 2013 Mt Kenya University**

Part time lecturer in Ecology & Bio analysis, Taxonomy, Vertebrate Zoology Agricultural Entomology and HIV AIDS

**D. 2007 to 2009-University of Nairobi**

Biology lecturer

**E. 2003 to 2006 –Kenya Science Training College (KSTTC)**

Biology tutor and supervisor for teaching practice.

**F. 1986 to 2003-Kenya High School**

Head of Agricultural department

**G. 1984 to 1986 –Mangu high school**

Deputy Head of Agricultural department

**H. 1982 to 1984 –kangundo High school**

Agriculture teacher

**I. 1979 –Nyagwa boys**

Mathematics and Biology teacher

7. The nominee submitted that she had written the following policies
- i. Gender policy for university of Embu year 2014-2015
  - ii. Gender based violence policy for Embu University 2014 and
  - iii. Msc. thesis on the research of Maize and Sorghum year 2007-2010

However the committee could not authenticate (i and ii) as her original work

8. **THAT** she attended the following seminars and workshops

- i. Scientific data management from Southern and East African countries sponsored by IFS in Uganda
  - ii. Water management decision making environment aspects and risk assessment in Hebrew University of Jerusalem on 22nd February -3rd March 2010 at Rehovot ,Israel
  - iii. Scientific data management on 28th September -6th October 2009 at the Botanical Beach hotel in Uganda
  - iv. Trained mwalimu sacco member on HIV/AIDS in 2006
  - v. Certificate of commendation-MOEST (2002)
  - vi. MASHAV sponsorship for water management ;decision making,environment Aspects & Risk Assesment course in Israel
9. **THAT**she has never been charged in a Court of Law ,has no potential conflict of interest ,and has fully complied with her tax obligation
  10. **THAT** she has never been dismissed from office for contravention of the provision of article 75 of the constitution which deals with conduct of state officers.
  11. **THAT** she has been adversely mentioned in a report of the County Assembly and she submitted that she was aggrieved by the resolution of the County Assembly which prompted her to go to for Judicial Review where she obtained judgement in her favour ( *Annexure IV* )
  12. **THAT**she furnished the committee with an affidavit supporting the variation between names in her official documents (*Annexure V*)
  13. **THAT**,she has been the acting CECM Lands from 1<sup>st</sup> December 2020 to date

**50 COMMITTEE RECOMMENDATION**

Guided by the provision of **Article 179(2)** of the constitution of Kenya 2010,as read together with **Section 8(1) (a)** of Embu County Public Appointment(county Assembly Approval) Act ,2015,**Section 35** of the County Governments Act 2012 and Standing Order **198(4)** of the County Assembly of Embu Standing Order ;the committee recommends;

1. **THAT** the Assembly approves the nomination of Mrs.Jayne Ndegi Mugambi for Appointment by H.E the Governor to the position of the County Executive Committee Member, Lands, Water, Irrigation, Physical, Planning, Housing, Urban Development, Environment and Natural Resources


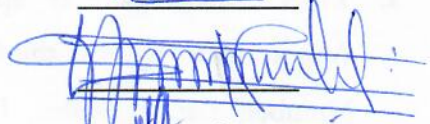


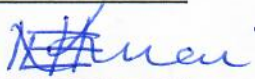

## 6.0 CONCLUSION

The committee urges the County Assembly to adopt this report.

### NAME

### SIGNATURE

1. Hon. Michael Njeru Kariuki
2. Hon. Masters Leonard Mwaniki
3. Hon. Margaret Lorna Kariuki
4. Hon. Peter Muriithi Nyaga
5. Hon. Robert Njiru Ileri
6. Hon. Elizabeth Ndeleve Kibai
7. Hon. Nathan Kariuki Mwari

  
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SIGNED:  ..... DATE: 08/08/2021.

HON. JOSIAH MURIITHI THIRIKU, SCA  
CHAIRMAN, APPOINTMENTS COMMITTEE