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COUNTY GOVERNMENT OF BUNGOMA



COUNTY ASSEMBLY OF BUNGOMA OFFICE OF THE CLERK

THIRD ASSEMBLY

COMMITTEE ON APPOINTMENTS

**REPORT ON THE VETTING OF THE NOMINEE
FOR APPOINTMENT TO THE OFFICE OF
COUNTY EXECUTIVE COMMITTEE MEMBER
FOR GENDER, CULTURE, YOUTH AND SPORTS;
IN THE COUNTY GOVERNMENT OF BUNGOMA**

Clerk's Chambers
County Assembly Buildings
P.O BOX 1886 - 50200
BUNGOMA, KENYA

APRIL, 2023

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FOREWORD

Pursuant to Article 179(2)(b) of the Constitution, Section 30 (2) (d) of the County Governments' Act , 2012 and Section 4 of the Public Appointments (County Assemblies Approval) Act No. 33 of 2017, His Excellency the Governor nominated **Eng. Agnes Naliaka Wachie** for appointment as County Executive Committee Member for Gender, Culture, Youth and Sports; vide letter Ref. No. CG/BGM/GVN/CA/VOL.1/02 dated 13th April, 2023.

On Thursday 13th April, 2023 the Honourable Speaker of the County Assembly read the Message from His Excellency the Governor to the House pursuant to Standing Order 45 (1). The name of the nominee was committed to the Committee on Appointments for vetting and reporting to the House within twenty-one (21) sitting days; pursuant to section 9(1) of the Public Appointments (County Assemblies Approval) Act, 2017 and Standing Order 208(4).

Subsequently, the Clerk of the County Assembly while complying with Section 7 (10) of the Public Appointments (County Assemblies Approval) Act, 2017, placed an advertisement in the print media on Saturday 15th April, 2023; inviting the public to submit memoranda by way of written statements on oath (affidavits) on the suitability or otherwise of the nominee as stipulated in the Public Appointments (County Assemblies Approval) Act, 2017.

As at the date of the approval hearing, the Committee had not received any memoranda regarding the suitability of the nominee.

The Clerk of the County Assembly through an advertisement in the print media on Saturday 15th April, 2023, notified the public that the Committee on Appointments would conduct the approval hearing for the nominee on Tuesday 25th April, 2023 at

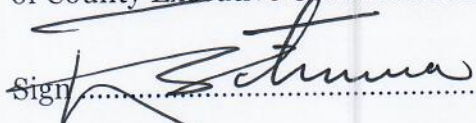
9:00 a.m. This was in fulfilment of the provisions of Article 196 (1) of the Constitution, Section 7(5) of the Public Appointments (County Assemblies Approval) Act, 2017 and Standing Order 56(3).

The nominee appeared before the Committee as scheduled on Tuesday 25th April, 2023 at 9:00 a.m for approval hearing in accordance with the provisions of the Constitution, the Public Appointments (County Assemblies Approval) Act, 2017 and the County Assembly Standing Orders.

ACKNOWLEDGEMENT

I therefore take this opportunity to acknowledge all Members of the Committee for their input and valuable contributions and time during the approval hearing and deliberations during the compilation of this report. The Committee also takes this opportunity to thank the Offices of the Speaker and of the Clerk of the County Assembly for the technical support accorded to it during the exercise.

On behalf of the Committee on Appointments and pursuant to section 14(3)(b) of the County Governments Act, 2012, section 9(1) of the Public Appointments (County Assemblies Approval) Act, 2017 and the provisions of Standing Order 202 (7), it is now my duty and privilege to present to the House, the report of the Committee on Appointments on the approval hearing of the nominee for appointment to the position of County Executive Committee Member for Gender, Culture, Youth and Sports.

Sign  Date 1/5/2023

Hon. Emmanuel Mukhebi Situma

Speaker of the County Assembly/Chairperson, Committee on Appointments

CHAPTER ONE

1.0 PREFACE

1.2 Establishment and Mandate of the Committee

Section 14 (3) (a) of the County Governments' Act, 2012 provides that in considering any appointment for which approval of the County Assembly is required under the Constitution, an Act of Parliament or County Legislation; the appointment shall be considered by a Committee of the County Assembly.

The Committee on Appointments is established under Standing Order 208(1). Standing Order 208(4) provides that the Committee on appointments shall consider, for approval by the House, appointments under Article 179(2) (b) of the Constitution.

1.3 Committee Membership

1. Hon. Emmanuel Situma	Chairperson
2. Hon. Stephen Wamalwa	Member
3. Hon. Joseph Nyongesa	Member
4. Hon. Anthony Lusenaka	Member
5. Hon. Joan Kirong	Member
6. Hon. Everlyne Mutiambu	Member
7. Hon. Grace Sundukwa	Member
8. Hon. James Mukhongo	Member
9. Hon. Francis Chemion	Member
10. Hon. George Makari	Member
11. Hon. Vitalis Wangila	Member

CHAPTER TWO

2.0 BACKGROUND INFORMATION

2.1 Notification of Nomination

Pursuant to Article 179 (2) of the Constitution as read with Sections 4 and 6 of the Public Appointments (County Assemblies Approval) Act, 2017, His Excellency the Governor, vide a letter dated 13th April, 2023, referenced CG/BGM/GVN/CA/VOL.1/02; forwarded to the Clerk of the County Assembly the name of the person nominated for appointment as County Executive Committee Member for Youth, Gender, Culture and Sports.

2.2 Notification to the House and Committal to the Committee on Appointments

The Speaker, in adhering to the provisions of Standing Order 45(1) and vide a communication dated Thursday 13th April, 2023, informed the House of the Governor's message on nomination of County Executive Committee Member, for Youth, Gender, Culture and Sports.

Pursuant to Section 7(1) of the Public Appointments (County Assemblies Approval) Act, 2017 and Standing Order 56 (1), the name and curriculum vitae of the nominee was committed to the Committee on Appointments for approval hearings and reporting to the House on or before Thursday 1st June, 2023.

2.3 Notification to the Public

Article 196 of the Constitution provides that the County Assembly shall facilitate public participation and involvement in the legislative business and other business of County

Assembly and its Committees.

Section 7 (5) of the Act further provides that the Committee shall notify the public of the time and place for holding an approval hearing at least seven days prior to the hearing.

Further, Section 7(10) of the Public Appointments (County Assemblies Approval) Act, 2017 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.”

Pursuant to Article 196 of the Constitution as read with section 7(10) of the Public Appointments (County Assemblies Approval) Act, 2017, the Clerk of the County Assembly placed an advertisement in the print media on Saturday 15th April, 2023. The advertisement contained a notification inviting the public to submit memoranda by Thursday 20th April, 2023 at 3:00 p.m. in conformity with section 7(10) of the Public Appointments (County Assemblies Approval) Act, 2017.

Further, pursuant to Article 196 of the Constitution, Section 7 (5) of the Public Appointments (County Assemblies Approval) Act, 2017 and Standing Order 56(3), the Clerk of the County Assembly notified the general public on Saturday 15th April, 2023 through the print media that the approval hearing of the nominee would be conducted on Tuesday 25th April, 2023.

2.4 Notification to the Nominee

On Saturday 15th April, 2023, the Clerk of the County Assembly invited the nominee through print media to attend the approval hearing in accordance with Section 7 (4) of the Public Appointments (County Assemblies Approval) Act, 2017.

2.5 Clearance and Compliance Requirements.

On the notice of appearance for the approval hearing, the Clerk of the County Assembly informed the nominee to provide Clearance and Compliance requirements from Ethics and Anti-Corruption Commission (EACC), Kenya Revenue Authority (KRA), Directorate of Criminal Investigations (DCI), the Higher Education Loans Board (HELB) and the Credit Reference Bureau (CRB).

On matters ethics and integrity, the nominee availed before the Committee certified clearance copies issued on diverse dates as follows:

NOMINEE	KRA	EACC	HELB	DCI	CRB
AGNES	21/12/2022	27/04/2023	21/12/2022	15/03/2023	As at
NALIAKA					21/12/2022
WACHIE					

2.6 Issues for Consideration during the Approval Hearing

Section 7(8) and (9) of the Public Appointments (County Assemblies Approval) Act, 2017 provides that:

(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 schedule shall be used by a Committee during an approval hearing for the purposes of vetting a candidate.

Additionally, Section 8 of the Act provides that the issues for consideration by the relevant House in relation to any nomination shall be:

- (a) the procedure used to arrive at the nominee*
- (b) any Constitutional or statutory requirements relating to the office in question, and*
- (c) the suitability of the nominee for the appointment proposed having regard to whether the nominees' abilities, experience and qualifications meet the needs of the body to which nomination is being made.*

While conducting the approval hearings, the Committee was guided by the provisions of Section 7 (8) and (9) and Section 8 of the Public Appointments (County Assemblies Approval) Act, 2017.

a) Procedure for Nomination

Articles 179(2) of the Constitution of Kenya, 2010, Section 30 (2) (d) of the County Governments Act, 2012 confers upon the Governor the power to appoint County Executive Committee Members for the approval of the County Assembly.

Sections 4 and 6 (1) of the Public Appointments (County Assemblies Approval) Act, 2017 further requires the appointing authority, upon nominating a person for appointment, to notify the relevant County Assembly.

In this regard, pursuant to Article 179(2) of the Constitution and section 4 and 6(1) of the Public Appointments (County Assemblies Approval) Act, 2017, His Excellency the

Governor notified the County Assembly of the nomination of Eng. Agnes Naliaka Wachie for appointment to the office of County Executive Committee Member for Gender, Culture, Youth and Sports.

b) Constitutional and Statutory Requirements

Besides the Constitution, the County Governments Act, 2012 Section 35 (2) gives guidelines on how to appoint persons to public office. They include:-

(i) Two-Third Gender Rule

Article 27(8) of the Constitution and Section 35 (2) of the County Governments' Act, 2012 provides that the County Assembly shall take measures to implement the principle that not more than two-thirds of the members of elective or appointive bodies shall be of the same gender.

(ii) Representation of Regional and Ethnic Diversity

Section 35 (2) (b), (c) of the County Governments Act, 2012 provides that the composition of the County Executive shall reflect the representation of the minorities, marginalized groups and communities; community and cultural diversity within the County.

(iii) Leadership and Integrity

The Committee in determining the suitability of the nominees guided by the provisions on leadership and integrity as outlined under Chapter Six of the Constitution. In particular, Article 73 (2) of the Constitution provides that 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, favouritism, 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.*

Article 75 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 or official duties.

This Article further prohibits a State Officer who has been removed from office under it from holding any other State Office.

Article 77(1) of the Constitution prohibits a full time State Officer from participating in any other gainful employment.

Article 78 of the Constitution disqualifies persons who are not Kenyan Citizens from appointment as State Officers.

In addition, the Committee considered Section 10 of the Leadership and Integrity Act, 2012 in particular which provides that:-

A State Officer shall to the best of their ability:-

- (a) carry out the duties of the Office efficiently and honestly;*
- b) carry out the duties in a transparent and accountable manner;*
- c) keep accurate records and documents relating to the functions of the office;*
- and*
- d) report truthfully on all matters of the organization which they represent.*

c) Suitability of the nominee with regard to the nominee’s abilities, experience and qualities.

The suitability of the nominee was assessed after scrutiny of her academic credentials, professional training and experience, personal integrity, background and individual qualities as well as their performance during the approval hearing conducted on Tuesday 25th April, 2023.

2.7 Memoranda from members of the public in respect of the nominee

Pursuant to Section 7 (10) of the Public Appointments (County Assemblies Approval) Act, 2017

“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 office to which the candidate has been nominated.”

The Clerk of the County Assembly placed an advertisement in the print media on Saturday 15th April, 2023 inviting the Public to submit memoranda by way of written statements on oath (affidavit) on the suitability or otherwise of the nominees in conformity with section 7(10) of the Public Appointments (County Assemblies Approval) Act, 2017. In this regard, as at the date of the approval hearing, the Committee had not received any memoranda.

2.8 Pre- approval hearing meeting

The Committee held a pre-approval hearing meeting on Monday 24th April, 2023 and noted the following;-

- (i) **THAT**, the nominee had not notified the Clerk of the County Assembly of her withdrawal from the approval process as outlined under section 7(12) of the Public Appointments (County Assemblies Approvals) Act, 2017.
- (ii) **THAT**, the Committee would proceed with the approval hearing on Tuesday 25th April, 2023 at 9:00 a.m.
- (iii) **THAT**, the Committee would examine the nominee against the criteria set out in section 8 of the Public Appointments (County Assemblies Approval) Act, 2017

CHAPTER THREE

3.0 APPROVAL HEARING OF THE NOMINEE

The Committee conducted the approval hearing of the nominee on Tuesday 25th April 2023. The nominee, Eng. Agnes Naliaka Wachie was vetted under oath pursuant to the Public Appointments (County Assemblies Approval) Act, 2017 and the County Assembly of Bungoma Standing Orders.

3.1 ENG. AGNES NALIKA WACHIE: - NOMINEE FOR THE POSITION OF COUNTY EXECUTIVE COMMITTEE MEMBER FOR GENDER, CULTURE, YOUTH AND SPORTS

Eng. Agnes Naliaka Wachie, the nominee for the position of County Executive Committee Member for Gender, Culture, Youth and Sports appeared before the Committee on Tuesday 25th April, 2023 at 9:00 a.m. in the County Assembly Plenary. The Committee noted the following:

i. Date and Place of Birth

The nominee of ID NO. 7908394 is a Kenyan female born on 31/03/1966, in Sirisia, Mayekwe Sub-location, Lwandanyi Location, Bungoma West district in Bungoma County. Apart from being a Kenyan citizen, the nominee confirmed that she did not hold any dual citizenship.

ii. Academic and Professional Qualifications

The nominee holds a Bachelor of Philosophy Degree in Technology (Electrical and Electronic Engineering Technology) from the University of Nairobi, higher national diploma in Electrical Engineering (Power Systems) from Kenya Polytechnic, diploma

in Project Management from Galilee International Management Institute, Israel. Further, she holds a diploma in Technical Education - Kenya Technical Teachers College (KTTC)

Further, she holds a certificate in corporate Governance from the Centre for Corporate Governance (CCG), certificate in Senior Management Course from the Kenya School of Government and a certificate in the science and Art of Leadership from Eastern & Southern African Management Institute (ESAMI).

iii. **Employment Record**

The nominee has worked in various positions; she is the current Manager, Surveillance and Enforcement and Regional Manager North Rift Region at the Energy and Petroleum Regulatory Authority (EPRA). At the same organization, she also worked as the Senior Technical Officer-electricity from 2005 to 2018 and Electrical Inspector from 1999 to 2004.

From 1991 to 1995, the nominee worked as the Technician Engineer (Commercial) at the Kenya Power and Lighting Company Limited (KPLC). The nominee has a cumulative of 28 years work experience.

iv. **Income and net worth**

The nominee's estimated net worth is 30 million Kenyan shillings; with her sources of income being from salary, benefits, rental income, dividends from shares and a hotel.

v. **Professional association and membership**

The nominee has been a member of the Kenya Engineering Technology Registration Body (KETRB) since 2016. She was also the chairperson of the Kenya Engineering

Technology Registration Body (KETRB) from November, 2016 to 2019.

Additionally, the nominee has been a member of the Association of Energy Professions (AEP) since 2016 and Institution of Engineering Technologist (IET) as from 2012 to date. Further, the nominee indicated that she was a member of the Engineering Board of Kenya (EBK) as a graduate technician engineer in 2006.

vi. **Potential Conflict of Interest**

The nominee highlighted that she would endeavour to separate personal interest from public office by establishing policies and procedures in accomplishing the mandate of the ministry.

vii. **Pro-bono/Charity Work**

The nominee has been involved in charity work through mobilising professionals from Lwandanyi ward with an objective of constructing and equipping Mayekwe ACK Secondary School library. They completed the library and handed it over to the Bishop of ACK church in 2022. Through Motisha Women Initiative, the nominee secured a Corporate Social Responsibility (CSR) award from Energy and Petroleum Regulatory Authority (EPRA). The nominee has also supported electrical connection in Lwandanyi, Sikusi, Tongaren and Webuye. Further, she has participated in capacity development of the youth in acquiring electrical worker's and electrical contractor's licences technicians.

viii. **Integrity**

The nominee further submitted that she has not been adversely associated with practices that depict bias, favouritism, or nepotism in the discharge of public duties.

She has neither been charged in a court of law nor mentioned in any investigatory report of Parliament or any Commission of Inquiry in the last three (3) years. The nominee has also never been dismissed or otherwise removed from office for contravention of the provisions of Article 75 of the Constitution.

3.1.1 General and sector specific questions

The Committee posed several questions to the nominee on her knowledge of Gender, Culture, Youth and Sports to which she responded as follows:

- (1) On the functions of the County Executive Committee, the nominee was aware of the functions of the County Executive Committee as outlined in Article 183 of the Constitution of Kenya, 2010.
- (2) Regarding values and principles of Public Service, the nominee was aware of the values and principles of public service as enshrined in Article 232 of the Constitution of Kenya, 2010.
- (3) On measures she would put in place towards the revival and sustainability of Bungoma County Disability Empowerment Fund (BUCODEF), Bungoma County Youth Empowerment Fund (BUCOYEF) and Bungoma County Women Empowerment fund (BUCOWEF), the nominee informed the Committee that she would go through the documents and review them in order to determine how they can be revived.
- (4) With regard to the youth, women and Persons Living with Disabilities (PLWDs) feeling segregated, the nominee stated that if approved, she will work to have a policy in place that will lay a level ground for the three groups in sharing resources equitably.

- (5) On utilization of ksh 700 million grant that was signed towards prevention of Gender Based Violence (GBV), the nominee informed the Committee that she would work with Chief Officers and Directors by studying the agreement signed between the County Government and the Government of Finland. She further stated that Bungoma County as one of the beneficiaries will only be required to provide necessary information.
- (6) On ensuring that the Gender Based Violence Rescue Centre at Ndengelwa becomes fully operational, the nominee informed the Committee that if approved, she would seek audience with the County Women Representative to get more information about the centre and how it is being utilized. Additionally, she stated that she would inspect the centre to get a clear picture of the facility then present a report to the County Assembly for consideration.
- (7) On how she would match her skills into practice as she discharges her duties, the nominee informed the Committee that she would foster a relationship with the Department of Education and Vocational Training to have the youth acquire the requisite skills.
- (8) Regarding full integration and harmonization of challenges facing the youth, the nominee indicated that the County has scholarships and bursaries for students. She also indicated that Technical Institutions offer training opportunities. She would therefore put in place mechanisms to sensitize the youth on how to access such opportunities.

3.1.2 Committee observations on the suitability of the nominee

The Committee having considered the nominee's filled questionnaire pursuant to Section 6(8) of the Public Appointments (County Assemblies Approval) Act, 2017, her

curriculum vitae and having heard her oral submission during the approval hearing, made the following observations:-

- (1) **THAT**, the nominee is the current Manager, Surveillance and Enforcement and also the Regional Manager North Rift Region at the Energy and Petroleum Regulatory Authority (EPRA).
- (2) **THAT**, the nominee meets the requirements of Chapter Six of the Constitution of Kenya, 2010 on Leadership and Integrity.
- (3) **THAT**, the nominee has not been charged in a court of law in the past three (3) years.
- (4) **THAT**, the nominee has never been dismissed from office under Article 75 of the Constitution for contravention of the Provisions of Article 75(1) (conflict of interest) and Article 76 (financial probity).
- (5) **THAT**, from her submission during the approval hearing, she demonstrated knowledge, skills and experience in leadership and institutional management. She was also conversant with role of the County Executive Committee Member as well as laws and policies related to her position.
- (6) **THAT**, in accordance with Article 78(1) and (2) of the Constitution, the nominee is eligible for appointment to state office since she is a Kenyan citizen born on 31st March, 1966 in Bungoma County and does not hold dual citizenship.
- (7) **THAT**, the Committee's average score of the nominee was recorded as 64.75%

Pursuant to Section 7(8) & (9) and Section 8 of the Public Appointments (County Assemblies Approval) Act, 2017, the Committee observed that the nominee met the integrity threshold; demonstrated knowledge of topical, administrative and technical issues touching on the portfolio to which she had been nominated; and had the

requisite abilities, academic qualifications and professional experience to be **CONSIDERED** for appointment as the County Executive Committee Member for Gender, Culture, Youth and Sports in Bungoma County.