



BOMET COUNTY ASSEMBLY

THIRD ASSEMBLY: FIRST SESSION

**SIXTH REPORT OF THE COMMITTEE ON APPOINTMENTS ON THE
VETTING OF NOMINEE FOR THE POSITION OF COUNTY
EXECUTIVE COMMITTEE MEMBER FOR WATER, SANITATION,
ENVIRONMENT, NATURAL RESOURCES AND CLIMATE CHANGE.**

DR. BENARD CHERUIYOT TONU

NOVEMBER, 2022

TABLE OF CONTENTS

1	PREFACE	1
1.1	Establishment and mandate of the committee	1
1.2	Committee membership	1
1.3	Committee secretariat	1
2	BACKGROUND	3
2.1	Notification of nomination.....	3
2.2	Notification to the Assembly and referral to the Committee on Appointments	3
2.3	Notification to the public	4
2.4	Notification to the nominee	4
2.5	Clearance and compliance requirements	5
2.6	Committee meetings	5
3	ACKNOWLEDGEMENT	7
4	OWNERSHIP OF THE REPORT	8
5	APPROVAL HEARING OF THE NOMINEE	9
5.1	Issues for consideration	9
5.2	Submission of memoranda.....	10
5.3	Issues for consideration	10
6	VETTING DR. BENARD CHERUIYOT TONUI NOMINEE TO THE OFFICE COUNTY EXECUTIVE COMMITTEE MEMBER FOR WATER, SANITATION, ENVIRONMENT, NATURAL RESOURCES AND CLIMATE CHANGE	Error! Bookmark not defined.
6.1	Date and place of birth.....	13
6.2	Academic and professional qualifications	13
6.3	Employment record	13
6.4	Public office, political activities, and affiliations	14

6.5	Potential conflicts of interest	14
6.6	Income and net worth	14
6.7	General and sector-specific questions to the nominee	14
7	COMMITTEE'S OBSERVATIONS	20

1 PREFACE

1.1 ESTABLISHMENT AND MANDATE OF THE COMMITTEE

The Committee on Appointments is established under Standing Order 197(1). The Standing Order 197(4) mandates the Committee on Appointments to consider, for approval by the County Assembly, the appointments of County Executive Committee Members under Article 179(2) of the Constitution.

1.2 COMMITTEE MEMBERSHIP

The Committee on Appointments was constituted on 13th October 2022 and comprises the following members: -

No	NAME	POSITION
1.	Hon. Cosmas Korir	Chairperson
2.	Hon. Leonard Rotich	Member
3.	Hon. Paul Kipyegon Kirui	Member
4.	Hon. Stephen Changmorik	Member
5.	Hon. KibetNgetich	Member
6.	Hon. Rosaline Cheptoo	Member
7.	Hon. Eric Kirui	Member

1.3 COMMITTEE SECRETARIAT

1. Isaac Kitur – Clerk of the Assembly
2. Oscar Sang - General Counsel
3. Rashid Tonui - Director of Legislative Services
4. Veronica Waweru - Principal Clerk Asst.
5. Kenneth Langat - Principal Clerk Asst.
6. Timothy Korir - Ag. Assistant Director, Research Services

7. Ronald sang - Deputy Director, Budget Office
8. Edwin Makiche -Communications and Media
Relations
9. Annebety Koros - Assistant Director, Committee Services
10. Josphat Koech - Hansard Reporter
11. Edward Rop - Serjeant at Arms
12. Janet Birech - Administrative Officer
13. Victor Mutai - Hansard Reporter

2 BACKGROUND

2.1 NOTIFICATION OF NOMINATION

Under Article 179(2)(b) of the Constitution as read together with Sections 30(2)(d) and 35 of the County Governments Act, 2012 and Section 6(1) of Public Appointments (County Assemblies Approval) Act, 2017, H.E. the Governor, submitted to the County Assembly, the name of nominee Dr. Benard Cheruiyot Tonui, vide a letter dated **12th October 2022** for vetting and approval by the County Assembly for appointment as the County Executive Committee Member for Water, Sanitation, Environment, Natural Resources and Climate Change (Annexure 1). The notification contained the Curriculum Vitae and the testimonial of the nominee.

2.2 NOTIFICATION TO THE ASSEMBLY AND REFERRAL TO THE COMMITTEE ON APPOINTMENTS

Under the provisions of Standing Order 42(1), the Speaker, vide a Communication dated Thursday, 13th October 2022, informed the Assembly of the Governor's message to the Assembly on the nomination of County Executive Committee Members, for approval by the County Assembly.

Under section 7(1) of the Public Appointments (County Assemblies Approval) Act, No. 5 of 2017 and Standing Order 197(4), the names and curriculum vitae of the nominees were referred to the Committee on Appointments for approval hearings and reporting to the Assembly.

2.3 NOTIFICATION TO THE PUBLIC

The Constitution and the County Governments Act, 2012 obligate the County Assembly to facilitate public participation and involvement in the legislative business and other business of the Assembly and its Committees.

Section 7(5) of the Public Appointments (County Assemblies Approvals) Act No.5 of 2017 further provides that the Committee shall notify the public of the time and place for holding an approval hearing at least seven days before the hearings.

Further, section 7(10) of the Public Appointments (County Assemblies Approval) Act, 2017 Act provides that *"any person may, before the approval hearings 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"*.

Under 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 October 2022 (Annexure 2) inviting the public to submit memoranda by way of a written statement on oath (affidavit) on the suitability or otherwise of the nominee for the position to which she was nominated to serve. The advertisement indicated that the submissions were to be received by Friday, 21st October 2022 at 5.00 pm.

2.4 NOTIFICATION TO THE NOMINEE

On Friday, 14th October 2022, the Clerk of the County Assembly invited the nominees in writing for the approval hearings under section 7(4) of the Public Appointments (County Assemblies Approval) Act, 2017 (Annexure 3). The

referred to the Constitution, the County Governments Act, 2012, the Leadership and Integrity Act, the Public Appointments (County Assemblies Approval) Act No 5 of 2017, and the Standing Orders.

The Committee complied with the Constitutional and legal requirements in its procedure for vetting. It ensured that there was public participation, transparency, and openness in carrying out the vetting exercise.

Notifications and invitations of the general public to submit memoranda were placed in the mainstream print media on Saturday 15th October 2022 in line with the provision of sections 91 and 95 of the County Governments Act 2012. By the close of business on Friday, 21st October 2022 no written memorandum had been submitted to the Clerk of the County Assembly office.

nominee was required to appear before the committee on appointments on Tuesday, 25th October 2022 at 10:30 a.m.

2.5 CLEARANCE AND COMPLIANCE REQUIREMENTS

On Friday, 14th October 2022, the Clerk of the County Assembly wrote to the Ethics and Anti-Corruption Commission requesting reports concerning the nominee on ethics and integrity.

Further, the Clerk, in his notification to the nominee required him in writing to bring letters or certificates of compliance and clearance during the vetting exercise from:

1. Ethics and Anti-Corruption Commission (EACC),
2. Kenya Revenue Authority (KRA),
3. Directorate of Criminal Investigations (DCI),
4. The Higher Education Loans Board (HELB)
5. Any of the Credit Reference Bureaus

2.6 COMMITTEE MEETINGS

The committee held a total of seven meetings, and during one of the meetings on 25th October 2022, the said nominee appeared before the committee on Appointments and was vetted by the Public Appointments (County Assemblies Approval) Act No 5 of 2017 for appointment as the County Executive Committee Member for Water, Sanitation, Environment, Natural Resources, and Climate Change.

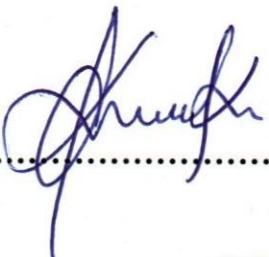
In a meeting held on 13th October 2022, the Committee resolved to invite the nominee for an approval hearing at the County Assembly Mini Chamber on Tuesday, 25th October 2022. In conducting the vetting exercise, the Committee

3 ACKNOWLEDGEMENT

The Committee on Appointments thanks the Office of the Speaker, the Office of the Clerk, and the staff of the County Assembly for the logistical support accorded to it during the vetting exercise and execution of the committee's mandate.

The Committee thanks all its Members for their patience, sacrifice, endurance, and commitment to serving the public under a tight schedule.

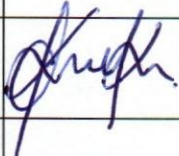
The Committee made several findings on the nominee during the vetting exercise. These findings guided the Committee in making its final recommendation. The Committee's final recommendations were based on the Constitution of Kenya, 2010, the County Governments Act 2012, the Leadership and Integrity Act 2012, the Public Appointments (County Assemblies Approval) Act, 2017 and the information supplied by the nominee during the proceedings of the Committee and the public hearing. The Committee report was adopted by members on Monday, 31st October 2022.

SIGNED..........DATE: 1st NOVEMBER, 2022

HON. COSMAS KORIR
SPEAKER AND THE CHAIRPERSON
COMMITTEE ON APPOINTMENTS

4 OWNERSHIP OF THE REPORT

We, the members of the Committee on Appointments, do append our signatures against our names in this report to affirm the correctness of the contents and support for the report

No	NAME	POSITION	SIGN
1.	Hon. Cosmas Korir	Chairperson	
2.	Hon. Leonard Rotich	Member	
3.	Hon. Paul Kipyegon Kirui	Member	
4.	Hon. Stephen Chang'morik	Member	
5.	Hon. Kibet Ngetich	Member	
6.	Hon. Rosaline Cheptoo	Member	
7.	Hon. Eric Kirui	Member	

Dated this Monday, 31st day of October 2022.

5 APPROVAL HEARING OF THE NOMINEE

5.1 ISSUES FOR CONSIDERATION

The Committee held a sitting on Tuesday, 25th October 2022 to deliberate on the approval hearings and noted the following —

- (1) THAT, the nominee had not notified the Clerk of the County Assembly of his withdrawal from the approval process as outlined under section 7(12) of the Public Appointments (County Assemblies Approval) Act, 2017.
- (2) Article 179(2) of the Constitution requires H.E. the Governor to nominate and with the approval of the County Assembly, appoint members of the County Executive Committee
- (3) THAT, Article 179(3) of the Constitution provides that the County Executive Committee Member appointed under clause (2) (b) shall not exceed-- one-third of the number of members of the County Assembly, if the Assembly has less than thirty members; or ten, if the Assembly has thirty or more members.

In this regard, it was notable that in compliance with the provisions of Article 179(3) of the Constitution, the Governor had nominated seven County Executive Committee Members.

- (4) Further, the committee required the nominee to submit the following documents; (Annex 4)
 - i. Questionnaire for vetting/approval of the Nominee for the CECM position
 - ii. Curriculum Vitae, Personal Credentials, and Academic Certificates

- iii. Clearance Certificate from Higher Education Loans Board (HELB)
- iv. Certificate of Good Conduct from the Criminal Investigation Department (CID)
- v. Compliance Certificate from Kenya Revenue Authority (KRA)
- vi. Sworn self-declaration form submitted to the Ethics and Anti-Corruption Commission (EACC)for 2018
- vii. Clearance Certificate from Credit Reference Bureau

(5) THAT, the Committee would therefore proceed with the approval hearings on Tuesday, 25th October 2022; and

(6) THAT, the Committee would examine the nominees against the criteria set out in sections 7 and 8 of the Public Appointments (County Assemblies Approval) Act, 2017.

5.2 SUBMISSION OF MEMORANDA

By the close of business on 21st October 2022, the Committee had not received any memoranda from the public.

5.3 ISSUES FOR CONSIDERATION

In conducting the approval hearing, the Committee was guided by Article 73 (2) (a)(b)(c) and (e) of the Constitution, Section 35 of the County Governments Act and the provisions of the Public Appointments (County Assemblies Approval) Act 2017.

Article 73(2) of the Constitution on leadership and Integrity provides as follows:

“That the guiding principles of leadership and integrity include;

- a. *Selection based on personal integrity, competence, and suitability 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 services based solely on the public interest, demonstrated by:*
 - i. *Honesty in the execution of public duties*
 - ii. *The declaration of any personal interest that may conflict with public duties.*
 - iii. *Accountability to the public for decisions and actions; and*
 - iv. *Discipline and commitment to service to the people.*

In conducting the vetting process, the Committee on Appointments examined the nominee against the following criteria, amongst others, by the Public Appointments (County Assemblies Approval) Act 2017.

- i. Academic Qualification
- ii. Employment Record
- iii. Knowledge of the relevant subject/ role of CECM for Water, Sanitation, Environment, Natural Resources and Climate Change.
- iv. Appreciation of the Constitution of Kenya 2010, Acts of Parliament and Devolution
- v. Overall suitability for the Position
- vi. Compliance and Integrity

The Committee considered the provisions of section 35 (2) of the **County Governments Act, 2012** which states as follows: -

“The County Assembly shall not approve nominations that do not consider

- a) Not more than two-thirds of either gender;*
- b) Representation of minorities, marginalized groups, and communities; and*
- c) Community and cultural diversity within the county.*

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

- 1. Is a Kenyan citizen;*
- 2. Is a holder of at least a first degree from a university recognized in Kenya;*
- 3. Satisfies the requirement of chapter six of the Constitution; and*
- 4. 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.

6 ORAL SUBMISSIONS FROM DR. BENARD CHERUIYOT TONUI

Dr. Benard Cheruiyot Tonui, the nominee to the Office County Executive Committee Member for Water, Sanitation, Environment, Natural Resources and Climate Change on Tuesday, 25th October 2022 and was vetted under oath under Article 152(2) of the Constitution, the Public Appointments (County Assemblies Approval) Act, 2017 and the Standing Orders of the County Assembly. The Committee noted the following:

6.1 DATE AND PLACE OF BIRTH

The nominee is a male Kenyan born on 10th January 1984 in Bomet County. The nominee confirmed that he was a Kenyan citizen and did not hold any other citizenship.

6.2 ACADEMIC AND PROFESSIONAL QUALIFICATIONS

The nominee holds a Doctor of Philosophy Degree in Applied Statistics from Jomo Kenyatta University of Agriculture and Technology. In addition, he holds a Master of Science in Statistics from the University of Nairobi and a Bachelor's Degree in Education (Science) from Egerton University.

6.3 EMPLOYMENT RECORD

- a. The nominee is currently a lecturer at the University of Kabianga where he teaches and supervises undergraduate and postgraduate students in a position he has held since January 2022.
- b. Before the post in (a) served as an assistant lecturer in the same university from September 2012.

- c. He served as an Assistant lecturer at Mwenge University College, Tanzania from May to September 2012.
- d. The nominee also served as a teacher at Marinyin Secondary School, Bomet from the year 2007 to 2008.

6.4 PUBLIC OFFICE, POLITICAL ACTIVITIES, AND AFFILIATIONS

The nominee submitted that he did not support the current Governor Prof. Hillary Barchok during the campaigns in the run-up to the 2022 general elections but he was glad that he considered nominating him to the position.

6.5 POTENTIAL CONFLICTS OF INTEREST

The nominee declared that he is not associated with any person or matter that would present a potential conflict of interest should he assume the position of County Executive Committee Member for Water, Sanitation, Environment, Natural Resources and Climate Change.

6.6 INCOME AND NET WORTH

The nominee stated that his estimated net worth was Kshs. 6,000,000 (six million).

6.7 GENERAL AND SECTOR-SPECIFIC QUESTIONS TO THE NOMINEE

To assess the nominee's overall suitability for the position, the Committee examined the nominee on general and specific thematic areas which the nominee responded as follows:

- a. **On his management abilities and skills in the public sector considering that his experience was confined to lecture halls**

The nominee submitted that he had served at a public university for over 10 years and that he considered that this experience merited his appointment to the docket of CECM for Water, Sanitation, Environment, Natural Resources, and Climate Change. He added that in the course of his service at the university he has served in different managerial positions including being the head of examinations and a member of university management committees.

b. On the relevance of his qualifications in statistics to the docket has been nominated to

The nominee submitted that the field of applied statistics applies to different sectors of the economy including that Water, Sanitation, Environment, Natural Resources, and Climate Change. He argued that the sector faced quantitative problems and he could apply his knowledge of statistics to solve them.

The nominee also submitted that water and sanitation issues were closer to his heart, having grown up in a region (Chepalungu Sub County) where water scarcity was rampant and residents had to travel long distances to fetch water. He added that he had always yearned for an opportunity to solve the issue and that the nomination accorded him the opportunity.

c. On the specific ways in which he will use his knowledge in statistics to solve the sector problems

The nominee submitted that he would employ his knowledge in statistics including needs assessment, data collection, and analysis to address the sector problems.

The nominee also added that he had vast knowledge of Geographical Information Science (GIS) which he will apply to map water and sanitation resources across the county and how to distribute them.

d. On leadership, integrity, and political neutrality in public service

The nominee submitted that if approved, he will offer his services diligently and without favor and as per the provisions of the constitution. He added that he will remain politically neutral and will serve all the residents impartially.

The nominee submitted that he did not support the current Governor Prof. Hillary Barchok during the campaigns in the run-up to the 2022 general elections but he was glad that he considered nominating him to the position. On this, the nominee said he will be loyal to the government in power.

e. On practical interventions to oversee the management and conservation of ecosystems.

The nominee submitted that climate change was about a ‘rise in temperatures’ and ‘emission of dangerous gases into the atmosphere.’ He submitted that, if appointed, he will ensure that the forest cover across the county is increased. He will take initiative to ensure the use of environmentally friendly cooking fuel. The committee noted that his explanation of climate change was shallow and not anchored on the UN Sustainable Development Goals (SDGs) definition.

f. On how he will mainstream climate change in the development plans of the county

On the issue, the nominee submitted that he will ensure that Climate Change Action Plan is in place and is captured in the CIDP.

g. On his views on Carbon Credits and how he will ensure Bomet County benefits from the same

The nominee submitted the issue of Carbon Credit is an emerging issue in environmental conservation. He argued that if appointed, he will ensure that farmers from tea-growing areas like Bomet Central and Konoin benefit from carbon credits. He stated that Muranga is already benefitting from the initiative.

h. On his views on the current state of Bomet Water Company and steps to turn around the institution.

The nominee submitted that he was aware that the company was facing many challenges, including the high cost of production and a huge wage bill and due to this, it has not been able to sustain its programs.

To cut the cost of production, the nominee submitted that he will pursue a gravity-based water supply system and therefore reduce the surging power costs.

He said that to address the issue of the high wage bill, he will ensure that the Bomet Water Company employs majorly technical staff and reduce the administrative staff. He argued that in the current situation, the company has employed more administrative staff and few technical staff.

The nominee had researched the problems facing the Bomet Water Company but could not however table the research findings before the committee.

He added that to turn around the water company, he will put in place measures to ensure that revenue is collected from all the water users and that leakages in revenue collection are stopped. He said the revenue collected will be used to improve the services offered by the company.

As a temporary measure to address the salary arrears for the company employees, the nominee said if appointed, he will push for an increase in subsidy from

i. On steps he will take to ensure that all wards get access to clean water in the next 5 years

The nominee said that he will ensure that all the ongoing water projects are completed within the stipulated time, including the Chebangang water project, the Sigor-Siongiroi water project, and the upgrading of the Olbutyo water project.

He added that he will also work with the relevant national water departments to ensure the completion of the Bosto water project.

He also said that he will take steps to ensure that dams and water pans at the lower parts of Bomet County are desilted to ensure the continuous supply of clean water.

j. On his experience in resource mobilization and investor relations

The nominee said that he had qualifications in project monitoring and evaluation and resource mobilization acquired through online studies. He said that if appointed, he will apply this knowledge to mobilize resources from private partners.

h. On how he will execute Public Private Partnership

The nominee said that if appointed, he will build a good relationship with development partners particularly the Kenya Red Cross Society (KRCS) in executing water projects. He also said that he will develop a county policy aimed at legalizing Public Private Partnerships (PPP) that will be adopted by the County Assembly.

k. On his understanding of the Water Act 2016

The nominee submitted that the Act stipulates the roles of the National Government and the County Government in managing water resources. He said that at the national level, the Act gives powers to Water Resource Management Authority (WARMA) to manage water resources. On the County level, the Act gives powers to the county governments to manage water distribution.

l. On natural resource management

The nominee submitted that the county is endowed with several natural resources such as water, forests, and wildlife. And if given the opportunity, he will work to identify and develop more natural resources.

7 COMMITTEE'S OBSERVATIONS

After the vetting exercise, the committee made the following observations regarding Dr. Benard Cheruiyot Tonui.

NO	KEY AREAS VETTED	COMMITTEE OBSERVATIONS
1.	Academic Qualification	<p>The nominee holds a Doctor of Philosophy Degree in Applied Statistics from Jomo Kenyatta University of Agriculture and Technology. In addition, he holds a Master of Science in Statistics from the University of Nairobi and a Bachelor's Degree in Education (Science) from Egerton University.</p> <p>The nominee, therefore, fulfilled Section 35(3)(b) of the County Government Act, 2012.</p>
2.	Communication and presentation (promptness, appearance, neatness of resume/application)	<p>The nominee has an in-depth experience in academia and limited experience public service sector.</p> <p>He communicated effectively.</p>
3.	Education and Training (Relevant to the portfolio)	<p>The nominee attempted to prove to the committee that his education and training are relevant to the portfolio.</p> <p>He however could not produce recommendations/ research papers that proved linkages between his statistics background and the sector he has been nominated to.</p>

4.	Work Experience as it relates to the position	The nominee has more than 12 years' experience as a university lecturer.
5.	Professional skills and technical skills	The nominee possesses administration skills in administration and public service having served in different managerial positions including being the head of examinations and a member of university management committees.
6.	Additional skills as per the position applied for	The nominee attempted to demonstrate that he is a good communicator and he is an authority in his field of statistics. He however could not produce recommendations/ research papers that proved linkages between his statistics background and the sector he has been nominated to. He could not address the issue of climate change sufficiently.
7.	Knowledge of the laws of Kenya and other guiding principles e.g. The Constitution of Kenya, 2010, The devolution laws, vision 2030, etc.	The nominee was fairly conversant with the operations of the county government, the statutes governing county government and public service, and other guiding principles and regulations about the portfolio.
8.	Leadership and Integrity as per Chapter Six of the Constitution of Kenya, 2010.	The nominee submitted the original documents as required by the Constitution of Kenya, 2010. He, therefore, satisfied the requirements as per Section 35(3)(c) of the County Governments Act, 2012.

9.	Decision-making and problem-solving skills	The nominee was able to provide real and practical solutions to the problems facing the water, Sanitation, Environment, Natural Resources, and Climate Change docket.
----	--	---

8 COMMITTEE'S RECOMMENDATIONS

At the end of the vetting process, the committee made the following recommendation:

That, having considered the suitability, capacity and integrity of the nominee, and according to **Section 9 (2) of Public Appointments (County Assemblies Approval) Act No.5 of 2017**, the Committee recommends that the County Assembly **approve** the nomination and subsequent appointment of **Dr. Benard Cheruiyot Tonui** as the CEC member in charge of that Water, Sanitation, Environment, Natural Resources and Climate Change