



REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY

*Tabled by Chairperson  
Hon. G.K. George Kenney  
J. Lemerele*

*Approved  
Boss  
7<sup>th</sup> Dec. 2022*

THIRTEENTH PARLIAMENT – FIRST SESSION - 2022

DEPARTMENTAL COMMITTEE ON TRANSPORT & INFRASTRUCTURE

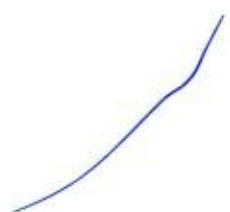
REPORT ON THE APPROVAL HEARINGS OF:

1. ENG. JOSEPH MBUGUA, NOMINEE FOR APPOINTMENT AS PRINCIPAL SECRETARY, STATE DEPARTMENT FOR ROADS;
2. MR. MOHAMED DAGHAR, NOMINEE FOR APPOINTMENT AS PRINCIPAL SECRETARY, STATE DEPARTMENT FOR TRANSPORT; AND,
3. MR. SHADRACK MWADIME, NOMINEE FOR APPOINTMENT AS PRINCIPAL SECRETARY, STATE DEPARTMENT FOR SHIPPING AND MARITIME AFFAIRS

CLERK'S CHAMBERS  
DIRECTORATE OF DEPARTMENTAL COMMITTEES  
PARLIAMENT BUILDINGS

NAIROBI

THE NATIONAL ASSEMBLY	
PARLIAMENT BUILDINGS	
DECEMBER, 2022	
DATE: 01 DEC 2022	
DAY: THURSDAY	
TABLED BY:	CHAIR DC - TRANSPORT & INFRASTRUCTURE
CLERK AT THE TABLE:	HON. G.K. George Kenney
	Joyce Lemerele



## Table of Contents

<b>ANNEXURES.....</b>	<b>iii</b>
<b>LIST OF ABBREVIATIONS AND ACROYNMS.....</b>	<b>iv</b>
<b>CHAIRPERSON'S FOREWORD.....</b>	<b>v</b>
<b>1.0 PREFACE.....</b>	<b>viii</b>
1.1 Mandate of the Committee.....	viii
1.2 Committee Subjects.....	viii
1.3 Oversight.....	ix
1.4 Committee Membership.....	x
<b>2.0 CHAPTER TWO.....</b>	<b>1</b>
<b>2 BACKGROUND INFORMATION.....</b>	<b>1</b>
2.1 Legal Framework.....	1
2.2 Qualifications for appointment as Principal Secretary.....	5
2.3 Message from H.E. the President.....	5
2.4 Speaker's Communication and Committal to the Committee.....	5
2.5 Notification to the Public.....	6
2.6 Notification to the Nominees.....	6
2.7 Clearance Requirements.....	6
2.8 Report of the Selection Panel on the Nomination of Principal Secretaries.....	7
2.9 Submission of Memoranda.....	8
2.9.1 Affidavit by Morris Wang'ombe.....	8
2.10 Committee proceedings.....	8
2.11 Petition against Vetting of persons nominated for appointment to position of Principal Secretary.....	8
<b>CHAPTER THREE: APPROVAL HEARINGS.....</b>	<b>10</b>
3.1 Eng. Joseph Mungai Mbugua.....	10
3.2 Mr. Mohamed Daghar.....	14
3.3 Mr. Shadrack Mwadime.....	16
<b>CHAPTER FOUR.....</b>	<b>19</b>
<b>4.0 COMMITTEE OBSERVATIONS AND FINDINGS.....</b>	<b>19</b>
<b>CHAPTER FIVE.....</b>	<b>23</b>
<b>5. COMMITTEE RECOMMENDATION.....</b>	<b>23</b>





## ANNEXURES

ANNEXURE I	Minutes
ANNEXURE II	Adoption List
ANNEXURE III	Message from the speaker on suspension of vetting of Nominees for appointment as Principal Secretaries
ANNEXURE IV	Message from the Speaker, the National Assembly on the nomination of the Fifty-One Principal Secretaries
ANNEXURE V	Advert inviting submissions of Memoranda/Notification to the public/Notification to the Nominee
ANNEXURE VI	Letters from the Clerk of the National Assembly to the relevant agencies
ANNEXURE VII	Letter to the Nominee
ANNEXURE VIII	Supporting Memoranda for Eng. Mbugua
ANNEXURE IX	Clearance Letters from agencies
ANNEXURE X:	Nominees filled Questionnaire
ANNEXURE XI:	Report of the Selection Panel on the procedure used to arrive at nominee
ANNEXURE XII:	Copy of Nominees' Curriculum Vitae
ANNEXURE XIII:	Message from the Speaker on suspension of Vetting of Nominees for appointment as Principal Secretaries
ANNEXURE XIV:	Message from the speaker on resumption of vetting of Nominees for appointment as Principal Secretaries



## LIST OF ABBREVIATIONS AND ACROYNMS

DCI	Directorate of Criminal Investigations
EACC	Ethics and Anti-Corruption Commission
EBS	Elder of the Order of the Burning Spear
H.E.	His Excellency
HELB	Higher Education Loans Board
KRA	Kenya Revenue Authority
KPA	Kenya Ports Authority
MBS	Moran of the Order of Burning Spear
NTSA	National Transport and Safety Authority
SGR	Standard Gauge Railway
SO	Standing Order

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## CHAIRPERSON'S FOREWORD

Pursuant to Article 155(3)(a) of the Constitution as read together with Section 47(3) of the Public Service Commission Act (*No. 10 of 2017*) and Section 5 of the Public Appointments (Parliamentary Approval) Act, (*No. 33 of 2011*), His Excellency the President nominated Eng. Joseph Mungai Mbugua for appointment to the position of Principal Secretary for the State Department for Roads; Mr. Mohamed Daghar for appointment as principal Secretary for State Department for Transport, and Mr. Shadrack Mwadime for appointment as Principal Secretary for the State Department for Shipping and Maritime Affairs.

The nominations were conveyed to the Speaker of the National Assembly on 3<sup>rd</sup> November, 2022. The Speaker of the National Assembly conveyed the message from H.E. the President to the House and referred the vetting of the nominees to the Departmental Committees for vetting as provided for under the Constitution, the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011) (*hereinafter referred to as "the Act"*) and the National Assembly Standing Orders (*hereinafter referred to as "Standing Orders"*).

The names of the nominees together with their curriculum vitae and testimonials were referred to the Departmental Committee on Transport and Infrastructure for vetting and reporting to the House within twenty-eight (28) days in accordance with the provisions of Standing Order 45 and Section 8 of the of the Act.

In compliance with Section 6(9) of the Act, the Clerk of the National Assembly placed an advertisement in the print media on Friday, 4<sup>th</sup> November, 2022. The Clerk invited the public to submit memoranda by way of written statements on oath (*affidavits*) on the suitability of the nominee. The advertisement indicated that the submissions were to be received by Friday, 11<sup>th</sup> November, 2022 at 5.00 pm. By close of the set deadline, the Committee had only received one submission in support of Eng. Joseph Mungai Mbugua, the nominee for the State Department for Roads. The Committee did not receive any submission contesting the suitability of the nominees.

Further, in fulfilment of the provisions of Article 118(1)(b) of the Constitution, Section 6(4) of the Act and Standing Order 45(3), the Clerk of the National Assembly on Friday, 4<sup>th</sup> November, 2022 placed an advertisement in the print media notifying the public of the time and place for the approval hearings.

Section 6(7) of the Act provides that an approval hearing shall focus on a candidate's academic credentials, professional training and experience, personal integrity and background. To fulfill the requirement on personal integrity, the Clerk wrote to the Kenya Revenue Authority, the Ethics and Anti-Corruption Commission, the Registrar of Political Parties and the Higher Education Loans Board to ascertain the nominee's good standing with the said government institutions. The nominees were also required to submit clearance certificates from the said institutions on the date of the approval hearing.





On 15<sup>th</sup> November, 2022, the Employment and Labour Relations Court in Constitution Petition No. E186 OF 2022, *Dr. Magare Gikenyi versus The President of the Republic of Kenya and 55 Others* and in Constitution Petition No. E192 of 2022, *Law Society of Kenya versus the National Assembly and 4 Others*, granted Conservatory Orders temporarily staying the vetting process in respect of nominees for appointments as Principal Secretaries pending the hearing and determination of the Petitioner's application for conservatory orders.

The Speaker, on 16<sup>th</sup> November, 2022 made a communication directing Committees to suspend vetting until further notice. He further directed that the Committees that already concluded the approval hearings were to suspend any activity relating to reporting to the House on the proceedings, until further notice.

On 29<sup>th</sup> November, 2022, the Employment and Labour Relations Court dismissed the petitions (No. E186 OF 2022, *Dr. Magare Gikenyi versus The President of the Republic of Kenya and 55 Others* and in Constitution Petition No. E192 of 2022, *Law Society of Kenya versus the National Assembly and 4 Others*) citing them as being premature as the National Assembly has exclusive original jurisdiction to first carry out the approval process before the Court can intervene. This therefore paved way for Committees to resume the approval hearings. Subsequently, the Speaker on the same day made a communication directing Committees to conclude the vetting proceedings and approval hearings and report to the House by the end of the morning sitting of Thursday, 1<sup>st</sup> December, 2022.

The three nominees appeared before the Committee on Wednesday, 30<sup>th</sup> November, 2022 for the approval hearing in accordance with the provisions of the Constitution, the Act and the Standing Orders on their suitability or otherwise for appointment to the positions of Principal Secretary for the State Department for Roads, Principal Secretary for the State Department for Transport and Principal Secretary for the State Department for Shipping and Maritime Affairs respectively.

Having considered the nominees' curriculum vitae, filled Questionnaires and the oral submissions during the approval hearing, the Committee made the findings and observations contained in this report.

May I take this opportunity to thank all the Members of the Committee for their valuable contributions during the approval hearings and deliberations during the writing of this report. I also take this opportunity to thank the Offices of the Speaker and the Clerk of the National Assembly for the logistical support accorded to the Committee during the exercise.

On behalf of the Departmental Committee on Transport and Infrastructure, and pursuant to Section 8(1) and (2) of the Act and the provisions of Standing Orders 45(4) and 199(6), it is now my singular duty and privilege to present to the House, **the Report of the Departmental Committee on Transport and Infrastructure on the Vetting of Eng. Joseph Mungai**



Mbugua for appointment to the position of Principal Secretary in the State Department for Roads; Mr. Mohamed Daghar for appointment to the position of Principal Secretary in the State Department for Transport, and Mr. Shadrack Mwadime for appointment to the position of Principal Secretary in the State Department for Shipping and Maritime Affairs.

HON. G.K. GEORGE KARIUKI, M.P  
CHAIRPERSON





## **1.0 PREFACE**

### **1.1 Mandate of the Committee**

1. The Departmental Committee on Transport and Infrastructure is established pursuant to the provisions of Standing Order No. 216 (1) and (5) with the following terms of reference: -
  - i. investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and departments;
  - ii. study the programme and policy objectives of Ministries and departments and the effectiveness of the implementation;
  - iii. on a quarterly basis, monitor and report on the implementation of the national budget in respect of its mandate;
  - iv. study and review all legislation referred to it;
  - v. study, assess and analyze the relative success of the Ministries and departments as measured by the results obtained as compared with their stated objectives;
  - vi. investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House;
  - vii. vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order 204 (Committee on Appointments);
  - viii. examine treaties, agreements and conventions;
  - ix. make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;
  - x. consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and
  - xi. examine any questions raised by Members on a matter within its mandate.

### **1.2 Committee Subjects**

2. The Committee is mandated to consider the following subjects:
  - i. Transport, including non-motorized transport;
  - ii. Construction and maintenance of roads;
  - iii. Rails, air and marine transport; Seaports and national integrated infrastructure policies and
  - iv. programmes; and
  - v. Transport safety.

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### 1.3 Oversight

3. The Committee oversees the Ministry of Roads and Transport which has two state departments namely:
  - i. State department for Roads
  - ii. State department for Transport
4. Further, Committee oversees the State Department for Shipping and Maritime Affairs which is under the Ministry of Mining, Blue Economy, and Maritime Affairs.



The Hon. Saney Ibrahim Abdi, M.P  
M.P for Wajir North Constituency  
**Orange Democratic Alliance Party**

The Hon. Jhanda Zaheer, M.P  
M.P for Nyaribari Chache Constituency  
**United Democratic Alliance Party**





### 1.5 Committee Secretariat

6. The Committee secretariat comprises: -

Ms. Tracy Chebet Koskei  
Senior Clerk Assistant

#### Lead Clerk

Ms. Marlene Ayiro  
Principal Legal Counsel

Ms. Clare Choper Doye  
Clerk Assistant II

Mr. Yusuf Moge  
Fiscal Analyst II

Mr. Mohamednur Abdulahi  
Clerk Assistant III

Ms. Noelle Chelagat  
Media Relations Officer

Mr. Job Ocholla  
Audio Officer

Mr. Moses Kariuki  
Sergeant at Arms

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## 2.0 CHAPTER TWO

### 2 BACKGROUND INFORMATION

#### 2.1 Legal Framework

7. Article 155 of the Constitution provides that:

155. (1) *There is established the office of Principal Secretary, which is an office in the public service.*  
(2) *Each State department shall be under the administration of a Principal Secretary.*  
(3) *The President shall—*  
    (a) *nominate a person for appointment as Principal Secretary from among persons recommended by the Public Service Commission; and*  
    (b) *with the approval of the National Assembly, appoint Principal Secretaries.*  
(4) *The President may re-assign a Principal Secretary.*  
(5) *A Principal Secretary may resign from office by giving notice, in writing, to the President.*

8. In light of this, H.E. the President nominated fifty-one (51) persons for appointment as Principal Secretaries to various State Departments. The President nominated the following persons for appointment as Principal Secretaries for State Departments of Roads; Transport; and the State Department for Shipping and Maritime Affairs;
- i. Eng. Joseph Mungai Mbugua: Nominee for appointment as Principal Secretary for Roads;
  - ii. Mr. Mohamed Daghar: Nominee for appointment as Principal Secretary, Transport; and
  - iii. Mr. Shadrack Mwadime: Nominee for appointment as Principal Secretary, Department for shipping and Maritime Affairs.
9. The Departmental Committee on Transport and Infrastructure has been assigned the role of conducting the vetting of the aforesaid nominees.
10. The following Articles of the Constitution and statutes/provisions will be paramount to the Committee as it executes this mandate:
- i. The Public Appointments (Parliamentary Approval) Act (No. 33 of 2011);
  - ii. The Public Service Act (No. 10 of 2017) on recommendation for appointment of Principal Secretaries;
  - iii. Article 10 of the Constitution on the national values and principles of governance;
  - iv. Chapter 6 of the Constitution on leadership and integrity;
  - v. Article 77 of the Constitution on restriction on activities of State Officers;
  - vi. Article 78 of the Constitution on dual citizenship;
  - vii. Article 118 of the Constitution on public participation;
  - viii. Article 232 of the Constitution on values and principles of public service;





- ix. The Leadership and Integrity Act (Cap. 182);
- x. The Public Service (Values and Principles) Act (No. 1A of 2015); and
- xi. The Public Officer Ethics Act (Cap. 183).

#### **The Public Appointments (Parliamentary Approval) Act (No. 33 of 2011)**

11. Section 7 of the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011), provides for issues which the relevant House of Parliament (in this case, the National Assembly) is supposed to consider in relation to any nomination. These issues include:
- 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 the appointment proposed having regard to whether the nominee's abilities, experience and qualities meet the needs of the body to which nomination is being made.*
12. During the approval hearing, section 6 of the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011) provides important points, viz:
- i. An approval hearing shall focus on a candidate's academic credentials, professional training and experience, personal integrity and background (section 6(7), PAPAA);
  - ii. The criteria specified in the Schedule shall be used by a Committee during an approval hearing for the purposes of vetting a candidate (section 6(8), PAPAA);
  - iii. 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 (section 6(9), PAPAA); and
  - iv. 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 end (section 6(10), PAPAA).

#### **The Public Service Commission Act (No. 10 of 2017)**

13. Section 47 (2) of the Public Service Commission Act (No. 10 of 2017) provides qualifications that one must have so as to be eligible for appointment as a Principal Secretary. These include:
- i. be a citizen of Kenya;
  - ii. hold a degree from a university recognised in Kenya;
  - iii. has at least ten (10) years relevant professional experience, five (5) years of which should have been in a leadership position or at a top management level in the public service or private sector;
  - iv. possess general knowledge of the organisation and functions of Government;
  - v. demonstrates an understanding of the goals, policies and developmental objectives of the nation;





- vi. has demonstrable leadership and management capacity including knowledge of financial management and strategic people management; and
- vii. meets requirements of Chapter Six of the Constitution.

#### **Article 10(2) of the Constitution on national values and principles of governance**

14. Article 10(2) of the Constitution provides for the national values and principles of governance which include patriotism, national unity, sharing and devolution of power, the rule of law, democracy and participation of the people; human dignity, equity, social justice, inclusiveness, equality, human rights, non-discrimination and protection of the marginalised; good governance, integrity, transparency and accountability; and sustainable development.

#### **Chapter 6 of the Constitution (Leadership and Integrity)**

15. There are important provisions in Chapter 6 of the Constitution worth pointing out. Article 73 of the Constitution provides that the authority assigned to a State officer (a Principal Secretary being a state officer under Article 260 of the Constitution) is a public trust to be exercised in accordance to the Constitution, demonstrate respect for the people, bring honour to the nation and dignity to the office and promote public confidence in the integrity of the office. Also, the State officer shall have the responsibility to serve the people, rather than the power to rule them.
16. The guiding principles of leadership and integrity are listed as selection based on personal integrity, competence and suitability, objectivity and impartiality in decision making, selfless service based solely on the public interest, accountability and discipline and commitment in service to the people.

#### **Article 77 of the Constitution (Restriction on activities of State officers)**

17. Article 77 of the Constitution provides that a full-time State officer shall not participate in any other gainful employment and that any appointed State officer shall not hold office in a political party.

#### **Article 78 of the Constitution on citizenship and leadership**

18. Article 78 of the Constitution states that a person is not eligible for election or appointment to a State office unless the person is a citizen of Kenya. It also provides that a State officer or a member of the defence forces shall not hold dual citizenship.

#### **Article 118 of the Constitution on public access and participation**

19. Article 118 of the Constitution provides that:

1. Parliament shall:





- a) *conduct its business in an open manner, and its sittings and those of its committees shall be in public; and*
  - b) *facilitate public participation and involvement in the legislative and other business of Parliament and its committees.*
2. *Parliament may not exclude the public, or any media, from any sitting unless in exceptional circumstances the relevant Speaker has determined that there are justifiable reasons for the exclusion.*

#### **Article 232 of the Constitution on Values and Principles of Public Service**

20. Article 232 of the Constitution provides for the values and principles of public service which include high standards of professional ethics; efficient, effective and economic use of resources; responsive, prompt, effective, impartial and equitable provision of services; involvement of the people in the process of policy making; accountability for administrative acts; transparency and provision to the public of timely, accurate information; fair competition and merit as the basis of appointments and promotions; representation of Kenya's diverse communities; and affording adequate and equal opportunities for appointment, training and advancement, at all levels of the public service of men and women; the members of all ethnic groups; and persons with disabilities.

#### **The Leadership and Integrity Act (Cap. 182)**

21. The Leadership and Integrity Act provides a number of obligations to a State officer. These are, among others: to respect and abide by the Constitution and the law, public trust, performance of duties in an honest and accountable manner, professionalism, financial integrity, not to engage in activities that amount to abuse of office, not misuse public resources, accepting gifts that may compromise the officer's duties, wrongful or unlawful acquisition of property, conflict of interest e.t.c.

#### **The Public Service (Values and Principles) Act**

22. Section 5 of the Public Service (Values and Principles) Act provides that a public officer shall maintain high standards of professional ethics, including, being honest; displaying high standards of integrity, transparency, accountability, respect to others, objectivity, patriotism, observance of rule of law. (Applies in future upon appointment)

#### **The Public Officer Ethics Act (Cap. 183)**

23. The Public Officer Ethics Act provides for obligations to be carried out by a public officer. These include professionalism, carrying out duties in accordance with the law, prohibition from unjust enrichment, avoiding conflict of interest, not using office as a venue for soliciting or collecting *harambees*; not acting for foreigners; care of property; political neutrality, not practicing nepotism or favouritism, giving impartial advice, conducting private affairs in a way that maintains public confidence, bar from sexual harassment,





submission of declaration of income, assets and liabilities once every two years (section 26).  
(Applies in future after appointment)

## **2.2 Qualifications for appointment as Principal Secretary**

24. In conducting the approval hearings, the Committee was guided by Article 155 (3) (b) of the Constitution, section 47 (2) of the Public Service Act and the provisions of Section 7 of the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011).

## **2.3 Message from H.E. the President**

25. H.E. the President on **2nd November 2022** communicated the names of the nominees for appointment to the positions of Principal Secretaries for the State Departments for Roads; State Department for Transport; and the State Department for Shipping and Maritime Affairs, to the Speaker for approval by the National Assembly pursuant to Article 155 (3). The Speaker in his communication from the Chair issued on **Tuesday, 3rd November 2022** and pursuant to Standing Order No. 42 referred the names to the Departmental Committee on Transport and Infrastructure to conduct approval hearings and report within twenty-eight (28) days.

## **2.4 Speaker's Communication and Committal to the Committee**

26. Pursuant to the provisions of Standing Order No. 42, the Speaker of the National Assembly on **Tuesday, 3rd November 2022** communicated to the House the message from H.E. the President regarding the nominees for appointment as Principal Secretaries for various State Departments. The Speaker informed the House that H.E. the President was seeking approval of the National Assembly on the said nominations before the nominees' appointment.
27. In accordance with Standing Order 45(1), the Speaker read the Message from H.E. the President and referred the names of the nominees, their curricula vitae and report of the Selection Panel on the recruitment process to the Departmental Committee on Transport and Infrastructure to conduct approval hearings.
28. While referring the matter to the Committee, the Speaker directed that the Committee undertakes the vetting exercise within twenty-eight (28) days pursuant to Section 8 of the Public Appointments Parliamentary Approval Act (No. 33 of 2011). The Speaker further directed the Clerk of the National Assembly to notify the nominees and the general public by placing advertisements in two newspapers of nationwide circulation and on the Parliamentary Website of the time and place of holding the approval hearings by Friday, 4th November 2022.
29. In addition, the Speaker directed that approval hearings should commence on Monday, 14th November 2022 and end on Friday, 18th November 2022. Thereafter, he directed that the





reports of the Committees should be tabled in the House not later than Tuesday, 22nd November 2022 so as to enable the House to consider the reports within the statutory timelines.

## **2.5 Notification to the Public**

30. Section 6(9) of the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011), 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"*.
31. The Clerk of the National Assembly on **Friday, 4th November 2022** placed a notification in the print media informing the general public of the intention of the Committee to conduct approval hearings, as provided for by Article 118 (1) (a) (b) and (2) of the Constitution and Section 6(4) of the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011), which allows public participation in committee proceedings. The notification gave provision for the submission of memoranda, by way of written statements on oath (*affidavit*) on the suitability or otherwise of the nominees, by **Friday, 11th November 2022 at 5.00 pm (East African Time)**. At the close of the submission deadline, the Committee had only received one memorandum in support of Eng. Joseph Mungai Mbugua, the nominee for the State Department for Roads. The Committee did not receive any memorandum challenging the suitability of the nominees.

## **2.6 Notification to the Nominees**

32. The Clerk of the National Assembly vide an advert placed in the print media on Friday, 4th November 2022 and letters; Ref. NA/DDC/TI/VETT/2022/001, Ref. NA/DDC/TI/VETT/2022/002 and Ref. NA/DDC/TI/VETT/2022/003 informed the nominees of the nomination by H.E. the President and requested them to appear for vetting by the Departmental Committee on Transport and Infrastructure on **Thursday, 18th November 2022** in the Mini Chamber, 1<sup>st</sup> Floor, County Hall, Parliament Building. The Clerk of the National Assembly further requested the nominees to bring with them their clearance certificates from the Kenya Revenue Authority (KRA), the Higher Education Loans Board (HELB), Ethics and Anti-Corruption Commission (EACC), Directorate of Criminal Investigations (DCI) and Office of the Registrar of Political Parties (ORPP).

## **2.7 Clearance Requirements**

33. The Clerk of the National Assembly wrote to the Kenya Revenue Authority (KRA), the Higher Education Loans Board (HELB), Ethics and Anti-Corruption Commission (EACC), Office of the Registrar of Political Parties (ORPP) and Directorate of Criminal Investigations (DCI) requesting for tax, education loans, integrity, affiliation to political parties and criminal record status of the nominees. The following institutions wrote back to the National Assembly clearing the nominees, KRA (letter Ref. KRA/5/1002/5(8179) dated



14th November, 2022); DCI (letter Ref. DCI/CRO/SEC/6/7/2/A/VOL.XI/208 dated 10th November 2022); EACC (letter Ref. EACC.7/10/5 VOL XXI (70) dated 11th November 2022); HELB (letter Ref. HELB/RR/112009/190 dated 10th November 2022); and ORPP (letter Ref. RPP/ORG/34 VOL. VI (41) dated 10th November 2022.

## **2.8 Report of the Selection Panel on the Nomination of Principal Secretaries**

34. Pursuant to Article 155 (3) (a) of the Constitution, the Public Service Commission invited applications from suitably qualified persons for the position of Principal Secretary. The advertisement was published in the print media, Kenya Gazette No. 10536 and on the Commission's Website on 7th September 2022 with a closing date of 20th October 2022.
35. On 20th September 2022, the Commission extended the advertisement period by seven (7) days. The advertisement period lapsed on 27th September 2022 with a total of nine thousand one hundred and fifty-four (9,154) persons submitting applications for consideration.
36. Four hundred and seventy-seven (477) candidates were shortlisted from 3rd to 6th October 2022 and a further review was done on 7th October 2022 to bring the shortlist to five hundred and eighty-five (585) candidates so as to cater for gender, marginalised/minority groups and PWDs pursuant to Article 232 (1) (h) of the Constitution. Interviews for the shortlisted persons were conducted from 12th to 22nd October 2022.
37. The Public Service Commission adhered to all provisions of the Constitution in the process of advertising, shortlisting and interviewing the candidates including, merit, gender, ethnic and regional balance.





## **2.9 Submission of Memoranda**

38. Pursuant to Article 118 (1) (a) (b) and (2) of the Constitution and Section 6(4) of the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011), which allows public participation in committee proceedings. The notification issued in print Media by the Clerk of the National Assembly gave provision for the submission of memoranda, by way of written statements on oath (*affidavit*) on the suitability or otherwise of the nominees, by **Friday, 11th November 2022 at 5.00 pm (East African Time)**.
39. The Committee received only one Memorandum in support of Engr. Joseph Mungai Mbugua. The submission was made by Mr. Morris Wang'ombe Nderi and was received on 10<sup>th</sup> November, 2022. Mr Wang'ombe, in his submission, averred that he was guided by the Constitution in making his submission.

### **2.9.1 Affidavit by Morris Wang'ombe**

40. Mr. Morris Wangombe submitted an Affidavit supporting the appointment of Eng. Joseph Mungai Mbugua as the Principal Secretary, State Department for Roads. He averred that Mr. Mbugua's thirty (30) years' experience made him suitable for the position. He further pointed out that Eng. Mbugua's position as the Kenya Rural Roads Authority (KeRRA) Regional Manager for Murang'a and later Kiambu, Regions left a rich legacy which included the construction of many feeder roads which in turn has had a positive impact on the economy of both Murang'a and Kiambu Counties.

## **2.10 Committee proceedings**

41. The Committee having received the names of the nominees was obligated to conduct approval hearings and make determination of the nominees' suitability or otherwise within twenty-eight (28) days as provided for in section 8 (1) of the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011).
42. The Committee held four (4) sittings during which it examined and reviewed the nominees' certificates, testimonials as well as conducted approval hearings.

### **2.11 Petition against Vetting of persons nominated for appointment to position of Principal Secretary**

43. On 15<sup>th</sup> November, 2022, the Employment and Labour Relations Court in Constitution Petition No. E186 OF 2022, *Dr. Magare Gikenyi versus The President of the Republic of Kenya and 55 Others* and in Constitution Petition No. E192 of 2022, *Law Society of Kenya versus the National Assembly and 4 Others*, granted Conservatory Orders temporarily staying the vetting process in respect of nominees for appointment as Principal Secretaries pending the hearing and determination of the Petitioner's application for conservatory orders





44. The Speaker, on 16<sup>th</sup> November, 2022 on the same day made a communication directing Committees to suspend vetting until further notice.
45. He further directed the Committees that already concluded the vetting proceedings and approval hearings to suspend any activity relating to reporting to the House on the proceedings, until further notice.
46. On 29<sup>th</sup> November, 2022 the Employment and Labour Relations Court dismissed the petitions citing them as being premature before it, the Court noted that the National Assembly had exclusive original jurisdiction to first carry out the approval process before the Court can intervene. This therefore paved way for Committees to resume the vetting process. Subsequently, the Speaker on the same day made a communication directing Committees to conclude the vetting proceeding and approval hearings and report to the House by the end of the morning sitting of Thursday, 1<sup>st</sup> December, 2022.



### CHAPTER THREE: APPROVAL HEARINGS

47. The Committee conducted approval hearings for the nominees on **Wednesday, 30th November, 2022**. In conducting the vetting exercise, the Committee was guided by, among other documents, the Constitution, the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011), the Public Service Act and the Standing Orders.
48. The Committee examined the nominees using the guidelines in the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011). The Committee also considered the following in vetting the nominees:
- a. Academic qualifications;
  - b. Employment record and work experience;
  - c. Professional associations;
  - d. Public office, political activities and affiliations;
  - e. Potential conflict of interest;
  - f. Suitability to the position;
  - g. Tax compliance;
  - h. Vision and leadership;
  - i. Integrity;
  - j. Expectations and Key priorities.

#### **3.1 Eng. Joseph Mungai Mbugua**

49. Engr. Mbugua was interviewed by the Committee and responded to questions during vetting as follows:

##### **3.1.1 Personal Background**

50. Engr. Mbugua stated that he is a Kenyan Citizen of identity card (ID) number, 2887770 and was born in Kipipiri in Nyandarua County in 1962.

##### **3.1.2 Educational Background**

51. He holds a Bachelor of Science in Civil Engineering from University of Nairobi awarded in 1989.
52. He has undertaken a Senior Management Course and Strategic Leadership Development Program both from the Kenya School of Government.
53. He has attended various workshops/ trainings/conferences including in: Quality Management Systems; Value for money programme; Conference on Transport and road Research; Master certification in project Management; Seminar on contract management for engineers; Management challenge programme; and Labour based road construction & maintenance.





### **3.1.3 Work experience/career progression**

54. Engr. Mbugua started his civil service career as an Assistant Structural Engineer in 1989. He rose through the ranks to the positions of Superintendent Engineer, Design Engineer, District Roads Engineer, and District Works Officer.
55. In 2009 he moved to Kenya Rural Roads Authority as the Regional Manager in charge of Murang'a and in year 2016 he was promoted to the position of Regional Director in charge of Kiambu where he has been to date.
56. He is a Member of the Engineers Board of Kenya and a Member of the Institute of Engineers of Kenya having been a member of both from 2006.

### **3.1.4 Clearance Requirements**

57. The Committee confirmed that the nominee had been cleared by KRA, ORPP, DCI, EACC and HELB, having obtained clearance certificates to that effect.

### **3.1.5 Other issues under consideration**

To examine suitability or otherwise of the nominee, the Committee posed questions to the Nominee in the following thematic areas:

58. *On his vision if approved as a Principal Secretary for Roads*, the Nominee informed the Committee that he intended to achieve the World Bank recommendations on universally accepted level of each person being not more than 2 Kilometers away from access of an all-weather. Further, he indicated that he would set smart goals that are simple, realistic and achievable. He stated that he will be innovative by using his expertise in labour based management to utilize his personnel and limited financial resources optimally. He further stated that he was going to ensure that the targets to his team were met through performance based contracting and continuously auditing the resultant achievements of the targets.

59. *Regarding the question of ensuring that there is equity in the distribution of road projects in the Country*,

The nominee submitted that was going to work closely with the Constituency Roads Committees to prioritize the roads that they had identified as being important to them. He also indicated that was going to have a participatory approach by involving all stakeholders and also to ensure that fuel levy is used to construct the roads identified through this participatory approach. Further, he stated that he would prioritize those constituencies that never benefited from the ongoing 10,000 kilometer road network project.





60. *On managing conflict of Interest*, the Nominee stated that he will declare from the onset if any such conflict. Further, he would strive to continue to be patriotic to his Country by following the rule of law especially laws pertaining to procurement and public finance.
61. *Regarding measures of ensuring completion of ongoing projects, the aspirations in the Kenya Kwanza Manifesto and securitization of the fuel levy*, the Nominee stated that the President had committed to ensure that all ongoing road projects will be completed before they start on new projects. He further stated that he is familiar with the Governments manifesto and he will ensure he aligns his aspirations to be reflective of the government's manifesto.
62. The Nominee also stated that securitization of the fuel levy was going to enable the government to settle all pending bills. He informed the Committee that 920 Billion was needed to complete all pending projects and 135 Billion was already certified for works that were pending payments.
63. *On the question of whether he has been a Member of a political party and whether he has ever been dismissed from employment*, Eng. Mbugua stated that he has not held a position in a political party and has never been dismissed from employment. He stated that to the contrary, he has had his term of service extended for two years by Kenya Rural Roads Authority and further that he was recently nominated as the engineer of the year.
64. *As regards challenges and lowest point in his engineering profession*, the Nominee stated that his lowest point is seeing contractors auctioned due to non-payment of their dues occasioned by pending bills. In addition, he stated that he would get discouraged when he sees local communities suffer due to lack of infrastructure that includes bridges and failure by stakeholders including the people's representatives from meeting the desires of the public.
65. *On whether he had the relevant competencies to be approved as a Principal Secretary*, the Nominee stated that his educational, professional and expansive experience spanning over thirty years had given him the necessary exposure as an engineer which made him suitable for the role. He also informed the Committee that he had overseen actualization of projects funded by both government and donor funds. In response to this question he stated that he is a team player with great interpersonal skills having worked closely with different stakeholders including leaders like Members of Parliament in his current position as a Director at Kenya Rural Roads Authority.
66. Eng. Mbugua also informed the Committee that he has been a holder of *Authority to Incur Expenditure* for over twenty (20) years which has enabled him to have a thorough understanding of the Public Finance Management Act and Procurement laws and the





correspondent regulations. He also submitted that has mentored many young engineers and other technical professionals in their careers and has engaged many stakeholders in the roads sector through his professional career and all these attributes will be instrumental in the execution of his mandate as a Principal Secretary.

67. *On the question of road safety and plans to reduce road carnage*, the Nominee stated that design manuals in the country are well done and that over ninety (90%) of road accidents in the current were as a result of human error and lack of discipline by motorists. He also noted that vandalization of road signage's for purposes of obtaining scrap metal for business is a contributory factor to the accidents. He committed to invest in research on materials for erecting road signage's that will not attract or be useful to scrap metal dealers.
68. He also committed to ensure that there was a focus shift from motorized transport to people centered transport by construction of walk ways for pedestrians and investing in an intelligent camera system for surveillance on traffic offenders and related crimes.
69. *On the issue of Public Private Partnership (PPP) in the Construction of Roads that involves Kenyan Companies*, the Nominee stated that the Nairobi Express way was the pioneer project on the PPP model and many more such projects will be initiated and will pursue joint ventures with local companies that can eventually lead to technological transfer. He pointed out that the Ngong - Kiserian - Isinya and Kajiado - Imaroro road was done by a local company through the Road Annuity Fund, where contractors partner with financiers to undertake projects and recover from annuities.
70. *On measures he will take to ensure that roads in the semi-arid areas are tarmacked to discourage terrorist from laying Improvised Explosive Devices on the gravel roads*, Engr. Mbugua stated that he will work closely with the leaders from those regions and ensure that part of the remaining projects in the 10,000 Kilometers roads are initiated in the semi-arid regions. The construction of the roads in this region will also be accompanied with additional investment in social infrastructure that includes drilling of boreholes, restrooms to increase traffic on such roads and therefore reduce cases of insecurity.
71. *Regarding his networth*, the Nominee submitted that he was worth Kshs. 250 million that was obtained from purchase of various properties that have since appreciated in value.



### **3.2 Mr. Mohamed Daghar**

Mr. Daghar was interviewed by the Committee and responded to questions during vetting as follows:

#### **3.2.1 Personal Background**

72. Mr. Dhagar informed the Committee that he is a Kenyan Citizen, and holder of National Identity Card Number, 24794600 and was born in Mombasa County in 1986.

#### **3.2.2 Educational Background**

73. He holds a Master's Degree in Peace, Conflict and Development Studies from University Jaume in Spain, which degree was awarded in 2011 and a Bachelor's Degree in International Relations from the USIU, Kenya, awarded in 2009. He also has a certificate from European University Institute, awarded in 2022.

74. He has undertaken short trainings in: Security threat vulnerability risk assessment; understanding media and communication for countering violent extremism; International visitors leadership programme; Standards of training, certification and watch keeping for Seafarers safety; Migration data in the East and Horn of Africa Region; and Enhancing the safety and security of staff to field environments.

#### **3.2.3 Work experience/career progression**

75. He started that his working profession started as an Intern in at both USAID and Caux initiatives of change in 2009. From 2010 to 2012 he worked as a Researcher for the World Peace Foundation based in Germany. He was later employed by Security Research and Information Centre based in Kenya as a Researcher where he worked from 2012 to 2014.

76. In 2014, he was employed by the Mombasa County Government as a Security Coordinator and Analyst a position he held until 2018. Thereafter in 2018 he moved to work for the Institute for Security Studies as a Researcher and was promoted in 2021 to the position of Regional Coordinator for the East and Horn of Africa.

#### **3.2.6 Clearance Requirements**

77. The Committee confirmed that the nominee had been cleared by KRA, ORPP, DCI, EACC and HELB, having obtained clearance certificates to that effect.

#### **3.2.7 Other issues under consideration**

To examine suitability or otherwise of the nominee, the Committee posed questions to the nominee in the following thematic areas:

78. *On how he would navigate the transport sector with an education background in peace, conflict and international relations and work experience relating to security*, the Nominee submitted that, security and safety is of paramount importance in transport





before we think of mobility of people. He indicated that he had visited the Lamu and Mombasa port severally and was currently handling an issue of security at Lamu port. The Nominee further indicated that he had published over 100 publications on security.

79. *On how he will provide policy stewardship in the Ministry, Mr. Daghar* indicated that he had done a lot of policy work on functions of State Departments and he had influenced development of several policies in Kenya including the Cattle Rustling Protocol signed by 14 member states in East Africa, Mifugo Protocol and the Policy on Co-operation Development Agreement on Criminal Matters in East and Central Africa that was signed by 21 member states in October 2021.

The Nominee further indicated that the Kenya Ports Authority Act was undergoing review which was stopped but if approved he would strive to oversee its conclusion.

80. *On the issue of dealing with cartels and state capture of parastatals in the transport sector*, the Nominee stated that state capture and cartels was a result of corruption which is a crime of collusion and he would look into the issues of corruption in all agencies in the Department. He further indicated that he was going to align himself with the aspirations of the Government, he noted that as a country we have very good laws such as Public Finance Management Act and the Public Procurement and Asset Disposal Act but the test was in the implementation of the same.

81. *On the issue of moving cargo from Naivasha port to Mombasa port*, the Nominee submitted that the presidential directive to move operations from Naivasha port to Mombasa port was beneficial to the Standard Gauge Railway (SGR). The Nominee further indicated that he would look into the issue of extending the SGR from Naivasha to Kisumu in order to make Naivasha port more usable and profitable in the long run.

82. *On the issue of whether he is a team player and ready to learn*, Mr. Daghar informed the Committee that he is a team player and that once he assumes office, he was going to take stock of the staff compliment in terms of their strengths and weaknesses and enhance their capacity, so that he may deliver on his mandate.

83. *As regards curbing incidences of accidents and crimes by the boda boda motorists*, the Nominee submitted that accidents caused by the *boda boda* sector were numerous and there was a 5 year strategy in place which he undertook to study upon assumption of office if approved by the Committee. Further, he committed to would work closely with National Transport & Safety Authority (NTSA) to ensure that a curriculum on safety is rolled out for the *boda boda* motorists, ensure their registration enrolment in SACCOs if they are not in one.





84. *Regarding the issue of Kenya Airways managerial issues and pilot's strike*, the Nominee stated that the Government of Kenya in its Kenya Kwanza Manifesto, anticipates that Kenya Airways Airways will have a turnaround in six months through various initiatives such as *Project Mawingu*. He further stated that if approved he was going to look at the audits conducted by KPMG and work with consultancy firms to look into the issues raised. Further, he informed the committee that he was going to ensure inter-departmental collaboration with his counterpart at the Ministry of Labour to avert future pilot's strike.
85. *Regarding the issue of enhancing security at the port of Mombasa*, the Nominee admitted that the current security system installed in Mombasa port was impressive and had been useful in tightening security and theft incidences at the port had reduced considerably. However, having engaged with the port for over ten years while working at Mombasa County, he stated that he was aware that there were hotspots and places where security needed to be beefed up since container seals were being broken into and things stolen.
86. *On the issue of how to improve the performance of the SGR*, the Nominee indicated that SGR is here to stay and he will ensure the implementation and completion of Phase 2B of the project to Kisumu and Phase 2C to Malaba since SGR is very critical in the transport sector as had been forecasted by the Government over eight years ago.
87. *On the issue of the five key priority areas when he assumes office*, the Nominee indicated that he would take stock of his staff compliment, assess their abilities and strengths with a view to enhance their capacity. Further that he was going to acclimatize himself with the budget making process and pertinent issues that were affecting Kenya Airways. He also stated that he will ensure there was an integrated transport system that including the technology component. He will also work closely with the Parliamentary Departmental Committee on Transport and Infrastructure especially to engage on issues of NTSA, SGR and KPA while observing the principle of separation of powers.
88. *Regarding his networth*, the Nominee indicated that he was worth about eighty-two (82) million shillings.

### **3.3 Mr. Shadrack Mwadime**

#### **3.3.1 Personal Background**

89. He is a Kenyan Citizen of Identity Card Number, 9786289 and was born in Mbale in Taita Taveta County in 1968.



### **3.3.2 Educational Background**

90. He holds a Master's degree in Business Administration from Moi University, awarded in 2005 and a Bachelor of Arts degree from the University of Nairobi, awarded in 1992. He also has a post graduate diploma in Business Communications from Business Training Limited, UK.
91. He has undertaken several professional development courses including in: Strategic Leadership development course; Senior Management course; Advanced Public Administration; Paramilitary Training and Administrative Officers Course.

### **3.3.3 Work experience/career progression**

92. Mr. Mwadime started his civil service career as an Assistant Secretary Cadet in 1992. He rose through the ranks to the positions of District Officer III, II, I (1995- 2002), Senior District Officer(2002-2003), District Commissioner (2003-2005), Senior Deputy Secretary(2009-2012), County Commissioner (2012-2013) and ultimately Secretary Administration in the Presidency (2013-2022).
93. He is the Chairman of the Ministerial Human Advisory Committee a position he has held since 2013, and has served as a coordinator of the National Security Advisory Committee Secretariat. He was instrumental in the establishment of Administration Department in the Office of Deputy President.
94. He has also been a Member of the Provincial Administration Policy Task Force that stipulates code of conduct and terms and conditions of service for Public Administrators.
95. He has participated in several community engagements including in peace building initiatives, tree planting, water projects, education and development projects.

### **3.3.4 Professional Associations & Affiliations**

96. He is a Member of African Association for Public Administration and Management.

### **3.3.5 Honors and Awards**

97. He was awarded Elder of the Order of the Burning Spear (E.B.S) in 2015 and Moran of the Order of Burning Spear (MBS) in 2012. He was instrumental in spearheading his office to receive Financial Reporting Awards including emerging as 1<sup>st</sup> position in Ministries, Departments and Agencies category.

### **3.3.6 Clearance Requirements**

98. The Committee confirmed that the nominee had been cleared by KRA, ORPP, DCI, EACC and HELB, having obtained clearance certificates to that effect.





### 3.3.7 Other issues under consideration

To examine suitability or otherwise of the nominee, the Committee posed questions to the nominee in the following thematic areas:

99. *On the question on the Nominee's upward mobility in quick succession and whether it was sheer competence or influenced by other factors*, the Nominee Submitted that his upward mobility was due to his competence and his ability to adapt to different working environments.
100. *As regards how the nominee will involve the elected leaders in his stewardship of the Department*, Mr. Mwadime assured the Committee of his commitment to work with all the elected leaders as they are the link to the people and are therefore critical in service delivery and for his Department's overall success.
101. *On the underperformance of the Bandari Maritime Academy (BMA) and plans to revive it*, the Nominee noted the wanting state of the College and attributed it to management issues as the Director General has been in an acting capacity for a long time. He therefore committed to have a substantive Director General to allow the office holder make critical decisions that can turn around the college including review of the curriculum.
102. *On the question on the dismal performance of the Kenya National Shipping Line*, the Nominee submitted that there was need for resources to restructure the Agency to make it a fully fledged parastatal. He further underscored the significance of the Agency to the economy and implored the Committee to consider allocating more resources towards making it more efficient.
103. *As regards the loss of business to the Port of Dar es Salaam due to high cost of doing business in Mombasa port*, the Nominee committed to pursue strategies that will lead to a lower rate charged as well as expanding the tax base to avoid any revenue loss. On the Issue of Mombasa County Government getting a share of the revenues collected from the port, the Nominee stated that the County Government is a critical stakeholder that could not be ignored and that it's upon the Department to have a session with all the stakeholders to forge a way forward.
104. *Regarding Nominee's plans to take on research and innovation which are key in the maritime sector*, he highlighted the importance and criticality of research and development to the Maritime sector which is highly specialized and skills intensive, he also undertook to work closely with and engage universities to enhance research and development. He also undertook to push for scholarships both locally and internationally to develop the capacity of personnel in the maritime sector.
105. *Noting transport in water bodies fall under docket, the Nominee undertook to address the issue of boat accidents through registration of all boat operators*, he however decried the high costs of registration which was out of reach for some operators.



He therefore proposed that the registration costs be reduced by half so that more boat owners can be brought on board to maintain the same level of revenues.

106. *Regarding his net worth*, Mr. Mwadime submitted that he was worth Kshs. 75 million.

## CHAPTER FOUR

### 4.0 COMMITTEE OBSERVATIONS AND FINDINGS

107. The Committee observations were guided by Article 155 of the Constitution, section 47 of the Public Service Commission Act, 2017 and section 7 of the Public Appointments (Parliamentary Approval) Act (No.33 of 2011) in terms of issues for consideration as follows:





- i. The procedure used to arrive at the nominees;
- ii. Any constitutional or statutory requirements relating to the office in question; and
- iii. Suitability of the nominees for the appointment proposed having regard to whether the nominees' abilities, experience and qualities meet the needs of the body to which the nomination is made.

108. The Committee made the following observations:

**4.1 Eng. Joseph Mbugua**

- a) in accordance with Article 78(1) (2) of the Constitution, he is a Kenyan citizen and does not hold dual citizenship;
- b) he holds a Bachelor of Science degree in Civil Engineering from University of Nairobi;
- c) he is a career civil servant with over 33 years' experience having started as an Assistant Structural Engineer. He progressively rose through the ranks to the positions of Structural Engineer, Design Engineer, District Roads Engineer, District works Officer Regional Manager and Regional Director. During the approval hearings he demonstrated wide breadth of knowledge of the Roads sector;
- d) the nominee satisfies the requirements of Chapter 6 of the Constitution on leadership and integrity;
- e) he has never been charged in a Court of Law in the last three years;
- f) as stipulated in Article 75(1) of the Constitution, he has no potential conflict of interest;
- g) the nominee satisfies the requirements of Article 77(1) of the Constitution in that he does not intend to participate in any other gainful employment;
- h) the nominee does not hold office in any political party hence satisfies the provisions of Article 77(2) of the Constitution;
- i) the nominee has never been dismissed from office under Article 75 of the Constitution for contravention of the provisions of Articles 75(1) (conflict of interest), 76(financial probity), 77(restriction of State Officers) and 78(2) (dual citizenship) of the Constitution.



#### 4.2 Mr. Mohamed Daghar

109. On the suitability for appointment of Mr. Mohamed Daghar as Principal Secretary, State Department for Transport, the Committee Observed that-

- a) in accordance with Article 78(1) (2) of the Constitution, he is a Kenyan citizen and does not hold dual citizenship;
- b) he holds a Master's in Peace, Conflict and Development Studies from University Jaume I Spain and a Bachelor's Degree in International Relations from USIU, Kenya;
- c) he has 12 years' experience having started his working profession as an Intern. He has worked as a Security Coordinator and analyst with Mombasa County Government and a Security Researcher with international organisations including World Peace Foundation based in Germany and the Institute for Security Studies where he was holding the position of Regional Coordinator for the East and Horn of Africa a position he held before this nomination as Principal Secretary.
- d) the nominee satisfies the requirements of Chapter 6 of the Constitution on leadership and integrity;
- e) he has never been charged in a Court of Law in the last three years;
- f) as stipulated in Article 75(1) of the Constitution, he has no potential conflict of interest;
- g) the nominee satisfies the requirements of Article 77(1) of the Constitution in that he does not intend to participate in any other gainful employment;
- h) the nominee does not hold office in any political party hence satisfies the provisions of Article 77(2) of the Constitution;
- i) he has never been dismissed from office under Article 75 of the Constitution for contravention of the provisions of Articles 75(1) (conflict of interest), 76(financial probity), 77(restriction of State Officers) and 78(2) (dual citizenship) of the Constitution.

#### 4.3 Mr. Shadrack Mwadime

110. On the suitability for appointment of Mr. Shadrack Mwadime as Principal Secretary, State Department for Shipping and Maritime Affairs, the Committee Observed that-

- a) in accordance with Article 78(1) (2) of the Constitution, he is a Kenyan citizen and does not hold dual citizenship;





- b) he holds a Master's in Business Administration from Moi University and a Bachelor of Arts degree from the University of Nairobi. He also has a post graduate diploma in Business Communications from Business Training Limited, UK
- c) he is a career civil servant with over 30 years' experience having started as an Assistant Secretary Cadet. He progressively rose through the ranks to the positions of District Officer, Senior District Officer, District Commissioner, Senior Deputy Secretary, County Commissioner and ultimately Secretary of Administration in the Presidency
- d) the nominee satisfies the requirements of Chapter 6 of the Constitution on leadership and integrity;
- e) he has never been charged in a Court of Law in the last three years;
- f) as stipulated in Article 75(1) of the Constitution, he has no potential conflict of interest;
- g) the nominee satisfies the requirements of Article 77(1) of the Constitution in that he does not intend to participate in any other gainful employment;
- h) the nominee does not hold office in any political party hence satisfies the provisions of Article 77(2) of the Constitution;
- i) he has never been dismissed from office under Article 75 of the Constitution for contravention of the provisions of Articles 75(1) (conflict of interest), 76(financial probity), 77(restriction of State Officers) and 78(2) (dual citizenship) of the Constitution.





## CHAPTER FIVE

### 5. COMMITTEE RECOMMENDATION

111. Having considered the suitability and integrity of the nominees, and pursuant to Section 8 (2) of the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011), the Committee recommends that the National Assembly APPROVES the appointment of:

- i. Eng. Joseph Mungai Mbugua for appointment as Principal Secretary, State Department for Roads;
- ii. Mr. Mohamed Daghar for appointment as Principal Secretary, State Department for Transport; and
- iii. Mr. Shadrack Mwadime for appointment as Principal Secretary, State Department for Shipping and Maritime Affairs.

SIGNED



DATE

11/12/2022

HON. G.K. GEORGE KARIUKI M.P

CHAIRPERSON

DEPARTMENTAL COMMITTEE ON TRANSPORT & INFRASTRUCTURE





**MINUTES OF THE FIFTH SITTING OF THE DEPARTMENTAL COMMITTEE ON  
TRANSPORT AND INFRASTRUCTURE HELD ON WEDNESDAY, 30<sup>TH</sup> NOVEMBER  
2022 IN COMMITTEE ROOM ON 5<sup>TH</sup> FLOOR, CONTINENTAL HOUSE  
PARLIAMENT BUILDINGS AT 4.00 P.M.**

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**MEMBERS PRESENT**

1. Hon. G.K George Kariuki, M.P – **Chairperson**
2. Hon. Mutua Didmus Wekesa Barasa, M.P- **Vice- Chairperson**
3. Hon. Kiunjuri, Festus Mwangi, M.P.
4. Hon. Arama Samuel, M.P.
5. Hon. Bady, Bady Twalib, M.P.
6. Hon. Francis, Kajwang' Tom Joseph M.P.
7. Hon. Kiaraho, David Njuguna, M.P.
8. Hon. Naicca, Johnson Many, M.P.
9. Hon. Chege, John Kiragu, M.P.
10. Hon. Saney, Ibrahim Abdi, M.P.
11. Hon. Abdirahman, Husseinweytan Mohamed, M.P.
12. Hon. Jhanda Zaheer, M.P
13. Hon. Komingoi, Kibet Kirui, M.P.

**APOLOGIES**

1. Hon. Abdul Rahim Dawood, M.P.
2. The Hon. Elsie Muhanda, M.P.

**IN-ATTENDANCE**

**COMMITTEE SECRETARIAT**

- |                                |                           |
|--------------------------------|---------------------------|
| 1. Ms. Tracy Chebet Koskei     | - Senior Clerk Assistant  |
| 2. Mr. Mohamednur M. Abdullahi | - Clerk Assistant III     |
| 3. Ms. Choper Clare Doye       | - Clerk Assistant III     |
| 4. Ms. Marleen Ayiro           | - Principal Legal Counsel |
| 5. Mr. Erick Kariuki           | - Research Officer II     |
| 6. Mr. Abdinasir Moge          | - Fiscal Analyst          |
| 7. Ms. Euridice Nzioka         | - Audio Officer           |
| 8. Mr. Peter Atsiaya           | - Media Relation Officer  |
| 9. Ms. Maritim Ivy             | - Media Relation Officer  |
| 10. Ms. Mercy G. Kinyua        | - Legal Counsel II        |
| 11. Mr. Moses Kariuki          | - Serjeant at Arms        |

**MIN./NO./TI/2022/027:**

**PRELIMINARIES**

The meeting was called to order at five minutes past four O'clock with a word of prayer from the Chairperson. The Agenda was adopted having been proposed by the Hon. Chege, John Kiragu, M.P. and Seconded by the Hon. Jhanda Zaheer, M.P. Hon. Arama Samuel, M.P., respectively.

**MIN./NO./TI/2022/028:**

**CONFIRMATION OF MINUTES OF THE  
PREVIOUS SITTING**

This Agenda was deferred to the next sitting.

**MIN./NO./TI/2022/029:**

**CONSIDERATION AND ADOPTION OF THE  
REPORT OF THE DEPARTMENTAL ON  
THE APPROVAL HEARINGS FOR  
NOMINEES FOR APPOINTMENT FOR  
POSITION OF PRINCIPAL SECRETARIES  
FOR THE STATE DEPARTMENTS FOR  
ROADS; TRANSPORT; AND SHIPPING AND  
MARITIME AFFAIRS**

The Committee considered the draft and unanimously approved the report on the Approval Hearings for Nominees for Appointment for Position of Principal Secretaries for the State Departments for Roads; Transport; And Shipping and Maritime Affairs, having been proposed and seconded by the Hon. Mutua Didmus Wekesa Barasa, M.P and the Hon. Arama Samuel, M.P.

The Committee made the following observations and recommendations

**Committee Observations**

The Committee observations were guided by Article 155 of the Constitution, section 47 of the Public Service Commission Act, 2017 and section 7 of the Public Appointments (Parliamentary Approval) Act (No.33 of 2011) in terms of issues for consideration as follows:

- i. The procedure used to arrive at the nominees;
- ii. Any constitutional or statutory requirements relating to the office in question; and
- iii. Suitability of the nominees for the appointment proposed having regard to whether the nominees' abilities, experience and qualities meet the needs of the body to which the nomination is made.



The Committee therefore made the following observations:

- a) in accordance with Article 78(1) (2) of the Constitution, the Nominees are Kenyan citizens and do not hold dual citizenship;
- b) They have the necessary education qualifications;
- c) the nominees satisfy the requirements of Chapter 6 of the Constitution on leadership and integrity;
- d) the nominees have never been charged in a Court of Law in the last three years;
- e) as stipulated in Article 75(1) of the Constitution, they have no potential conflict of interest;
- f) the nominees do not hold office in any political party hence satisfy the provisions of Article 77(2) of the Constitution;
- g) the nominees have never been dismissed from office under Article 75 of the Constitution for contravention of the provisions of Articles 75(1) (conflict of interest), 76(financial probity), 77(restriction of State Officers) and 78(2) (dual citizenship) of the Constitution.

#### **Committee Recommendation**

Having considered the suitability and integrity of the nominees, and pursuant to Section 8 (2) of the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011), the Committee recommends that the National Assembly APPROVES the appointment of:

- i. Eng. Joseph Mungai Mbugua for appointment as Principal Secretary, State Department for Roads;
- ii. Mr. Mohamed Daghar for appointment as Principal Secretary, State Department for Transport; and
- iii. Mr. Shadrack Mwadime for appointment as Principal Secretary, State Department for Shipping and Maritime Affairs.

**MIN./NO./TI/2022/026:**

**ADJOURNMENT/DATE OF THE NEXT MEETING.**

There being no other business, the meeting was adjourned at half past four O'clock.00 noon. The next meeting will be on notice.

**SIGNED: ..... DATE: .....**

**HON. GK George Kariuki, MP  
(Chairperson)**



**MINUTES OF THE FOURTH SITTING OF THE DEPARTMENTAL COMMITTEE ON  
TRANSPORT AND INFRASTRUCTURE HELD ON WEDNESDAY, 30<sup>TH</sup> NOVEMBER  
2022 IN COMMITTEE ROOM ON 5<sup>TH</sup> FLOOR, CONTINENTAL HOUSE  
PARLIAMENT BUILDINGS AT 8.30 A.M.**

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**MEMBERS PRESENT**

1. Hon. G.K George Kariuki, M.P – **Chairperson**
2. Hon. Mutua Didmus Wekesa Barasa, M.P- **Vice- Chairperson**
3. Hon. Kiunjuri, Festus Mwangi, M.P.
4. Hon. Arama Samuel, M.P.
5. Hon. Bady, Bady Twalib, M.P.
6. Hon. Francis, Kajwang' Tom Joseph M.P.
7. Hon. Kiaraho, David Njuguna, M.P.
8. Hon. Naicca, Johnson Many, M.P.
9. Hon. Chege, John Kiragu, M.P.
10. Hon. Saney, Ibrahim Abdi, M.P.
11. Hon. Abdirahman, Husseinweytan Mohamed, M.P.
12. Hon. Jhanda Zaheer, M.P
13. Hon. Komingoi, Kibet Kirui, M.P.

**APOLOGIES**

1. Hon. Abdul Rahim Dawood, M.P.
2. The Hon. Elsie Muhanda, M.P.

**IN-ATTENDANCE**

1. Mr. Joseph Mungai Mbugua – PS Nominee, State Department for Roads
2. Mr. Mohamed Dhagar – PS Nominee, State Department for Transport
3. Mr. Shadrack Mwadime – PS Nominee, State Department Shipping And Maritime Affairs

**COMMITTEE SECRETARIAT**

- |                                |                           |
|--------------------------------|---------------------------|
| 1. Ms. Tracy Chebet Koskei     | - Senior Clerk Assistant  |
| 2. Mr. Mohamednur M. Abdullahi | - Clerk Assistant III     |
| 3. Ms. Choper Clare Doye       | - Clerk Assistant III     |
| 4. Ms. Marleen Ayiro           | - Principal Legal Counsel |
| 5. Mr. Erick Kariuki           | - Research Officer II     |
| 6. Mr. Abdinasir Moge          | - Fiscal Analyst          |
| 7. Ms. Euridice Nzioka         | - Audio Officer           |
| 8. Mr. Peter Atsiaya           | - Media Relation Officer  |
| 9. Ms. Maritim Ivy             | - Media Relation Officer  |
| 10. Ms. Mercy G. Kinyua        | - Legal Counsel II        |
| 11. Mr. Moses Kariuki          | - Serjeant at Arms        |



**MIN./NO./TI/2022/021:**

**PRELIMINARIES**

The meeting was called to order at twenty past eight O'clock with a word of prayer from the Chairperson. The Agenda was adopted having been proposed by The Hon. Naicca, Johnson Many, M.P and Seconded by The Hon. Arama Samuel, M.P., respectively.

**MIN./NO./TI/2022/023:**

**COMMUNICATION FROM THE CHAIRPERSON.**

The Chairperson informed Members that the Committee had received all documentation required by law for the vetting exercise, for instance, the report of the Public Service Commission on the recruitment of Principal Secretaries, letters from KRA, EACC, ORPP, DCI and HELB, vetting questionnaires filled by the nominees, copies of the nominees' academic and professional certificates, curricula vitae among other documents.

The Chairperson informed Members that the Committee will proceed with the adoption of the report the same day. He requested Members to carry out the vetting process professionally. He then directed the Serjeant-At-Arms to usher the nominee into the meeting.

**MIN./NO./TI/2022/024:**

**CONFIRMATION OF MINUTES OF THE  
PREVIOUS SITTING**

This Agenda was deferred to the next sitting.

**MIN./NO./TI/2022/025:**

**APPROVAL HEARING;**

- i) Approval Hearing for Engr. Joseph Mungai Mbugua as the Principal Secretary, State Department for Roads**

The Chairperson welcomed Engr. Joseph Mungai Mbugua for the vetting and requested Members and staff to introduce themselves. He then directed the Legal Counsel to administer the oath to the nominee. The nominee then presented his original identity card, academic and professional certificates and clearance from: EACC, HELB, DCI, KRA AND ORPP for verification by the Legal Counsel.

The Chairperson requested the nominee to introduce himself to the Committee giving details of his family background, educational background, net worth, work/employment record and present engagement.



Engr. Mbugua informed the committee that he was born in Kipiriri in Nyandarua County in 1962. He is married with 3 adult children and he is a grandfather. He holds a Bachelor of Science in Civil Engineering from University of Nairobi. He started his civil service career as an Assistant Structural Engineer and rose through the ranks to the positions of Regional Director in charge of Kiambu. He is a Member of the Engineers Board of Kenya and a Member of the Institution of Engineers of Kenya.

The Committee engaged the nominee on various thematic areas including his plans to ensure Road Infrastructure in the country, his achievements as the Regional Director at Kenya Rural Roads Authority, his plans if appointed as The Permanent Secretary, State Department of Roads among other issues as follows:

***On his vision if approved as a Principal Secretary for Roads;*** the Nominee informed the Committee that he intended to achieve the World Bank recommendations on universally accepted level of each person being not more than 2 Kilometers away from access of an all-weather.

***Regarding the question of ensuring that there is equity in the distribution of road projects in the Country,*** the nominee submitted that was going to work closely with the Constituency Roads Committees to prioritize the roads that they had identified as being important to them.

***Regarding measures of ensuring completion of ongoing projects, the aspirations in the Kenya Kwanza Manifesto and securitization of the fuel levy,*** the Nominee stated that the President had committed to ensure that all ongoing road projects will be completed before they start on new projects.

***On the question of whether he has been a Member of a political party and whether he has ever been dismissed from employment,*** Eng. Mbugua stated that he has not held a position in a political party and has never been dismissed from employment.

***On whether he had the relevant competencies to be approved as a Principal Secretary,*** the Nominee stated that his educational, professional and expansive experience spanning over thirty years had given him the necessary exposure as an engineer which made him suitable for the role.

***On the question of road safety and plans to reduce road carnage,*** the Nominee stated that design manuals in the country are well done and that over ninety (90%) of road accidents in the current were as a result of human error and lack of discipline by motorists. He committed to ensure that there was a focus shift from motorized transport to people centered transport by construction of walk ways for pedestrians and investing in an intelligent camera system for surveillance on traffic offenders and related crimes.

***Regarding his networth***, the Nominee submitted that he was worth Kshs. 250 million that was obtained from purchase of various properties that have since appreciated in value.

The Nominee in his concluding remarks assured the committee he that he will be up to the task if approved since he has both the experience and skills to navigate this crucial sector.

**ii) Approval Hearing for Mr. Mohamed Dhagar as the Principal Secretary, State Department for Transport.**

The Chairperson welcomed Mr. Mohamed Dhagar for the vetting and requested Members and staff to introduce themselves. He then directed the Committee Legal Counsel to administer the oath to the nominee. The nominee then presented his original identity card, academic and professional certificates and clearance from: EACC, HELB, DCI, KRA AND ORPP for verification by the Legal Counsel. This were later confirmed to be in order.

The Chairperson requested the nominee to introduce himself to the Committee giving details of his family background, educational background, net worth, work/employment record and present engagement.

Mr. Dhagar informed the Committee that he is a Kenyan Citizen, and holder of National Identity Card Number, 24794600 and was born in Mombasa County in 1986. He holds a Master's Degree in Peace, Conflict and Development Studies from University Jaume in Spain, which degree was awarded in 2011 and a Bachelor's Degree in International Relations from the USIU, Kenya, awarded in 2009. He also has a certificate from European University Institute, awarded in 2022.

The Committee thereafter engaged the nominee on various thematic areas including how he will navigate the crucial sector of Transport bearing in mind the nominee work experience relates to security Issues, How he will solve the KQ financial challenges, among other issues, as follows:

***On how he would navigate the transport sector with an education background in peace, conflict and international relations and work experience relating to security***, the Nominee submitted that, security and safety is of paramount importance in transport before we think of mobility of people. He indicated that he had visited the Lamu and Mombasa port severally and was currently handling an issue of security at Lamu port. The Nominee further indicated that he had published over 100 publications on security matters.

***On how he will provide policy stewardship in the Ministry***, Mr. Daghar indicated that he had done a lot of policy work on functions of State Departments and he had influenced development of several policies in Kenya including the Cattle Rustling Protocol signed by 14 member states in East Africa, Mifugo Protocol.



***On the issue of dealing with cartels and state capture of parastatals in the transport sector,*** the Nominee stated that state capture and cartels was a result of corruption which is a crime of collusion and he would look into the issues of corruption in all agencies in the Department. He further indicated that he was going to align himself with the aspirations of the Government, he noted that as a country we have very good laws such as Public Finance Management Act and the Public Procurement and Asset Disposal Act but the test was in the implementation of the same.

***On the issue of moving cargo from Naivasha port to Mombasa port,*** the Nominee submitted that the presidential directive to move operations from Naivasha port to Mombasa port was beneficial to the Standard Gauge Railway (SGR). The Nominee further indicated that he would look into the issue of extending the SGR from Naivasha to Kisumu in order to make Naivasha port more usable and profitable in the long run.

***On the issue of whether he is a team player and ready to learn,*** Mr. Daghar informed the Committee that he is a team player and that once he assumes office, he was going to take stock of the staff compliment in terms of their strengths and weaknesses and enhance their capacity, so that he may deliver on his mandate.

***As regards curbing incidences of accidents and crimes by the boda boda motorists,*** the Nominee submitted that accidents caused by the boda boda sector were numerous and there was a 5 year strategy in place which he undertook to study upon assumption of office if approved by the Committee.

***Regarding the issue of Kenya Airways managerial issues and pilot's strike,*** the Nominee stated that further stated that if approved he was going to look at the audits conducted by KPMG and work with consultancy firms to look into the issues raised. Further, he informed the committee that he was going to ensure inter-departmental collaboration with his counterpart at the Ministry of Labour to avert future pilot's strike.

***On the issue of how to improve the performance of the SGR,*** the Nominee indicated that SGR is here to stay and he will ensure the implementation and completion of Phase 2B of the project to Kisumu and Phase 2C to Malaba since SGR is very critical in the transport sector as had been forecasted by the Government over eight years ago.

***On the issue of the five key priority areas when he assumes office,*** the Nominee indicated that he would take stock of his staff compliment, assess their abilities and strengths with a view to enhance their capacity. Further that he was going to acclimatize himself with the budget making process and pertinent issues that were affecting Kenya Airways. He also stated that he will ensure there was an integrated transport system that including the technology component. He will also work

closely with the Parliamentary Departmental Committee on Transport and Infrastructure especially to engage on issues of NTSA, SGR and KPA while observing the principle of separation of powers.

*Regarding his networth*, the Nominee indicated that he was worth about eighty-two (82) million shillings.

The Nominee in his concluding remarks, assured the Committee that he will be up to the task if approved. The Nominee further declared before the committee his net worth as 82 Million.

**iii) Approval Hearing for Mr. Shadrack Mwadime as the Principal Secretary, State Department for Shipping And Maritime Affairs**

The Chairperson welcomed Mr. Shadrack Mwadime for the vetting and requested Members and staff to introduce themselves. He then directed the Committee Clerk to administer the oath to the nominee. The nominee then presented his original identity card, academic and professional certificates and clearance from: EACC, HELB, DCI, KRA AND ORPP for verification by the Legal Counsel. These were later confirmed to be in order.

The Chairperson requested the nominee to introduce himself to the Committee giving details of his family background, educational background, net worth, work/employment record and present engagement.

Mr. Mwadime informed the Committee He is a Kenyan Citizen of identity Card Number, 9786289 and was born in Mbale in Taita Taveta County in 1968. He holds a Master's degree in Business Administration from Moi University, awarded in 2005 and a Bachelor of Arts degree from the University of Nairobi, awarded in 1992. He also has a post graduate diploma in Business Communications from Business Training Limited, UK.

He further informed the Committee that he has undertaken several professional development courses including in: Strategic Leadership development course; Senior Management course; Advanced Public Administration; Paramilitary Training and Administrative Officers Course.

The Committee thereafter engaged the nominee on various thematic areas including his plans to ensure Maritime Infrastructure in the country, how he is going to address issues of this department as well as how he is planning to tackle those Issues if he is approved as well as plans he has in reviving Kenya Shipping line, among other issues, as follows:

1. *On the question on the Nominee's upward mobility in quick succession and whether it was sheer competence or influenced by other factors*, the Nominee Submitted that his upward mobility was due to his competence and his ability to adapt to different working environments.



2. *As regards how the nominee will involve the elected leaders in his stewardship of the Department*, Mr. Mwadime assured the Committee of his commitment to work with all the elected leaders as they are the link to the people and are therefore critical in service delivery and for his Department's overall success.
3. *On the underperformance of the Bandari Maritime Academy (BMA) and plans to revive it*, the Nominee noted the wanting state of the College and attributed it to management issues as the Director General has been in an acting capacity for a long time. He therefore committed to have a substantive Director General to allow the office holder make critical decisions that can turn around the college including review of the curriculum.
4. *On the question on the dismal performance of the Kenya National Shipping Line*, the Nominee submitted that there was need for resources to restructure the Agency to make it a fully fledged parastatal. He further underscored the significance of the Agency to the economy and implored the Committee to consider allocating more resources towards making it more efficient.
5. *As regards the loss of business to the Port of Dar es Salaam due to high cost of doing business in Mombasa port*, the Nominee committed to pursue strategies that will lead to a lower rate charged as well as expanding the tax base to avoid any revenue loss.
6. *Regarding Nominee's plans to take on research and innovation which are key in the maritime sector*, he highlighted the importance and criticality of research and development to the Maritime sector which is highly specialized and skills intensive, he also undertook to work closely with and engage universities to enhance research and development. He also undertook to push for scholarships both locally and internationally to develop the capacity of personnel in the maritime sector.
7. *Noting transport in water bodies fall under docket, the Nominee undertook to address the issue of boat accidents through registration of all boat operators*, he however decried the high costs of registration which was out of reach for some operators. He therefore proposed that the registration costs be reduced by half so that more boat owners can be brought on board to maintain the same level of revenues.
8. *Regarding his net worth*, Mr. Mwadime submitted that he was worth Kshs. 75 million.

MIN./NO./TI/2022/026:

ADJOURNMENT/DATE OF THE NEXT MEETING.

There being no other business, the meeting was adjourned at 12.00 noon. The next meeting will be held on the same day at 4.00pm.

**SIGNED:** ..... **DATE:** .....

**HON. GK George Kariuki, MP**  
**(Chairperson)**

**MINUTES OF THE 2<sup>ND</sup> SITTING OF THE DEPARTMENTAL COMMITTEE ON  
TRANSPORT AND INFRASTRUCTURE HELD ON 2<sup>ND</sup> NOVEMBER, 2022 AT THE  
SAROVA PANAFRIC HOTEL, NAIROBI AT 10.00 AM**

**PRESENT**

1. The Hon. GK George Macharia Kariuki, M.P. - **Chairperson**
2. The Hon. Mutua Didmus Wekesa Barasa, M.P. - **Vice-Chairperson**
3. The Hon. Jhanda Zaheer, M.P.
4. The Hon. Komingoi Kibet Kirui, M.P.
5. The Hon. Chege John Kiragu, M.P.
6. The Hon. Kiunjuri Festus Mwangi, M.P.
7. The Hon. Abdul Rahim Dawood, M.P.
8. The Hon. Arama, Samuel, M.P.
9. The Hon. Kiaraho, David Njuguna, M.P.
10. The Hon. Bady, Bady Twalib, M.P.
11. The Hon. Muhanda, Elsie Busihile, M.P.
12. The Hon. Francis, Kajwang' Tom Joseph, M.P.
13. The Hon. Saney IbrahimAbdi, M.P.

**ABSENT WITH APOLOGY**

1. The Hon. Naicca Johnson Many, M.P.
2. The Hon. Abdirahman Mohammed Weytan, M.P.

**IN-ATTENDANCE**

**Kenya Airline Pilot Association (KALPA)**

1. Mr. Mwenda Mabura- Executive Member, KALPA

**SECRETARIAT**

- |                             |                           |
|-----------------------------|---------------------------|
| 1. Ms. Tracy Chebet Koskei  | - Senior Clerk Assistant  |
| 2. Ms. Choper Clare Doye    | - Third Clerk Assistant   |
| 3. Mr. Mohamednur Abdullahi | - Third Clerk Assistant   |
| 4. Mr. Erick Kariuki        | - Research officer        |
| 5. Mr. Peter K. Atsianya    | - Media Relations Officer |
| 6. Mr Abdinasir Moge        | - Fiscal Analyst          |
| 7. Ms. Marlene Ayiro        | - Principal Legal counsel |





- |                     |                    |
|---------------------|--------------------|
| 8. Ms. Mercy Kinywa | - Legal Counsel II |
| 9. Mr. Job Owaga    | - Audio Officer    |

**MIN/NO./TI/2022/007:**

**PRELIMINARIES**

The Chairperson called the meeting was called to order at fifteen minutes past nine O'clock (9.15 am) and thereafter said a prayer. This was followed by introduction by Members of the Committee, the Secretariat and the representative from the Kenya Airline Pilots Association (KALPA).

**MIN/NO./TI/2022/008:**

**ADOPTION OF THE AGENDA**

The Agenda of the meeting was adopted having been proposed and seconded by The Hon. Abdul Rahim, Dawood, M.P and Hon. Twalib Bady Bady, M.P, respectively.

**MIN/NO./TI/2022/009:**

**SUBMISSION BY THE KENYA AIRLINES  
PILOTS ASSOCIATION (KALPA)**

Mr. Mwenda Mubura, an executive member of the Kenya Airlines Pilots Association appeared before the Committee to respond to the Pilots' Strike that was on its fourth day. He informed the meeting that he appeared alone as the other members of the Association were due to appear in Court for contempt of court after failing to call off the pilot's strike.

Mr. Mwenda submitted the following:-

That the Kenya Airways Management had been deducting money from their salaries but the funds were not being remitted to the Retirement Benefits Authority. He noted that at the onset of the COVID-19 pandemic, pilots had stopped the deductions for three months. However after three months, the funds started being deducted again, but not being remitted to the provident Fund.

He decried harassment by the Kenya Airways management and alleged that some Pilots were profiled and suspended for agitating for changes at the institution.

The Pilot also informed the Committee that the Kenya Airways Management has conveniently altered the requirements for the Chief Pilot position to suit the current office holder who was not qualified. However, he informed the meeting that following the Pilots' meeting with the Cabinet Secretaries for Labour and for Transport, and agitation on the matter, the position of Chief Pilot has been advertised.



Mr. Mwenda also brought to the attention of the Committee that there was failure by management to comply with various regulations, such as regulations on refueling and flight release which affected the airline's safety.

He also submitted that the Kenya Airways Management had flouted the Collective Bargaining Agreement, however he could not clearly elucidate which aspects of the Agreement had been flouted.

As regards the efforts made by the Pilots before resorting to industrial action, Mr. Mubura submitted that Pilots have been trying to have a meeting with the Kenya Airways Board since 2015 to no success. Further, KALPA had written various complaints to the Kenya Airways Management and nothing had been done so far.

The Committee raised concern that Mr. Mubura was not adequately prepared for the meeting. Following deliberation the meeting resolved that he and other members of KALPA appear before the Committee at a later date. The Clerk would communicate on various issues for them to respond and give them enough notice to prepare.

**MIN/NO/DC-TI/2022/010:**

#### **PRE-VETTING BRIEFING**

The Legal Counsel briefed the Committee on the vetting that was scheduled for Thursday, 17<sup>th</sup> November, 2022. The Committee is scheduled to vet the following nominees for appointment for position of Principal Secretary:

- a) Mr. Joseph Mungai Mbugua to the position of Principal Secretary, State Department for Roads;
- b) Mr. Mohamed Dhagar to the position of Principal Secretary, State Department for Transport; and
- c) Mr. Shadrack Mwadime to the position of Principal Secretary, State Department for Shipping and Maritime affairs.

On Thursday, 3<sup>rd</sup> November 2022, the Honourable Speaker informed the House that he had received a Message from His Excellency the President on 3<sup>rd</sup> November 2022. The Message was on nomination of appointments to the offices of Principal Secretaries.

The Honourable Speaker directed that the vetting exercise by the Departmental Committees is to be undertaken within Twenty-eight days from the date of notification of the nomination.





The Committee was informed that the nominees had been notified of their nomination and the date and time for their vetting in an advert published in the daily newspapers on Friday, 4<sup>th</sup> November, 2022.

The Clerk had also requested the public to submit memoranda in support of or contesting the suitability of the nominees pursuant at Article 118 of the Constitution. At the time of the briefing, the Committee had not received any Memoranda.

The Committee was also informed that the Clerk of the National Assembly wrote to the Kenya Revenue Authority (KRA), the Higher Education Loans Board (HELB), Ethics and Anti-Corruption Commission (EACC), Office of the Registrar of Political Parties (ORPP) and Directorate of Criminal Investigations (DCI) requesting for tax, education loans, integrity, affiliation to political parties and criminal record status of the nominees. At the time of the briefing the institutions were yet to write back.

The Legal Counsel briefed the Committee on legal provisions that guide the process of vetting, these include:

- (i) Article 132(2) (d) of the Constitution provides that the President shall nominate and, with the approval of the National Assembly, appoint, and may dismiss Principal Secretaries in accordance with Article 155.
- (ii) The Public Appointments (Parliamentary Approval) Act (No. 33 of 2011);
- (iii) Chapter 6 of the Constitution on leadership and integrity;
- (iv) Article 232 of the Constitution on values and principles of public service;
- (v) Article 10 of the Constitution on national values and principles of governance;
- (vi) The Leadership and Integrity Act (No. 19 of 2012);
- (vii) The Public Service (Values and Principles) Act (No. 1A of 2015);
- (viii) The Public Officer Ethics Act (No. 4 of 2003).

The Legal Counsel highlighted that in considering nominees, the National Assembly shall consider the issues set out in Section 7 of the Act namely: the procedure used to arrive at the nominee; any constitutional or statutory requirements relating to the office in question; and the suitability of the nominee for the appointment proposed having regard to whether the nominee's abilities, experience and qualities meet the needs of the body to which nomination is being made.



The Committee was also guided that has power to summon any person to appear before it for the purpose of giving evidence or providing information during approval hearing (Section 12(1) of the Act), through enforcing the attendance of witnesses and examine them on oath, affirmation or otherwise; compelling the production of documents; and issuing a commission or request to examine witnesses abroad.

The Committee was also informed that after the approval hearing, the Committee will prepare its report on the suitability of the nominee. The Committee may either approve or not approve the nomination. Section 8(2) of the Public Appointments (Parliamentary Approval) Act, 2011 provides that at the conclusion of an approval hearing, the Committee shall prepare its report on the suitability of the candidate to be appointed to the office to which the candidate has been nominated, and shall include in the report, such recommendations as the Committee may consider necessary.

It was also brought to the attention of the Committee that where the House does not meet the prescribed timelines, the nominee shall be deemed to have been approved.

MIN/NO/DC-TI/2022/011:

ANY OTHER BUSINESS

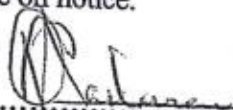
There were no matters raised.

MIN/NO./TI/2022/012:

ADJOURNMENT

There being no other business, the meeting was adjourned at quarter past twelve O'clock. The next meeting will be on notice.

Signed.....



THE HON. GK GEORGE MACHARIA, MP  
(CHAIRPERSON)

Date.....

24/11/2022







REPUBLIC OF KENYA  
THE NATIONAL ASSEMBLY

THIRTEENTH PARLIAMENT- FIRST SESSION -2022

DEPARTMENTAL COMMITTEE ON TRANSPORT & INFRASTRUCTURE

Adoption list for the Report on the Approval Hearings for persons nominated for appointment for Position of Principal Secretary for the State Departments for Roads; Transport; Shipping and Maritime Affairs, as per S.O 199.

DATE: 30<sup>th</sup> November, 2022

VENUE:

START TIME:

END TIME:

	NAMES	SIGNATURE
1.	The Hon. GK George Kariuki, M.P - Chairperson	
2.	The Hon. Mutua Didmus Wekesa Barasa, M.P- Vice-Chairperson	
3.	The Hon. Kiunjuri, Festus Mwangi, M.P.	
4.	The Hon. Abdul Rahim Dawood, M.P.	
5.	The Hon. Arama Samuel, M.P.	
6.	The Hon. Bady, Bady Twalib, M.P.	
7.	The Hon. Francis, Kajwang' Tom Joseph M.P.	
8.	The Hon. Kiaraho, David Njuguna, M.P.	
9.	The Hon. Naicca, Johnson Manya, M.P.	
10.	The Hon. Chege, John Kiragu, M.P.	
11.	The Hon. Elsie Muhanda, M.P.	
12.	The Hon. Saney, Ibrahim Abdi, M.P.	
13.	The Hon. Abdirahman, Husseinweytan Mohamed, M.P.	
14.	The Hon. Jhanda Zaheer, M.P	
15.	The Hon. Komingoi, Kibet Kirui, M.P.	

