

Friday, 20<sup>th</sup> April, 2018 COUNTY ASSEMBLY OF SIAYA DEBATES

## REPUBLIC OF KENYA

### SIAYA COUNTY ASSEMBLY

#### THE HANSARD

##### Second County Assembly - Second Session

**Friday, 20<sup>th</sup> April, 2018.**

The House met at the County Assembly Chamber at 2.30 a.m.

*[The Temporary Speaker (Hon. Madialo) in the Chair]*

#### PRAYER

#### COMMUNICATION FROM THE CHAIR

##### RESPONSE FROM THE DEPARTMENT OF EDUCATION

**Hon. Temporary Speaker** (Hon. Madialo): Hon. Members, we have a response from the department of Education touching on the issue of Ward Bursary Committees and I wish to read the entire communication. It reads;

Following candid consultative meeting between the Department of Education, Youth Affairs, Gender and Social Services and the Honorable Members of the County Assembly on the Floor of the County Assembly of Siaya on 17<sup>th</sup> April, 2018 and presided over by the Hon. Speaker, it was unanimously agreed that the Ward Administrators in consultation with the Members of the County Assembly office, within two weeks from this date to convene meeting of Ward Bursary Committee Members before the commencement of the vetting of applicants for 2018/19.

This is to vet and fill the vacant positions which have been occasioned by natural attrition, incompetence, resignation, lack of professionalism, biasness and among others order to restore public confidence in the performance of committee in line with chapter six of the Constitution of Kenya.

The process should be inclusive and that which endears public participation as enshrined in the Constitution and Siaya County Bursary Fund Act 2016. The Ward department should furnish the department with reports of reconstituted Ward Bursary Committee together with the minutes within the stipulated time frame.

Thank you very much for your continued support.

Members, I want to emphasize on vacant position which has been occasioned by natural attrition, incompetence, resignation, lack of professionalism and biasness. So you know what that entails, biasness includes political interventions. Now that is up to each individual Member and his or her Ward Administrator and how you relate with the Committee where they exist.

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Number two, they are saying they want the minutes within the stipulated time frame which is two weeks. The letter is dated 18<sup>th</sup> April, 2018 and so the chair directs that in a counter communication to the department of Education and our Table clerks should take note of this. Communicate to the executive that we are looking at two weeks as from 18<sup>th</sup> April, 2018 not the day there was a meeting here. Members counting those 14 days please ensure that those names reach the chair in charge of Education, Hon. Adida so that we go on with the disbursement of bursaries.

**MOTION**  
REPORT OF THE PIAC

**Hon. Temporary Speaker** (Hon. Madialo): Hon. Members, Hon. Otiato, Member for East Yimbo had given notice of Motion of amendment to PIAC report. That Hon. Adida also gave a Motion to amend PAC's report which you want to discuss. Mheshimiwa, do you still want to go on?

**Hon. Otiato:** I am following the deliberation that we forwarded formally and I intend to withdraw as the same has been taken care of as we continue.

*(Applause)*

**Hon. Temporary Speaker** (Hon. Madialo): Thank you, Hon. Otiato. The chair will require the chair of PAC together with Hon. Otiato to see the Table clerk and point out which parts of the report were to be edited and in particular confine yourselves to the part mentioned under page 13 and 14 of the report. Now, we are proceeding with the debate interrupted yesterday.

**Hon. Adala:** Thank you, Mr. Temporary Speaker, Sir. The content of report as laid by PIC/PAC has got a lot of annexes that we are being referred to. So I would seek the indulgent of the Chair so that we get supplied with the annexes before we go on, or I be supplied with them.

**Hon. Temporary Speaker** (Hon. Madialo): Which specific annexes do you refer to, Hon. Adala?

**Hon. Adala:** I need all of them from Road, Health and Land as has been listed on this report.

**Hon. Temporary Speaker** (Hon. Madialo): And you believe that is practical?

**Hon. Adala:** My conscious tells me that it's very practical.

**Hon. Temporary Speaker** (Hon. Madialo): Were you in the House yesterday?

**Hon. Adala:** I was here the whole session.

**Hon. Temporary Speaker** (Hon. Madialo): Did you note that annexes were not part of the report?

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**Hon. Adala:** We raised the issue in the first sessions and we were told that they will be availed, and if my memory serves me right some of them were availed here. So I suggest that those that were availed yesterday can be supplied to me for reference.

**Hon. Temporary Speaker** (Hon. Madialo): Yes, Hon. Otiato. What is the problem?

**Hon. Otiato:** Mr. Temporary Speaker, Sir, I think all the annexes are here, it is just a matter of the serjeant-at-Arms giving them out.

**Hon. Temporary Speaker** (Hon. Madialo): Hon. Adala, to the extent that the annexes are on the Table, you are out of Order! To the extent that movement around the House distributing the annexes will constitute disturbance of sitting, I rule that they will be accessed later, proceed.

**Hon. Adala:** Mr. Temporary Speaker, Sir, I respect your ruling whole heartedly and with all the due respect but if you give me the annexes after this then it will not help in reference.

**Hon. Temporary Speaker** (Hon. Madialo): Hon. Willis.

**Hon. Ochieng':** Mr. Temporary Speaker, Sir, I want to believe that these annexes have been here from yesterday and if the Hon. Members would have wished to go through them, he would have picked one and go with it home to check during the night. Right now, if you could give him a lee way to take one so that we can continue with the debate.

**Hon. Temporary Speaker** (Hon. Madialo): Hon. Willis, you are out of Order. The chair had ruled against the matter that Hon. Adala will do that later. Let us proceed.

**Hon. Oriaro:** Thank you, Mr. Temporary Speaker, Sir. That the House on the crowns objectivism had ventilated on this matter courtesy of the Board meeting that was held. I want to propose an amendment to the recommendation on page 14 that the House expunges the mentioning of Dr. Conciliar Ondiek in this report, on the mere fact that going by matters of litigations and judicial processes and even parliamentary practice all over that you cannot expressly mention a name of a person who never had an opportunity to sit before you to hear on their part.

So an amendment on the same that we reframe the word of suing for damages replaced by County Government of Siaya which immediately initiates a process of recovering over 15 to 19.3 million lost in that transaction.

I call upon my colleague, Hon. Member for Yala Ward to second.

*(Hon. Member seconded)*

*(Question proposed)*

**Hon. Oriaro:** Mr. Chair, it is known all over especially when we began to transact as Second Assembly that we have been interpreted in a wrong way as an entity constituted by representatives who are inept or in general; representatives who are not up to the task.

So that we may show to the world that we are an entity that is capable of performing its duty on a tither to objectivism, on tither rule of law and a tither to the genuine grounds of representation and of course legislation because matters we come up with are purely legislative processes.

That amendment will tell the world that in this House a representative needs not to be equipped with knowledge based on classroom lectures but a representative is one who is capable of doing research on various fields so that he/she is all round.....

**Hon. Temporary Speaker** (Hon. Madialo): Hon. Willis,

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**Hon. Ochieng:** This amendment shall tell the world that we are not witch hunting or that our work is to aid other statutory offices, constitutional offices to begin where we are from.

We know audit reports are expected to be brought to County Government's attention, the County Assembly, the national Assembly and the Senate. We want to also prove our big brothers that we are people who are working. In that spirit I support that amendment and call upon Members to be in this House to be the custodian of the people's problems.

**The Temporary Speaker** (Hon. Madialo): Yes, Hon. Opanga.

**Hon. Opanga:** Allow me also take this opportunity to support the amendment of the said clauses because it will give us the authority and mandate as a county to recover the money and in the process it will give us that time to visit the area that things were not done right not only putting the person who was the owner of the land in question but it will also give us a general overview of how we will be able to handle the entire issue. I support.

**The Temporary Speaker** (Hon. Madialo): Yes, Hon. Adala.

**Hon. Adala:** Thank you, Mr. Temporary Speaker, Sir. I am happy with the kind of work done by Committee on PIC and PAC. I rise to support the amendment that was proposed by Hon. Oriaro because it gives us the leeway to interrogate further and even get to the root of this issue as opposed to how it was initially stated whereby we were focusing on an individual and leaving out another.

My attention is drawn to page 17 of our Report. It talks about...

**The Temporary Speaker** (Hon. Madialo): Hon. Adala, you are out of order. We are still addressing our minds to the proposed amendment and we have not voted on it.

**Hon. Adala:** I always have a gift that is aware of reading the mood of the House. I think the amendment has just been proposed so I think they should just go on with my other submission but I have aligned

**The Temporary Speaker** (Hon. Madialo): I call upon the Mover to reply.

**Hon. Oriaro:** Thank you, Mr. Temporary Speaker, Sir. I want to thank the membership of this August House for readily being up to the task on matters of their mandate. My prayer is that we on a ubiquitous scale adopt the Motion so that the whole world can find the right place to place us. We dispense with the matter so that the general public and other relevant institutions can place us. We are even on the website the whole world can see that this House played its part. Thank you.

*(Question put and agreed to)*

**Hon. Opanga:** On equal measure I would also request that we make an amendment on page 14 to the last paragraph just before the recommendations that is paragraph 4 by deleting the words in legal custody of one Dr. Concilia Ondiek and substituting it with was registered in the name of one Dr. Concilia Ondiek.

*(Question proposed)*

**The Temporary Speaker** (Hon. Madialo): Yes Hon. Oriaro

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**Hon. Oriaro:** Thank you, Mr. Temporary Speaker, Sir. In the first Assembly I was the Chair of implementation and we were taken through various rigorous training and one of the things we learnt as a parliamentary practice is that resolutions of the House have got three phases. One it can merely become a political expression of a given matter.

**The Temporary Speaker (Hon. Madialo):** Are you seconding?

**Hon. Oriaro:** Yes such that I will not contribute. It can merely become a political expression which may be adopted or not adopted. In some instances issues of recommendations are illegal in nature but partly they bear matters that can find themselves in the legal and partly not and the third one, purely of legal implication.

The matters of public accounts and their Reports on the whole are purely legal in nature such that when we recommend our document can be picked to oil the wheel of founding justice whenever necessary. That means if we come up with a resolution that can easily be interpreted on matters of litigation high courts and above reject matters on technicality. You find the truth but you improperly express it that is what our able member has proposed in that amendment and in consonance with my earlier expressions that we want to tell the world that we are not ordinary people but chosen ones. I support.

*(Question put and agreed to)*

**The Temporary Speaker (Hon. Madialo):** Yes Hon. Oriaro.

**Hon. Oriaro:** Fortunately I am a member of the Committee on PIC and PAC. I have a few remarks on the Auditor General's Report that we are handling today and it is unfortunate that it is a Report in the past how I would wish that Reports are up to the minute so that whenever an issue arises we deal with it expressly. When Auditor Reports are out they end up in the public domain and those who have got ears especially when this matter was released audit queries the way the public take it is like an illegality has taken place and the Auditor General's views are taken to be autonomous even on political grounds they are taken from an arm chair perspective.

It is a practice that when the Report is out it is brought to parliament and we are fortunate that the Report was brought to us and committed before the committee. We did our investigations in general and the matters raised for committee responses and even our recommendations are part of this Report.

Partly from outside yesterday we cleared the matter from audit the same fiscal year 14/16 on County Assembly and it was proved to be as white as cotton. That is positive because we are the ones over sighting the Executive. We cannot objectively do it when our own is dirty it would be a classic case in the biblical narration that we preach water and drink wine.

I want to confirm before the general public that Assembly is up to task we even went ahead because I don't want to talk about everything let me draw the attention of the membership and the public to the issue on page 13, memorandum of understanding between the County Government of Siaya and Maseno University, letters requesting all that. The matter that generated more heat than light is the issue of purchase of land. I want to report to the House and

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the general public that the matter you have dealt with went a hundred and over ahead of the Auditor General's Report.

The way the Auditor General brought the matter, you would so easily clear it, because it was just questioning the systems, that money was allocated for land, and we bought a land for University. Had we just taken it that way, later on we would have been blamed. Matters of more investigation to the extent of revealing that the exchange of ownership of the land until the time of the purchase was undergoing metamorphosis that one the auditor general never touched! That is why the present procedure is, the auditor general does not just address system, and it has also to address the value for money.

The House has also come out with a Report where the situation of the value for money, is made conspicuous, that is why we have pointed out that there was no value for money, and even pointing out that that money didn't cover it. So were we to be talking from an amateur perspective, all that we would not have come up with.

We are endowed with in our Committee, people who are investigators. One of our Honorable Members, I thank people of East Yimbo, is an investigator. We are people of all sorts. So in short we want to tell the Senate that the Report they are having, the Auditor General they have of Siaya County, never addressed the matters that we have so far found.

We want them to be colinear with our Report. We also want to advise everybody who have been thinking that we are just ordinary people; we want to tell them that are chaotic and calls for having an eagle eye.

We have been endowed with the eagle eye to know that which was kept under, honorably, adopt this Report so that another course ensues. I support.

**The Temporary Speaker:** (Hon. Madialo) Hon. Otiato!

**Hon. Otiato:** Thank you, Mr. Speaker, Sir, I also want to say that having gone through this, you know when you are dealing with matters of corruption, and where it is PAC PIC and the rest, one of our learned men from Yimbo once said that corruption fights back, and it will not give you room to fight it.

In that spirit, I know it has been a very hard past to go through these issues. I want to congratulate the Members of the PIC and PAC Committee, for having worked out what was required. In fact, the heated part from yesterday or the other day on this particular matter is because the Committee endeavored and looked for more information out of what was in the Audit Report. Equivalently the former discussions are now out, and I want to be very adept, that if this Report is adopted with the few amendments that have been there, the value for our money is going to be realized

This that we have been crying for, even the loss of the 19.3 million that we have detected is going to be realized. One thing now, my message to our Governor, that if the Assembly has given a directive and has given advice, that the money be recovered, because the process and the whole documentation is not clear at all.

So if our able Governor is good enough, we need this matter to be resolved immediately, let him move forward and take action against any other officer who has breached the law, and as

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he does that, we need a very good Report that the money is within us and it is put in the rightful use.

I also want to say that with the few of the recommendations, we are given a lee way, a lee way, that if there is any further information that is coming from the public related matter, the Committee can proceed and do its further investigation and make further recommendations to this House.

I will not go to any other because I know of a Committee which is composed of professionals of different areas, the other areas are well touched and according to me it is properly done. I support.

**The Temporary Speaker; Hon. Madialo:** Yes, Mheshimiwa from West Asembo?

**Hon. Auma:** Thank you, Mheshimiwa Speaker. Allow me to commend the Committee of PIC and PAC for the work they did, just to take you through page 20 of the same Report, you see, where I got so much interest in this Report is page 20-21.

**The Temporary Speaker; Hon. Madialo:** Allow me to interrupt you, because of the issues of quorum, I would urge you to be brief and to the point so that we are able to do with this Report before we break. So now, I would request the sergeant at arms not to allow any Member to walk out.

**Hon. Auma:** Thank you, Honorable Speaker, but we still have the quorum all the same. In the issue of equitable share from the National Government, it is usually a tenth based on what the County collects in terms of Revenue. As you are aware, in our last days we saw we were able to receive a much higher allocation in terms of Revenue equitable share, but I see here, the people we put in charge of overseeing these collections are the people who mess us at times and we are not able to realize the dreams we have for the people of Siaya.

In the recommendation I have seen the Committee has recommended automation in terms of revenue collection. It is my prayer that the people mandated with this, that is the finance department will adhere to this, so that we have a full automation, and be able to get revenue and serve the good people of Siaya. Thank you.

**The Temporary Speaker; Hon. Madialo:** Mheshimiwa Odhiambo, Member for South Sakwa!

**Hon. Odhiambo:** Thank you Mr. Speaker, I wish to thank the Committee of PIC and PAC for the commendable job they have done, but I have some points to put across. If you can check page 24 of this Report, engagement of Revenue collectors, I think the Honorable Member who has just sat has talked about the collection of this money from our County.

You know what we need is money, and what the Government want us to do, the much you collect will determine what you are given from the National Government, and therefore I have seen the Committee, as much as they have done a commendable job, when you go to page twenty five, there are two recommendations.

They have only noted the accounting officer staff clearance which means that they only dealt with what was not spent the right way; they never put their concerns on revenue collectors,

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those who will make sure that our Revenue is our revenue is collected fully so that we get a good amount from the National Government.

So as much as I support this document and some part of the document was proposed to be deleted, I propose that there be a concern for the payment of these collectors, because if you can see, the first paragraph of page 24, included in the compensation of employees, balance of that amount for the sum of thirteen, paid to casual collectors, in the year under review and if you go to the second sentence, the casuals were engaged at a sum of monthly salary of seven, thousand per month, as opposed to 15425/= shillings minimum wage recommended by the Ministry of Labour.

So, I would also request if that one can be factored in, while endorsing this document so that the collectors could also be given their minimum payment so that they can also do a good job in collecting the said money. Thank you Mr. Speaker, I support.

**The Temporary Speaker; Hon. Madialo:** Member for South Gem?

**Hon. Audi:** Thank you, Mr. Speaker, I would like to support the adoption of the Report the way the Committee confirmed their work as legislatures and Members of the County Assembly of Siaya and basically putting more interest on use of public funds. If you look at page 19, some of the officers took interest more than twice which is contrary to regulations governing issues of payment.

Consequently, the accuracy and completeness of the outstanding imprest balance of Kshs. 31,121,261 as at 30<sup>th</sup> June 2016 cannot be provided. Basically, this shows very well that the Members of the Committee were a bit accurate and were armed to unearth everything that was on the projects. On page 25, we have the uses of goods and services; furniture for ECD centres.

I would kindly request that such huge kind of contracts should have at least an attachment to ascertain award and to also how efficient who ever were awarded such kind of contracts, thank you.

**The Temporary Speaker (Hon. Madialo):** May I call upon the Mover to Reply.

**Hon. Ochieng:** Thank you, Hon. Temporary Speaker; I want to thank the entire House for having debated this Report and I want to extend my appreciation to the Honorable Committee Members of PIC/PAC for having indulged in this Report. It was not an easy task; we went further ahead just as a Member indicated here to make sure that we bring a Report that when debated, the County residents would benefit from their monies.

I want to urge that after adoption the Committees or bodies that have been given responsibilities in this Report to do a follow up to make sure the recommendations are implemented to the latter, thank you.

*(Question put and agreed to)*

**The Temporary Speaker (Hon. Madialo):** Hon. Members; kindly stand up for adjournment.

**ADJOURNMENT**

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**The Temporary Speaker (Hon. Madialo):** Hon. Members, there being no other business for transacting in this House today, this House stands adjourned until by notice informed.

The House rose at 3.33 p.m.