

Monday 29th May, 2023 COUNTY ASSEMBLY OF SIAYA DEBATES

REPUBLIC OF KENYA

COUNTY ASSEMBLY OF SIAYA

THE HANSARD

Third Assembly-Second Session

Monday 29th May, 2023

The House met at the County Assembly Chamber at 9.30 a.m.

[The Speaker (Hon .George Okode) in the chair]

SPECIAL SITTING

GAZETTE NOTICE No. 6963

PRAYERS

Hon. Speaker: Hon. Members, I am told that the hard copies of the Order Papers are being printed, sorry for the delay but they will finally reach you. Allow us just to start the process.

COMMUNICATION FROM THE CHAIR

REMOVAL FROM OFFICE OF THE DEPUTY GOVERNOR (DG)

BY IMPEACHMENT

Hon. Speaker: Honourable Members, I welcome you to this Special Sitting of the County Assembly. By a resolution of majority of the members of this House, I appointed today, Monday 29th May, 2023 as a day for a Special Sitting of the County Assembly of Siaya, vide Gazette Notice No. 6963, dated 26th May, 2023.

In the Gazette Notice, I indicated that the Business to be transacted at this Special Sitting shall be: Consideration of Motions for removal of William Oduol, Deputy Governor, Siaya County, by impeachment and Consideration of the Report of the Sectoral Committee on Water, Environment and Climate Change on Ward Climate Change Planning Committees.

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You will recall that on Monday 22nd May, 2023, during a Special Sitting of this House, Hon. Gordon Onguuru, MCA East Asembo Ward, gave Notice of Motion for the Removal from Office of the Deputy Governor – William Oduol, by impeachment.

Honourable Members, removal from office of the Deputy Governor is guided by the provisions of Article 181 of the Constitution of Kenya, 2010, read together with Section 33 Subsections (1) and (9A) of the County Governments Act, 2012.

Article 181 of the Constitution provides the grounds upon which the Deputy Governor may be removed from office. The grounds include:

- a) *Gross violation of the Constitution and any other law*
- b) *Where there are serious reasons for believing that the holder of the office has committed a crime under national or international law*
- c) *Abuse of office or gross misconduct; or*
- d) *Physical or mental incapacity to perform the functions of the office*

Section 33 (1) of the County Governments Act, 2012, gives some insight into the procedure for the removal from office of the Deputy Governor. It states that,

“A member of the County Assembly may by notice to the Speaker, supported by at least a third of all Members, move a motion for the removal of the Governor under Article 181 of the Constitution”.

Sub section (9A) of the same act provides that,

“Subsection (1) to (9) shall, with necessary modifications, apply to the removal of a Deputy Governor”.

Guided by these provisions and my reading of the law, it applies therefore that the procedure for removal from office of the Governor shall be applied with necessary modification, to the procedure for removal from office of the Deputy Governor.

Standing Order 71, read together with Standing Order 72, of the County Assembly of Siaya Standing Orders, provides an elaborate procedure on the removal of the Deputy Governor from office by impeachment. The Standing Orders provide that:

One, before giving notice of Motion under Section 33 of the County Governments Act, 2012 the Member shall deliver to the Clerk a copy of the proposed Motion in writing stating the grounds and particulars upon which the proposal is made, for the impeachment of the *Deputy Governor*.

The Clerk shall submit the proposed Motion to the Speaker for approval.

The notice of Motion shall be signed by the Member who affirms that the particulars of allegations contained in the Motion are true to their own knowledge and the same verified by each of the Members constituting at least a third of all the Members and that the allegations therein are true of their own knowledge and belief on the basis of their reading and appreciation of information pertinent thereto and each of them sign a verification form provided by the Clerk for that purpose.

A Member who has obtained the approval of the Speaker to move a Motion under paragraph (1) shall give a seven (7) day notice calling for impeachment of the *Deputy Governor*.

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Upon the expiry of seven (7) days, after Notice given, the Motion shall be placed on the Order Paper and shall be disposed of within three days; Provided that if the House is not then sitting, the Speaker shall summon the Assembly to meet on and cause the Motion to be considered at that meeting after Notice has been given.

When the Order for the Motion is read, the Speaker shall refuse to allow the Member to move the Motion, unless the Speaker is satisfied that the Member is supported by at least a third of all Members of the Assembly to move the Motion; Provided that within the seven days' notice, the Clerk shall cause to be prepared and deposited in his their office a list of all Members of the Assembly with an open space against each name for purposes of appending signatures, which list shall be entitled: SIGNATURES IN SUPPORT OF A MOTION FOR REMOVAL OF DEPUTY GOVERNOR BY IMPEACHMENT; and further, that the Mover shall provide to the Speaker, at least one hour before the sitting of the Assembly, a list signed by Members in support of the Motion.

Any signature appended to the list as provided under paragraph (5) shall not be withdrawn.

When the Motion has been passed by at least half of all Members of the Assembly, the Assembly shall, within seven (7) days, appoint a Special Committee comprising a third of the Members to investigate the matter; and shall, within ten days, report to the Assembly whether it finds the allegations against the *Deputy* Governor to be substantiated.

The *Deputy* Governor has the right to appear and be represented before the Select Committee during its investigations.

No further proceedings shall be taken on the matter if the select Committee finds the allegations unsubstantiated.

If the select Committee reports that it finds the allegations substantiated, the Assembly shall vote whether to approve the resolution to impeach the *Deputy* Governor.

And lastly, when the Motion has been passed by two-thirds of all Members of the Assembly, the Speaker shall inform the Speaker of the Senate of that resolution within two days.

The Motion on Removal from Office of the Deputy Governor – William Oduol by impeachment, having been procedurally approved, has been placed on the Order Paper today being the seventh day after the Notice was given.

In line with Section 33 (1) of the County Governments Act, 2012, and Standing Order 71 (1) of the County Assembly of Siaya Standing Orders, I have reviewed the Motion and it is my finding that it is supported by thirty (30) members which is above the stipulated minimum of a third of the members of the County Assembly, which in our case is 14 members.

Guided by the provisions of Standing Order 71 (5), I shall allow the Honorable Gordon Onguuru to move the Motion. I shall thereafter allow for debate on the Motion and put a question for the House to approve the Motion.

Guided by the provisions of Standing Order 71 (7), which states that,

The Motion can only be passed by at least a half of members of the House; a decision on the Motion shall be arrived at through the ballot.

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This will enable us dispel any doubt as to whether the Motion has been dully approved or not as provide for by our Standing Orders. The Standing Order stipulates that, *A Motion on Removal from Office of the Deputy Governor should be passed by at least half of all Members of the Assembly.*

I have therefore instructed the Office of the Clerk to prepare a ballot box and ballot papers. In the event that the Motion on Removal of the Deputy Governor – William Oduol by Impeachment is passed, another Motion will be listed for consideration in a Supplementary Order Paper, which once prepared, will be circulated in the course of this Sitting.

The Motion will be in accordance with Standing Order 71 (7) as read together with Standing Order 72, seeking to appoint a Special Committee comprising a third of the Members of this House, to investigate the matter.

The Special Committee shall, within ten days, report to the Assembly whether it finds the allegations against the **Deputy** Governor to be substantiated.

The introduction of the Supplementary Order Paper is so, because, as at the time of convening this Special Sitting, it is not known to the House whether the Motion for Removal from Office of the Deputy Governor – William Oduol shall be passed or not.

It is therefore not clear if there will be a need to appoint a Special Committee, in line with Standing Order 71 (7).

It must be noted by all, including members of the public, the media and relevant stakeholder; that in the event that the House Approves the Motion on Removal from Office of the Deputy Governor; it will not construe that the Deputy Governor has been impeached.

This Approval by the House is only to instigate investigations into the allegations raised in the Motion on Removal from office of the Deputy Governor by impeachment. It is the findings of such investigations that will inform whether the House should impeach the Deputy Governor or not. The House Stands Guided!

PETITION

CLIMATE WARD CHANGE COMMITTEES

Hon. Speaker: Hon. Members, I am in receipt of a petition right now from a group calling itself Community Initiative Acting Group Kenya and another one calling itself Siaya Muungano Network both on the process of establishment of Climate Ward Change Committees in Siaya County and conducting Ward based participatory Climate change risk assessment in 30 Wards within Siaya County.

I shall just refer myself to the prayers, they are challenging the process and praying as follows; that the County Assembly to reject nominees as forwarded by the Department for approval, County Assembly to audit the process, the County Assembly to reject the Report, the County Assembly of Siaya to provide a conducive environment for relevant technical officers to implement the Climate change programme.

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Furthermore, they are praying that the County Assembly considers and acknowledges petition of the petitioners and finally the County Assembly of Siaya gives feedback.

You will realize that the matter in question is a matter which has a deadline for 31st and we are on recess. So if we reject the names or fail to consider this it will mean that the County will miss out on the potential gains.

I therefore direct that as we admit this petition it will go to the Committee on Water and you will consider and advise accordingly. However, we shall still proceed with the list and with the gender as was put in the gazette Notice because in any case if the procedure was not right then still there is room for action.

PAPERS

Hon. Oguta: I wish to lay on the Table of the House the following Papers; List of Ward Climate Change, two, Participatory Climate Risk assessment report and lastly Climate Change Action Plan 2023/2027

NOTICE OF MOTION

APPROVAL OF THE WARD CLIMATE CHANGE PLAN

Hon. Speaker: I will guide that we start the Motion no. 9.

Hon. Oguta: Thank you Mr. Speaker and Hon. Members. I beg to give Notice of the following Motion. Approval of the Ward Climate Change Plan accompanied with participatory County Climate Risk Assessment Report.

Aware that section 15 of the Siaya County Climate Change Act 2021 provides for the establishment and composition of the Ward Climate Change Planning Committees.

Aware that the list of nominees to the Ward Climate Change Planning Committees must be approved by the County Assembly in line with Section 15 (5) of the Siaya County Climate Change Act, 2021.

Further aware that the County Government of Siaya is a beneficiary of financing locally led climate action programme which seeks to provide a coherent and standard approach to be used by all Counties in promoting involvement of local communities in climate action.

Further aware that in line with the FLLoCA programme the County Assembly should approve the County Climate Change Action Plan accompanied with the participatory County Climate Risk Assessment Report to enable the County benefit from the program.

Further aware that the deadline for approval of the County Climate Change Action Plan as informed with the Participatory County Climate Risk Assessment Report is on Wednesday 31st May, 2023.

Noting that the County Assembly is currently on recess and the County Executive has requested for prompt action on the FLLoCA based activities by the House not later than 30th May, 2023.

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Now therefore, the House resolves that, pursuant to the provisions of Section 15(5) of the Siaya County Climate Change Act, 2021, the County Assembly approves the list of nominees to the Ward Climate Change Planning Committees as tabled before the House accompanied with the County Climate Change Action Plan accompanied with the participatory County Climate Risk Assessment Report for the FLLoCA programme as presented by the Department of Water, Environment, Natural Resources and Climate Change.

It is subject to further engagement between the Department and the County Assembly as per the resolution of the Joint meeting of the Committee on General Oversight and the said Department held on 27/05/2023 on the same. Thank you.

MOTION

APPROVAL OF THE CLIMATE CHANGE PLANNING COMMITTEE, THE CLIMATE CHANGE ACTION PLAN ACCOMPANIED WITH PARTICIPATORY CLIMATE RISK ASSESSMENT.

Hon. Oguta: Aware that the section 15 of the Siaya County Climate Change Act 2021 provides for the establishment and composition of the Ward Climate Change Planning Committees.

Aware that the list of nominees to the Ward Climate Change Planning Committees must be approved by the County Assembly in line with Section 15 (5) of the Siaya County Climate Change Act, 2021.

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I request Hon. Madialo to second.

Hon. Madialo: I rise to support for three obvious reasons. The identification of Membership of committees that are devolved down to the Wards goes hand in hand with the spirit of Devolution so that climate management is not only undertaken at National level or regional level but goes to the people to interact with it.

I wish to point out that in Siaya County we have reached a level where the interaction between the environment and human beings is both a benefit and a confrontation with human life. I have seen in the Report by the Ministry reference to River Nzoia and L. Victoria as causes of flooding and displacement of human beings in Ugenya and Siaya for R. Nzoia, Alego Usonga for R. Nzoia, and South and West Uyoma for L. Victoria.

In the year 2020, April, there was interaction between environment and ourselves in Siaya County. You were participants in saving the lives of people in Usonga by way of donations and provision of materials to evacuate people.

Every time climate change interacts with people I don't know what happens up there because we don't stay there but every Ward has got a unique way it interacts with the environmental disaster.

While it is flooding in West Ugenya, East Ugenya, downstream R. Nzoia there is complete destruction of parcels of land with water taking soil from one side of the river and depositing it across the river with one person expanding his land area and another person constricted in the land area.

That requires that those who manage or help identify mitigating actions by persons who have been identified at the local level so that they tell those who are responsible the unique challenges they have.

Mr. Speaker I want to conclude by saying that it is a very good moment, somebody has seen it worth to implement the law that was enacted by this Assembly in the year 2021 so that fund transactions are taken to the wards that the Ward Climate Committees can be facilitated to invest towards conservation of environment to mitigate on climate change effects.

Sometimes we take a lot of time in this House and elsewhere arguing about contracts for youths to plant trees and etc. it will be very good for our County if our Ward management Committees were to have the monies to procure the planting of forests, to procure the building of gabions, to protect river banks and be enabled to identify where funds are based, spent and based applied. Allow me to second and support.

Hon. Speaker: Hon. Members, I receive concerns from Member for North Gem which I have since relayed to the Chairman of Water Committee in relation to amendments which were made by the initiatives of various Wards Committees.

The Chair has assured me that those changes will be effected in the final document that will be sent to the Executive. Allow me to propose the Motion as follows;

(Question proposed)

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Hon. Akinyi: Thank you, Mr. Speaker, Sir. I rise to support but with a rider. That we are all aware that climate change issues and water, the most affected population in our community is usually women and I would have loved to see more women in this than men and for once to change that the 1/3 gender rule is affecting the men and not women.

That is my passionate appeal to the department as they work on the list, but that aside I think about 70% of the list from the Wards have tried to look at the 1/3 rule and have put at least 3 to 4 women and that I applaud.

However, I still ask that for those who have less than 4 women please let us look at it because even part of the Act says that the Committees must comprise of at least a 1/3 of one gender.

Therefore, my appeal is that 2/3 to be women and 1/3 to be men because issues of climate affect women more than men. Nevertheless, if that is not possible then let us have 1/3 of women in this list. Each Ward has 11 so I would like to see at least 4 women in each of the lists.

I support and thank you.

Hon. Speaker: Hon. Madowo, Member for South East Alego.

Hon. Masidis: Thank you, Mr. Speaker, Sir. I rise to support the Motion but also to put a caution. There tends to be a misinterpretation that this whole exercise is about money, which is not the case because climate change and its impact and effects are very costly and we need to put people there who have their hearts in the climate change.

It is a new area for many of us, those selected Members should be taken for a vigorous training, and we have to invest a lot of that money into risk assessment.

In the area I come from, recently we had floods at Lake Kanyaboli which had never been seen before and had we invested in risk assessment then that kind of assessment would have been factored in and rapid response mechanisms would have been put in place. Until now very little has been done to support the people.

Our people have been left for a long time to the rummages of the climate change, they have become resilient, and that is why no one cares about the livelihoods lost. Therefore, for me it is a turning point for our County as well as Country. I want to urge our colleagues that as leaders we take the front seat and help implement the initiative.

Thank you.

(Question put)

(Question put and agreed to)

Hon. Speaker: Yes, the mover, Hon. Gordon Onguru, Member for East Asembo Ward.

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MOTION

REMOVAL FROM OFFICE OF THE DG, BY IMPEACHMENT PURSUANT TO ARTICLE 181(1) (A) (C) AND ARTICLE 75, OF THE CONSTITUTION; SECTION 33 OF THE COUNTY GOVERNMENTS ACT, 2012, AND STANDING ORDER 72.

Hon. Onguuru: Thank you, Mr. Speaker, Sir. I rise to move a Motion on removal from office of the Siaya County Deputy Governor, William Oduol by impeachment pursuant to article 181(1) (a) (c) and article 75, of the constitution of Kenya, 2010; section 33 of the county governments act, 2012, and Standing Order 72 of the county assembly of Siaya Standing Orders.

IN CONSIDERATION of the provisions of Article 73 (1) (a) (iii) & (iv) of the Constitution of Kenya 2010, (hereinafter referred to as the “Constitution”) in so far as it connotes to the manner in which a State Officer is expected to exercise assigned authority;

WHEREAS Article 75(1) of the Constitution obligates a state officer, to behave in all senses, in a manner that is devoid of compromising public or official interest in favor of personal interest:

AWARE THAT, a Sate Officer having taken and subscribed to oath of office pursuant to provisions of Article 74 of the Constitution, is duty bound to adhere to values and principles of Public Service as espoused in Article 232 of the Constitution, most importantly, the practice of equitable provision of services;

HITHERTO, The County Assembly of Siaya having been signaled by public utterances and allegations by the Deputy Governor to the effect that there were misgivings, elements of moribund leadership, misappropriation of public funds and biasness in Budget allocations amongst other depositions;

The Assembly being fully appraised of the importance of provisions of Article 73(2)(d) of the Constitution which requires all State Officers to be accountable to the public for their decisions, actions and by implication public utterances; Page 2 of 6.

The Assembly in exercising its Constitutional Mandate of being bestowed with the power to summon any person to appear before it for purposes of giving evidence or providing information in line with Article 195 of the Constitution; resolved to invite the Deputy Governor to shed light into the import of his public proclamations about the administration in which he serves.

FURTHER AWARE of the significance of provisions of Section 29 of Leadership and Integrity Act, 2012 which prohibits an officer from knowingly giving false information to any person; Section 30 of Leadership and Integrity Act, 2012, which prohibits a State officer from falsifying records or misrepresenting information.

In addition, Section 27 (3)(g) of County Assemblies Powers and Privileges Act, 2017, which classifies, willful furnishing of a County Assembly or a committee with information which is false or misleading or making a statement before a County Assembly or committee that is false or misleading, as an offense;

NOTING THAT the Deputy Governor, William Oduol, submitted information to the County Assembly together with associated alleged evidence presumably to the best of his knowledge and ability;

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CONCERNED THAT the analysis of the information provided by the Deputy Governor, his actions prior and subsequent to providing the information, and observed misdemeanor in the manner in which he runs the affairs of the office of the Siaya County Deputy Governor that goes against the grains of several provisions of the Constitution of Kenya 2010, County Government Act 2012, Leadership and Integrity Act 2012, Public Procurement and Asset Disposal Act 2015, Anti-Corruption and Economic Crimes Act 2016, County Assemblies Powers and Privileges Act, 2017 and Public Officers Ethics Act, 2009;

This Assembly **RESOLVES** to impeach the Siaya County Deputy Governor, William Oduol under Section 33 of County Governments Act 2012, and Standing Orders 71 and 72 on the following grounds:

Gross Violation Of Constitution And Other Laws Page 3 Of 6

Interference with Procurement Process Through Acts Of Bid-Rigging

The Deputy Governor, William Oduol, interfered with the procurement of contractors for various road projects in the County and that of Supply and Delivery of Certified Seed and Fertilizer contrary to provisions of Section 47(1) of Public Procurement and Asset Disposal Act, 2015 which states that, “A procurement function shall be handled by procurement professionals whose qualifications are recognized in Kenya”

The Deputy Governor coerced the Head of County Procurement Unit to give him raw evaluation report for the tender on Supply and Delivery of Certified Seeds and Fertilizer, together with unsigned professional opinion despite being advised on the dangers of exposing such documents for a procurement process, which had not yet resulted in final selection and award of tender.

The Deputy Governor, William, Oduol, unjustifiably relying on the authority of the office of the Deputy Governor, caused to be changed by coercion, certain specifications in eighty – six tender documents for roads constructions.

By engaging in actions explained herein, Mr. William Oduol, being not a procurement professional with qualifications recognized in Kenya, acted ultra vires to the provisions of procurement laws.

Abuse of Office and Gross Misconduct. Bulldozing officers to renovate the office of the Deputy Governor outside approved budgetary provisions;

The Deputy Governor, banking on the authority of his office, forced incurring of expenses of approximately Kshs 18 million for purposes of renovating his office (interior and exterior works), purchase of furniture and office equipment; an expenditure that was not in the Budget and therefore not in the procurement plan.

This was in contravention of Section 53(2) of the Public Procurement and Asset Disposal Act, 2015 which states that “An accounting officer shall prepare an Annual Procurement Plan which is realistic in a format set out in the regulations within the approved Budget prior to commencement of each financial year as part of the annual budget preparation process”.

Page 4 of 6 further, Section 53(3) of the same Act states that, “Any public officer who knowingly recommends to the accounting officer excessive procurement of items beyond a reasonable consumption of the procuring entity commits an offence under this Act.”

The actions of the Deputy Governor of forcing unbudgeted for expenditure contravened the canons of procurement requirements.

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Misuse of public resources. It is on record that in November 2022, the Deputy Governor – William Oduol, while attending ICPAK meeting in Sarova Whitesands Hotel in Mombasa, in his personal capacity and not in his official capacity as the Deputy Governor, caused the county department of Governance and Administration to facilitate him and three other officers whose relevance to ICPAK meeting could not be confirmed as they were not members of the ICPAK, apart from the driver whose roles were undoubtedly essential.

This was contrary to provisions of Section 46 of Anti-Corruption and Economic Crimes Act, 2003 (Rev 2016) which states that “A person who uses his office to improperly confer a benefit on himself or anyone else is guilty of an offence”

The Deputy Governor used his office to confer benefits to officers to attend a function that was irrelevant to them.

Bullying. In his effort to coerce the County Director of Supply Chain Management – Mr. Martin Okwata, to bend to his whims and change specifications in certain tenders, the Deputy Governor – William Oduol, threatened the Director and promised him a harsh working environment in the coming future, apparently in reference to latter’s adamancy to give him tender documents;

It is also on record that the Deputy Governor demanded constant briefings from the Director Supply Chain Management directly on matters procurement, despite the Director not being answerable to him as per the structure of the County Government Service.

The Deputy Governor demanded constant and repeated briefings not only on matters of Procurement but also on matters Finance. It was on record that he constantly and persistently demanded information on county financial transactions directly from the Ag. Chief Officer for Finance and Economic Planning – Mr. Jack Odinga, despite the fact that Mr. Odinga was not directly answerable to him in his duties and responsibilities.

This repeated behavior humiliated Mr. Odinga It was peculiarly noted the Deputy Governor, William Oduol, only demanded direct and constant briefings from Finance and Procurement departments, and not from other county departments, which are equally important in service provision to the residents of Siaya

The Actions of the Deputy Governor of threatening and persistently demanding information from officers who were not directly answerable to him was akin to the provisions of Section 34 of Leadership and Integrity Act 2012 which states that;

(1) A State officer shall not bully any person.

(2) For purposes of subsection (1), “bullying” includes repeated offensive behavior which is vindictive, cruel, malicious or humiliating and is intended to undermine a person.

Misleading the Public by Giving False Information. Moral and ethical requirements of any State Officer dictates that they must always accurately and honestly represent information to the public.

Section 29 of Leadership and Integrity Act 2012 states that, *A State officer shall not knowingly give false or misleading information to any person.*

Section 27 (2)(d) of County Assembly Powers and Privileges Act 2017 classifies as an offence actions such as those which result in giving false information or evidence before an assembly committee.

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Section 27(2) (f) of the same Act further states that “A person commits an offence when the person willfully furnishes a county Assembly or a committee with information which is false or misleading or makes a statement before a county assembly or committee that is false or misleading”

It is on record that the Deputy Governor – William Oduol misled the County Assembly and has continuously been misleading members of the public in the following instances:

The Deputy Governor misled the members of the Public that Funds allocated towards completion of the Siaya Stadium had been reallocated in the Supplementary Budget I for FY 2022/2023. However, it was confirmed that the allocation had been enhanced and not removed as the Deputy Governor claimed.

The Deputy Governor misled members of the public and the House that there was discriminatory budgetary allocation to disadvantage residents of Alego Usonga Constituency; it was later confirmed that Alego Usonga was the highest beneficiary of Development Funding in the Supplementary Budget I for the FY 2022/2023.

The Deputy Governor misled the County Assembly and members of the Public that the County Secretary – Mr. Joseph Ogutu was forced to resign by the Governor, information that was denied by the County Secretary

The Deputy Governor misled the County Assembly and members of the Public that County Bursary allocation in Siaya is riddled with corruption and that school head teachers who are critical stakeholders in the determination of needy cases are left out during vetting processes. This assertion was invalidated by statements of the CEC Member for Education.

The Deputy Governor, William Oduol, misled the County Assembly and members of the Public that Mr. Austine Otieno was a Political Affairs Officer in the County Public Service and that he had been interdicted without being given an opportunity to show cause why disciplinary action could not be taken against him.

Investigations revealed that Mr. Otieno was not appointed to the County Government as a Political Affairs Officer but a Social Welfare Officer, and further that Mr. Otieno was procedurally asked to show cause why disciplinary action could not be taken against him. Thank you.

Hon. Speaker: You can advance your arguments if you like or ask someone to second you before I propose the question.

Hon. Onguuru: Thank you, Mr. Speaker, Sir. Having gone through these allegations, the Members are mandated by the Constitution to oversight, gather information, and protect the resources allocated to the County Government of Siaya on behalf of the general public.

This House stands ridiculed by the utterances of the DG, every time he has accused this House of not doing the job which the people or the electorate of Siaya County from the 30 Wards elected them to do.

We have been threatened several times at the process which we have undertaken and the Motion which I brought before this honorable House has been laughed at and severally I have heard the DG claiming that our impeachment process is inconsequential that he is sure our impeachment process will not see the light of the day because he is sure he has friends at the Senate.

As for me we do not care, what happens after this House takes a step forward. We know that he might go and gather his friends from the political divide to save him, but the same

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Constitution allows us to impeach him every 6 months. Therefore, he can go and be saved there but for us he will no longer be the DG of Siaya. We shall wait for 6 months to remove him again.

I therefore urge my colleagues to stamp our authority and let him go and be saved by his friends from the political divide. We have a duty and the Constitution allows us to do it. Mr. Oduol has given himself the role of an oversight, how I wish he would resign as a DG and face Felix Jude of West Alego and see if he can muscle votes to be a representative and be a Member of the County Assembly and oversight the Executive.

It is laughable and we all know that the popularity and political glory of the DG died in 2017 and if someone is forgetting that refer to the votes he muscled during the ODM gubernatorial seat nominations. I think it is very far!

Therefore, I want to take this opportunity to ask my fellow colleagues that we have a House and a name that has been spoiled out there for reasons of falsehood and misinformation that we are paid to take action as an Assembly. Let us do what is honorable. I therefore request my brother and friend from East Gem to second.

Hon. Baraka: Thank you, Mr. Speaker, Sir. Having listened carefully to my colleague Hon. Gordon Onguru, I tend to agree that that is the verdict of the majority. What I want to say before I give my comments is that reputation is very important. It is very painful that somebody can claim that some Honorable Members of this House were paid to do anything.

I stand before this Honorable House and before the almighty God that I have not received even a single cent, and it pains me, that I, being part of the Assembly was given Kshs 300,000!

How I wish the person who gave out this information can come out and prove who and who were given money and for what purpose, but for the sake of decorum and for the sake of respect, people must respect this House. I beg to second. Thank you.

Hon. Speaker: Hon. Members, I beg to notify you that I have since realized that there was a typographical error on the citations by the Mover, more particularly on Section 33 of the County Governments Act. He had referred to Section 32. So kindly the correction be made.

(Question proposed)

Hon. Speaker: Yes, the Honorable Whip and Member for Uyoma North, Hon. Booker.

The Whip of Majority party (Hon. Booker): Thank you very much, Mr. Speaker. Allow me to thank the Almighty God for enabling me to see this day. The journey we have embarked on is very short. We only have 3 years. We have to agree as a House and as the people of Siaya that we cannot continue squabbling and fighting, because all these if done, then we are going to affect the people of Siaya and Uyoma at large.

If you ask me to choose between development and squabbling I will choose development. It is now clear that these two senior Honorable Members of this County cannot work together. This House has thought it wise to decide on something that can keep it going.

I was very hesitant in the first place to join these squabbles because I am a professional soldier. If I hear 'crack and thumb', I take cover, then observe, then after observing I locate and shoot, and make sure that if I shoot, I don't miss the target.

(Applause)

As elected Members of this County, our core mandate is to deliver to the people of Siaya County and more so as the Honorable Member representing the people of North Uyoma I have to deliver to these people. I am very happy that this House is taking a decision today that will make the future of Siaya County.

I stand here as a senior Member of this House who was elected to this position unopposed as the Whip of the great party ODM. We should appreciate how His Excellency *Baba* is fighting for the people of Kenya. The Hon. Raila Amollo Odinga is busy down there in Nairobi, missing Bullets, fighting the high cost of living and when he retires back at home in the evening he sees Siaya his home County fighting because of useless issues.

I want to urge the House and the fraternity of Siaya, please let us give Hon. Raila Odinga peace. This old mzee will die because of us, because he is busy trying to help us down there and we are busy fighting useless battles. Our political opponents will find a vantage point. They will ask Hon. Raila Odinga, “You are busy fighting here, what about your County”?

Hon. Oluoch: Thank you, Mr. Speaker. *Mheshimiwa* Whip is out of Order, because we are discussing something for prosperity for the people of Siaya not about Raila Amollo Odinga. Let us not drag the name of the former Prime Minister here.

Hon. Speaker: Yes Hon. Michael, what would you like to say?

Hon. Adiala: Thank you, Mr. Speaker. Is it in Order for the Member of North Uyoma to even try to imagine the death of Hon. Raila Amollo Odinga?

Hon. Speaker: Hon. Washington, I think as per our Standing Orders, let us avoid mentioning the name of somebody who is not even subject of our discussion.

The Whip of Majority party (Hon. Booker): Mr. Speaker, I was only trying to give a story so as to whip you to vote in favour of this Report. It is very unfortunate that the two Hon. Members are sleeping without listening to me.

(Loud consultation)

Hon. Speaker: Hon. Booker, withdraw the word sleeping.

The Whip of Majority party (Hon. Booker): Thank you very much, Mr. Speaker. I withdraw. I am only trying to say that we give our Party Leader peace and avoid unnecessary fights. As the Whip of the majority party ODM I want to request Members of the ODM party and other Members that please, vote for this Motion so that we bring sanity to our County because our core mandate is to deliver to the people of this County.

Hon. Eng. Olang'o: I stand on a point of Order because I was very attentive when the Honorable Member for East Asembo was moving this Motion, and when I look at the grounds for impeachment, I did not see anywhere that he read that he was moving the Motion because of infighting. So is it in Order when the Whip says that the County Assembly must vote on this Motion to impeach the Deputy Governor because of in fighting?

Hon. Speaker: That has been passed by events and I want us to proceed. Yes Hon. Otiato, Member for Yimbo East.

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Hon. Otiato: Thank you, Mr. Speaker. With all the due respect and Honor to Justice, allow me to say this. That while supporting this Motion, allow me to support it in a very open and stable environment on very few grounds which will also be enough for us to move forward. We are not in Executive wars and as Assembly I pray that we move forward, very objective and very balanced to ensure justice is served.

A lot has been said, when you look at our grounds and the reports outside there, we had an opportunity to listen to the Deputy Governor speak outside there, and still making comments about these reports and some of the allegations, and I want to say that the decision by Hon. Onguru to bring this Motion was timely.

Now the Deputy Governor has the time to try and convince the House because we still have about 2 or 3 steps and if this is made in full glare of the public and all the 4th Estate personnel of Siaya are invited, and that he will be given an opportunity to tell us each issue as raised, in front and in full glare of the whole Siaya public.

We shall get to a conclusive and a very good decision. I still believe that the impeachment Motion is subject to a process, and like I hear in some other media it was misquoted that possibly a decision on the past Report was made without giving our Deputy Governor an opportunity to respond.

This is the best opportunity to address the issue raised from the other advanced state of processing; this will give the Deputy Governor very strict opportunity to tell the people what it is all about.

By that alone, I would request this House that possibly we adopt this Report and we don't even need to discuss much about it, and many other issues are going to come up when the Deputy Governor has been invited to present his case, when the other witnesses who are acclaimed here will have been invited to speak and everybody else to express themselves openly for a public court and for the process of the Assembly.

I therefore request that our House considers this, just for the purposes of the integrity of the process.

Hon. Arika: Thank you, Mr. Speaker, Sir. I am of the view that we adapt the Motion, but I wanted to disabuse the notion by the Mover to preempt that this process when it gets to the final stage, probably it might be decided based on the friendship. The Deputy Governor is a friend of mine but I am supporting the Motion, and I want to confirm to this House that at the Senate we have great Kenyans, both men and women, very intelligent.

I believe that they know that the people of Siaya deserve justice and irrespective of the political divide in the upper House I believe that should this process get to that level I am confident that they are going to decide it based on the facts and not friendship. Thank you.

Hon. Madialo: Thank you, Mr. Speaker. Allow me to align myself with the presentation for the Member for East Yimbo, but add the following; we live in a democracy, and in a democracy, leaders are not installed. Leaders are elected. Leaders speak for and on behalf of the persons who elected them.

We sit here today to make a decision that touches on the decision of hundreds of thousands of people to choose a ticket, and Mr. Speaker your guidance has been clear and straight on the point.

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That at one point; and that is the Constitutional requirement, the public notice will be up to invite the Members of the public to put across their submissions in this Motion. The Motion has passed of course because it has the support of 30 persons already who signed it, but an opportunity must be allowed to the people who elected us to give their views.

This is in order that when we are making decision eventually, we are making an informed decision that has come from the people, and that is why the Committee we have constituted will be expected to call on Public Participation.

You have read the accusations that confront the Deputy Governor and they include very serious accusations, bullying, bulldozing of public officers, misusing of public assets. The truth of this will be observed when the Deputy Governor comes before the Committee to make presentations.

This House has been neutral. Names flown out there. People have been accused of this and that. *Mheshimiwa* Baraka was saying he has heard of so many thousands and also *Mheshimiwa* Arika. Now we have an opportunity to invite the Deputy Governor who faces the accusations to come and shed light on his utterances.

As we stand today, the Honorable Member has offered everybody an opportunity to speak and talk with the Deputy Governor and to speak on the documents that were presented in the House which in its general oversight statements were stated not to have been substantiated but there is a challenge that opportunity was not allowed to substantiate. Now opportunity to substantiate has presented itself via the Motion by Honorable Onguru.

I am going to request that it is necessary and important to allow the process to proceed in a fair manner so as to allow the citizen walking a long Ahindi garden, the lady and gentleman resting during lunch hour at the Governor's park can be satisfied that the exercise that we are undertaking here is fair, is just is with justice and without bias.

For that reason alone I would request my colleagues that we dispense with this Motion, and as stated earlier of course it is a Motion that we will vote on, but the numbers that have signed against it already indicate that it has gone through, so that we allow the persons mentioned, the affected persons to come and bring evidence.

I want to rest my submissions by saying that do not address the Senate the way *Mheshimiwa* Arika is saying it. We expect the Committee that is going to be constituted to be fair, to give people a hearing, and if we are going to debate this before the Committee is constituted, then there is no need of constituting a committee.

Whether the offences are impeachable or not, will be told to us by the Committee in a Report. I believe that this just being a procedure for the purposes of starting off we dispense of it, and reading the mood of the House, and the face of the Whip, I would urge that you call upon the Mover to reply.

Hon. Speaker: I call upon the Mover to reply.

Hon. Onguru: Thank you, Mr. Speaker. First, I would like to appreciate the comments and support from my colleagues and I believe that the step you are going to take to adopt this Motion, will be the best direction of this House. Thank you and may we come out stronger.

Hon. Speaker: Thank you. Hon. Members as I guided earlier on, that because it is a requirement on the numbers that should approve this type of Motion, I will not therefore collect the voices but will vote by roll call.

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I want to guide on our Standing Order number 78, which provides for a procedure of voting by way of roll call, and it says that,

When a Speaker directs for a roll call voting to be taken, the division bell shall be rang for five minutes, the names for one teller for the Ayes and one teller for the Nays shall be submitted to the Speaker and the Speaker shall direct the tellers to take seats at the designated places

At the end of the five minutes, The Speaker shall direct that the door should be locked and the bar drawn and no Member shall thereafter enter or leave the House until after the rollcall vote has been taken. When the doors have been locked and the bar drawn and the names of the tellers have been announced,

The Speaker shall put the Question again and direct the Clerk to call out the names of the Members, in the presence of the Tellers. When called, each Member shall thereupon rise, in his or her place and declare ayes or dissent to the question in the following manner etc.

and therefore I will guide as follows; that the Clerk to do the needful and may the quorum bell be rung.

(Quorum bell rung for five minutes)

(Several Members walked in)

(Debate resumed after quorum call)

Hon. Speaker: I think we want to close the door and I will give further guidance that I have considered that we do ballot instead of rollcall. We will be calling out your name in order of precedence or as the Clerks will advise. Once your name is called you will take a ballot paper.

If you will be in support you write; yes! If you don't support the Motion you write; No! Then you will have voted. At that point nobody will be allowed in and nobody will be allowed to go out until we are done.

So I will put the question then the Clerk will be calling out your names then you come vote then you insert in the ballot box.

(Question put)

Hon. Speaker: We proceed to voting.

Assembly Clerk: The voting being conducted in the order of precedence.

(Assembly Clerk called out Members to vote in order of Precedence)

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(Voting commenced)

(Loud consultation)

(Voting concluded)

Hon. Speaker, Sir; all the Members present have been called and have voted.

Hon. Speaker: Get the votes! Count all the votes and if there is any abstinence, I will ask one secretariat member to stand for the Yes and another for the Nays and if there is any other Member who wants to stand for the Nays and the Yes you can equally team up.

(Clerks -at -the Table counted the cast votes)

Assembly Clerk: We are getting the tally of the votes; total votes cast were 39 out of the 42 MCAs: three were absent. 39 were present and voted so total votes cast were 39. Out of the 39 we have No-1, Yes-38.

(Applause)

Assembly Clerk: We have been asked to count loudly.

Hon. Speaker: I will now announce the results of the voting; next time I think I will do the rollcall so that it is done openly.

In the concluded voting on Motion of removal from office of the Siaya County Deputy Governor; William Oduol by impeachment pursuant to Article 181 (1a (c) and Article 75 of the Constitution of Kenya 2010, section 33 of the County Government Act 2012 and Standing Order no.72 of the County Assembly of Siaya Standing Orders that those who were in support of the Motion or who approved the Motion are 38 while those who opposed is 1. Three Members were absent with apologies and therefore the Motion stands.

(Applause)

Hon. Speaker: Having said that, Hon. Members I want to give further guidance that the Motion of the removal from office of the Siaya County Deputy Governor; William Oduol, having been approved by 38 Members of the County Assembly of Siaya with no abstinence and 1 opposed with apologies from 3 Members, the procedure to be followed therefore is as stipulated in Standing Order no. 71 (7) as earlier been guided and therefore a Supplementary Order Paper be circulated with immediate effect.

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On the Supplementary Order Paper, a Motion for appointment of the Members of the Special Committee investigating the allegations raised in the Motion on removal from Office of the Deputy Governor has been listed.

The leader of Majority party shall therefore move the Motion and if adopted by the House the Committee will stand appointed today, Monday 29th May, 2023 in line with Standing Order no. 71 part 7; the Committee once appointed shall have 7days within which to investigate and report the matter; the House stands guided.

The Whip of Majority party (Hon. Booker): Thank you, Mr. Speaker, Sir; I stand to give a Notice of Motion:

THAT a whereas pursuant to Article 181 of the Constitution of Kenya 2010 and section 33 of the County Governments Act 2012 and Standing Orders 21 and 72 of the Siaya County Assembly Standing Orders, on 29th May, 2023, the County Assembly approved a Motion to remove from office by impeachment of the Siaya County Deputy Governor; William Oduol.

And whereas pursuant to section 33 (9a) of the County Governments Act 2012 and Standing Order 71 (7) the Assembly by resolution shall appoint a Special Committee comprising a third of its Members to investigate the matter.

Now therefore, Pursuant to section 33 (9a) of the County Governments Act 2012 and Standing Order 71 (7) and 72; the Assembly resolves to establish a Special Committee on the removal of the Deputy Governor, William Oduol from office comprising of the following Members;

Hon. Francis Otiato, Hon. Oliver Arika. Hon. Andrew Omwende, Hon. Fredrick Omoro, Hon. Benard Adala, Hon. Cynthia Akinyi, Hon. Seth Baraka, Hon. Silas Madingu, Hon. Eunice Achieng, Hon. John Apodo, Hon. Dorothy Oinga, Hon. Justus Oguta, Hon. Julie Okelo and Hon. Michael Otieno.

The Special Committee shall investigate the Report and report on the grounds upon which the proposed Motion has been relied and Pursuant to Standing Orders 71 (7) report to the Assembly within 10days of the appointment on whether or not it finds the particulars of allegation against Deputy Governor, William Oduol to have been substantiated.

Hon. Speaker: The Notice has been duly given, next Order!

MOTION

ESTABLISHMENT OF SPECIAL COMMITTEE TO INVESTIGATE AND REPORT FOR THE GROUNDS OF REMOVAL FROM OFFICE OF THE DG

The Whip of Majority party (Hon. Booker): Whereas pursuant to Article 181 of the Constitution of Kenya 2010 and section 33 of the County Governments Act 2012 and Standing Orders 21 and 72 of the Siaya County Assembly Standing Orders on 29th May, 2023, the County Assembly approved a Motion to remove from office by impeachment of the Siaya County Deputy Governor; William Oduol.

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The Special Committee shall investigate the Report and report on the grounds upon which the proposed Motion has been relied upon and Pursuant to Standing Orders 71 (7) report to the Assembly within 10days of the appointment on whether or not it finds the particulars of allegations against Deputy Governor, William Oduol to have been substantiated.
I now ask Hon. Omoro to second!

(Secoded by Hon. Omoro)

Hon. Speaker: I will propose the question which is that Whereas pursuant to Article 181 of the Constitution of Kenya 2010 and section 33 of the County Government Acts 2012 and Standing Orders 21 and 72 of the Siaya County Assembly Standing Orders on 29th May, 2023.

The County Assembly approved a Motion to remove from office by impeachment of the Siaya County Deputy Governor; William Oduol. And whereas pursuant to section 33 (9a) of the County Government Acts 2012 and Standing Order 71 (7) the Assembly by resolution shall appoint a Special Committee comprising a third of its Members to investigate the matter.

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(Question put and agreed to)

Hon. Speaker: Hon. Members I shall still give further guidance; that a Motion on constitution of the Special Committee having been adopted stands appointed today, 29th May, 2023.

The Committee has 10days within which to investigate and prepare its Report on the finding of this matter. The 10days shall expire on Thursday 8th June, 2023. I direct the Committee to take cognizant of the provisions of Article 196 of the Constitution of Kenya 2010 on involvement of the public in the process and activities of the County Assembly.

I further direct the Committee to take cognizant of the provisions of Article 47 and 50 of the Constitution of Kenya 2010 on fair administrative action and fair hearing respectively. The Committee should also note the provisions of Standing Order no.71 (8) read together with 72 of the Standing Orders of County of Siaya which provides that the Deputy Governor has the right to appear and be before the Special Committee during its investigations.

The Committee shall be further guided by the provisions of Standing Order no. 74 on the rights to be heard. The Standing Order states that,

Whenever the Constitution or any other written law or one of these Standing Orders requires the House to consider Petition or proposal for the removal of office the person shall be entitled to appear before the Committee.

I further wish to draw the attention of the Committee to the reasoned judgement of Mr. Mbar on Lucy Wanjiru Kariuki vs the County Assembly of Nakuru and two others in which effect obligates the Committee to inform the Deputy Governor of the witnesses or persons who may be invited to give submissions before the Committee.

The Deputy Governor should be accorded an opportunity to cross examine such witnesses or persons if their testimonies or submissions will be relied on to reach decision on this matter. Hon. Members there being no other business will you be upstanding for adjournment.

MOTION

ADJOURNMENT

Hon. Speaker: There being no other business this House adjourns until 6th June, 2023 at 2.30 p.m. in the Chamber.

The House rose at 1.30 p.m.