

Wednesday, 9<sup>th</sup> May, 2018 COUNTY ASSEMBLY OF SIAYA DEBATES

## REPUBLIC OF KENYA

### SIAYA COUNTY ASSEMBLY

#### THE HANSARD

**Second County Assembly – Second Session**

**Wednesday, 9<sup>th</sup> May, 2018**

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

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

PRAYER

#### COMMUNICATION FROM THE CHAIR

STUDENTS OF NYASANDA HIGH SCHOOL

**Hon. Speaker:** Hon. Members I welcome you to this Sitting. Before we proceed, I want to recognize the presence of Nyasanda Community High School from Ugunja Sub-County. We have form four students here. May we welcome them in a special way.

*(Applause)*

With that welcome and because they are form fours, may we wish them well in their forthcoming examination. May they make Siaya and also their parents proud.

I want to recognize the presence of very special people in my life: The Deputy Head teacher, Mr. Patrick Chaka and Special Teacher Mr. Richard Odongo.

*(Applause)*

These are great people because I owe my success to them. They were my teachers in Madiany Secondary School. The two senior teachers I thank you so much. May God help you. You made a Speaker. You made me and also the leadership of this House. May God help you.

We also have Madam Veronica Atieno who is the class teacher. Thank you so much we welcome the school and other teachers.

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APPROVAL OF NOMINEES BY COUNTY ASSEMBLY

To the Hon. Members, we have some communication from Ethics and Anticorruption Commission which reads:

“Vetting of persons nominated for appointment as Chief Executive Officers or any other appointment to the County Public Offices requiring the approval of the County Assembly. The EACC established under Section 3 of the Act on ethics and anticorruption 2011 and pursuant to Article 79 of the Constitution and is mandated to oversee the implementations of the provisions of Chapter Six of the Constitution and the Leadership and Integrity Act 2012 which lays out the principles of leadership and the moral ethical requirements of public state officers seeking to hold public offices.

The commission wishes to bring to your attention the provisions of Section 35(3)(c) of the County Government Act which states that a person may be appointed as a CECM if that person satisfies the requirements of Chapter Six of the Constitution.

As you are aware County Assembly is required to approve the nominees to the appointment to position of CECMs in accordance with provisions of 179(2)(b) of the Constitution. Under section 8(1)(a) of the County Government Act 2012 the County Assembly is mandated to vet and the nominees of appointment to county public offices as has been provided for in the Act of any other law.

Under section 4 and section 7(8) the County Assembly Public Approval Act 2017 an approval herein shall focus on the candidate’s academic credentials, professional training and experience, personal integrity and background. To this end the commission pursuant to section 4(2) and 44(4)(2) of the Leadership and Integrity Act 2012 advises that the County Assembly should forward to the commission the names of the nominees to the appointment of public offices requiring approval of the County Assembly for integrity verification to ensure compliance with Chapter 6 of the Constitution.”

Please be guided accordingly and I direct that copies of this letter be given to all Members.

EXECUTIVE ORDER 1 OF 2018

There is an Executive Order. We call it Executive Order 1 of 2018 from the Governor of Siaya. I will read:

“The above subject matter refers, I have restructured the County Executive portfolio pursuant to the powers granted to me under section 330(2)(e) of the County Government Act 2012.

The restructuring has been done vide Executive Order 1 of 2018 which is hereby transmitted to the Assembly for information purposes.”

That Executive Order will be reproduced by the secretariat and given to the Members accordingly and may that be done by close of Business.

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LAKE REGION ECONOMIC BLOC ASSEMBLY CAUCUS MEETING

Lastly there is an invitation from the Lake Region Economic Bloc addressed to the Speaker and it reads:

“Lake Region Economic Bloc Assembly caucus meeting; Pursuant to Article 18, 19 and 20 of the legal instruments of the Lake Region Economic Bloc notice is hereby issued to the Lake Region Economic Bloc Assembly caucus meeting to be held on the 11<sup>th</sup> May, 2018 at 9.30 a.m. at St. John’s Manor Hotel Kisumu.

The agenda will be orientation of the Lake Region Economic Bloc blueprint, flagship project, member County Assemblies and legal agreement and 2018/2019 Budget. The following Members are supposed to join in the meeting, the Majority Leader, the Minority Leader, The Majority Whip, the Deputy Speaker, the Budget Committee chairperson, the Finance Committee chairperson.”

It has been signed by His Excellency Wycliff Ambetsa Oparanya for your noting.

Yes Hon. Majority Leader. The visitors are from your Ward. Would you like to say a word. Say it now.

**Hon. Oor:** Thank you, Mr. Speaker, Sir. Teachers and students from Nyasanda Secondary School I wave for you wherever you are. I welcome you in this Assembly. I am the MCA Ugunja Ward where you are coming from. Study well whatever you study here will help you in the coming exam.

**Hon. Speaker:** The Majority Leader has already seen the exam so that is leakage I hope the students will take it seriously.

*(Laughter)*

**MOTION**

APPOINTMENT OF OFFICERS WITHOUT APPROVAL OF THE ASSEMBLY

**Hon. Speaker:** Yes Hon. Ambrose Akuno.

**Hon. Akuno:** Thank you, Mr. Speaker, Sir. I wish to Move the following Motion:

THAT, aware that section 45 of County Government Act 2012 provides for the mandate of the Governor to appoint County Chief Officers by approval of the County Assembly.

Further aware that Section 41 of the same Act states that a person shall not be appointed to hold a public office in acting capacity unless the person satisfies all the prescribed qualifications for holding that office. Providing conditions under which a person may be appointed in acting capacity under County Public Service Board.

Noting that Section 4 Public Appointment County Assembly Approval Act 5 of 2017 provides that an appointment under the Constitution or any other law for which the approval of a County Assembly is required shall not be made unless the appointment is approved by the relevant County Assembly in accordance with this Act.

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Concerned that some officers have been appointed in acting positions in the county public service without due regard of the section 64(1) read together with section 45 of the County Government Act 2012 and Section 4 of the Public Appointments County Assemblies Approval Act 5 of 2017

Further concerned that nothing stands in the way of the appointing authority in appointing substantive chief officers in the incident dockets and that the appointment in an acting capacity undermines expeditious appointment of competent persons to the offices as provided in section 64(4)(a) of the County Government Act 2012

This House resolves that all the positions occupied by Acting CO's shall be filled with substantive ones with immediate effect.

According to the statement which I wrote from 15<sup>th</sup> December, 2017 I had some questions like who are the CO's in all the Departments. When is the term of each officer ending according to their contracts? Section 45 (1) (a) and (b) of County Government Act 2012 which states that the Governor shall nominate qualified and experienced County Chief Officers from among persons competitively sourced and recommended by the county Public Service Board and with the approval of the County Assembly, appoint County Chief Officers. My most concern is approval of the County Assembly, so which County Assembly is this?

I got a response here from the Executive they gave us some names. Some are okay like James Othuol Ochieng Public Works he is ending his term in 2021, Abba Omolo ending her term in 2019, Jackson Onjiko ending in 2019, Daniel Ochieng Okoth 2020, Joseph Onyango Ogutu 2019, Rose Owino 2019, Amos Okelo 2019.

My major concern is three people according to this Report that I got from the Executive. Mr. Peter Ochieng acting Director of Education and Training, Mr. Sylvester O. Okoth Chief Executive Officer school feeding program acting without approval, Joseph Omondi Director Education also acting without approval. As we are sitting here as Hon. Members we were elected and our mandate is to approve.

I can take you back to Appointments Act which says exercise of powers of appointment it states very well that appointment under the Constitution or any other law of which the approval of the County Assembly is required shall not be made unless it is approved by the relevant County Assembly in accordance to the Act. This is not from Hon. Ouma it is an Act.

I can take you back to the constitution a person shall not be appointed to hold public office in acting capacity unless the person satisfies all the prescribed qualifications for holding that public office. Acting appointments shall be made only by the lawful appointing authority and for a specified period. I am wasting your time the Act is clear.

I can go to section 5 if it comes to the attention of the County Public Service Board that a public officer has purportedly made an acting appointment, delegation or deployment as the case may be, contrary to the provisions of this Section, the County Public Service Board shall take the necessary corrective action. Which action should be taken? This county is not somebody's house where somebody can just take someone from the village and appoint him to a position. What is

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our mandate I was elected I know my mandate and of these people will continue to hold office and I say don't know my mandate and the people of West Asembo may not elect me next time.

With due respect I ask Hon. Olasi to second

**Hon. Olasi:**I second.

*(Question proposed)*

**Hon. Speaker:** Yes, Hon. Oriaro.

**Hon. Oriaro:** Thank you, Mr. Speaker, Sir. Primarily our reason for being is to act in the best interest of those who elect us. I am very happy that when we are taken through the ceremony of the oath of affirmation we are reminded of the building blocks of good governance. *Iotheli* the custodian of high faith which was started by the religions called *Bahai* and made an observation that the world is seeking not a compromise but the embodiment of a higher shining ideal, the renewal of order.

I am happy that for us in Kenya, courtesy of the 2012 Constitution; an ordered way of doing things was prescribed and when we take an observation one of the areas we are reminded of is standing in the defense of the 2010 laws and in defense of conventions that have been ratified by the Kenyan government. The matter in question is all about us standing tall and moving baggage from the terrain of good governance.

We need not to fear anybody here; I am very happy though the Mover never underscored that. The Ethics and Anti-Corruption Communication you just brought to our attention is also a reminder that when Constitutional officers are to assume their mandate, we vet them and before this exercise they assist us in digging deeper into their well-being if they are suitable.

Now we realize that people are executing. One of our functions is to approve and this is a Constitutional mandate and somebody somewhere is doing things behind our back. Its such entities who allowed them to do things without the mortals questioning; who is the Governor of Siaya to do such things outside the law and I am told he has attained a masters' degree in law also.

Who informs him? The salaries and remuneration commission and other statutory bodies like the now defunct body on transition? They should get the Governor opportunities to engage legal advisors, are these people helping him? The answer is a very big no! I don't know the Executive order but it also talks about reshuffling. The Governor's actions must remain a tether to the established laws. I support.

**Hon. Otiato:** Thank you, Mr. Speaker, Sir; I thank the sponsor of the Motion, Hon. Ambrose. What we are talking about is law; it appears as if our Assembly has been taken for granted and most of our resolutions are not looked into with seriousness. When dealing with matters of integrity we are talking about the accounts office and these are people that ought to be vetted by the Assembly and as rightly put under section 4, 7 and 8 of Public Appointment Approval Act 2017;

*an approval hearing shall focus on credentials, professional training, experience and personal integrity.*

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In the event that the Governor wants to do appointment of people to be in charge of our monies; our work is that the person he has proposed we look into their background and integrity then we are setting a precedence where the Governor will be bringing in people who are conmen or criminal from somewhere else to work for us without checking their background or integrity then they steal from the County after a period they disappear then another one comes in.

I am saying this because I am aware that after two years we had someone in an acting capacity as the Director of Procurement and after two years of acting he has disappeared and we are having another one who is acting. If we allow for these acting positions then it means there will be no Chief Officer who will ever come to this Assembly; they will be acting for a year or two after fulfilling their interest then they quit.

My worry is that the trend that Siaya is taking, it's a shame and we will make this resolution just like even the other time when a question was asked during a debate and finally we resolved that these people should be leaving this office. Some people ought to be competitively appointed in the future; it is now 3 to 5 months. In the same line, appointment and even employment; we have questioned the processes and the Assembly has always resolved that procedure be followed.

I will not be surprised that somebody is breaching the Constitution and the Assembly makes a resolution here and he fails to act on those resolutions and we still proceed on the same way. If a question was asked, legal matters were raised, a letter went to them and they responded and actually they found that even in themselves they are making a mistake.

They still wait up to today so that we come with another Motion to resolve that what they did was wrong. If you are seated in an office and you are breaking the law; the law that you took an oath to observe and it is in a continuous process. Today this one is broken, tomorrow another one is broken and we are seated here making resolutions and keeping quiet.

I will support this Motion but I would want to maybe remind the Assembly that one Governor Wambora was impeached because of one thing; having failed to act on a resolution of the Assembly and the matter went to the Senate and it was up held then to the court. If our Governor can fail to abide by the resolution of the Assembly; we have two different arms of the government and we do the oversight.

In my capacity as an MCA of Yimbo East who voted you despite malice running around to convince us otherwise, we believe that you will do the right thing despite the intimidations that we are having right now. We request that you do the right thing thus we move in the right way and we will do what is necessary. Now it is written with immediate effect. I will be surprised if next week we will come for another session when these people are still holding offices.

**Hon. Olasi:** Thank you. Mr. Speaker, Sir; I want to be very brief and straight to the point. The Assembly is not at war with the Executive and that's the underling factor. We are doing our work, Mr. Speaker, Sir; I am yet to understand that horrible Members were shying away from this supporting this important Motion.

**Hon. Booker:** I would like to talk categorically that the Hon. Member for West Uyoma should stop vilifying some Hon. Members and rather support the Motion, thank you.

**Hon. Speaker:** What is the point of order, Hon. Booker; The use of horrible Members? I am hoping that Hon. Booker rising on a point of order doesn't mean that you think he is a horrible Member.

*(Laughter)*

**Hon. Olasi:** Thank you, Mr. Speaker; I am not specific, I won't mention names because this is a Hon. House but I will not shy away from saying the truth because the people of West Uyoma have elected me twice not because I came here to clap but because I stand with the truth. I will not withdraw but allow me to continue.

**Hon Speaker:** No Member Here is horrible, if you are horrible you are the most horrible and perhaps you are horribly reloaded. Will you withdraw and proceed.

**Hon. Olasi:** Mr. Speaker, Sir; who am I not to withdraw when you say so. When I say that we are not at war with the Executive, it's true. We are not saying that the Chief Officers picked by the Governor are wrong people; no, some of them are overqualified but we are saying the Act demands that the names should pass through here.

If somebody, no matter how qualified the person is to be allowed to assume office without passing through the Assembly. Apart from supporting I seconded the Motion. You cannot second something that you don't support; Mr. Speaker at the end of it all give us guidance. If we are saying the Chief Officers are in office illegally because they were not vetted here then we need to see something done. If they can do very little or nothing at all then give us the direction.

**Hon. Mboha:** Thank you, Mr. Speaker, Sir; for the opportunity to contribute to this. I have pertinent questions to ask; one I think it's in this House that through Hon. Oriaro's Motion that stopped the appointment of Chief Officers and if I am wrong I will come back and engage that.

I am wondering how again we are going to ask the Executive about the Chief Officers yet as an Assembly we sat here, discussed this and agreed and a Motion was passed in this same House that no Chief Officer is supposed to be appointed. Hon. Oriaro you also need to touch on that so that we be on the same page as we discuss.

**Hon. Oriaro:** Point of Order! Is it in order---

**Hon. Speaker:**Order! Hon. Oriaro; just take your seat. I have presided over that Motion and I know the content of the Motion. I will advise Hon. Mboha much as we all know that it is out of order not to be factual in our statements.

**Hon. Mboha:** Mr. Speaker, Sir; that's why I asked so that I might not be out of order when discussed. Do we as a County Assembly vet positions on acting capacity? I also need to get clarification from that, thank you.

**Hon. Oriaro:** On a point of order, Mr. Speaker, Sir!

**Hon. Speaker:** Yes, Hon. Oriaro.

**Hon. Oriaro:** Is it really in order for an elected leader to display his ignorance before his colleague.

**Hon. Speaker:** Hon. Oriaro; are you the one who has displayed or you are referring to someone else? He is not talking about you, are you guilty?

**Hon. Mboha:** I want to ask the Member to clarify who is this Hon. Member who is displaying his ignorance.

**Hon. Olasi:** Point of Order, Mr. Speaker, Sir!

**Hon. Speaker:** Yes, Hon. Olasi.

**Hon. Olasi:** Mr. Speaker, Sir; I think we only have Chair to be addressed. Is it in order for Hon. Mboha to address Hon. Oriaro directly? I think everything should go through the Chair.

**Hon. Speaker:** You all know what is disorderly and what is in order. Let me just guide the House during our debate that the Motion so referred to by the Hon Mboha was a Motion questioning the legality behind creation of extra offices in the office of Chief Officer because previously we had ten and in the advertisement it went to fifteen. The resolution of the House was that in the subsistence of contracts you do not advertise for the same position and secondly, you do not advertise for new positions which have not been legally created and the resolution was that you only proceed in accordance with the law.

You will refer to that resolution in the House and if you said that you are seeking clarification had you insisted that the House resolves that there being no recruitment then I would have held you to withdraw but you didn't insist on that.

Secondly; you asked if it is the duty of the House to think something in reference to the appointment of Chief Officers. Allow me to refer you to the County Government Act 2012 section 45 which talks about appointment of Chief Officers; it says *the Governor shall nominate qualified and experienced county Chief Officers from amongst persons competitively sourced and recommended by the County Public service Board and with the approval of the County Assembly, appoint County Chief Officer.*

You will realize that the key words are one the Governor appointing, competitively resourced, advised by the County Public Service Board and three approved by the Assembly. That will answer as to why the acting went through the process and the office of the County Chief Officer shall be an office in the County.

The County Chief Officer shall be responsible to the respective County Executive Committee Member for the administration as provided under section 45. There was a statement made by one of us, I think Hon. Otiato; as to portraying a desperate legislature which makes resolutions which are not implemented and also seeking the indulgence of the Chair.

Allow me to clarify that the role of the Chair in the resolutions of the House is meaningless in executing the decision of the House. As to remove as to appointment lies with the appointing authority or this House as per law established. What then is the role of a desperate Assembly or legislature in the assumption that an officer is violating the law?



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For example; what would amount to removal under one of the County Government Acts; it says that somebody can be removed from office for gross violation of this Constitution or any other law, in other words the Assembly should not feel desperate, when we make resolutions they are addressed to relevant offices. They do not implement your resolutions and you feel that by so doing they are violating the Law, bring an impeachment Motion to this House. Yes, precede, Hon. Ambrose.

*(Applause)*

**Hon. Mboha:** Thank you, Mr. Speaker, Sir. On the same I would like to say that the Law is not clear in regards to position of acting or in an acting capacity and how long can someone be acting in a certain capacity? What are the Laws that guide someone in an acting capacity?

So that should also come out clearly just as Hon. Otiato puts it, we have people who have been in an acting position year in year out. Is there a way out that we can sort this out so that when someone has been in an acting capacity we can know then how long should it take before recruitment is done? Otherwise.....

**Hon. Otiato:** Point of Order!

**Hon. Speaker:** Yes, Hon. Otiato. What is your point of Order?

**Hon. Otiato:** Having been a strong supporter of this Motion I am not aware unless I thought Hon. Mboha was either supporting or opposing. From his comment I have not heard him say it, I want .....

**Hon. Speaker:** Hon. Otiato, it is not in the business of a fellow Member to insist as to know whether a Member is supporting or not because they also have a right to abstain. Maybe he has abstained, maybe he is still processing and at the time of “may as many” he might express his opinion.

Yes, Hon. Audi, Member for South Gem!

**Hon. Audi:** Thank you, Mr. Speaker, Sir. I support this Motion for one; eras of roadside declarations were over. Siaya County is actually mother of reforms and you ought to do the same. This action demeans our role as legislators and I wonder if maybe any of us may desperately stand and pose to support act of lawlessness.

**Hon. Speaker:** Hon. Ambrose, what is it? You had spoken on this matter unless you want to.....

**Hon. Auma:** I want to answer him.

**Hon. Speaker:** You don't need to answer you will have time to reply.

Yes, Hon. Mboha!

**Hon. Mboha:** I wanted to ask Hon. Audi through chair what these roadside declarations are and may also wish to know which positions were declared by the roadside...

**Hon. Speaker:** Hon. Members, I didn't hear Hon. Audi say that partners were roadside declaration, his contribution just said era of roadside declaration was over, unless the era still

exists then you can question. Hon. Audi, were you referring to the appointment as having been made by the roadside?

**Hon. Audi:** Not really.

**Hon. Speaker:** I can see there are no contributors; could I ask the Mover to reply? Hon. Ambrose and you do it through the chair.

**Hon. Auma:** Yes, Mr. Speaker, Sir. I appreciate every Member who has supported the Motion, but there are some issues which I don't know if I can mention names; I think Hon. Mboha doesn't understand the meaning of approval and that is my problem.....

**Hon. Speaker:** Excuse me, Hon. Ambrose. Is it your problem which is a problem that he does not understand?

**Hon. Auma:** Mr. Speaker, Sir. I withdraw!

**Hon. Speaker:** what have you withdrawn? Now he understands? Hon. Mboha, Order! Yes, Hon. Ambrose!

**Hon. Auma:** Mr. Speaker, Sir, my major problem was the issue of acting, and when it comes to the Law, somebody approved can act. I think the first time we had Interior Minister, Mr. Matiangi acting as Interior Minister and Education because he had already been approved. So you cannot just pick someone from the streets and appoint him/her to act. I think that is what I was trying to say earlier but I have already acknowledged that.....

**Hon. Speaker:** I think Hon. Mboha still wants to say something, Hon. Mboha go ahead.

**Hon. Mboha:** Something really has to come out clearly when we say you bring some body from the street and appoint them. Is it in Order for Hon. Member to say that? Can he substantiate that and if possible give examples because these are Government officers. Otherwise we will be making comments that are just alarming and .....

**Hon. Speaker:** Hon. Members, one Member at a time, Hon. Ambrose take your seat!

**Hon. Mboha:** That would be appropriate rather than talking like that because they are also accounting officers to our Government, so when we use degrading terms I don't know if that is proper.

**Hon. Speaker:** Hon. Ambrose, proceed.

**Hon. Auma:** I think I have evidence; this Mr. Otieno, Sylvester Okoth and Mr. Joseph Omondi, I don't know all of them. Maybe he .....

**Hon. Speaker:** So if you don't know them they belong to the street?

*(Laughter)*

**Hon. Auma:** We need to approve them, so if someone is acting and we have not approved them then that it is like they were picked from some street somewhere. And Hon. Audi said something very strong that during the Moi era people were just being appointed anyhow. I think we live in a modern world therefore, we cannot allow our executive to pick people anyhow, otherwise.....

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**Hon. Speaker:** Hon. Akuno, don't assume powers you don't have, you are not the one who should decide whether somebody is withdrawing or not. Will you just reply, confine yourself to your Motion then take your seat.

*(Laughter)*

**Hon. Olasi:** Mr. Speaker, Sir, I have a point of Order!

**Hon. Speaker:** Yes, Hon. Olasi.

**Hon. Olasi:** Thank you, Mr. Speaker, Sir. I it was the Mover to reply and when the Mover speaks of picking an officer from the street is as good as the Mover telling us that they could have even been picked from Makerere University or Harvard University. We don't want to know where they were picked from the problem is that they were to pass through this Assembly, so I call upon the Hon. Member to say that they were picked from Harvard University, thank you.

*(Laughter)*

**Hon. Speaker:** Hon. Olasi, you are out of Order!

Order! Order! Order! Hon. Members, you all seem to be speakers; you are ordering people what to say, what not to say as they contribute.

*(Laughter)*

Let's stay focused, Hon. Ambrose, will you reply?

**Hon. Auma:** Yes, I believe I have shared everything and I thank everyone as well as believe that we will follow the Law, thank you.

*(Question put and agreed to)*

**Hon. Speaker:** Yes, Hon. Majority leader!

### **MOTION**

#### REVIEW OF RECOMMENDATIONS BY JUSTICE COMMITTEE

**Hon. Oor:** Thank you, Mr. Speaker, Sir. I wish to move the Motion:

**THATAware that** Section 15 of the County Government Act, 2012 provides that a person has a right to petition a County Assembly to consider any matter within its authority including enacting, amending or repealing any of its legislation,

**Further Aware that,** the County Assembly on 7<sup>th</sup> November, 2016 was petitioned to intervene and address the plight of the former Councilors who served the Defunct Local Authorities in Siaya County since independence;

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**Noting that**, the Assembly considered and made recommendations and submitted to the Siaya County Executive for implementation,

**Concerned that** no action has been taken on the recommendations on benefits, among other issues raised by the Assembly,

This House **resolves** that pursuant to Section 15 of the County Government Act, 2012, the Committee on Justice and Legal Affairs reviews the recommendations and report back within 14 days for action.

I also have a few comments to raise;

1. They cannot even pay school fees for their children.
2. They cannot take their families to good hospitals.
3. They cannot move freely because of lack of funds.
4. They worked for this County and there is no recognition.

Therefore, Mr. Speaker, Sir, I appeal to you to see how you can consider this Councilors, thank You.

**Hon. Speaker:** Who is seconding?

**Hon. Oor:** Sorry, I call upon Hon. Filly to second.

*(Hon. Akoth seconded.)*

**Hon. Speaker:** I think Hon. Members there is a typo in our Order paper, it is not Committee on Justice and Local Affairs it is Committee on Justice and Legal Affairs. So let that stand corrected.

*(Question proposed.)*

Yes, Hon. Oriaro!

**Hon. Oriaro:** Asante sana Bwana Spika, kwa niaba ya watu wa Alego ya Kati ninayo wawakilisha. Niko na maneno mawili au matatu;

Tuimekumbusha hiyo jana na hilo jambo liliangaziwa na Gazeti la Standard ya kwamba Wabunge tuliona wakati huu kule juu wanapanga kuongeza pensheni yao au malipo ya uzeeni kwa asilimia 700.

Na ni dhahiri jambo ambalo li wazi kwamba wenzetu wanapata kwa jumla kiwango cha chini zaidi ni elufu sabini na inapangwa kuongezwa katika asilimia 700. Nimekuwa diwani hapo awali mahala ilijulikana kama Boro Magharibi (Boro West Ward), na wakati huo hatukua tunapata ile mnaita salary ila tulikuwa tukipata marupurupu. Jambo hili lilitgemea pahali ambapo upo.

Naweza kumbuka vizuri, nilikua Napata kila mwezi shillingi elufu 19, pesa ambayo haingeweza kunipeleka popote. Na kama si kuhudumia watu wangu singe chaguliwa, ile ilikua Wadi ndogo ndiposa zikajumuishwa kua Wadi 3 ambayo ni Alego ya Kati ninayoiwakilisha kwa sasa.

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Tulifanya kazi bila ya yeyote kujali maslahi yetu na sisi ndio bado viongozi mashinani na tunashughulikia Wananchi kwa maana hawawaoni wale Wabunge, Maseneti na kadhalika, sisi ndio Wananchi wanasikiza. Jambo ambalo lazima itajwe kwa mamana wenzetu wengine washaaga kwa sababu wakati hizi baraza zilikua zinavunjiliwa hatukua hata tukijumuishwa, inafanyika tu kule Nairobi kwamba Mbunge limevunjiliwa na watu wanaenda uchaguzini.

Punde tu, wanapovunja Mbunge tamaduni ilikua wazi ya kwamba kwanza wanahakikisha kwamba washapewa pensheni kwa mkononi. Madiwani walikua wakienda tu nyumbani bila kitu hohe hahe!

Nakumbuka wakati huo nilikua na pikipiki na sikua na hata pesa ya kuweka kwa pikipiki wakati ambapo baraza la wilaya ya Siaya ilivunjiliwa. Hii ndio maisha ambalo tuliishi na tunaangazia ya kwamba viongozi ni viongozi na hakuna kiongozi mkubwa na mdogo. La muhimu ni kuwajibika.

**Hon. Speaker:** Yes, Hon. Olasi!

**Hon. Olasi:** Mr. Speaker, I think we only have one Chair to be addressed. Is it in order for Hon. Mboha to address Hon. Oriaro directly? Thank you.

**Hon. Speaker:** Hon. Members, I am sure you all know what is disorderly and what is in order. Let me just guide the House, that the Motion so referred to by Hon. Mboha was a Motion questioning the legality behind creation of extra offices in the office of the Chief Officers.

Since previously we had 10 but in the advertisement it shot up to 15, so the resolution of the House was that in the subsistence of contrast you do not advertise for the same positions and secondly, you do not advertise for new positions which have not been legally created and the resolution was that you only proceed in accordance with the law, it was not that you do not recruit.

You will refer to that resolution of the House and if, --you said that you were seeking clarification, had you insisted that the House resolved that there being no recruitment then I would have held you to withdraw but you didn't insist on that.

Secondly, you asked about, is it the duty of the House to do something in reference to appointment of Chief Officers? Allow me to refer you to the County Government Act 2012 Sec. 45 which talks about appointment of Chief Officer. It says 'the Governor Shall nominate qualified and experienced County Chief Officers from among persons competitively sourced and recommended by the County Public Service Board and with the approval of the County Assembly appoint County Chief Officers'.

You will realize that the key words are;

1. The Governor appointing
2. Competitively sourced
3. Advised by the County Public Service Board
4. Approved by the Assembly.

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That will answer us as to why the acting went through the process. Then the office of the County Chief Officer shall be an office in the County Public Service. The County Chief Officer shall be responsible to respective County Executive Committee Member for the administration of County Department as provided under Section 45.

There was a statement made by one of us, I think Hon. Otiato as to portray a desperate legislature which makes resolutions which are not implemented and also seeking the indulgence of the Chair. Allow me to clarify that the role of the Chair in the resolutions of the House is to communicate to the Executive the decision of the House.

As to removal and appointment, lies with the appointing authority for this House as per law established. What then is the role of a desperate Assembly or legislature? In the assumption that an officer is violating the law, for example, what could amount to removal? Under 191 of the County Government Act, it says that somebody can be removed from office for gross violation of this Constitution or any other law.

In other words the Assembly should not feel desperate, when you make resolutions, they are addressed to relevant offices, they do not implement your resolutions and you feel that by so doing and violating the law, bring an impeachment Motion to this House.

*(Applause)*

Yes, proceed Hon. Members! Yes, Hon. Mboha!

**Hon. Mboha:** Thank you, Mr. Speaker. I also wish to know the clarity of the law in regards to the position of acting or in an acting capacity and how long somebody can act in a certain capacity. What are the laws that guide somebody who is an acting capacity? So, that should also be coming out clearly because the way Hon. Otiato has said, we have people who have been in the acting capacity year in year out. How long should it take before recruitment is done? Thank you.

**Hon. Otiato:** Point of order!

**Hon. Speaker:** Yes, Hon. Otiato!

**Hon. Otiato:** Having been a strong supporter of this Motion, I am not aware whether the Hon. Member is supporting or not.

**Hon. Speaker:** Hon. Otiato, it is not in the business of fellow Members to insist to know whether a Member is supporting or not because they also have a right to abstain! Maybe he has abstained, maybe he is still processing and by the time of 'will as many' he might express his opinion. Yes, Hon. Audi!

**Hon. Audi:** Thank you, Mr. Speaker, I stand to support this Motion. Siaya County is actually the mother of our reforms and we ought to do the same. This action actually demeans our role as legislatures and I wonder if maybe any of us may desperately stand and oppose to support this act of lawlessness. I stand to support, thank you.

*(Applause)*

**Hon. Speaker:** Hon. Ambrose!

**Hon. Akuno:** Thank you, Mr. Speaker. I want to appreciate Hon. Members who have contributed in this Motion. The issue of approval is not my problem

*(Laughter)*

**Hon. Speaker:** Excuse me Hon. Ambrose, is it your problem which is a problem that he does not understand or your problem is that he does not understand.

**Hon. Akuno:** Mr. Speaker, I withdraw.

*(Laughter)*

**Hon. Akuno:** The issue of acting, someone approved can act. Hon. Matiangi was acting as Interior Secretary and also the CS for Education because he had already been approved. You cannot just pick someone on the streets and appoint them to act.

**Hon. Speaker:** I think Hon. Mboha wants to say something. Hon. Mboha, what is it?

**Hon. Mboha:** Some issues should just come out clearly. When you say you pick somebody from the streets and appoint that person to act, is it in order for the Hon. Member? He should use examples. Can you substantiate these claims that some members were picked from the streets to come and act? Otherwise you will be making statements that are just alarming. These are members who are accounting officers to our departments and if we use some demeaning terms then I don't think that would be ideal. Thank you.

**Hon. Speaker:** Hon. Ambrose, proceed.

**Hon. Akuno:** I don't Mr. Peter Otieno, I don't know Mr. Joseph Omondi.

**Hon. Speaker:** Maybe they belong to the streets!

*(Laughter)*

**Hon. Akuno:** As a House, we need to approve them! Some are acting without our approval. It is during the Moi era that he would pick people from the streets but we are now in modern world and we cannot allow the Executive to pick from the streets, appoint them and we don't approve.

**Hon. Speaker:** Hon. Akuno, don't assume that we don't have powers, will you just reply, confide yourself to your Motion and then take your seat!

**Hon. Olasi:** Mr. Speaker, I have a point of order.

**Hon. Speaker:** Yes, Hon. Olasi!

**Hon. Olasi:** I think the mover was to reply and when the mover talks of picking an officer from the streets it is as good as the mover telling us the person who should have been picked from some university. The problem is, we don't want to know where you pick them from

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but they had to pass through the Assembly. So when someone says the term ‘street’ is bad, I call upon Hon. Akuno to say that they were picked from Harvard University.

*(Laughter)*

**Hon. Speaker:** Hon. Members, you are all very interesting because you seem all to be Speakers. You are ordering people what to say and what not to say, let us stay focused.

**Hon. Akuno:** I appreciate everyone and I believe we will act according to the law. Thank you very much.

*(Applause)*

*(Question put and agreed to)*

This is a very rich County with millions of money that was supposed to pay the PMCs, now being diverted to other areas that have not passed through that step.

**Hon. Speaker:** It’s not in relation to remunerating former Counselors. Thank you.

**Hon. Mboha:** Thank you for clarifying that Hon. Member. So in my conclusion, I think we need to support this wholesomely, because in the near future, we will also be in the same cadre. Thank you and I support.

**Hon. Speaker:** Hon. Ayika!

**Hon. Ayika:** Ahsante Sana Bwana Speaker. Ningependa kumpongeza Majority Leader Kwa ile kazi amefanya. Ningependa kuunga mkono huu mjadala kwa sababu hata wewe siku moja utaondoka kwenye hiyo kiti, na utapenda upewe kitu kidogo. hii ndiyo sababu ningependa niisupot kabisa. Niko hapa sababu ya Mama Sela. Mama Sela ndiye amefanya sasa hivi naweza kuwa katika hili Bunge, ndiya aliyenipa mawaidha jinsi naweza kufika hapa.

Sasa ningependa waheshimiwa wenzangu waweze kusapoti huu mjadala ili wao pia waweze kuhisi vyema. Asanteni.

**Hon. Speaker:** Sheria za Bunge ni kwamba iwapo umeamua kutumia lugha moja, unatumia lugha moja hadi mwisho, hakuna kuchanganya ndimi, lakini tunazidi kusoma, kuelewa na kuerevuka. Mlichukue jambo hilo kwa makini sana, kwamba ukitumia lugha moja, uitumie lugha hiyo mpaka mwisho.

Yes, Hon. Ousa? Member for South Uyoma?

**Hon. Ousa:** Thank you Mr. Speaker. I stand not to support the Motion brought by Hon. Oor, MCA and leader of Majority. Though I am not coming from the Majority Party, but the reason why I stand not to support this Motion, the voters of South Uyoma Ward, I am working for the present people of South Uyoma. I don’t see the reason why we should reward the people who were given their salary according to the standard of that time. I heard some people talking of a salary of 15 thousand that was the standard rate that these people were supposed to get at that time.



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What I am seeing in this House is that, if these people they don't have something to do with the money, they should use the money to evolved their---during that time. According to me, these are the people who actually grabbed County Government lands, are these former Counselors. If you can walk around Siaya town, the people who have vast land are the former Counselors.

*(Laughter)*

**Hon. Speaker:** Yes, Hon. Oriaro!

**Hon. Oriaro:** Is it In Order for a Member to drag our names into this? I was a former Counselor. 2007 and 2013, I don't even have a plot. In this case, if many people would Google Leonard Otieno Oriaro, you will see many pages, page one, two, where even I was being confronted by other forces on the platform of Anti-Corruption crusade. Is it in order for a member on a ubiquitous scale to drag our names?

**Hon. Speaker:** Hon. Members, the part of Standing Orders provide that you do not adversely mention the character of a person in the House, if you can use the floor to discuss the conduct of that person that includes the Governor, Members of the Assembly, or some of those people who are not here to defend themselves. I therefore order you to withdraw that Statement and then just proceed with the debate.

**Hon. Ousa:** Thank you very much Mr. Speaker, withdrawing of the statement means---but, allow me to withdraw.

**Hon. Speaker:** Take your seat a minute. I was reading something in Social Media the other day, in a South African Parliament where a Member said half of people in this House are stupid. When he was asked to withdraw his statement he said, half of the people in this House are not stupid, I think he meant the same thing. So Hon. Ousa, just choose to withdraw and proceed.

**Hon. Ousa:** Thank you Mr. Speaker. I withdraw. We are acting on the capacity of the present people. The County Government that we are working with for now, we have several things that we have not done which needs funding.

I don't see the reason why we should reward or even give pension to the people who had worked 10-20years ago. If at all it is a reward that is to be given, all the people who were serving that time, can the County Government be able to get that money? I put it that this is a waste of resource, if the House can pass this kind of information. Thank you.

**Hon. Speaker:** Hon. Members, allow me to put the House into focus. The Motion we are debating, is a Motion on reviewing the recommendations of an earlier report whose recommendations we have not seen. It will be unveiled by the Justice and Legal Affairs Committee. Who knows? Maybe the recommendation in that Report was that you don't pay them, and we are already saying now that we are giving them money.

Who knows? Maybe the recommendation in the Report was that we don't even give them pension, we don't give them NHIF. So the focus of this Motion is for us allowing this House, to review the recommendations of that Report to be tabled, I think in 14 days, after which we look

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at the merits and demerits of that Report clause by clause and address ourselves. Let us not jump the gun, as to what are the contents of that Report. Yes, Hon. Okumu, Member for West Alego!

**Hon. Okumu:** Yes. There is one Member called Olasi, he talked of facing the truth, and we just have to face the truth.

**Hon. Speaker:** Order! Yes, Hon. Mboha.

**Hon. Mboha:** Is it in order for a Hon. Member to just call another Hon. Member the name as if he is calling cows or chicken? Because, when he says ‘Olasi’ you know there are so many things that maybe called ‘Olasi’. I don’t know if Olasi is a cow or a chicken!

**Hon. Okumu:** Yes, I agree with the Hon. Member Mboha, but I had something in mind, that’s why I mentioned the name. Let’s state the truth as it is. Siting what Hon. Ousa has said, these former Counselors, they had all the opportunities on land distribution.

You know what is going on, on the Market Centers, the shops which were built, the current Assembly has no opportunity to go and redistribute these kiosks, and for all that work had been done by the former Counselors, and they really feasted there.

*(Laughter)*

I have a certain plot at a certain area, West Alego, and I have built something there to do with my business, because I was a friend to a former Counselor, he just came and told me, ‘‘you just go and take this’’. So as you support this, the Majority Leader must learn that, they really feasted on these Government plots and these market centers, more than any Assembly.

Let us give them Executive job opportunities, that can help them than giving somebody money, who is still strong, and mark you in the Assembly here, there are so many people who contested in 2013, but they were snatched certificate, they used a lot of money. Come 2017, they still went to the field and they succeeded. This proves that whatever you have, first use it in readiness for the future, and all the Honorable Members that are here, think of you future, think of your business that will rescue you in the time to come, in the near future. Thank you.

*(Laughter)*

**Hon. Speaker:** Thank you. Hon. Members, two things; one, let us not pre-empt debate in our discussions. The matter before us is reviewing the recommendations of an earlier Report. The contents of which we do not know. Secondly, this is an Honorable House, for which decorum is key.

It is in our Standing Orders, we must address each other with dignity, and we must conduct ourselves in a decorous manner. Yes Hon. Lorna, Member for North Sakwa?

**Hon. Lorna:** Thank you Mr. Speaker. I would like to inform this Honorable House that this Motion was debated in the last Assembly, and I would urge Members of this House, that as we are preparing to debate this Motion, even that time, the recommendations that were there, were very key. So it is very important that if this Motion can be brought back, so that we can

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again look into it, for the sake of our former Counselors. Allow me to say that our former Counselors, like the Honorable lady had said, are our Mentors.

Like Hon. Oriaro mentioned the kind of the salary that they were receiving, it is not comparable with what we have right now, and because of culture and tradition, you know where we are, you know how our culture is, you know what our society is. We cannot assume that the 'gonya' system was not there at that time.

So these are men and women who also helped the Society, and maybe even through that salary that they were getting, they were also sharing it, just the way we are doing it right now. Again I want to say that, it could be assumed that the former House was not doing anything, but remember that even right now we are talking on Report, which the last Assembly passed and the implementation was not done.

So it is very key, to this Honorable House if the Report can come back to the Assembly, so that the same can be done, and to the implementation Committee, for sure your tray will be full, because so much has not been done. I would also like to say that for example in my ward that is North Sakwa, the former Counselors are in very deplorable state, and if this Assembly can assist to look into their issues, I would say that we would help them a great deal.

**Hon. Speaker:** Hon. Members, I don't see any more contributors, I would like to ask the Mover to reply.

**Hon. Oor:** Thank you, Mr. Speaker sir, I would like to thank all the members who have contributed, and those who have tried to put this in a different order which is that they are a few percentages, but the supporters are a higher percentage. May God bless everybody who has contributed, and we hope that these people they get served at the end of the day. Thank you.

*(Question put and agreed to)*

**MOTION**  
ADJOURNMENT

**Hon. Speaker:** Will you be upstanding for adjournment.

Hon. Members, there being no other Business, this House adjourns until today Wednesday, May 9<sup>th</sup>, 2018 at 2.30 p.m. in the Chambers.

The House rose at 11.00 a.m.