

REPUBLIC OF KENYA

SIAYA COUNTY ASSEMBLY

THE HANSARD

Second County Assembly – Third Session

Wednesday, 7th August, 2019

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

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

PRAYER

COMMUNICATION FROM THE CHAIR
SRC CIRCULAR ON HOUSE ALLOWANCE FOR MCAS

Hon. Speaker: Hon. Members, we have a lot in our Order Paper today and I hope we will be able to finish because tomorrow as I told you we will be going on recess. I have Communication to share with you from SRC. The SRC has written to the Speakers of all County Assemblies on Motion on House allowance for Members of the County Assembly.

The Salaries and Remuneration Commission is established under Article 230(1) of the Constitution of Kenya 2010. SRC has the mandate to set and regularly review the remuneration and benefits of State Officers and to advise the National and County Governments on the remuneration and benefits of all other public officers as set out in Article 230(4) of the Constitution.

The attention of SRC has been drawn to Communication from the County Assemblies Forum vide letter no that dated 29th July, to all County Assemblies advising assemblies to facilitate tabling of a Motion on 30th July, on payment of House Allowance to Members of County Assemblies and to have the Motion moved on 31st July, 2019.

Further, SRC has noted that some County Assemblies have scheduled the said Motion in their Order Papers. SRC reiterates that the contents of that letter advising the County Assemblies that the setting and review of House Allowance is the exclusive mandate of SRC in Article 230(4) of the Constitution. As you are aware, SRC set and communicated the remuneration and the benefits on structures to State Officers serving in County Governments.

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The purpose of this letter is to advise County Assemblies to desist from discussing, passing any Motion on House Allowances and setting the amounts for MCAs as doing so will be tantamount to usurping the Constitutional role of SRC. Kindly note that payment of any benefits including House Allowances outside SRC structure is illegal and the monies paid shall be recovered. The Commission looks forward to your cooperation on this matter

PAPER

GROSS DISORDERLY CONDUCT OF HON. JOSEPH MBOHA

Hon. Siguru: I wish to lay on the Table of the House the report of Powers and Privileges on gross disorderly conduct of Hon. Joseph Mboha, within the precincts of the Assembly on the 16th July, 2019.

(Continuation of morning Motion)

Hon. Otiato: Thank you, Mr. Speaker. I want to take this particular opportunity to thank the Members of this House for very worthy contribution in the morning session. I want to say that the only way forward for us now is to proceed and follow up this matter and because the House has given us a green light to do it within the shortest time possible, I take this opportunity to make it a responsibility that we are going to ensure we dig it properly and I know this in its own way is an indictment to the office of the ODPP and EACC, we are demanding that we know the status.

Hon. Nick Ochola said it is going to give us light that we don't argue from the point of notknowing. Always the audit queries come, from the last Assembly, audit queries come, the Assembly makes recommendations, refer cases to the EACC but there is nothing much done. But when it comes to matter that there is nothing to be recovered at all, we have been talking about cases where monies meant for public use is misused, diverted as I had cited in the Motion.

We want to set a precedent and I think this will be the first across the whole Country and how I wish that these wonderful members of the press were supposed to be here so that as they are running around with the information that the 41 MCAs have been summoned by the EACC, they equally carry this and say that the EACC and DPP have been summoned by the County Assembly of Siaya to come and explain why they are not doing investigations properly and why they are not able to deliver.

(Applause)

I know we are having so much to do, we are citing a Constitutional mandate that has been given to us in this office and actually the first 2 sections of my Motion I cited the responsibility of the EACC to work with other organs. Again in our Constitution, a Constitutional mandate that is not subjected to anybody, I am using this particular Constitution and we have to use it as

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this Assembly to subject even Mr. Haji who is the DPP is subject to this Constitution that he swore to obey.

Article 195(1) which bestows the powers of this Assembly and any of its Committees to summon any person to appear before it to give information. We are revoking this particular section of law to summon the EACC including, Mr. Wekesa who is in charge of Kisumu branch and the DPP Haji to appear before us and explain where our cases are from 2013 to date. I will be very happy to see this tomorrow in the newspapers that we are censuring these two offices in regards to their operations and investigations. I beg to rest my case.

(Question put and agreed to)

STATEMENT

RULING ON HISTORICAL LAND INJUSTICES

Hon. Otiato: Pursuant to Standing Order No. 41(2c), I rise to seek a Statement from the CECM Public Works, Roads, Transport and Communication on the status of implementation on National Lands Commission ruling on historical land injustices, case no. 298/2018 with regards to River Yala at Magombe area, Yimbo East Ward. The CECM should address the following critical issues;

1. Give detailed report on County approval to the construction of the said.
2. Provide detailed drawings and approved heights of the said
3. Give detailed work plan and bill of quantities for its removal in line with the National Land Commission.

Hon. Speaker: I commit it to the relevant Committee. Next order!

NOTICES OF MOTIONS

Hon. Otare: I wish to give a notice of Motion on the vetting of nominees for the positions of members of Siaya Municipality Board which was laid in this House in the morning today 7th August, 2019.

Hon. Oyugi: I rise to give a notice of Motion:

THAT this House adopts the report of the County Assembly Procedure and Rules Committee on amendments to the Standing Orders laid on the Table of the House today Wednesday 7th August, 2019 at 9.30a.m.

Hon. Siguru: I wish to give a notice of Motion:

THAT this House adopts the report of Sectoral Committee on Finance, Trade, Labour and Cooperatives on the payment process and utilization of Projects Management Committees that is PMC funds laid on the Table of the House on Tuesday 6th August, 2019 at 2.30pm.

Hon. Siguru: Mr. Speaker, Sir, I wish to give a notice of Motion:

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THAT the House adopts the report on Powers and Privileges Committee on the Conduct of Hon. Joseph Mboha, on the 16th of July, 2019.

MOTION

REPORT ON VETTING OF MEMBERS OF THE MUNICIPALITY BOARD

Hon. Otare: Mr. Speaker, I think every Member has a copy of this report and I will not wish to take a lot of time on it. I will request Members to move to page 5. Pursuant to the provisions of Standing Order No. 43, the Speaker of the County Assembly issued a Communication on Wednesday, 24th July, 2019 for vetting of the following seven (7) nominees for the positions of Members of the Municipality Board.

I think the nominees are listed there. The names were subsequently committed to the select Committee on Lands, Physical Planning, Surveying and Housing for approval. The Committee undertook the exercise on Friday, 26th July 2019, in compliance with the Constitution, Urban Areas and Cities (Amendment) Act, Public Appointments Act, 2011 and the Siaya County Assembly Standing Orders.

I take this opportunity to thank all members of the committee for their dedication to duty. I also thank the offices of the Speaker and the Deputy Clerk of the County Assembly for according the Committee the necessary logistical support during the vetting exercise. Further, the committee wishes to thank all the stakeholders who participated in the approval hearings.

On behalf of the Members of the Committee on Lands, Physical Planning, Surveying and Housing and pursuant to Section 9 (1) of the Public Appointments (County Assembly Approval) Act, it is my pleasure and duty to present to the House the Committee's Report on the Vetting of Nominees for positions of Membership to the Municipality Board for approval. I signed as the Chairman and my signature is there. Let us move to page 7 and I think the nominees are also listed there.

The Speaker subsequently issued a communication to the House on 23rd July, 2019 on receipt of the names from the Governor and committed them to the Select Committee on Lands, Physical Planning, Surveying and Housing for approval. The Committee immediately embarked on the approval exercise in accordance with the provisions of the Constitution, the public Appointments Act, 2011, the Urban Areas and Cities Act and the County Assembly Standing Orders.

On 26th July, 2019, the Committee, pursuant to section 6(2) of the Public Appointments (County Assemblies Approval) Act, No.5 of 2017 invited the Public to submit memoranda contesting the suitability of any of the nominees. On 26th July, 2019, the general public was notified of the appointments and the date of the approval hearing scheduled for Friday, 2nd August 2019 in the Assembly New Building, Boardroom 3 starting at 9.00 a.m.

The nominees were also required to submit clearances from the following agencies: the Ethics and Anti-Corruption Commission, the Kenya Revenue Authority, the Higher Education Loans Board, the Directorate of Criminal Investigations and the Credit References Bureaus.

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By close of the day on Thursday, 1st August 2019, the Clerk of the County Assembly had received only one memorandum contesting the suitability of one nominee by the name Mr. Bonface Onyango Obare. On page 10 is the functions and composition of the Board which all the Members are aware of. I would wish Members to move on page 11, the nomination process.

Nomination process

The procedure of nomination is provided for under Section 14(4) of the Urban Areas and Cities Act. The County Governor should, while appointing the members of the board, ensure gender equity, representation of persons with disability, youth and marginalized groups. The Governor is further required while considering the nominated members identified by the Organizations specified under subsection (2), require the Organizations to produce-

- a. Signed minutes as evidence of an accountable process of nomination ;
- b. Evidence of compliance with the Statutory obligations; and
- c. Vetting form to establish that the nominee has complied with the prescribed criteria for appointment as a member of the Board.

Having undertaken the nomination process, the Governor in his letter dated 18th July, 2019 submitted the names of the following seven (7) nominees to the Assembly for approval-

- a. Prof. Paul Wao Achola
- b. Dr. Michael Charles Were
- c. Ms. Grace Agola
- d. Caroline Achieng' Oduor
- e. Nancy Juma Otieno
- f. Boniface Onyango Obare
- g. Michael Francis Ochieng'

The Hon. Speaker, through a communication to the Honorable House on 24th July, 2019 during the morning sitting, informed the Hon. Members that he had received a communication from the Hon. Governor vide a letter ref. CGS/PSG/GVN/R16/VOL. 1 (58) (*attached*) on the nominees to the Siaya Municipality Board. The names were then submitted to the Sectoral Committee on Lands, Physical Planning, Surveying and Housing for consideration as outlined in the Standing Order number 43 (1).

If you allow, Members let's move to page 1. Qualifications for appointment to the Siaya Municipality Board. Section 14(6) of the Urban Areas and Cities (Amendment) Act stipulates the qualification of the 7 persons to be nominated to the Board. The Governor is required to nominate seven (7) persons each of them shall have the following qualifications:

- a) holds at least a diploma from an institution recognized in Kenya;
- b) has a distinguished career in a medium level management position in either the private or public sector;
- c) holds at least five years' post- qualification professional experience;
- d) satisfies the requirements of Chapter Six of the Constitution;
- e) is ordinarily a resident or has a permanent dwelling in the municipality; and

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- f) Carries on business in the municipality or has lived in the municipality for at least five years.

The County Governor is further required to take into consideration gender equity, representation of persons with disability, youth and marginalized groups.

Submission of Memoranda. By close of business on Thursday, 1st August, 2019 at 5:00 p.m., the Office of the Clerk had received one memorandum contesting the suitability of one nominee by the name Mr. Boniface Onyango Obare (*attached*).

Approval Hearings. The Committee conducted approval hearings for the nominees on Friday, 2nd August, 2019 and Monday, 5th August, 2019. In conducting the exercise, the Committee was guided by the Constitution 2010, the Public Appointments (County Assemblies Approval) Act no. 5 of 2017, the Urban Areas and Cities (Amendment) Act of 2019 and the Siaya County Assembly Standing Order. The Committee also considered the following in vetting the nominees:

- a) Academic qualifications;
- b) Employment record and work experience;
- c) Professional associations;
- d) Potential conflict of interest;
- e) Suitability to the position;
- f) Integrity; and
- g) Expectations and Key priorities

Prof. Paul Pius Wao Achola

The nominee is a Kenyan citizen aged 74 years, a retired career educationist from Karemo Division, East Alego location. He currently serves as a professor (on need basis) for the Maryknoll Institute of African Studies of St. Mary's University of Minnesota, USA.

He has served in the following capacities-

- i. Research Professor in Sociology and Education, the Catholic University of Eastern Africa, Kisumu Campus between August 1, 2012 to April, 2016,
- ii. Chairman of Taskforce appointed by Siaya County Governor to spearhead the establishment of a University in Siaya town from June, 2013 to date
- iii. Board member of National Crime Research Centre, Attorney General's Office, Republic of Kenya from 2005 to 2012

In regard to his current job status, the nominee is not engaged in any salaried employment. He holds a PHD from the University of Iowa, Two (2) Master of Arts degrees from the Universities of Nairobi and University of Iowa respectively and Bachelor of Arts degree from the University of Nairobi.

On how his educational and professional background had prepared him for the tasks as a member of the Board, the nominee informed the Committee that his work experience and past roles are proof of his suitability as a member of the Board.

The nominee informed the Committee that if considered for the position, he would embrace team work.

He would involve all his colleagues in the Board and all the relevant stakeholders including the area MCA when making decisions. His key priorities would be the planning of the town, the drainage systems of the Municipality, construction of parking bays and bus parks to enhance revenue collection of the Municipality.

Committee observations

- i. The nominee has chaired a taskforce appointed by the Governor to spearhead the establishment of a University within Siaya Town and this shows he advocates for development in Siaya County.
- ii. The nominee has a vast knowledge and wealth of experience in the public and private sector and this would be beneficial to the Municipality Board.

Dr. Michael Charles Were

The nominee is a 67 year old male from Karemo Division, Siaya Township Location, Mulaha Sub-Location. He holds a PHD in Education from Maseno University, Master of Arts degree in Education from Kenyatta University and Bachelor of Arts degree in Special Needs Education.

He further holds a Diploma in Special Needs Education from Kenya Institute of Special Education in Nairobi. The nominee was a teacher at Karapul Primary School for 15 (fifteen) years from 1974 to 1989 before being transferred to St. Oda School for the blind as an Assistant Teacher. He later became the District Programme Co-Coordinator in 1994 for Siaya for Visually impaired Pupils under the Integrated Programme.

The nominee became a lecturer from 2001 to 2004 at Highridge Teachers College, Nairobi. He later became an Assistant lecturer at Maseno University from 2004 where he later rose to the rank of Senior Lecturer in 2008, a position he serves till to date. The nominee has served as a Board member in the following schools over the years: Ng'iya Girls High School, Mulaha Mixed Secondary School, Holy Cross Secondary School, Ojuando Mixed Secondary school and Siaya Township Secondary School.

Response to Committee Questions

The nominee informed the Committee that he would embrace team work. He would involve all his colleagues in the Board and all the relevant stakeholders including representatives of the people when making decisions. The nominee informed us that his key priorities would be to achieve a 24 hour working economy through proper planning of the town, empower the youths and women and create a conducive working environment in the municipality to attract investors.

The nominee assured the Committee that all his actions would be guided by the Constitution of Kenya 2010 and any other relevant Acts and regulations. The nominee informed the Committee that his duties at Maseno University will not interfere with his work in the Board, if approved.

Ms. Grace Agola

The nominee is a 46 year old female from Boro Division, Alego Central Location. She is currently serving as a Branch Manager at Kenya Commercial Bank (KCB) in Siaya County. She

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has served at KCB from the year 2002 to date. She holds a Bachelor's Degree in Business Administration from the University of South Africa. She has also undertaken several professional courses in the course of duty.

Response to the Committee's Questions

The nominee informed the Committee that her extensive experience as a banker and various assignments in the County prepared her for the role as a member of the Board of the Siaya Municipality, if approved for appointment.

She has served in various capacities including serving as a Board member for Majango Secondary School. The Nominee has partnered with the County Government through a Policy in ensuring financial solution in payment of the older persons in the county. The nominee through her leadership helped SIBO, a Company of the County Government to digitize revenue collection.

Committee Observation

The Committee observed that –

- a) The nominee has a vast knowledge on matters finance and experience in private sector;
- b) The nominee through a Partnership Policy with the County Government has in her capacity as a KCB Branch Manager ensured that there's financial solution of paying the older persons of the County.
- c) The nominee demonstrated knowledge in finance and accounting and would therefore be beneficial to the Municipality as a member of the Board.

Ms. Caroline Achieng' Oduor

The nominee is a 38 year old female from Uranga Division, Alego West Location, Kodiere Sub-Location. She holds a Master of Arts degree in International Commercial Law from University of Salford, a Bachelor of Laws from University of Nairobi. She is an Advocate of the High Court of Kenya. The nominee is a member of the Audit Committee in Machakos County Government from September 2018.

She is also a Board member at FIDA Kenya from April 2018 to date. The nominee is the Chairperson of International Trade Experts Association from April 2014 to date. She was a Board member and Audit Committee Chairperson, Kenya Forest Research Institute.

The nominee is the Chairperson of Board of Management of Nyasita Mixed Secondary School and is also the Founder and Managing Trustee of ANAA Education Foundation. She also presented papers in various conferences.

Response to Committee Questions

The nominee informed us that her vast experience in corporate governance has prepared her for the position of a Board member of the Municipality. Her key priorities would be to improve the infrastructure of the municipality, land use and planning and to put in place an integrated development plan for the Municipality.

The nominee assured the committee that she would encourage dialogue, negotiations, embrace public participation. The nominee informed the Committee that she owns a parcel of

land within the municipality and also carries on business in the municipality through Yurana Company limited.

Ms. Nancy Juma Otieno

The nominee is a Kenyan citizen aged 34 years. She is a community health and development practitioner from Wagai division, South West Gem, married in Ugenya but stays in Awelo- Siaya Township Ward. She was nominated under Section 14 (2) (c) of the Urban Areas and Cities (Amendment) Act by an Organization called, Siaya Young Women Alliance.

She currently works as a project officer of KMET where she implements Smart Start Siaya project/ Nurturing Care activities in Siaya County. She has served in the following capacities:

- i. Community mobilizer with World Vision from November 2017 to December 2018
- ii. Director of Siaya Young Women Alliance since July 2016 to date
- iii. County Community Coordinator of Vihiga and Kakamega Counties with IPAS Africa Alliance from between January and June, 2016
- iv. Project officer of Malaika Foundation from April 2015 to December 2015
- v. Child Fund Country Youth Representative with CHILD FUND from September 2007 to October 2007

She holds a Diploma in Community Development from Jomo Kenyatta University of Science and Technology (JKUAT) and a NASCOP certificate in HIV Testing and Counseling and adherence.

Asked how her educational and professional background had prepared her for the task as member of the Board, the nominee cited her Competency in community development and that working with the youths has enabled her gain experience and even represent the youths in the Board if approved. She assured the Committee that she would use her experience to push the agenda and objectives of the Board forward.

She also informed the Committee that she had participated in the development of the Youth policy for the County Government of Siaya. She further proposed sensitization and need to build capacity of the local community on the role of the Municipality Board.

Committee findings and observations

- a. The Organization from which the nominee is nominated is a registered CBO with the Department of Social Services and is actively engaged in various activities in the County.
- b. The nominee satisfies the requirements of chapter six of the Constitution.
- c. The nominee has been cleared by the following agencies: Ethics and Anti-corruption Commission, Higher Education Loans Board; Directorate of Criminal Investigations, Kenya Revenue Authority and the Credit Reference Bureau.
- d. Having worked as a Community mobilizer, the nominee has potential to add value to the Board since the resolutions of the Board require public participation with various stakeholders before implementation.

Mr. Boniface Onyango Ochol Obare

The nominee is a 32 year old male from Boro Division, Obambo Sub-location, Alego South Central Location. He is currently a resident of Siaya town just opposite Karapul Primary School. He holds a Diploma in Accounting from Siaya Institute of Technology. He has also successfully undertaken CPA Part I section 1 and 2 and CPA Part II section 4.

The nominee is a Boda Boda operator within Siaya Town from 2012 to date. He was nominated by the Alego Usonga Boda Boda Operators Organization (Umbrella) which is a registered CBO by the Ministry of Labour and Social Protection.(see attached)

Response to Committee Questions

The nominee informed the committee that he had sworn an affidavit at Siaya Law Courts affirming that the names appearing in the National identity card and the one appearing in the academic certificates was one and the same person.

The nominee further informed the committee that him being a representative of the informal sector, he was very prepared to serve in the Board if approved since he has vast knowledge of the issues affecting the group he represents and how to approach them when it comes to consultations on matters affecting the Municipality.

The nominee pledged to advocate for change of mindset among the informal sectors on matters touching on development of the Municipality for efficient operations of the Municipality. On political ambitions, the nominee informed the committee that he contested for election as a member of County Assembly in Alego Central Ward and that his past political ambition would not interfere with his work as a Board member.

Committee Observations

- The Committee observed that his efforts to undertake a Diploma program successfully and other professional courses as a Boda Boda operator was an indication that the nominee is a change-maker and would like to be part of the change in Siaya Municipality.
- The nominee assured members that he would propose policies that would improve the lives of the residents of the Municipality.
- The nominee has been cleared by the following agencies: Ethics and Anti-Corruption Commission, Higher Education Loans Board, Directorate of Criminal Investigations, Kenya Revenue Authority and the Credit Reference Bureau.

Mr. Michael Francis Ochieng'

The nominee is a 39 year old male from Ukwala Division, Yenga Sub-Location. He resides in Siaya Township Ward at Kowiny Estate at Bondo Junction. The nominee obtained a Diploma in Accounting from Siaya Institute of Technology in the year 2005.

He worked with Top Trade Development Representative from 2009 to 2010 and later started his business in Siaya in January 2011 which is located opposite Huduma Centre Building and he is trading as , *Mikynet Investment*. The nominee is currently serving as the County Executive Officer at Kenya National Chamber of Commerce and Industry (KNCCI) Siaya County Chapter.

Response to Committee Questions

The nominee informed the Committee that he was passionate about changing the face of the town and the lives of the people through effective public participation on matters touching on development of the town. The nominee promised to work with the leaders and various stake holders to ensure the lives of the people in the Municipality is improved.

The nominee informed the committee that he is a businessman, upholds integrity and understands the Government agenda.

Committee Observations

- The committee observed that the nominee is qualified for appointment as a Board member owing to his experience in matters of enhancement of economic intelligence and market analysis in the County as the C.E.O of the Kenya National Chamber of Commerce and Industry Siaya Chapter.
- The nominee has been cleared by the following agencies: Ethics and Anti-Corruption Commission, Higher Education Loans Board, Directorate of Criminal Investigation, Kenya Revenue Authority and the Credit Reference Bureau.

Committee Recommendations

Having considered the suitability, capacity and integrity of the nominees and pursuant to the Constitution, the Urban Areas and Cities Act, Section 9 (2) of the Public Appointment (County Assemblies Approval) Act 2017 and Municipal Charter, the Committee hereby recommends that this Honorable House **APPROVES** the following nominees for appointment as members of the Siaya Municipality Board-

1. Prof. Charles Achola;
2. Dr. Michael Charles Were;
3. Ms. Grace Agola ;
4. Ms. Caroline Achieng Oduor;
5. Ms. Nancy Juma Otieno;
6. Mr. Michael Francis Ochieng’.

The Committee recommends that this Honorable House **DEFFERS** the approval of Mr. Boniface Onyango Obare for appointment to the Siaya Municipality Board pending investigations by the Committee on Lands on the issues raised in the Memorandum submitted by the Siaya Township Boda Boda Sacco which raised the following issues:

- a) That they are not aware of his level of education
- b) That he is not a resident of Siaya Township ward
- c) That he is not a member of the Township Sacco
- d) That the treasurer’s signature in the minutes submitted to the C.E.CM- Lands for his nomination was forged.
- e) That the Boda Boda members of Siaya Township ward were not consulted.

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I would just elaborate abit on the issue of the Municipal Board and I think the Members have gone through the Charter of the Municipal and we know the work and the functions of the members if approved.

Secondly, there is an issue of funding from the World Bank and according to the World Bank condition is that this Board must be in place before the Municipality of Siaya can start utilizing the money that they have given out to this Municipality. I think in the last financial year there was Kshs. 50m that is still lying in the bank because we have not approved the membership of the Board.

The last nominee, it is about the forgery of the signatures and that is why the Committee was requesting time if they can verify the issue of forged signature from the bodaboda association. I pray to the Members to approve the report.

AnHon. Member: Seconded

(Question proposed)

Hon. Adala: Thank you, Mr. Speaker. I rise to support this report by the Lands Committee and indeed it is a report that when I look at observations, it is something that we should really look into. It is a step in the right direction. I also want to applaud the appointing authority for including the youth in the board.

My attention had been drawn to nominee Nancy Juma, page 20 of 24. I want to confirm that what I have seen in her submissions really reflect who she is. This is a young woman who is so articulate and had done a lot in terms of community work in Siaya as a County.

I did not know that her name was listed here. In light of the work she has done which I can attest to being that she is somebody I have worked with, I can confirm that we will indeed have a very good representative.

I am moved to this Boniface Onyango Obare. His story is amazing because when you look at his way of life and he has managed to move from being a rider, he has been focused so that his life does not stop. He has advanced himself in terms of education to the extent that when requirements were laid then he really fits the bill.

This is a case study that can really help most of our young youths out there who in one way or another may have lost hope in terms of schooling because of fees and so many other reasons. It is my thinking and belief that just as the Chair of this Committee was once in that sector, is a symbol that wherever you find yourself it is not what you do there but what you want to achieve with life. I believe that when we have this person in this Board then he can be an inspiration to the rest of the young people.

As I finalize, I agree with the report that when we are requested to defer this man Boniface Onyango Obare, I want to agree with the Committee because the basic reason as to why the citizens are allowed to write petitions is to get their real side of the story.

I also want to urge the Committee that when you will be looking at this name we will also be very keen to ascertain whether this sacco that wrote this petition is actually registered or

it is just a section of youth who sat somewhere and then wrote a document. I don't think there is a place that says that it is just this sacco that can nominate somebody. Otherwise I beg to support.

Hon. Ochieng: I am on my feet to support the report. First I want to congratulate the Committee on Lands for having done a thorough work. Having looked at the qualifications of the nominees and their commitment on the report on what they are going to do for this great County of Siaya Municipality and having looked at the Siaya Municipality we have today whereby the transport sector is really wanting.

We have a town where the public transport vehicles are not parked at the stage, a sign that something is amiss. If at all, the Board Members on board will bring back sanity to the town then I support.

Secondly, when you see how businesses are being conducted in Siaya whereby you find a hardware shop next to a pharmacy or a hotel, which is not warranted. Therefore, if at all they were waiting for a Board to bring back the sanity then I think we are in the right track to pass these names as has been brought by the Committee.

On the case of Mr. Obare, there are some contradictions when you go to page 21; Mr. Obare talks of the nominee is a boda boda operator within Siaya town from 2012 till date. He was nominated by the Alego Usonga boda boda operators' organization while the Siaya Township Sacco opposes his nomination. There is a difference between Alego Usonga boda boda operators' organization umbrella and the Siaya Township Sacco that nominated this said person.

Therefore, I think the Committee would have also checked into this; who are these Alego Usonga boda boda operators who nominated the said person and the Siaya Township Sacco, and how are they related? So that we get a clear report because here it's like the report is contradicting whereby the people who nominated him are different from the people bringing the petition unless otherwise the person who was to be elected in this position had to come from Siaya Township Sacco.

Otherwise, as you are looking into the signatures kindly look into that because these are young Kenyans that we should not frustrate.

Hon. Speaker: Yes, Hon. Andericus. What is the point of Order?

Hon. Odongo: Thank you, Mr. Speaker. I stand on a point of Order to correct the Hon. Member who was on the floor and I just wanted to bring to his attention that Alego Usonga boda boda operators is the umbrella as mentioned and also the Committee recommended that they be given time for further investigations since time was not there, thank you.

Hon. Ochieng: Thank you, Mr. Speaker. I want to thank my senior Deputy Speaker that I am not opposing that Alego Usonga is the umbrella but questioning if it is anchored in the law that for him to be nominated he has to be a member of

Hon. Speaker: Yes, Hon. Olasi.

Hon. Olasi: Thank you, Mr. Speaker. I am amazed to hear my senior refer to Deputy Speaker as his senior. I feel lost in between the lines as to under which seniority is my senior referring to Deputy Speaker as his senior.

Hon. Speaker: We cannot tell, maybe he is his senior in rank....Order! Could be his senior in rank or business like agency for selling land, you cannot tell!

Yes, Hon. Willis proceed.

(Laughter)

Hon. Ochieng: Mr. Speaker, these people don't know that I am a Christian and also a padre while Andericus is a bishop so on that ground he is my senior in Christianity as well as in age. So when I refer to him as my senior you should not object.

Let me wind up by saying that this gentleman by the name Boniface Onyango Ochal's case should be looked into with a lot of sobriety so that such a young and industrious working man should not be denied an opportunity just because of jealousy or personal self-interest. I also think that when they question his academics it means that they believe that everyone operating boda boda is a class three drop out.

So this matter must be looked into properly, and I also want to echo Hon. Adala's words that I must also congratulate the appointee for having considered all the aspects by mixing the old, the experienced and even the young who my friend Hon. Adala represents in this House.

Hon. Speaker: Yes, Hon. Shirley.

Hon. Oyuago: Thank you, Mr. Speaker, Sir. I support this report. I happened to be a member of the vetting team as a friend of the Committee and I want to confirm to the House that the nominees who have been approved by the Committee are competent based on education background, experience and anything that they are required of to be part of this Municipal Board.

The two speakers, who have just sat down; Hon. Willis and Hon. Adala, have stressed on the nominee who has been deferred by the Committee; one Mr. Boniface Onyango, and there is something amazing about this young man when we were vetting him.

This young man briefed us on his education background and an interesting thing about him is that he went to a new secondary day school in which he was the pioneer student, a form four student. He sat his National examination while in that school and he managed to score a C+. One student in a day school managed to score a C+, just imagine that! That was amazing and is still amazing!

He was not satisfied with what he got based on what he wanted to become so he went to Barding Secondary and sat for National examination and scored B+, but due to his humble background he could not join University because he could only join through parallel entry which he could not afford. The nominee decided to go into boda boda industry, which we know is the group is assumed to have people who have poor education background.

The young man managed with the little that he collects to enroll at Siaya Technical Institute for a CPA course. We know what that course entails; it is purely accounts and it is

difficult, most of us just enroll for Business administration and Community development, which are simple courses while this young man went for CPA.

I did not feel so nice when the chair tabled the petition and when we went through the petition the first prayer of the team is that they didn't know his education background. So that is what clicks on their minds such that even they could not believe that one of them could have a diploma in CPA.

Another issue that was also raised was on membership, which I think the Committee rubbished and didn't take it seriously based on the documentation that was presented by the nominee. He even brought a letter from Social services, which certifies him as a member of boda boda group and so I think that was rubbished by the Committee.

Lastly, that the nominee forged or the people who sent the documents forged signature, those are things that can be handled at their level. Nevertheless, my prayer is that they solve this case and let Boniface be a member of this Municipal Board.

On Miss. Nancy Juma Otieno, when I was given time to talk by the chair Committee on Lands and given that we share almost everything she is one year older than me, she has two kids I have two kids, we share same professional background and I also started the way she has started as a community mobilizer. Based on her CV and profile she has done a lot to the community, it is all outlined here, I believe that with the Knowledge, and experience she has would make this Municipality move forward.

Professor Paul Achola was more than experienced and qualified. He had all the experience that is required to be a chair of Municipality and our humble prayer as representatives of the people is that this Municipality would move far and make Siaya a great County.

Hon. Speaker: Hon. Oriaro.

Hon. Oriaro: Thank you, Mr. Speaker, Sir. I want to appreciate the works by our able Committee on Lands for having helped us build up the Motion we are now handling. The one thing that I must say is that time is now and it is already too late that Siaya Municipality is high time it stood up and started walking so that it is not just known by its name in the present dispensation but its deeds for the good of everybody.

I am very happy that we had done our part as the House by coming up approving a Chatter and if we can be keen on why we had to approve the Chatter and heat generated thereof, then we should be up to task when we are discussing this matter because we are captured in the Hansard.

One of the reasons we had a Chatter was the issue of qualification. We can recall before that the Executive had gone ahead to choose their own to manage the Municipality that we brushed off.

Two is on the use of money from World Bank for urban development. It was being used in the past haphazardly. So too soon, we approve this, and we are going to approve and too soon we shall be able even to know how the Municipality has been. Maybe we did not know or we are not aware could be that they continue to use the funds without those structures.

We will now be able to audit the operations of the Municipality such that look; at the stretch from Bama Hospital towards White House Hotel, how business has been destroyed in the name of undertaking programmes which ought to be undertaken by the Municipality. See the floodwater mitigation.

The way it has been done is an eyesore, so with the Board in place, the duties pertaining to the wellbeing of a Municipality and we know the boundaries of Municipality. Partly my Ward is part of Municipality like Boro and even Usenge that we share. I believe that even though part of it is in my Ward, my people in those special areas within Municipality, their lives will change.

But above all it is only that like a judicial system you only handle a matter that is brought before you. If you did something and it is not properly brought before such a jurisdiction like ours, you do not talk about it. For instance, if it were to be brought to our attention and we kept quiet we will end up learning the entire names do not even meet the threshold.

I may talk about it and we know that the drainage works sewer line of this House was done and the Executive paid them illegally. Who was the contractor? The one Ogolla who is a resident of Boro, manager of KCB. The Assembly just learnt that the Executive paid them because then Assembly had no powers that is why we see dismantling of those sewer lines.

Therefore, before we start praising everybody to be part of this it is only that the public did not play their part and even some of us never played their part to unearth some of these things. If it were that way Ogolla from Boro would not be here even though she is a daughter of my aunt from Kamlag.

Even the professor, my friend prof. Wao Achola, we have been talking about the issue of University in Siaya and money has been spent even in the Obama thing, the annexation of Ondiek thing and even Odera Kango. There has not been value for money and he is preempting it here that he has been the chairman of the task force and we are yet to see a University.

So most of these names if we were to play our oversight role the public never aided us even some of us feel like it would be witch-hunting. Some of these peoples' CVs and historical credentials in terms of profession do not deserve to lead in Siaya.

However, on the issue of Boniface that is eliciting tension here I want to professionally address it because he is coming from my Ward and to be captured in the Hansard because it is like we are not sure. Let me take you through page 15 of 24, and all Members should have a look at it.

The Committee also considered the following in vetting the nominees:
We know the report by our able Committee says a petition came then go and look at it. It is timely; they have not said that that person has been given a red card. What is No. f? It is about integrity! Chapter six, the question would be how did the Governor or whoever arrived at such fellows because they had to do due diligence.

So if these men are saying they did not know more about it, well others might be dismissed but on the issue of integrity it is claimed that he used a signature and some people were signing in which one of those former colleagues realized that his signature was used against his knowledge. Isn't this about integrity? So such are what the Committee will unearth.

Let me conclude, no two...

Hon. Speaker: Hon. Andericus.

Hon. Odongo: Thank you. On a point of Order! What Hon. Oriaro is talking about is what has been addressed here and still being treated as an allegation and they are alleging that he forged a signature, which has not been confirmed and drives us to the point of investigation. Thank you.

Hon. Speaker: Hon. Shirley.

Hon. Oyuago: Thank you, Mr. Speaker, Sir. I am on a point of Order! On the matters raised by Hon. Oriaro; one of the requirements for you to be a member nominated by an association is that you bring the minutes of that association. The minutes brought by association that nominated Boniface, he was not the secretary who was in charge of taking the minutes and even pending the signatures. I want the Hon. Member to know that.

Hon. Speaker: Members, let me guide on that issue because if you go too far then we are going to disqualify that nominee. The Committee was supposed to give us approval names and rejection, and no one said we have to present the report by today. So we could have as well said that we are giving you up to next week or tomorrow if you are not ready, too bad!

There is room in that report to investigate and unearth issues around that nominee. That is the best that the Committee could do and the House should do. If we over dwell on it then we will lose the point.

To answer Hon. Willis; Hon. Willis even if yourself now in the course of the debate you suspected a matter of fraud you do not have to be a member of the association because that is criminal. Anybody can, need not be a member of the association that proposed the nominee. So why don't we focus on the issues, are we passing the people the Committee has approved for approval and allowing them room to do further investigations? It is that simple! I do not want our debate to go around individuals.

Yes, Hon. Oriaro proceed.

Hon. Oriaro: Thank you, Mr. Speaker, Sir. Let me conclude by saying that the names that are here be cleared. In the plenary, I did not go private to help the Committee know the truth like the very chatter we had approved on page 14 talks of *he is ordinarily a resident or has a permanent dwelling*. We approved that and that should be the yardstick the Committee had used.

Lastly, which also reflects what is in EF, *carries own business in the Municipality or has lived there*. In this report, a member has said that the person resides in the Municipality, he might not be having a business in the Municipality, and that absolves him if he resides there.

Therefore, he might not have documents to prove that he owns a single business permit in Siaya but he has lived in Siaya for at least 5 years and that is what I am talking about and that is the chatter we had approved. There is no witch hunting here. Let justice be done; the Committee will report to us.

Hon. Speaker: Hon. Winga.

Hon. Winga: Thank you, Mr. Speaker, Sir. I stand to commend the Lands Committee for the work they have done, and I support the report because of the gender part and also for the

youth and the aged. All the nominees they have mentioned here have met the considerations because of their pro academic and professional qualifications including their experience.

There is also, what we call Chapter Six in our Constitution and I think they have met all the conditions. There is also this issue of Mr. Obare but I think that is for the Committee. Otherwise, I support! Thank you.

Hon. Otiato: Thank you, Mr. Speaker, Sir. When we were starting this debate I was asking myself one question that the Chatter as it was and the kind of arrangement in our County structures, then this particular exercise was restricted to Township Ward and the chairman of this Committee is the MCA of Township Ward and in a way he has been here for quite sometime that he knows almost everybody. So if he has said the following as the chair who are we to question?

However, on the same point Hon. Oriaro has brought some different aspects that as much that we are in support there are a lot of questions surrounding this particular group.

One, when we are dealing with a person who is supposed to be the chair of this Municipality to run funds that are supposed to be brought by donors in terms of millions and yet he has been the pioneer head of Barrack Obama thing where Kshs.5 million accreditation fee was stolen.

If that amount could be stolen, then how much are we prepared to lose as a County and this is the same person we want to chair the Municipality while he has said in this particular pioneer institution we are having Kshs.19.3 million purchase of land which is lost, we are also having Kshs.3 million which is lost on the accreditation and we are now having another accreditation that is lost at JOOUST. So there is a lot of mix up and a lot of un-procedural issues.

Therefore, if we are to look at integrity matters on this purported to be chair then we are fixing ourselves, but if the Committee did not find any necessity to do something given that, the matter is restricted here.

The other thing, and the good thing is that Hon. Oriaro has read for us and we are reminded because I particularly decided not to look at the matter because I knew that we have Hon. Otare, my senior who is the chair of the Committee who has Siaya Township at heart and the will ensure that the right thing is done.

When we talk about the other issue concerning Ogolla, we know she comes from Boro but she is not a permanent resident and I do not know whether she is married at the township or not. If she is not doing any business then possibly she is an employee of KCB bank who might be transferred to Mombasa. I do not know how that will work out.

We now finalize by saying that there is a lady who has also been nominated by another organization; the legal and Justice Committee will now make a recommendation and say how you settled in this organization. Is it the only organization existing and if there is an umbrella, where is the umbrella?

The same applies to boda boda; are we talking about the umbrella boda boda association or one boda boda association? If it is one boda boda complaining against the other; you realize the other time when we were talking about the Siaya Umbrella association and the other members said that they are not part of this.

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I do urge that to avoid a lot of issues and mark you there is a cut line. I think even this particular candidate was very categorical that he was a political aspirant for a seat of MCA in Central Alego and that particular contest would not interfere with his work.

If he remains the only person being left in the whole list, then some people might misconstrue it. If all these other people have their own scandals and are able to be carried along and there are no further investigations. Is this person being targeted? Thank you and I support.

Hon. Odhiambo: Mr. Speaker, Sir; I also stand to support the Report of the Committee on Lands, Physical planning and Housing. As I stand here I want to say that during the process of interviewing these nominees; we had the privilege to have a senior person in this House and in this town who is the Chair of this Committee.

I want to say that the names that were brought came from different organizations and as well as nominees from the Governor of this County. One of the things we were to look into was the qualifications and I think they are listed down.

There are about 11 issues to be looked into; when we checked on their academic qualifications they all had that were required except for one nominee. There was an organization which came up with the issue of fake signatures of which I think the Committee has clarified how to go about it.

In the near future we are going to get the right thing; I want to add that Siaya town has been privileged to have the formation of the municipality due to the fact that it is a head quarter of a County but the population required for a town to be called a municipality has not been attained and therefore I want to say that the 50,000 population has not been attained but due to the fact that it is a head quarter that is one of the requirements which make it to be a municipality when all these processes shall have been finished.

If this is a requirement, then the Hon. Members of this House for purposes of collecting more revenue in this County so that the Siaya County Government gets more revenue from the National Government. It is right for us to pass this Report and ensure that the people vetted for the position of Board members are in place in good time.

This is in order so that the County Government of Siaya when we come for another Financial Year we will be happy to hear that the revenue collection has increased with a certain percentage. This will also ensure that the infrastructure in this town is improved.

Currently, you will still get bushes in the middle of town, some people are still doing farming within the town which is very wrong and I hope this is one of the things the Board members are going to look into. I would kindly request that the Hon. Members of this House support this Report and let us now give the nominees who are going to be the Members of the Board in the near future a chance to do their work.

Hon. Olasi: Hon. Speaker, Sir; allow me to support this Report. I happen to be a friend to this particular Committee during vetting and what I hear the Hon. Members putting across were the exact concerns of the Committee. One Prof. Charles; the issue of the proposed Obama University and the way they started to work with Maseno and how it changed to be JOOUST.

Hon. Members who were around would tell you how he brought it in until where it has

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reached given where they have come from. All the queries that Hon. Otiato was trying to put across were put to him and from his submissions the Committee was convinced that he can take Siaya to greater heights.

On Agola so many issues came up; including bursary that he could even challenge that she doesn't work for the County Government but she could convince them with what she has done to make the County Government work in a better way.

All that she has been doing with the County Government came in; she even came with a business permit showing that apart from KCB bank her family runs a business in town. How I wish this list had grade ranking; these Members were marvelous. The only two people that passed the interview when I wasn't in were Boniface Onyango and Ochola Obare.

I can see here the Committee is not dismissing the person; the Committee is saying this question that borders integrity can be sorted out but that one cannot stop us from passing the list because they have said it is this one and they just want to confirm. After verifying then there is nothing wrong if he passes that.

As a concern because I wasn't in; you would see that this guy was in a new school, did form four and got C plus; he managed to go back to Barding school and managed a B plus. With the B plus that is direct entry to the University.

Members are not dismissing the nominee but there is a query that there was a Petition which we cannot just take for granted. We give the Committee time to go and verify and come back to the House and if all goes well we will pass it. Thank you, I rest my case as I support.

Hon. Otare: Mr. Speaker, Sir; I will start by appreciating the Members for their healthy contributions towards the Report. I have two concerns. Anytime nominees are brought to this House we usually do the advert and when we have done the advert there is a provision that any person that may have a memorandum or a Petition should bring before the Committee. Therefore, I don't see any ill motive about it because this one will even give the public easy time and in case of anything they will be bringing Petitions concerning these nominees so that we can debate on them.

Mr. Speaker, Sir; the other one about Grace and Professor; I wish we had the Petition or memorandum concerning the things that they did wrong to this County. It's unfortunate that we didn't receive any memorandum and I think by next time even if you cannot bring a memorandum just convince some people and bring for you. We want things to be done rightly not that when we have just brought the Report is when you start saying other persons are being witch hunted.

The reason I was praying for this House to pass today's nominees because if you look at the Budget we have just passed recently you will find that there are monies that were put under development within the municipality and you will find that the bus park which maybe under the board, the parking bays.

I think once these people have passed then from anytime even in the supplementary Budget we may remove those monies so that they can be given to other Wards that need. By passing this Membership of the Board will be a plus to the people of Siaya, a plus to this House

because we have done a very wonderful job. We assure you that on the issue of land that we have deferred we shall provide the final Report so that you may know the reasons why those people brought a memorandum.

Hon. Speaker: The modern Speakers are not blind; next time people must dress properly because if Members don't cite it the Speaker will cite it.

(Question put and agreed to)

MOTION

PROGRESS REPORT ON THE PERIODIC RECRUITMENT AND REMUNERATION OF MARKET CLEANERS IN THE COUNTY

Hon. Siguru: Requested by Hon. Francis Otiato (MCA- Yimbo East) dated 10th April 2019 Statement sought response from the CECM – Enterprise and industrial Development on the periodic engagements of recruitment and remuneration of market cleaners in the County. Specific objectives of the statement included to seek responses on; Share with the House, a copy of the certified policy document guiding the entire processes and procedures of; recruitment and remuneration of the market cleaners in the County.

Give comprehensive explanations on the terms of engagement of the market cleaners including but not limited to the contract details of their engagement. In the absence of the policy referred to in (1) above, the CECM should give comprehensive guidelines on how the department intends to implement the recruitment, engagement and remuneration of market cleaners program in an equitable, transparent, consultative and inclusive manner within 14 days for consideration by the House.

The Committee reviewed what was given yesterday, I have a response; having studied the response of the Executive on the periodic engagements of recruitment and remuneration of market cleaners in the County the Committee took note as follows: That even after writing to the County Secretary on two occasions that is; 12th April and 10th July, 2019, the Department has failed to furnish the Committee with a certified copy of policy document guiding the recruitment of market cleaners for consideration by this honorable House.

The department gave an explanation on the terms of engagement of market cleaners that was not authentic having been signed by a stranger since it was against the spirit of Section no. 45 (b) of County Government Act 2012 on recruitment and engagement of Chief Officers.

The CECM failed to give a substantive response on comprehensive guidelines on how the department intends to implement the recruitment, engagement and remuneration of market cleaners program in an equitable, transparent, consultative and inclusive manner. This therefore confirms that the current recruitment and payments of engaged market cleaners is illegal.

In conclusion, from the foregoing discussions, the committee concludes that the Executive response on the subject statement request was not satisfactory and comprehensive with regards to the objectives of the statement.

The Committee therefore recommends that the CECM Enterprise and Industrial Development submits a detailed report on the Statement request by Hon. Francis Otiato within 30 days for consideration by the Committee failure to which an impeachment Motion shall be initiated against the officer for incompetence and negligence of duty, thank you very much.

Hon. Speaker: Who is seconding you because I want us to vote on that?

Hon. Odhiambo: Seconded.

Hon. Speaker: I propose the question which is that this House adopts the Report on the Committee on Finance, Trade, Industry, Labor and Cooperatives on the payment process and utilization of project management funds laid on the Table of this House yesterday, Tuesday 6th August, 2019.

Hon. Otiato: Thank you, Mr. Speaker, Sir; this matter having raised it the other day and having taken a lot of time for them to respond, I want to appreciate the good that has been urgently done by the Committee of Finance. It's funny that you had to push the surprise button and give a timeline of one day for them to deliver what we expected. I want to support the Motion seconded here and raised by the able Chair for Finance.

In the absence of any policy or legal document in relation to the process; we always say that any transparent exercise there must be a guideline and therefore in the event that there is no guideline then questions emanate. How do we get the money to pay; we have got a budget line and this is a show of a very serious gap.

We allocate money but then how is it spent? It is a serious gap and the spending of money from the Budget without the policy is an illegal process. Recruitment, payment of salaries or wages without a policy is illegal.

The Committee is a bit lenient not to say that we then need to move with speed and start recovering money from those CECMs or any other person who has been doing illegal transactions. Since we don't have a proper way of recruiting then we say they have been paying money to their cronies without that policy.

I support that within 30days as the Committee has said if they cannot regularize what's going on by giving us a proper policy to be adopted here then the whole exercise is illegal and after the 30days the CECM and the C.O. should actually be removed from office for doing illegal payments.

Hon. Speaker: Hon. Members I want to put the question---

Did you lay this yesterday or today? You seem to be confusing me; Chairman what were you responding to? There was this response you were supposed to be given by the Committee on Finance. That's what I gave you room to do; this other one you were supposed to do the time of Statements. Let me get the Standing Orders, you have misled the entire House. Chairman explain yourself, what have you been doing? You are on Motion no.10, isn't it?

Hon. Siguru: I got an indication from you that we skip parts of the Order Paper before we went into the Motion. When you mentioned my name I knew that you noticed that we had skipped an item in the Order Paper and therefore I was going back to the Statements.

Hon. Speaker: Let's correct the mess; can you answer a Statement under the Order 7 then we now consider your earlier submissions as answers and consider Hon. Otiato's comments as response. Will you move that Motion?

Hon. Siguru: The Report on the Sectoral Committee on Finance, Trade, Labor and Cooperatives on the payment processes and utilization of project management committee funds.

Mr. Speaker, Sir; the Finance, Trade, Labor and Cooperatives Committee having gotten a Report from the Executive on the utilization of project management funds had a Report which Members already have with them and in the interest of time I would not really want to go deep in the Report. It is a voluminous Report which probably may mean that I touch on most parts of it.

Hon. Speaker: The Statement or the Report was read yesterday; what we now wanted was the Committee's reaction to it because as was presented we did not consider it addressing the issues read in the Statement. The confusion is from the secretariat; there were supposed to be two Motions because that Statement you heard yesterday I asked you to bring a Report to it but not by way of reacting to a Statement but by way of resolution of the House.

When you resolve that within a given period of time, action like initiation of an impeachment process happens if it by way of resolution of the House and that is the position of the House. We were right to consider this as a Motion; you had two Motions that is another one. Are we prepared for it? Try to be fast because we have to finish everything.

Hon. Siguru: Considering that at least this is a position that this Hon. House has waited for quite a long time I will try to be very fast.

Hon. Olasi: Thank you, Mr. Speaker, Sir; I happen to be a Member of this Committee and the Report that you want to discuss was laid yesterday and most of the Members have not gone through this Report. The copies have just been given today and this Report is very voluminous and contains a lot of interrogation. How I wish we could postpone the discussion on this Report since we have another urgent one from the Committee on Legal and Justice.

(Applause)

This Report as it is can take people home including me tomorrow.

Hon. Speaker: Chairman Finance what is your take?

Hon. Siguru: Mr. Speaker, Sir; Concerned and getting concerns from other Hon. Members who are supposed to be the consumers of the Report and are supposed to be making reasonable contributions and prudent judgment on the Report then it is prudent that we discuss the Report tomorrow.

Hon. Otiato: Mr. Speaker, Sir; I know we have not moved the Motion to completion so warranting even us to discuss it. How I wish this was a Report that we would not discuss it in the next 5 minutes because there is nothing here. It ought to have gone home as earlier as yesterday. Only needed to have poked a hole on it so that they go and do serious work.

Hon. Abigael: Mr. Speaker, Sir; I beg to move a Motion:

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THAT this House adopts the Report on the County Assembly procedure and rules Committee on amendments to the Standing Orders laid on the Table of the House today, 7th August, 2019 at 9.30 a.m.

Hon. Members, I will go straight to the Report; I hope you all have copies of the Report. We know the composition of the Membership, the mandate, the Committee meetings. Proposed amendments to the Standing Order; section 14 of the County Government's Act 2012 stipulates that;

a County Assembly might make Standing Orders consistent with the Constitution and the Act to regulate the procedure of the County Assembly including inter earlier orders for proper conduct of proceedings. In addition, the County Assembly Standing Orders contemplate that amendments to the Standing Orders maybe initiated as follows; Standing Order 236, proposals for amendments where the County Assembly procedure and rules Committee states; *the County Assembly procedure and rules Committee may at any time propose amendments to these orders which the Committee is doing now.*

Standing Order 237; amendment on the initiative of a Member; *a Member may with the support of at least two other Members request the County Assembly procedure and rules Committee to consider an amendment to the Standing Orders.* Standing Order 238; periodic review of Standing Orders; provides that *at least once in every term of the County Assembly not later than 6months to the end of the term the County Assembly Procedure and Rules Committee shall review the Standing Orders and make a report to the County Assembly recommending the Standing Orders, if any to be amended.*

The Procedure and Rules Committee of the second Assembly having noted the foregoing, having resolved to make urgent amendments as per the Standing Order number 236 pending a full review of the Standing Orders as required by Standing Order 238.

This Report therefore deals with urgent amendments to the Standing Orders under Standing Order number 236.

The County Assembly Procedure and Rules Committee has considered these amendments and do recommend that the County Assembly adopts this report to enable necessary and urgent amendments to the Standing Orders to be carried out.

PROPOSED AMENDMENTS TO THE COUNTY ASSEMBLY OF SIAYA STANDING ORDERS

(i) That Standing Order 162 be amended by adding Order 162 (5) to read;
Committee on Selection. 162

The Committee on Selection constituted by the House immediately following the General Election shall serve on sessional basis.

(ii) That the Standing Order 196 County Public Accounts and Investment Committee be deleted and two separate Committees that is Public Accounts and Public Investment be created in its place thus;

Public Accounts Committee

196

1. There shall be a Select Committee to be designated the Public Accounts Committee
2. The Public Accounts Committee shall be responsible for the examination of the accounts showing the appropriations of the sum voted by the County Assembly to meet the public expenditure and such other accounts laid before the House as the Committee may see fit.
3. The Public Accounts Committee constituted immediately following a General Election shall serve for a period of three calendar years and that constituted thereafter shall serve for the remainder of the Assembly term.
4. The Public Accounts Committee shall elect a Chairperson and a Vice Chairperson from amongst its members.
5. In the Membership of the Public Accounts Committee, parties other than the majority party forming the County Government shall have a majority of one.

Public Investments Committee

196A

1. There shall be a Select Committee to be designated to the Public Investments Committee.
2. The Public Investments Committee shall be responsible for the examination of the working of the County Public investments on the basis of their audited reports and accounts.
3. The Public Investments Committee constituted immediately following a General Election shall serve for a period of three calendar years and that constituted thereafter shall serve for the remainder of the Assembly term.
4. The Public Investments Committee shall elect a Chairperson and a Vice Chairperson from amongst its Members.
5. The functions of the Public Investments Committee shall be to:
 - a) Examine the reports and accounts of the County Public Investments.
 - b) Examine the reports if any of the Auditor General on the Public Investments, and
 - c) Examine in the context of autonomy and efficiency of the public investments whether the affairs of the public investments are being managed in accordance with the sound financial or business principles and prudent commercial practices.

6. Despite paragraph (5), the Public Investments Committee shall not examine any of the following;
 - a. Matters of major County Policy as distinct from business or commercial functions of the public investments
 - b. Matters of day-to –day administration and
 - c. Matters for the consideration of which machinery is established by any special statute under which a particular public investment has been established.

iii) That Standing Order 199A Committee on Privileges be amended by adding Order 199A (7) as follows;

Committee on Powers and Privileges

199A

1. Pursuant to Section 15 of the County Assemblies Powers and Privileges Act 2017, there shall be a Standing Committee known as the Committee of Powers and Privileges consisting of;
 - i) The Speaker who shall be the Chairperson
 - ii) Eight other Members
2. The quorum of the Committee shall be a third of the Members of the Committee
3. The functions of the Committee shall be to;
 - a.) inquire into the conduct of a member whose conduct is considered to constitute a breach of privilege pursuant to section 16 of the County Assemblies Powers and Privileges Act, 2017 and
 - b.) perform such other functions as may be specified in the County Assemblies Powers and Privileges Act 2017
4. The Committee shall on its own Motion or as a result of a complaint made by any person inquire into the conduct of a Member whose conduct is alleged to constitute a breach of privilege in terms of section 16 of the County Assemblies Powers and Privileges Act 2017 within fourteen days of receipt of a complaint.
5. The Committee shall within 14 days of the conclusion of an inquiry, table its findings in the Assembly together with such recommendations as it considers appropriate.
6. The County Assembly shall in accordance with the Standing Orders consider the report and may take such action against the Members concerned as may be appropriate
7. The Committee of powers and Privileges constituted by the House immediately following the General Election shall serve on a sessional basis

iv). That Standing Order 112 Gross disorderly conduct be amended to read as follows.

Gross disorderly Conduct

112)

1. A Member commits an act of gross disorderly conduct if the Member

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- a. Defies a ruling or direction of the Speaker or Chairperson of a Committee
 - b. Declines to explain or retract use of un-parliamentary words or declines to offer apologies despite having been ordered to do so by the Speaker or Chairperson of the Committee.
 - c. Demonstrates or makes disruptive utterances against the suspension or any other disciplinary action against a Member
 - d. Attempts to or causes disorder of whatever nature during an address by visiting dignitary
 - e. Threatens or uses violence against a Member or other person in the House or Committee.
 - f. Attempts to or disrupts the Speaker's procession when the Procession is entering or leaving the Chamber.
 - g. Attempts or removes the mace from its place in the Chamber
 - h. Act in any other way to the serious detriment of the dignity or the orderly procedure of the House or
 - i. Commits any other breach of these Standing Orders that in the opinion of the Speaker constitutes gross disorderly conduct
 - j. Creates actual disorder
 - k. Knowingly raises a false point of order
 - l. Persists in making serious allegations against a member of staff of the Assembly without, in the Speaker's opinion adequate substantiation
 - m. Otherwise abuses his/her privileges
 - n. Deliberately gives false information to the House
 - o. Votes more than once in breach of these Standing Orders
 - p. Commits any serious breach of the provisions of the constitution of Kenya 2010, Public officers Ethics Act, 2003, Leadership and Integrity Act 2012, County Assembly Powers and Privileges Act 2017, The Siaya County Assembly Specific Leadership and Integrity Code of Conduct of those Standing Orders whether within or without the precincts of the County Assembly
2. In the Standing Order, the 'un-parliamentary language' means the use of words which in the opinion of the person presiding are deemed to be impolite, rude, abusive, or inconsistent with parliamentary procedure or practice.
 3. The Speaker may call a Member whose conduct is grossly disorderly to order, and shall order the Member to withdraw immediately from the precincts of the Assembly
 4. When a Member is in breach of the cited provisions, the Speaker shall refer the matter to the Powers and Privileges Committee.
 5. A member facing disciplinary process shall stand suspended from all Committee Membership until the matter is concluded. Upon conclusion of the matter, the party leadership shall appoint the said Member as per the provisions of the Standing Orders.

6. In the absence of the Committee Party Leadership shall nominate to serve in the Committee

Recommendation

The Committee moves that the County Assembly does adopt this report as soon as practicable.

Mr. Speaker we have always witnessed in this House where we have to keep on reminding Members that we have to go for induction and check on our modes of conducts how we carry ourselves in the Assembly. This time round I think we are making it easy for Members. That if you misbehave, you run to the courts, you are guided by the Standing Orders first, you carry that to the Courts and you will be guided by the same. I do hereby request Hon. Andericus to second.

(Hon. Odongo seconded.)

(Question proposed)

(Question put and agreed to.)

Hon. Speaker: Next Order!

(The Temporary Speaker (Hon. Madialo) in the Chair)

Hon. Siguru: Mr. Speaker Sir, I am on my feet to move a Motion:

THAT this House adopts the report of the Committee on Powers and Privileges on the report on the gross disorderly conduct of Hon. Joseph Mboha within the Precincts of the Assembly on the 16th July, 2019.

Article 75 (i) of the Constitution of Kenya, 2010 states that a State officer shall behave, whether in public and official life, in private life, or in association with other persons, in a manner that avoids—

(c) Demeaning the office the officer holds.

Section 34 of the Leadership and Integrity Act, 2012 on bullying says 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.

Furthermore, section 35 on acting through others the Leadership and Integrity Act, 2012 states that a State officer contravenes the Code if the officer—

(a) Causes anything to be done through another person that would constitute a contravention of the Code if done by the State officer; or

(b) Allows or directs a person under their supervision or control to do anything that is in contravention of the Code.

(2) Subsection (1)(b) shall not apply where anything is done without the State

Officer's knowledge or consent or if the State officer has taken reasonable steps

to prevent it.

(3) A State officer who acts under an unlawful direction shall be responsible for his or her action.

The Constitution mandated parliament to enact other legislations for better implementation of some of its Chapters and that led the National Assembly in passing the Leadership and integrity Act, 2012 and the County Governments Act, 2012 amongst others. The Leadership and Integrity Act, 2012 provides the Leadership and Integrity Code signed by all state officers upon assumption of duty. In this regard, the County Assembly of Siaya has its own Specific Leadership and Integrity Code.

The current Committee of Powers and Privileges is the first to operate and decide matters power, privilege and immunities of members and the House under the new law. Besides the responsibility on powers, privilege and immunity of members, the Committee is also responsible for matters relating to the absence of members from proceedings of the House, the registration of members' interest and the enforcement of the codes of conduct that apply to members under the various statutes.

The Chairperson of the Committee takes this opportunity to thank the Committee membership for their immense dedication and contribution to the inquiry that culminated into this report. The Committee wishes to thank the office of the Hon. Speaker, the Office of the Assembly Clerk and the petitioners for the requisite support and cooperation extended to it in the execution of its mandate.

The next page is the committee Membership which I don't have to go through.

The Temporary Speaker (Hon. Madialo): Hon. Siguru, what Mheshimiwa Shirly is saying, that on account of time, go to the conclusion and the recommendations. All the Members in this House understand English and can read, so just go to the conclusion. Hon. Otare, the one I have is signed. What does your page, 12 of 13 read as the first recommendation?

Hon. Ochola: Thank you, Mr. Speaker. Just as you are perusing the document, you realize we have two documents. One has page 13 of 13, which has recommendation 5, 6 and 7 and that is the one which is signed, and the one which is un signed has 12 of 12, so that some of us got 3 extra and some don't have. Probably I can give you the other one which has 13 of 13 for your comparison.

The Temporary Speaker (Hon. Madialo): Mheshimiwa Ochola I have seen where the problem is. Mheshimiwa Siguru, have you noted the problem? We have one document which ends with, 'they are hereby barred from accessing the Assembly precincts until the police case is heard and determined.' Then we have another one that ends with 'Hon. Joseph Mboha to be further suspended.' Hon. Otiato?

Hon. Otiato: Thank you, Mr. Speaker. You realize that we are actually supposed to look at these particular recommendations, and this is a report that is being tabled for us to discuss, and upto now that we are here we are still deliberating on which document is which and again going by time, if it's possible for us to get a special sitting tomorrow because by the time we finish here it will be 9.00 p.m.

Hon. Odongo: Thank You, Mr. Speaker. I would urge you to give guidance to this House. This is a Motion brought by Committee of Powers and Privileges and it is a Motion that was supposed to be debated this afternoon. I wonder why some Members are trying to dilly dally with this Motion which is very important. We have been called to appear before the EACC because of this very Motion that is before us.

The Temporary Speaker (Hon. Madialo): Yes, Hon. Otiato.

Hon. Otiato: Thank You, Mr. Speaker. I Hon. Francis Otiato, MCA Yimbo East and the Chair of Justice and Legal Affairs, my only concern was about the timing; that we are approaching the end of this particular time. We also have the procedural issues that must always be done.

We request that if we have to finish up this, then we request you from your records, extend this time to 7.00 p.m., but first confirm that each person is having the right document, you know how thorny this issue is.

Hon. Odongo: Thank You, Mr. Speaker. Following the records of Hon. Otiato, we are aware of our Standing Orders, we know our time for the afternoon session. I would request that we move a Motion for the extension of time for us to discuss this Motion and ask Hon. Siguru to second.

The Temporary Speaker (Hon. Madialo): Members, our Standing Order number 27 prescribes our sitting time, period, to run up to 6.30 p.m. It is not yet 6.30 p.m. so we shall debate. Should there be necessity for an extension to move a Motion that we extend time, there shall be somebody to move that Motion. As of now, I further direct that we shall debate on the document that has been laid before the House and has been signed by Hon. Caren Ayika.

Hon. Siguru: Allow me to read the recommendations.

1. All media personalities to be accredited before being allowed entry into the Assembly precincts from the date of adoption of this report.

2. As for the staff of the County Executive who accompanied Hon. Joseph Mboha while storming the Assembly and creating disturbance;
 - i. The matter be reported to the Executive and the Kenya Police for further investigations and action.
 - ii. They are hereby barred from accessing the Assembly precincts until the police case is heard and determined.
3. The County Assembly Clerk to report the members of the public who accompanied the Hon. Mboha and participated in the creation of disturbance as well as the assault case alleged against Hon. Mboha to the Kenya Police.
4. The management of the County Assembly to reinforce security within the precincts of the Assembly to protect Hon. Members, staff and property.
5. The Committee on Powers and Privileges to deal with the matters whose discussion was stayed by Siaya High court as per the decision of the Court.
6. The powers and Privileges Committee, The Hon. Speaker, the House Rules Committee, to review with immediate effect, the Siaya County Assembly Specific Code of Conduct of members within the precincts of the Assembly with a view of instilling order and decorum.
7. The Hon. Joseph Mboha to be further suspended for 45 days upon the expiry of the initial 28 days.

The recommendations may be light or worse to some extent, but in all the due submissions, by the Hon. Member who made the effort to appear before the Committee, and apologized, requested for leniency, the Committee felt it was prudent that the weight of the matter and where the matter has placed the institution of this Assembly, The Committee had still to do a punitive measure to see to it that we don't have similar actions by other Hon. Members.

In finalizing my submission, I would request Hon. Oduor Odongo to second.

(Hon. Odongo seconded)

(Question proposed)

The Temporary Speaker: (Hon. Madialo): Mheshimiwa Olasi.

Hon. Olasi: Thank you, Mr. Speaker. I am a Member of this Committee and I support this Motion, not because I don't like my colleague, but given what has happened to us. I would say that personally I have never visited the offices of the EACC but when the joke extended too far we found ourselves here. From the start it was a joke but now it has extended too far to an extent that it has divided this House in one way or the other.

The Hon. Speaker went further to involve the Elders, me included to solve the matter amicably without extending the jokes. This recommendation number 7 adding him 45 days after finishing the 28 is very reasonable.

The Committee Members were divided. Some wanted 30 days, 1 month, others wanted it at 60, but we reasoned together given that this is our Member, and he was playing in a game which he is not good at, because in one way or another we have to accept that we are all

politicians, I believe this is favorable enough to make us all learn that next time we should not take jokes this far. Thank you.

The Temporary Speaker (Hon. Madialo): Yes, Hon. Nick Ochola.

Hon. Ochola: Mr. Speaker thank you for this opportunity. Not so much I can add into this, and having acknowledged the Powers and Privileges Committee, the information that they have given us. I only want to point at two things that probably the mover will answer.

I have looked at the submissions by the Hon. Mboha and in the submissions according to the Committee a very remorseful Honorable, having realized that in the past he must have done some stupid mistakes, excuse my language that may not be parliamentary but the mistakes were stupid anyway.

This is a remorseful Member according to the Committee and the Member requested and appealed to the Committee to help him find a solution to the stalemate but because this was the wisdom of the committee, a committee which was sat by twelve able honorable Members who give us information about a remorseful member but on the other end were motivated by some other factors not to consider the remorse from the member but to consider the punitive actions, I may not differ much

I find that two not matching, notwithstanding, Mr Speaker, in reply probably I will be persuaded the motivation of the extra 45 days that have been given to this Member you know every other thing there must be a motivation that the committee went through.

And lastly, Mr. Speaker, just to...

Hon Olasi: Mr. Speaker. When our member says that Hon. Mboha looks remorseful and he fails to understand what motivated the member to be accorded 45 extra days. How I wish the Hon. Member would tell us if he knows exactly what is stated either in our standing orders or in the Constitution for the kind of punishments if a matter of staying away up to the maximum that a member that did what Hon. Mboha did should take.

I believe honorable speaker if am not lying to the House, I think the Standing Orders allow the House if not the committee to take this up to 90 and the believers am saying because the Member was remorseful...

Hon Speaker: Order, Order, Hon, Members. Whether or not Hon. Ochola is rightful boundaries will be answered by the mover if he needs to.

Secondly, Hon. Ochola be advised that there is no Motion to amend the recommendations of the committee so that whether we debate on whether there was motivation or not, there is no result of that debate. In fact, we are here to debate on whether to adopt the report or reject it.

Hon Olasi: but repeats himself of the word motivation. Remember as we work always, for the members...

Hon Speaker: Hon. Olasi, do you feel you needed to expand on what you are saying?

Hon Olasi: Even 30 seconds is enough. Mr. Speaker, when a hon. member is referring to the work done by fellow hon. members and using the term motivated in a negative term, it is not reasonable and I believe it is demeaning to the Members of that particular committee.

Hon Ochola: Thank you for guiding the House. As far as I know, we are in a debate and we are debating a document here and even this came in yesterday when I was contributing to the debate. I am participating so that when I will be voting at the end of this ...

Hon Speaker: Hon. Member, proceed with your debate.

Hon Ochola:...habits, that any time that I put my debate, he wants to be the ...

Hon Speaker: Hon. Ochola, please just proceed.

Hon Ochola:No bad or ill motive impugned, what I only know is that when the mover will be coming in then we will say that actually we did good by giving 45 days and not 90 days because of ABCD.

It's as simple as that and we move on Mr. Speaker, sir and there after thanks for ruling nobody's asking for an amendment neither am I what we are only asking is that when we adopted we don't adopt then we also clear in our minds in terms of debating.

So I think when the mover will becoming in and I can assure you Mr. Speaker that this Motion is passing; anyway we are adopting it, but when the mover will becoming in certain points are made clear for the records.

Hon. Temporary Speaker(Hon.Madialo): Hon. Otare

Hon. Otare: I just want to appreciate the committee that has done this issue. And what I know is that everything that has a beginning must have an end. where we are now driving it is that we are going to an end of this issue that has taken too long to resolve.

I will just say that there are members in this House that maybe they were happy with what was happening like my friend, Hon. Ochola because this Motion should just be passed and we go home. Even if you look at what the committee has done they have not even given Hon.Mboha 45 days they know very well that we are going for one-month recess and I just appreciate the committee for what we have done, let us pass this report

Hon Ochola: I am in record and the Hon. Member will go back to Hansard that I have said that what the Member did actually I have even used a parliamentary language that what he did was not very good. So not in any way imputing that am supporting what he did, I think that is misrepresentation of my thoughts.

Hon. Temporary Speaker(Hon.Madialo): Members, take note that we are pressed with time and I have just given direction that we are debating whether to adopt the report or reject, let us not engage in semantics; the mover please.

Hon. Ochieng: Because of time I will not take more time on this. I just wanted to bring to the attention of this honorable House that we should obey the rules and orders and more so I want to also register here that in the last assembly this honorable assembly became position two in the entire country on how we were conducting our businesses and doing our oversight roles.

I think it was above the 45 other counties and that happened just because you are abiding by the laws of the rules that are governing this honorable house.

I want to say that rules are put in place so as to guide an institution and as hon. members as a young and youthful hon. member, I wouldn't want to appear as if the young MCAs or the youthful MCAs in this honorable house are against the law and don't abide by the law and as we

all know even the Israelites when they were moving to Canaan they were given 10 laws and that what made them reach their Canaan that they were heading to, Mr speaker.

On that note, I want to support this report and kindly commend the committee for having done a recommendable job and kindly call for the honorable members, please let us have some decorum within this House and outside this has been a speaker and for a matter of fact, it will say that this report maybe it has come because we are being called by the Ethics and Anti-corruption.

I wouldn't want it to appear as if this report has come to this house, because we are being summoned to the EACC. this hon. member did mess up himself and laws Mr. Speaker are being taken against him as per the laws.

And my concern when they move on will be replying the speaker there is recommendation number two that I don't get it very clear as for the staff of the county executive who accompanied Hon. Mboha while storming into the assembly and creating disturbance, their matter be reported to the executive and the Kenya police for further investigations and action.

Secondly, they are hereby barred from accessing the assembly precincts until the police case is heard and determined. I don't know. I mean, that point introduced as one staff and in the recommendation two it's stated they so I don't know whether the Hon. Member is also included in the case until this case will be handled or it is just the one staff that escorted him to this house. I wanted some clarity into that.

Hon. Temporary Speaker(Hon.Madialo): I wish to call upon the mover to reply

Hon. Siguru: and the Hon. members who debated on the report that we've tabled before you today and for point of clarity that I have heard hon. Ochoa we have provisions of a Standing Order backed by the Constitution of Kenya the maximum provision of suspension days within our standing orders for such a conduct is supposed to be 90 days.

We have a provision of a fine up to 500,000 shillings not more than 500,000 shillings. We have a provision for imprisonment or probably jail for a maximum of two years.

In the committee's wisdom, we felt that the easiest and the most lenient punishment for this one remember was 45 days and we really consider his submission and the point that he apologized and asked for leniency. to catch up with Hon. Ochieng on clarification that he wanted on recommendation number two the matter be reported to the executive and the Kenya police.

The matter to be reported to the executive is matters to do with staff of the executive that were part of this storming, that's why we are reporting the matter to the executive as the employers because they have the administrative responsibility to take disciplinary action to their staff who misbehave should not happen then the matter is also referred to the police and I tend to think that's the clarification I wanted to make.

In the second one that you said "they" we cannot really be able to establish whether it was one or two or three Executive staff members, we'll do further investigations and get to know whether it was one or two or three and that is what made the report as "they" because we believe we might have sighted one and there are possibilities that two or three might have gotten involved.

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And before we conclude I would only urge my colleagues that we need to really put sanity in our House, this sanity is what is going to protect me protect you and any other member.

Should we just handle such matters lightly as other members may think then we'll really encourage some of these disorders which really make this house not become a honorable house in any way. And by that I urge hon. members to adopt this report such that we help this institution grow in dignity and protect its name.

(Question put and agreed to)

MOTION

ADJOURNMENT

Hon. Temporary Speaker(Hon.Madialo):Hon members there being no other business would you be upstanding for adjournment.

There being no other business this House adjourns till tomorrow in the afternoon at 2:30 in the chamber.

The House rose at 5:15p.m.