

Thursday 8th June, 2023 COUNTY ASSEMBLY OF SIAYA DEBATES

REPUBLIC OF KENYA

COUNTY ASSEMBLY OF SIAYA

THE HANSARD

Thursday 8th June, 2023

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

PRAYER

COMMUNICATION FROM THE CHAIR

PROCEDURE ON THE REMOVAL FROM OFFICE OF DEPUTY GOVERNOR BY IMPEACHMENT

The Speaker (Hon. Okode): You will recall that on Monday 29th May, 2023, during a Special Sitting, The County Assembly of Siaya adopted a Motion sponsored by Hon. Gordon Onguuru, MCA, East Asembo Ward, which was supported by thirty – eight (38) members, seeking to remove from Office the Deputy Governor – Mr. William Oduol, by impeachment.

The Motion was in line with Article 181 of the Constitution of Kenya, 2010, Section 33 (1) and (9A) of the County Governments Act, 2012, and Standing Order 71 and 72 of the County Assembly Standing Orders.

In line with the provisions of Standing Order 71 (7), the County Assembly appointed a Special Committee comprising of fourteen (14) of its members to investigate into the allegations made in the Motion, and report within ten (10) days, on whether it finds the particulars of the allegations to have been substantiated.

The Members of the Committee included: Hon. Francis Otiato, MCA, Hon. Oliver Arika, MCA, Hon. Andrew Omwende, MCA, Hon. Fredrick Omoro, MCA, Hon. Bernard Adala, MCA;, Hon. Cynthia Akinyi, MCA, Hon. Seth Baraka, MCA;, Hon. Sylas Madingu, MCA, Hon. Eunice Achieng, MCA, Hon. John Apodo, MC, Hon. Dorothy Oinga, MCA, Hon. Justus Oguta, MCA, Hon. Julie Okello, MCA and last but not least Hon. Michael Otieno, MCA

Hon. Members, Standing Order 74 (1) (b) On the Right to be heard provides that: *Whenever the Constitution, any written law or one of these Standing Orders requires the House to hear a person on grounds of removal from office, or in such similar circumstances, the House shall hear the person – at the date and time to be determined by the Speaker; , for a duration of not more than two hours or such further time as the Speaker may, in each case, determine; and in such other manner and order as the Speaker shall, in each case, determine*

Standing Order 74 (2) further provides that: *The person being removed from office shall be availed with the Report of the Select Committee, together with any other evidence adduced and*

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Thursday 8th June, 2023 COUNTY ASSEMBLY OF SIAYA DEBATES

such notes or papers presented to the Committee before the day scheduled for his appearance before the Assembly.

The procedure that shall be adopted in processing this matter shall be as follows; The Chairperson of the Select Committee – Hon. Francis Otiato, will shortly lay on the Table of the House the Report of the Special Committee on the Removal from Office of the Deputy Governor - William Oduol, by impeachment.

Once it is laid, no action will be taken on the Report. The County Assembly Sitting will be suspended for five minutes in order to allow Members some time to go through the Report.

This is so because, at the point at which the Report will be laid, it is not yet known to the House, the procedure that shall be applied. In line with Standing Order 73 (5), the Conclusions and/or recommendations contained in the Report, will determine the procedure to be applied thereafter.

After you shall have had the opportunity of perusing the Report and establishing the findings of the Special Committee, the County Assembly will reconvene.

In the event that the Special Committee reports that any particulars of the allegations have been substantiated, a Motion will be listed for consideration in a Supplementary Order Paper, which once prepared, will be circulated when we resume the Sitting.

The Motion will be moved and seconded, after which, the Deputy Governor, will be accorded an opportunity to be heard by herself or his advocate.

Debate will then ensue in the usual manner and at the conclusion thereof, the House will proceed to vote.

In this regard, an invitation has been extended to the Deputy Governor, to be present at the County Assembly gallery during the consideration of this matter.

Hon Members, I wish to inform you that if the Deputy Governor chooses to exercise his right to appear and be heard by the County Assembly, he shall be heard in silence, here in the Chambers. The speech/defense of the Deputy Governor shall not be followed by any question or comment, and the Assembly shall, thereafter, immediately proceed to debate and vote on the allegation found to have been substantiated.

In the event that the Special Committee finds that the allegations against the Deputy Governor have not been substantiated, there shall be no further proceedings on this matter. I will give further guidance on how to proceed thereafter.

The House Stands guided.

(Hon. Otiato laid the Report on the Table of the House)

(House Sitting suspended for 5 minutes to allow Members time to peruse the Report)

(House Sitting resumed after the short break)

Thursday 8th June, 2023 COUNTY ASSEMBLY OF SIAYA DEBATES

The Speaker (Hon. Okode): Welcome back to the resumption of proceedings of this Sitting. I believe that you have had an opportunity to go through the Report of the Special Committee on the Removal from Office of Deputy Governor – William Oduol

As you may have noticed, the Committee has found the allegations on Gross violation of the Constitution or any other laws; Abuse of Office to be **substantiated**.

In particular, the committee found that;

CHARGE 1: GROSS VIOLATION OF THE CONSTITUTION AND OTHER LAWS

Interference with procurement process through acts of bid-rigging, the special committee, found the allegation was proved and therefore **substantiated**.

CHARGE 2. ABUSE OF OFFICE AND GROSS MISCONDUCT

Bulldozing officers to renovate the office of the Deputy Governor outside approved budgetary provisions, the committee found the allegation was proved and therefore **substantiated**.

On misuse of public resources, the special committee found the allegation was proved and therefore **substantiated**.

On bullying, the committee found the allegation was proved and therefore **substantiated**.

On misleading the public by giving false information, the special committee found the allegation was proved and therefore **substantiated**.

Consequently, Hon. Members, the procedure to be followed in this case is as I had prescribed earlier.

That being the case, a Supplementary Order Paper has been circulated. The Chairperson of the Select Committee – Hon. Francis Otiato will give Notice of Motion for the House to resolve that the Deputy Governor be Impeached. The House will proceed to debate and vote on the Motion.

The Vote on this Motion will be by way of Roll Call. The House stands guided!

Hon. Otiato: Mr. Speaker Sir, on 22nd May, 2023, the Honorable Gordon Onyango Onguuru, MCA, East Asembo Ward, gave a Notice of Motion seeking to remove the Deputy Governor – William Oduol, from Office, by Impeachment. In the Motion, the Honorable Member presented the following grounds upon which he sought the Removal of the Deputy Governor from office:

Gross violation of constitution and other laws

Interference With Procurement Process Through Acts Of Bid-Rigging

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

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

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Thursday 8th June, 2023 COUNTY ASSEMBLY OF SIAYA DEBATES

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

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

Abuse of office and gross misconduct

Bulldozing Officers To Renovate The Office Of The Deputy Governor Outside Approved Budgetary Provisions;

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

This was in contravention of Section 53(2) of the Public Procurement and Asset Disposal Act, 2015 states that,

*An accounting officer shall prepare an Annual procurement plan which is realistic in a format set out in the Regulations **within the approved Budget** prior to commencement of each Financial Year as part of the Annual Budget preparation process.*

Further, Section 53(3) of the same Act states that,

Any public officer who knowingly recommends to the accounting officer excessive procurement of items beyond a reasonable consumption of the procuring entity commits an offence under this Act.

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

Misuse Of Public Resources:

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

This was contrary to provisions of Section 46 of Anti-Corruption and Economic Crimes Act, 2003 (Rev 2016) which states that,

A person who uses his office to improperly confer a benefit on himself or anyone else is guilty of an offence.

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

BULLYING

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

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

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

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

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

A State officer shall not bully any person.

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

Misleading the public by giving false information

Moral and ethical requirements of any State Officer dictates that he or she must always accurately and honestly represent information to the public. Section 29 of Leadership and Integrity Act 2012 states that,

A State officer shall not knowingly give false or misleading information to any person.

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

Section 27(2) (f) of the same Act further states that,

A person commits an offence when the person willfully furnishes a county Assembly or a committee with information which is false or misleading or makes a statement before a county assembly or committee that is false or misleading.

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

The Deputy Governor misled the members of the Public that Funds allocated towards completion of the Siaya Stadium had been reallocated in the Supplementary Budget I for the FY

Thursday 8th June, 2023 COUNTY ASSEMBLY OF SIAYA DEBATES

2022/2023. However, it was confirmed that the allocation had been enhanced and not removed as the Deputy Governor claimed.

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

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

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

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

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

Mr. Speaker Sir, the Motion having been approved by the House; A Special Committee was appointed comprising of the following Members of the County Assembly:

Hon. Francis Otiato, MCA; _ Chairpersons, Hon. Dorothy Oinga, MCA; - Vice – Chairperson, Hon. Oliver Arika, MCA;, Hon. Andrew Omwende, MCA;, Hon. Fredrick Omoro, MCA;, Hon. Bernard Adala, MCA;, Hon. Cynthia Akinyi, MCA;, Hon. Seth Baraka, MCA;, Hon. Sylas Madingu, MCA;, Hon. Eunice Achieng, MCA.

Others were Hon. John Apodo, MCA;, Hon. Justus Oguta, MCA;, Hon. Julie Okello, MCA and lastly Hon. Michael Otieno, MCA.

The Terms and Reference of the Committee were to **investigate** the allegations raised in the Motion; and to **report to the County Assembly within ten (10) days** whether the allegations have been substantiated or not

Mr. Speaker Sir, it is now my pleasant duty and privilege, on behalf of the Special Committee, to present to the County Assembly, the Report of the Special Committee on Removal from Office of the Deputy Governor – William Oduol, by impeachment.

Background

On 22nd May, 2023, the Honorable Gordon Onyango Onguuru, MCA, East Asembo Ward, gave a Notice of Motion seeking to remove the Deputy Governor – William Oduol, from Office, by Impeachment. This was guided by the provisions of Article 181 of the Constitution of Kenya,

Thursday 8th June, 2023 COUNTY ASSEMBLY OF SIAYA DEBATES

2010, Section 33 (1) and (9A) of the County Governments Act, 2012, and Standing Order 71 and 72 of the County Assembly of Siaya Standing Orders.

In line with Standing Order 71 (3 - 6) read together with Standing Order 72, the procedure adopted in processing the Motion was as guided thus,

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

Upon the expiry of seven (7) days, after notice given, the Motion shall be placed on the Order Paper and shall be disposed of within three days;

Provided that if the House is not then sitting, the Speaker shall summon the Assembly to meet on and cause the Motion to be considered at that meeting after notice has been given.

When the Order for the Motion is read, the Speaker shall refuse to allow the Member to move the Motion, unless the Speaker is satisfied that the Member is supported by at least a third of all Members of the Assembly to move the Motion;

Provided that within the seven days' notice, the Clerk shall cause to be prepared and deposited in their office a list of all Members of the Assembly with an open space against each name for purposes of appending signatures, which list shall be entitled: Signatures In Support Of A Motion For Removal Of Deputy Governor By Impeachment; and further, that the Mover shall provide to the Speaker, at least one hour before the sitting of the Assembly, a list signed by Members in support of the Motion.

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

After the lapse of the Seven (7) days' notice period as stipulated in Standing Order 71 (3), and having determined that the Motion was supported by more than a third of members of the County Assembly (35 members); in line with Section 33 (1) and (9A) of the County Governments Act, 2012, and Standing Order 71 (5) of the County Assembly of Siaya Standing Orders; the Motion was placed on the Order Paper for debate during a Special Sitting of the County Assembly held on 29th May, 2023.

In the Motion, the Mover stipulated as follows:

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

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

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

HITHERTO The County Assembly of Siaya having been signaled by public utterances and allegations by the Deputy Governor to the effect that there were misgivings, elements of

Thursday 8th June, 2023 COUNTY ASSEMBLY OF SIAYA DEBATES

moribund leadership, misappropriation of public funds and biasness in budget allocations amongst other depositions;

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

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

FURTHER AWARE of the significance of provisions of Section 29 of Leadership and Integrity Act, 2012 which prohibits an officer from knowingly giving false information to any person; Section 30 of Leadership and Integrity Act, 2012, which prohibits a State officer from falsifying records or misrepresenting information and Section 27 (3)(g) of County Assemblies Powers and Privileges Act, 2017, which classifies, willful furnishing of a County Assembly or a committee with information which is false or misleading or making a statement before a County Assembly or committee that is false or misleading, as an offense;

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

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

Mr. Speaker Sir, This Assembly **RESOLVES** to impeach the Siaya County Deputy Governor, William Oduol under Section 33 of County Government Acts 2012, and Standing Orders 71 and 72 on the following grounds:

One, gross violation of constitution and other laws

Interference With Procurement Process Through Acts Of Bid-Rigging

The Deputy Governor, William Oduol, interfered with the procurement of contractors for various road projects in the County and that of Supply and Delivery of Certified Seed and Fertilizer contrary to provisions of Section 47(1) of Public Procurement and Asset Disposal Act, 2015 which states that,

A procurement function shall be handled by procurement professionals whose qualifications are recognized in Kenya.

The Deputy Governor coerced the Head of County Procurement Unit to give him raw evaluation report for the tender on Supply and Delivery of Certified Seeds and Fertilizer, together with unsigned professional opinion despite being advised on the dangers of exposing such

Thursday 8th June, 2023 COUNTY ASSEMBLY OF SIAYA DEBATES

documents for a procurement process which had not yet resulted in final selection and award of tender.

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

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

Two, abuse of office and gross misconduct

Bulldozing Officers To Renovate The Office Of The Deputy Governor Outside Approved Budgetary Provisions;

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

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

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

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

Misuse Of Public Resources

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

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

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

Third, bullying

In his effort to coerce the County Director of Supply Chain Management – Mr. Martin Okwata, to bend to his whims and change specifications in certain tenders, the Deputy Governor

Thursday 8th June, 2023 COUNTY ASSEMBLY OF SIAYA DEBATES

– William Oduol, threatened the director and promised him a harsh working environment in the coming future, apparently in reference to director’s adamancy to give him tender documents;

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

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

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

The Actions of the Deputy of threatening and persistently demanding information from officer who were not directly answerable to him was akin to the provisions of Section 34 of Leadership and Integrity Act 2012 states that; (1) A State officer shall not bully any person. (2) For purposes of subsection (1), “bullying” includes repeated offensive behavior which is vindictive, cruel, malicious or humiliating and is intended to undermine a person.

Misleading The Public By Giving False Information

Moral and ethical requirements of any State Officer dictates that he or she must always accurately and honestly represent information to the public.

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

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

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

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

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

The Deputy Governor misled members of the public and the House that there was discriminatory budgetary allocation to disadvantage residents of Alego Usonga Constituency; it

Thursday 8th June, 2023 COUNTY ASSEMBLY OF SIAYA DEBATES

was later confirmed that Alego Usonga was the highest beneficiary of Development Funding in the Supplementary Budget I for the FY 2022/2023.

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

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

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

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

The Motion, was approved by Thirty – Eight (38) Members of the County Assembly.

Establishment of the Special Committee

In a Supplementary Order Paper presented during the Special Sitting on 29th May, 2023, The Leader of the Majority Party moved a Motion for the establishment and appointment of a Special Committee comprising of a third of Members of the County Assembly, to investigate the issues raised in the Impeachment Motion.

The Motion as moved by the Leader of the Majority Party stated:

THAT, WHEREAS, pursuant to Article 181 of the Constitution of Kenya, 2010 and Section 33 of the County Governments Act, 2012 and Standing Orders 71 and 72 of the County Assembly of Siaya Standing Orders, on 29th May, 2023, the County Assembly approved a Motion to remove from office, by impeachment, the Deputy Governor Siaya County - William Oduol.

AND WHEREAS, pursuant to Section 33(9A) of the County Governments Act, 2012 and Standing Order 71(7), the Assembly by resolution, shall appoint a special committee comprising a third of its Members to investigate the matter;

NOW THEREFORE, pursuant to Section 33(9A) of the County Governments Act, 2012, and Standing Orders 71(7) and 72, the Assembly resolves to establish a Special Committee on the Removal of the Deputy Governor – William Oduol from office, comprising of the following Members: -

Hon. Francis Otiato, MCA; _ Chairpersons, Hon. Dorothy Oinga, MCA; - Vice – Chairperson, Hon. Oliver Arika, MCA;, Hon. Andrew Omwende, MCA;, Hon. Fredrick Omoro, MCA;, Hon. Bernard Adala, MCA;, Hon. Cynthia Akinyi, MCA;, Hon. Seth Baraka, MCA;, Hon. Syllas Madingu, MCA;, Hon. Eunice Achieng, MCA.

Thursday 8th June, 2023 COUNTY ASSEMBLY OF SIAYA DEBATES

Others were Hon. John Apodo, MCA;, Hon. Justus Oguta, MCA;, Hon. Julie Okello, MCA and lastly Hon. Michael Otieno, MCA.

The Special Committee shall investigate and report on all the grounds upon which the proposed Motion has been relied upon and pursuant to Standing Order 71(7), report to the Assembly, within ten (10) days of its appointment, on whether or not it finds the particulars of the allegations against the Deputy Governor to have been substantiated.

Following deliberations of the Motion, the County Assembly established a Special Committee Comprising of the above members. The Terms of Reference for the Special Committee were as derived from the Standing Orders establishing the Committee which were: To investigate the allegations raised in the Motion; and to Report to the County Assembly within ten (10) days whether the allegations have been substantiated or not

The Committee having been established on Monday, 29th May, 2023, the tenth day as stipulated in Standing Order 71(7) was to fall on Thursday 8th June 2023.

Method of Work

In investigating this matter, the Committee undertook the following activities;

During the first meeting of the Committee held on 29th May, 2023, the Clerk of the County Assembly conducted an election of the Chairperson and the Vice Chairperson. Hon. Francis Otiato and Hon. Dorothy Oinga were respectively elected unopposed as the Chairperson and Vice – Chairperson of the Committee.

The Committee reviewed the particulars of the Motion as was adopted by the House and identified relevant officers of the County Executive Departments who would make submissions before the committee on the matters raised in the Motion.

In this regard, the Committee resolved to invite the following officers whom it deemed relevant, to submit information on the allegations raised in the motion. Mr. Joseph Ogutu - The County Secretary, Mr. Benedict Omollo - The CEC Member for Finance and Economic Planning Dr. Edgar Ouko Otumba - The CEC Member for Education, Youth Affairs and Gender.

In addition, the Committee invited Mr. Agunda Ochanda - The CEC Member for Governance and Administration, Mr. Joseph Omondi - The Chief Officer Governance and Administration, Mr. Jack Odinga - The Ag. Chief Officer for Finance and Economic Planning, Mr. Martin Okwata - The Director for Supply Chain Management.

Others invited were, Mr. Damianus Omollo – Administrative Officer in the DG’s office, Mr. Jared Abayo – Director, Public Participation and Mr. Austine Otieno Ogola – Social Welfare Officer. The Committee further invited the officers to appear before it on 6th June 2023. (**See Annex 3** on letters inviting the officers).

The Committee took cognizance of the provisions of Article 196 of the Constitution of Kenya, 2010 which called for involvement of the public in the processes and activities of the County Assembly.

The Committee resolved that a notice for hearing be placed on a newspaper with nationwide circulation, the County Assembly website and all the official County Assembly social media

Thursday 8th June, 2023 COUNTY ASSEMBLY OF SIAYA DEBATES

platforms, calling for submission of memoranda, comments and information on the removal of Mr. William Oduol from the office of the Deputy Governor.

On 29th May, 2023, a notice for hearing was placed on the official County Assembly of Siaya Facebook page and the official County Assembly of Siaya Twitter handle. The notice also appeared on page 13 of the Daily Nation Newspaper and the County Assembly of Siaya website on 30th May, 2023. (See Annex 1).

Recognizing time frame accorded to the Committee by the Standing Orders, in processing this matter, the committee resolved that the Deputy Governor, witness and Members of the public to be given seven (7) days within which to make submissions on the matter before the committee.

The committee resolved to meet on 5th June 2023 to consider submissions from The Deputy Governor, relevant officers who would be invited to give information and evidence on the allegations on removal from office of the Deputy Governor and members of the public.

The Committee was scheduled to meet on 6th June 2023, to accord the Deputy Governor an opportunity to be heard on all the allegations raised against him, and an opportunity to cross examine persons testifying on the matter before matter before the Committee. A letter to this effect was delivered to the Deputy Governor (See Annex 2)

Submissions

In light of the request for written submissions extended to the Officers and the Deputy Governor, the following officers presented submissions and documents in line with the various allegations raised in the Motion.

On the allegation on interference with procurement process, the committee received and considered written submissions, documents and oral testimonies under oath from: Martin Okwata – The Director Supply Chain Management (written and oral submission) and William Oduol – Deputy Governor (written and oral submission)

On the allegation of renovation of the Office of the Deputy Governor, the committee received and considered documents presented, written and oral submissions under oath from Joseph Omondi – the Chief Officer – Governance and Administration (written and oral submissions), Jared Abayo – The Director Public Participation and previously the Ag. Chief Officer for Governance and Administration (oral submission), Joseph Ogutu – County Secretary (oral submission), Martion Okwatta – Director Supply Chain Management (written and oral submissions) and William Oduol – Deputy Governor (written and oral submissions)

On the allegation of Misuse of Public Resource, the Committee received and considered written and oral submissions under oath from Damianus Omollo – Administrator, Office of the Deputy Governor (oral submission) and William Oduol – Deputy Governor (oral and written submission)

On the allegation on bullying, the Committee considered documents, written submissions and oral submissions under oath from Martin Okwatta – Director Supply Chain Management (written and oral submissions), Jack Odinga – Ag. Chief Officer Finance and Economic Planning (written and oral submissions) and William Oduol – Deputy Governor (oral and written submissions).

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Thursday 8th June, 2023 COUNTY ASSEMBLY OF SIAYA DEBATES

On the allegation of misleading Members of the Public, the committee considered documents, written submissions and oral submissions made under oath, of the following persons: Joseph Ogutu – County Secretary (written and oral submissions), Austine Otieno Ogolla – Social welfare Officer (oral submission) and William Oduol – Deputy Governor (oral and written submissions)

Request for Documents and Information

In the course of the investigations, The Deputy Governor and the Committee made requests for various information. In the first letter dated 31st May, 2023, Ref: CGS/ODG/C.A/1/VOL.1 (30) (**See Annex 4**) the Deputy Governor requested for written statements of all witnesses whom the Special Committee intended to call and documentations and or evidences the witness would rely on, during hearing, to enable him adequately prepare for the cross examination.

To this end, the Committee through the Office of the County Assembly Clerk availed all the documents received by the Committee as at **2nd June 2023**. The documents and submissions from the officers were delivered to the Deputy Governor on 2nd June, 2023, vide a letter Ref: CAS/20/16 – 172. (**See Annex 5**)

On 2nd June, 2023 vide a letter Ref: CAS/20/16 – 173, (**See Annex 6**), the Committee through the Office of the County Assembly Clerk requested the County Executive to provide documents that would help in investigating the matter. The Committee requested that the documents and information be delivered by Monday, 5th June, 2023 at 9:00AM

In the Second letter dated 5th June 2023, Ref: CGS/ODG/C. A/1/VOL. 1 (31), (**See Annex 7**) the Deputy Governor acknowledged receipt of the letter from the County Assembly dated 2nd June, 2023 but noted that the statements which he had been supplied with were not signed by the officers who made them. He further noted in his letter that the submissions of the statements made reference to various documentary evidence which he had not been furnished with.

Consequently, on the same day of receipt of the Deputy Governor's letter, the Committee through the County Assembly Clerk, vide a letter dated 5th June 2023 Ref: CAS/ADM/82 -11 (**See Annex 8**) provided the Deputy Governor with signed copies of the submissions which had been earlier delivered to him; together with new documentary evidence which the Committee had received earlier that day in line with the letter dated 2nd June, 2023, Ref: CAS/20/16 – 173 (**See Annex 9**).

Hearing accorded to the Deputy Governor

On 6th June, 2023, the Committee convened a meeting in line with Standing Order 71 (8) read together with Standing Order 72, to accord the Deputy Governor an opportunity to be heard on the allegations raised in the Motion.

The Deputy Governor – William Oduol, appeared before the Committee in the company of his counsels – Paul Nyamodi, Patrick Barasa and Oduol Aluoch.

Thursday 8th June, 2023 COUNTY ASSEMBLY OF SIAYA DEBATES

Present at the meeting were officers who had submitted responses and documents before the Special Committee, together with other officers who the Committee intended to rely on their oral submissions. The officers included Mr. Joseph Ogutu - The County Secretary, Mr. Benedict Omollo - The CEC Member for Finance and Economic Planning, Dr. Edgar Ouko Otumba - The CEC Member for Education, Youth Affairs and Gender, Mr. Agunda Ochanda - The CEC Member for Governance and Administration, Mr. Joseph Omondi - The Chief Officer Governance and Administration, Mr. Jack Odinga - The Ag. Chief Officer for Finance and Economic Planning.

The rest of the officers were Mr. Martin Okwata - The Director for Supply Chain Management, Mr. Damianus Omollo – Administrative Officer in the DG’s office, Mr. Jared Abayo – Director, Public Participation and lastly Mr. Austine Ogola – Social Welfare Officer

Reading of allegations

At the hearing, the County Assembly Clerk read the allegations against the Deputy Governor verbatim as documented in the Motion for removal from office of the Deputy Governor sponsored by Hon. Gordon Onguuru.

Preliminary Issues

The Deputy Governor in his written defense supplied to the Committee on 5th June 2023, raised concerns touching on the process and procedure of removal from office of the Deputy Governor. His concerns centered around Validity, Procedure and Admissibility of the Motion on Removal from office of the Deputy Governor, Public Participation in the Process, Fair Hearing and Alternative Remedy

During the hearing, the Deputy Governor’s counsel, Paul Nyamodi, further raised concern on the procedure adopted by the Committee in line with the Standing Orders.

Resolution on the Preliminary Issues Raised

The Committee analyzed the submissions and evidence on the preliminary issues as raised by the defense of the Deputy Governor, and determined as follows:

On the Validity, Procedure and Admissibility of the Motion on his removal from office, the Deputy Governor averred that the Motion before the Special Committee was defective and invalid for purposes of founding the impeachment process and proceedings against him as it failed to meet Section 33(1) of the County Governments Act and Standing Order 61 as read together with Standing Order 62 of the County Assembly of Siaya Standing Orders.

In response, the committee noted that; the Mover of the Motion was within the boundaries of the law as stipulated in Article 181 of the Constitution of Kenya, 2010, Section 33 (1) and (9A) of the County Governments Act, 2012, and Standing Order 71 and 72 of the County Assembly of Siaya Standing Orders.

The Motion was sponsored by the Member and supported by more than one third of Members of the County Assembly who affirmed by their signatures that the particulars of the Motion were true to the best of their knowledge

The procedure for processing the Motion was in line with the law and the Standing Orders of the County Assembly.

Thursday 8th June, 2023 COUNTY ASSEMBLY OF SIAYA DEBATES

That the citations of the County Assembly Standing Orders referred to by the Deputy Governor were alien and foreign. Thus, the procedure as highlighted in his written submission was incorrect as per the Standing Orders of the County Assembly of Siaya

For instance, the Deputy Governor sought to be provided with the Report of the Special Committee prior to his appearance before the Committee. To this end, the Committee noted that as per the procedure lucidly outlined in the County Assembly Standing Orders, its Report shall be presented to the House on the 10th day after its constitution, which is 8th June, 2023. In essence the Deputy Governor jumped the gun in his submissions.

On the Matter of Public Participation, the Deputy Governor opined that the County Assembly failed to sufficiently involve members of the public in processing the Motion as it only placed an advertisement notice in one of the daily newspapers and failed to utilize any other various forms of communication such as social media and the website to reach different categories of audience.

He further asserted that the advertisement notice placed by the County Assembly calling on members of the public to submit their written memorandum and views was unreasonably short and that there was no urgency whatsoever to justify the period of time given.

In response, the Committee noted that:

The advertisement notice informing members of the public on the Motion for the removal of office of the Deputy Governor – William Oduol appeared on page 13 of the Daily Nation Newspaper on Tuesday, 30th May, 2023.

The advertisement called on members of the public and relevant stakeholders to submit comments, information and memoranda in relation to the matter.

The advert gave members of the public seven days to present such information.

Considering that the legally defined timeframe for the Special Committee to execute the matter is 10 days after its constitution, it is the considered view of the committee that the seven days' notice was sufficient.

The County Assembly further placed the advertisement on its Website (www.siyaassembly.go.ke) on 30th May, 2023 and on its official social media handles (Twitter and Facebook) on 29th May, 2023.

Thus, it is improper to assert that the advert was only placed in the Daily Nation Newspaper

On the matter of Fair Hearing, the Deputy Governor submitted that there was contravention of his right to fair hearing as the Motion on his proposed removal from office was not accompanied with the grounds upon which it was pivoted on.

In response, the committee noted as follows:

The Deputy Governor was served with a letter dated 29th May, 2023, notifying him of the Motion seeking to remove him from office.

Annexed to the letter was the Motion containing detailed grounds as documented by the Mover of the Motion.

In compliance with Article 47 and 50 of the Constitution of Kenya, 2010, the notification served as invitation to the Deputy Governor to appear before this Special Committee on Tuesday, 6th June, 2023 to respond to the allegations in the Motion.

Thursday 8th June, 2023 COUNTY ASSEMBLY OF SIAYA DEBATES

The invitation clearly stated that the Deputy Governor had a right to appear before the Special Committee in person or through legal representation.

The Deputy Governor further made requests for documents and information to the Assembly which were adequately responded to and documents issued to him.

Accordingly, the Committee is persuaded that although the impeachment process has not reached the tail end, the Deputy Governor has so far been granted a fair hearing.

On Alternative Remedy, the Deputy Governor stated that the County Assembly's recourse to impeachment before exploring alternative remedies is evidence of bad faith.

To this end, the committee noted that the removal from office of the Deputy Governor is a matter guided by constitutional and legal dictates which provides for procedure and process. The law does not provide any other alternative procedure that ought to be followed in resolution of the issues before the committee

Consequently, the committee finds that the issues of alternative remedy of the matter is not merited or guided by any known provisions of the law.

Committee Findings and Observations on the Allegations against the Deputy Governor - William Oduol.

Charge 1. Gross violation of the constitution and other laws

Particulars of the Allegation:

1. Interference with procurement process through acts of bid rigging

In the tenders to supply and deliver certified seeds (Tender No CGS/SCM/AGRIC/OT/2022-2023/04) and that to supply and deliver Fertilizer (Tender No CGS/SCM/AGRIC/OT/2022-2023/05) the Deputy Governor, being without any statutory role in the said procurement, incessantly intermeddled in the process; an action that contravened confidentiality and related provisions of Public Procurement and Asset Disposal Act, 2015.

In investigating this matter the Committee relied on the submissions of Mr, Martin Okwata and the Deputy Governor – William Oduol

Submissions by the Director Procurement – Mr. Martin Okwata

The said tenders were prepared for advertisement in December 2022. Before the advertisement went out, the Deputy Governor called the Director Supply Chain Management, Mr. Martin Okwata to his office where he asked why the tender was restricted to youths. An explanation was reportedly offered, even though the Deputy Governor indicated his dissatisfaction with the response.

Apparently there was a report in Weekly Citizen magazine about the tenders after they had been advertised. When this occurred, the Deputy Governor called Mr. Okwata once again to his office, reportedly to find out more about the tenders.

Thursday 8th June, 2023 COUNTY ASSEMBLY OF SIAYA DEBATES

When the subsequent procurement processes were nearing completion, that is, a professional opinion was being prepared, the Deputy Governor summoned Mr. Okwatta, another time to his office.

This time he asked to be given all documents related to the two tenders plus the unsigned professional opinion. Mr. Okwatta did not totally relent to the request, but gave him the evaluation report and the unsigned professional opinion.

A few days later, Ethics and Anti-Corruption Commission officers asked for documents related to the tenders, a request that was honored. The procurement was later terminated on material governance grounds.

In another incident and around the same time, several tenders for roads construction were being processed for advertisement. There was apparently a resolution by the procurement department – Roads and Public Works – to restrict the number of tenders that could be bided for by companies having same directors and or by eligible contractors.

This was part of the tender specification. Before the tenders were put up for advertisement, the Deputy Governor, in the same fashion summoned Mr. Okwatta and expressed his disenchantment with the clustering specifications. He reportedly pushed for changes in the specifications to allow one contractor to be awarded more than two contracts and companies with same directors to be awarded more than two tenders.

Mr. Okwatta once more was adamant to effect the changes arguing that the specifications originated from Roads department, and that it's the department that could make the alterations. It was at this point that the Deputy Governor threatened Mr. Okwatta warning him of acrimonious working environment should he continue disregarding orders from him.

The Deputy Governor reportedly told Mr. Okwatta not to be taking instructions from appointees in the echelon of CECM – Roads at the behest of elected leaders like him.

Mr. Okwatta averred that he had to write an e mail to a Mr. Ben Oboge – the roads department procurement officer in an attempt to implement the Deputy Governor's instructions. Mr. Ben Oboge procedurally consulted CECM- Roads who declined to accent to the instructions. As a consequence, the instruction by the Mr. William Oduol to change the said specifications was not actualized.

Submissions by the Deputy Governor, William Oduol

In his written submissions to the committee, the Deputy Governor denied the allegations that he interfered in the procurement process. He averred that particulars of the tenders were not disclosed to him so he could not respond to the claim.

In a statement submitted to the Assembly earlier on signed by the Deputy Governor, he had indicated that the procurement of seeds and fertilizer was suspect; that when the tender was put out, it had interesting eligibility requirements. He pronounced in the statement that he protested about the eligibility requirements, called Mr. Okwatta to his office but did not get satisfactory response.

Thursday 8th June, 2023 COUNTY ASSEMBLY OF SIAYA DEBATES

Furthermore, in his oral submissions made before the committee, he concurred with Mr. Okwatta's statement that he summoned the same Okwatta to his office on the basis of the issues surrounding tender for seeds and fertilizer. According to the Deputy Governor, he only summoned Mr. Okwatta after an article appeared in the Citizen Weekly newspaper touching on alleged improprieties in the tender for seeds and fertilizers. He reasoned that he had been delegated the task of superintending

On issues of finance and economic planning by the Governor, and was therefore within his obligation to call for clarifications where it was necessary.

The Deputy Governor, Mr. William Oduol informed the committee that his reason for summoning, the Director Supply Chain Management was his apprehension with the way seeds and fertilizer was being procured, owing to the claim that direct procurement method was the preferred method. He however denied asking for or receiving evaluation reports nor unsigned professional opinion. He further denied ever making threats to Mr. Okwatta.

He decried why Mr. Okwatta did not send him a copy of the mail sent to Mr. Ben Oboge on the issue of instruction to change roads tender specifications. He further proclaimed that despite being indicted of changing the specifications, the change was not actually made.

Committee observations

The committee noted discrepancies in the assertions of the Deputy Governor.

In the first instance, Deputy Governor denied in his written submissions that he did not have a clue about the tender that was being referred to. He also said in his oral submissions that he only summoned Mr Okwatta after an article about the tender appeared in the Citizen Weekly newspaper.

The committee meanwhile observed that Deputy Governor contradicted himself by submitting in another statement that he summoned Mr Okwatta when the tender was 'put out'. The deputy governor notably was mixed up as to when and why he called the Director Supply Chain Management.

Mr. Okwatta was consistent on the manner of involvement of the Deputy Governor in the procurement of seeds and fertilizers and that he was asked to give related documents to the Deputy Governor

The Deputy Governor was not contented with the procurement method used in tender to supply and deliver seeds and fertilizers. He however was not clear about the method that was on record in the procurement plan

The Deputy Governor had suspicions with eligibility requirements in the two tenders. It is therefore logical to adduce that he had access to the documents and was well appraised of the contents therein

Going by the trail of communications between Mr .Okwatta, Mr. Ben Oboge and the CECM – Roads and Public Works Mr. George Nying'iro on the need to change the specification on Roads tender documents, there was an attempt to change the specifications.

Thursday 8th June, 2023 COUNTY ASSEMBLY OF SIAYA DEBATES

The claim that the mail was not copied to the Deputy Governor does not exculpate the fact that there were records showing communication on attempt to amend tender documents.

The insistence and consistency of the procurement officers and CECM – Roads and public works circumvented Deputy Governor’s endeavor to cause a change in the tender documents.

Committee’s Conclusion

There was a good resolve by the framers of procurement laws to include provisions of confidentiality and to specify parties that can operate within such processes. For instance, Section 44(1) of PPAD Act, 2015 states that,

*An accounting officer of a public entity **shall** be primarily responsible for ensuring that the public entity complies with the Act.*

Further, Section 67 (1) states that,

During or after procurement proceedings and subject to subsection (3), no procuring entity and no employee or agent of the procuring entity or member of a board, commission or committee of the procuring entity shall disclose the following —

- (a) information relating to a procurement whose disclosure would impede law enforcement or whose disclosure would not be in the public interest;*
- (b) information relating to a procurement whose disclosure would prejudice legitimate commercial interests, intellectual property rights or inhibit fair competition;*
- (c) Information relating to the evaluation, comparison or clarification of tenders, proposals or quotations; or (d) the contents of tenders, proposals or quotations.***

The committee took further recognition of provisions of Public Procurement and Asset Disposal Act, 2015 which states that, “A procurement function shall be handled by procurement professionals whose qualifications are recognized in Kenya”

The Committee noted that the Deputy Governor is not an accounting officer of a public entity, neither is he a procurement professional whose qualifications are recognized in Kenya, and hence had no responsibility in procurement of seeds and fertilizers.

The Deputy Governor, Mr. William Oduol undoubtedly gained access to procurement information hence breached the provisions of Section 67(1) of PPAD Act, 2015. No provision in Section 67(3) absolves him from this contravention.

Committee Finding

The charge against the Deputy Governor of interfering with the tender process is therefore **SUBSTANTIATED**

Charge 2: Abuse of Office Particulars of the Allegation

Bulldozing officers to renovate the office of the deputy governor outside approved budgetary provisions;

The Deputy Governor, banking on the authority of his office, forced incurring of expenses of approximately Kshs. 18 million for purposes of renovating his office (interior and exterior works),

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purchase of furniture and office equipment; an expenditure that was not in the budget and therefore not in the procurement plan.

This was in contravention of Section 53(2) of the Public Procurement and Asset Disposal Act, 2015 which states that,

An accounting officer shall prepare an annual procurement plan which is realistic in a format set out in the Regulations within the approved budget prior to commencement of each financial year as part of the annual budget preparation process”.

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

On this allegation, the committee relied on the written submission and oral presentation of Mr. Joseph Omondi – Chief Officer Governance and Administration, Mr. Jared Abayo – Director Public Participation, Mr. Joseph Ogutu – County Secretary and Mr. Martin Okwata – Director Supply Chain Management. The Committee also considered the written and oral defense by the Deputy Governor

Witness Submissions

In investigating this allegation, the committee, considered the following submissions:

Submissions by Mr. Joseph Omondi

That the Deputy Governor – William Oduol called him to his office and took him round showing him areas that needed renovation.

The areas, according to the Deputy Governor, included; The floor tiles that had peeled off to be replaced, the surging ceiling board to be replaced, the curtains, the seats for the office and the Boardroom to be replaced, the lighting system to be improved, the walls to be made sound proof and Carpet to be put on the floor.

That while the Deputy Governor was attending an induction tour in Mombasa, he made a call and directed that the works be completed within a week. That he informed the Deputy Governor that there was no budgetary allocation towards such renovations.

Submissions by Mr. Jared Abayo

That the Department of Works informed him, after technical evaluation, that the scope of works for the renovation and replacing of furniture in the office of the Deputy Governor would cost approximately Kshs. 7.9 Million.

That at a meeting, he informed the Deputy Governor that the works at his office, as he wanted, would cost approximately Kshs. 7.9 Million. That he informed the Deputy Governor that there was not budgetary provisions to cater for the works **and** that at the meeting, he was instructed to make reallocation within some votes in the budget to accommodate the renovations in the office of the Deputy Governor.

Submissions by Mr. Martin Okwatta

That he received a letter from Jared Abayo, requesting that he procures for renovation works and purchase of furniture for the office of the Deputy Governor. That the letter further informed him that the money towards the works would be reallocated from the development budget for the votes for Construction of Rarieda Sub – County Offices and the Construction of the County Public Service Board and County Executive Offices.

Submissions by Mr. Joseph Ogutu

That the Deputy Governor called him to his office and showed him the areas in his office which he (the Deputy Governor) needed to be renovated

Submissions by The Deputy Governor

That if his office was renovated with Kshs. 18 Million without the same having been budgeted for, it was the Head of Procurement who committed an offence and not him (the Deputy Governor). That there is no evidence that he instructed the procurement officer to renovate his office based on funds that were not budgeted for. That Kshs. 1,120,000 for the Priya executive orthopedic desk chair seat fully sprung was for three chairs and not one.

That of the furniture that were to be supplied to his office, four chairs had not been delivered yet. That Jared Abayo informed him at a meeting that the renovation works at his office was going to be beyond the budgetary provisions for the departments of Governance and Administration where his office was domiciled and that Jared Abayo had instructions to reallocate funds within the departmental budget to cater for the renovations in his office

Committee Observations

Based on the submissions of the witnesses, defense of the Deputy Governor, review of evidence and documents presented before the committee, the committee makes the following observations:

On purchase of furniture at the Office of the Deputy Governor

The Committee observes that the Budget for the Department of Governance and Administration as approved in June 2022 indicates that there was an allocation towards purchase of office furniture within the Department at a tune of Kshs. 5.4 million.

It must be noted that the figure of Kshs.5.4 million was for the consumption and utilization by all the offices within the Department and not only for one office.

Document availed to the Committee indicate that the furniture delivered to the Office of the Deputy Governor was to a tune of Kshs. 11,366,213.60 as can be confirmed and verified by the oral and documentary submissions by Martin Okwata.

This was over and above the budgeted allocation of approximately Kshs.5.4 million for Purchase of Office furniture for the entire Department of Governance and Administration

The committee took notice of the various furniture supplied to the Office of the Deputy Governor. Most intriguing were; 1 Presidential 8*4 klin treated mahogany timber finished in 2 pack – Kshs.336,700, Priya executive orthopedic desk chair seat fully sprung - Kshs. 1,120,000, 2 Priya executive visitors chair back and seat fully sprung – Kshs. 84,000 each total cost of Kshs.

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Thursday 8th June, 2023 COUNTY ASSEMBLY OF SIAYA DEBATES

168,000, 6 meters Conference table - Kshs. 1,051, 200, 2 Louise executive custom made chairs fully sprung – Kshs. 161,000, 1 Grooved Coffee table – Kshs. 211,400 and 1 table and 4 stools (Curved Coffee table) – Kshs. 756,700

The purchase of furniture for the Office of the Deputy Governor was well beyond the budgeted provisions for the entire department with extreme peculiar specifications.

It must further be noted that purchase and replacing of furniture in the office of the Deputy Governor was part of the instructions he issued to Joseph Omondi and Joseph Ogutu when he called them to his office.

However, in his defense the Deputy Governor who was the beneficiary of the procurement process outside the budgetary provisions, passes the back to the Director of Supply Chain Management by stating that if works were undertaken in his office outside budgetary provisions, then that was an offence on the part of the Director for Supply Chain Management

In the course of his oral presentation, the Deputy Governor made contradictory remarks, thereby casting doubt on his honesty.

The Deputy Governor claims that he was not involved in the procurement process for his office furniture, and thus claims lack of knowledge on the specification and quantity of what was procured.

In another instance, the Deputy Governor claims that of the furniture he expected to receive in his office, there are four items which have not yet been delivered

The Deputy Governor further wrongfully claims that the cost of **Priya executive orthopedic** desk chair seat fully sprung of Kshs. 1,120,000 was for three seats and not one seat.

The fact is, documents provided to the committee, which the Deputy Governor did not contest, indicate that there was only one provision for one chair at the cost of *Kshs. 1,120,000*. The document further indicates the supply and delivery of *2 other Priya executive visitors chair back and seat fully sprung – Kshs. 84,000 each - total cost of Kshs. 168,000*

The Deputy Governor attempts to mislead, not only the committee on this matter but also members of the public, yet it is clear that the seat which he sits on cost the tax payers a whopping Kshs. 1,120,000.

It is clear that the Deputy Governor, who had indicated that he did not know about the procurement process and costs of the furniture in his office, deliberately chooses to know when it fits him and chooses not to know when it not convenient for him.

This depicts dishonesty of the Deputy Governor in the submissions made to the Committee.

The Committee questions that if the Deputy Governor was not involved in the procurement of the furniture in his office, and if he was not aware of the costs as he claims, how could he claim to know that Kshs. 1,120,000 was for three seats and not one?

Furthermore, if the Deputy Governor was not involved in the procurement of the furniture in his office, and if he was not aware of the specification as he claims, how could the Deputy Governor claim that four seats had not been delivered if he truly did not know

Lastly, if the Deputy Governor was not involved in the procurement of the furniture in his office, and if he was not aware of the specification as he claims, why would he have **2 Louise**

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Thursday 8th June, 2023 COUNTY ASSEMBLY OF SIAYA DEBATES

executive custom-made chairs in his office, if they were not custom made for him? Who was the user?

During the hearing, the Deputy Governor confirmed to the Committee that he had a back problem and that it was necessary that he sits on an orthopedic chair.

It was therefore interesting how the Deputy Governor, who was not aware of the procurement process for the furniture at his office, was astoundingly delivered to a chair of his recommendation and specification which was custom made.

The Deputy Governor, when orally submitting under oath before the Committee, stated that, the he was made aware of the costs of furniture delivered to his office. He further stated that his knowledge of the cost was after the furniture was delivered to his office, but this was before he appeared at the Committee on 6th June, 2023.

The committee therefore questions why the Deputy Governor did not admit knowledge of this fact in his written submissions, and why he was evasive when defending himself on the matter.

Furthermore, the committee questioned why the Deputy Governor did not take any administrative action when he found out that the purchase of furniture for his office was outrageous and outside the budgetary provisions of the Department in which his office is domiciled.

Documents presented before the Committee indicate that members of the Evaluation and Opening Committees for office interior improvements for the Deputy Governor's Office were all officers who worked in the Office of the Deputy Governor, and who reported directly to him on their day to day duties.

Jared Abayo, orally submitted before the committee that at a meeting, he informed the Deputy Governor that the works in his office would exceed the budgetary provisions. To this end, the Deputy Governor instructed him that he should make reallocation within the budget to accommodate for the works in his office which include the purchase of furniture.

The Deputy Governor confirmed that indeed, he was informed of the cost being beyond the budgetary provisions.

Based on the foregoing, the Committee was convinced that the Deputy Governor was aware of the process of procuring furniture in his office. Further, the Deputy Governor was aware that there were no budgetary provisions to cater for procurement of the furniture in his office.

The committee further sought to know if prior to this, there was furniture in the Office of the Deputy Governor. The committee confirmed that when the Deputy Governor first occupied the office after being sworn in, the office was fully furnished and functional.

What the Deputy Governor wanted was an upgrade of the furniture in the office. When Martin Okwata was asked whether the furniture that was in the office had been disposed, he confirmed that the furniture was still in good state and that they could have been given to another user.

This confirmed that there was no need for purchasing furniture for the Office of the Deputy Governor. It was therefore wrong and out of order for the Deputy Governor to allow for reallocation from Development Budget towards a recurrent vote which was not an emergency.

On renovation works at the Office of the Deputy Governor

Based on the documentary evidence provided to the committee and oral submissions made by all the parties on the matter, the Committee confirms that the Office of the Deputy Governor was renovated at a tune of Kshs. 4, 988,928 by Nile Logistics Services Company Limited.

Review of the budget for the Department of the Governance and Administration as approved in June 2022, indicates that there was no vote towards the renovation of the office of the Deputy Governor.

Further review of the Procurement Plan of the Department of Governance and Administration reveal that there was no provision in the procurement plan to cater for renovation works at the Office of the Deputy Governor.

Based on the submission of Joseph Omondi, which was corroborated with the submissions by Joseph Ogutu, the need and instruction to undertake renovation works at the office of the Deputy Governor was determined and directed by the Deputy Governor himself. Both witnesses aver that they were called by the Deputy Governor to his office and informed of the scope of works to be undertaken with regard to renovation works at the office.

The Deputy Governor in his oral submissions did not refute the claim that he called Joseph Ogutu and Joseph Omondi to his office and instructed them on the scope of works to be done in renovating his office.

The Deputy Governor, in his defense further claims that the matter was a procurement issue and he was not involved in the process of procuring.

The Committee however notes that procurement process is not simply an act of acquiring a product or service for the County Government, but it includes identifying a need, and establishing the scope and magnitude of works to be undertaken.

The Deputy Governor was involved in identifying the need of undertaking renovation works in his office, which was not in the budget. The Deputy Governor further determined and explained the scope of works to be undertaken in renovating his office when he called Joseph Ogutu and Joseph Omondi to his office to explain such scope. Renovation of the Office of the Deputy Governor was outside the budgetary provision as was confirmed by the committee.

Jared Abayo, who was the Ag. Chief Officer in the Department of Governance and Administration, when Joseph Omondi was on leave, submitted that after the Department of Public Works undertook technical assessment of the scope of works for renovation of the Office of the Deputy Governor; he informed the Deputy Governor at a meeting, that the cost of works according to the department would be in excess of Kshs.. 7.9 million.

He further submitted that he was instructed to undertake reallocation of votes within the budget to cater for the cost of renovation of works at the office of the Deputy Governor.

A letter was authored by Jared Abayo on 21st October, 2022, to the Director Supply Chain Management to the effect that the Department would reallocate funds from Construction of Rarieda Sub – County Office and Construction of County Public Service Board and County Executive Office to cater for the renovation works at the Office of the Deputy Governor.

Committee Finding of the Allegation

Based on its observations and findings, the Committee finds the allegation to be **SUBSTANTIATED**

Particular of the Allegation:

1. Alleged Bullying

The Deputy Governor, Mr. William Oduol threatened the Director Supply Chain Management with dire consequences in the future for not bending to the whims of changing tender requirements

The deputy Governor disgraced the Ag Chief Officer Finance and Economic Planning by demanding unwarranted information and giving false information about the officer.

Submissions by Jack Odinga

The Acting Chief Officer Finance Mr. Jack Odinga submitted that he received e mail instructions from the Deputy Governor (who doubled up as the Chairman of a subcommittee formed by the County Executive to deal with the issue of Pending Bills) to keep paying pending bills without reference to or approval by the CECM- Finance as per the practice.

He felt that being compelled to follow such instructions from the Deputy Governor, even if he was the chairperson of such a subcommittee was wrong as he has no role specified in the Public Finance Management Act to authorize payments.

Mr Jack Odinga also referred to Deputy Governor's submission to the County Assembly Committee of General Oversight on alleged mismanagement of county funds where Mr Odinga's name was reportedly mentioned approximately 13 times.

He told the committee that the Deputy Governor was consistently emphatic about his culpability in all the allegations and wondered why there was specific reference to him when he was not the sole operator in the County Treasury.

further he said that he has a supervisor who is the CECM Finance who has a role in authorizing payments, yet the name of the CECM never featured anywhere in the allegations. He therefore felt there was deliberate attempt to humiliate his character by painting him in bad light in the eyes of the public.

Mr Jack Odinga particularly referred to a case in which he claimed the Deputy Governor kept referring to publicly in social media platforms, Radio Stations and Television Stations that on a specified date, he transferred and withdrew Kshs. 21 Million from an imprest account in a single day. He averred that the alleged withdrawal was a hoax. What was on record according to him was a transfer of the same amount from IFMIS account to an imprest account.

He informed the committee that transfer should never be confused with withdrawal. He further noted that some of the alleged misappropriations occurred before he was appointed in his current position, yet the Deputy Governor heaped all the blames on him.

The Acting Chief Officer, Finance noted that some of the allegations against him by the Deputy Governor had been laid before the Assembly, considered and resolved unsubstantiated, yet Mr William Oduol persisted with public pronouncement of such claims in all media platforms. His

Thursday 8th June, 2023 COUNTY ASSEMBLY OF SIAYA DEBATES

concern was the rationale behind the Deputy Governor's public humiliation when as his superior, he had avenues of resolving issues of suspected impropriety within the county executive structures.

In this regard, the Acting Chief Officer- Finance felt profiled and bullied.

Submissions by the Deputy Governor

The Deputy Governor was pressed to establish the facts around the allegation of withdrawal of Kshs. 21million in a single day by Mr Jack Odinga. He could not confirm the withdrawal of the said amount, he however intimated that once fund have been transferred from recurrent account to imprest account, it is a good as withdrawn. He implied that this has been the basis of his mantra about the withdrawal of the said amount.

The Deputy Governor produced a letter signed by the Governor assigning him duties of overseeing matters of finance and economic planning.

Committee's Observations

The Ag Chief Officer Finance, Mr Jack Odinga, received instructions from the Deputy Governor to pay certain companies their bills that were pending.

Mr. Jack Odinga was adversely and severally mentioned in a report by the Deputy Governor submitted to the Assembly on the alleged misappropriation of funds at the Siaya County Executive.

Both the Deputy Governor and Mr Jack Odinga agreed that there was an allegation by the Deputy Governor that Mr Jack Odinga withdrew Kshs. 21 million in one day.

Mr. Jack Odinga produced evidence to allude to the claim that the said Kshs. 21million was actually an authorized transfer from the recurrent account to imprest account. The authorization was done by the then CECM – Finance Mr. Richard Mungla.

There was no evidence produced to authenticate withdrawal of Kshs. 21million in a single day

The Deputy Governor gave the information that once money has been transferred to imprest account, it stands withdrawn.

Committee Findings

Based on the above observations, the committee finds the allegation on bullying
SUBSTANTIATED

Particulars of the Allegation:

Allegation 3. Misuse Of Public Resources

On Misuse of Public Resources, the Motion alleges, that it is on record that in November 2022, the Deputy Governor – William Oduol, while attending ICPAK meeting in Sarova Whitesands Hotel in Mombasa, in his personal capacity and not in his official capacity as the Deputy Governor, caused the county department of Governance and Administration to facilitate him and three other officers whose relevance to ICPAK meeting could not be confirmed as they were not members of the ICPAK.

Thursday 8th June, 2023 COUNTY ASSEMBLY OF SIAYA DEBATES

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

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

Witness Submissions:

On this allegation the Committee relied on the written submissions and oral presentations of Damianus Omolo and Jack Odinga, the Acting Chief Officer for Department of Finance. The Committee also considered the written and oral defense by the Deputy Governor.

Submissions by Damianus Omolo;

That he initiated the request for imprest vide Memo ref. CGS/ODG/MEMEO/1/VOL.2 (7) dated 28th October, 2022 for the attendance of the Deputy Governor and other four officers, namely Francis Otude - the Personal Assistant to the Deputy Governor, Damianus Omolo - the Assistant Director Administration; Jasper Ouma - Driver and Fredrick Oguk - a Security Officer, to ICPAK meeting held at Sarova Whitesands Hotel, Mombasa from 7th to 11th November, 2022. The requested amount totaled Kshs.s 422,000.

That he relied on a letter inviting CPA William Oduol and not the Deputy Governor Siaya County to request for facilitation.

That he attended the meeting in order to orientate the Deputy Governor’s Personal Assistant on matters protocol.

That together with the Deputy Governor, all the other officers were paid seven days per diem for the meeting.

Submissions by Jack Odinga

Submitted a payment voucher confirming payment made to the Deputy Governor and four other officers for attending ICPAK meeting at Sarova Whitesands in Mombasa.

Submissions by the Deputy Governor

The Deputy Governor - William Oduol - submitted as follows;

That he attended the meeting in his official capacity as the Deputy Governor of Siaya County to address a topic on “*Challenges and Opportunities for Elected Leaders*’ and not in his personal capacity as a registered member of ICPAK. This is despite that fact that the letter of invitation was addressed to him as a member and not as the Deputy Governor.

That he represented Siaya County in the said meeting and that the meeting was beneficial to the county.

That to date, he has not been paid for attending the meeting.

Committee Observations:

The committee observed that the letter of invitation from ICPAK dated 26th October, 2022 was addressed to CPA Oduol William Odhiambo as a registered member number 2742 and not as the Deputy Governor, Siaya County.

Thursday 8th June, 2023 COUNTY ASSEMBLY OF SIAYA DEBATES

The meeting was attended by five other officers who were all paid seven days' night out allowances as indicated in the payment voucher duly signed tabled before the committee.

The committee observed that the Deputy Governor was paid Kshs. 127,400 vide a signed subsistence allowance payment voucher dated 14th November, 2022 and signed by Francis Otude, the Personal Assistant, on his behalf, a matter that he did not dispute when Mr. Damianus was asked to confirm in his presence. The committee therefore noted dishonesty on the part of the Deputy Governor.

The committee further noted that based on the documents availed, there was no evidence of invitation of the Deputy Governor as a keynote speaker at the meeting.

There was no evidence of any report on the ICPAK meeting allegedly attended by the Deputy Governor and the officers who accompanied him.

The Committee found out that the meeting had no relevance to warrant the use of county resources and therefore it amounted to misuse of public resources. This was contrary to the provisions of Section 46 of Anti-Corruption and Economic Crimes Act, 2003 (Rev 2016) which states that "*A person who uses his office to improperly confer a benefit on himself or anyone else is guilty of an offence*"

Committee Findings:

The Committee therefore found the allegation on misuse of public resources by the Deputy Governor to be **SUBSTANTIATED**.

Particulars of the Allegation:

Allegation 4: Misleading The Public By Giving False Information

On the issue of the Deputy Governor misleading the public by spreading false information, the Motion alleged that, the moral and ethical requirements of any State Officer dictates that he or she must always accurately and honestly represent information to the public.

Section 29 of Leadership and Integrity Act 2012 states that,

A State officer shall not knowingly give false or misleading information to any person, unarguably justifies the said requirement;

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

Section 27(2) (f) of the same Act further states that,

A person commits an offence when the person willfully furnishes a county Assembly or a committee with information which is false or misleading or makes a statement before a county assembly or committee that is false or misleading

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

The Deputy Governor misled the members of the Public that funds allocated towards completion of the Siaya Stadium had been reallocated in the Supplementary Budget I for the FY

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Thursday 8th June, 2023 COUNTY ASSEMBLY OF SIAYA DEBATES

2022/2023. However, it was confirmed that the allocation had been enhanced and not removed as the Deputy Governor claimed.

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

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

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

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

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

Witness Submissions

On this allegation the Committee relied on the written submissions and oral presentations of CPA Benedict Omollo, the CECM for Department of Finance, Joseph Ogutu, the County Secretary, Dr. Edgar Otumba, the CECM for Education, Youth Affairs, Gender and Social Services, Austine Otieno, the Social Welfare Officer and Joseph Omondi, the Chief Officer for Department of Governance and Administration. The Committee also considered the written and oral defense by the Deputy Governor.

Submissions by CPA Benedict Omollo

On allegation of reallocation of public funds meant for completion of the Siaya Stadium, the County Executive Committee Member for Finance and Economic Planning, CPA Benedict Omollo, while testifying, told the committee that the Siaya Stadium was allocated Kshs. 50 million. He further stated that the budgeted funds were not reallocated as alleged, but were instead increased by Kshs. 839,101 in the Supplementary Budget I.

He further informed the committee that no funds were reallocated to Migwena Sports Complex in South Sakwa Ward as alleged by the Deputy Governor while in a funeral gathering.

On the allegation that there was discriminatory budgetary allocation to disadvantage residents of Alego Usonga Constituency, the CECM for Finance and Economic Planning, CPA Benedict Omollo told the Committee that the allegation was not factual and that Alego Usonga sub county had the largest allocation in the current budget compared to the other five sub counties in Siaya County.

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Submissions by Joseph Ogutu

On the allegation that the County Secretary – Mr. Joseph Ogutu, was forced to resign by the Governor, the Committee heard the testimony of Mr. Ogutu in which he affirmed that he tendered a letter of resignation on his own volition and was neither forced nor compelled by any person to resign.

Submissions by Dr. Edgar Otumba

On the allegation that that the Siaya county bursary allocation is riddled with corruption and that school head teachers who are critical stakeholders in the determination of needy cases are left out during vetting processes, the County Executive Committee Member for Education, Youth Affairs, Gender and Social Services, Dr. Edgar Otumba while testifying, told the Committee that all bursary application procedures and disbursements are guided by the Siaya County Bursary Fund Act, 2016 and the Amendment Act, 2019.

The CECM for Education further submitted that the heads of institutions are fully involved in the selection of eligible students and that the bursary forms are not admissible for vetting until they are fully filled by students, signed and stamped by heads of institutions.

The Committee was informed that the bursary application procedure was designed to provide participation of the heads of institutions in the identification of eligible students for bursary.

Submission by Austine Otieno;

That he was a Social Welfare Officer attached to Office of the Political Advisor to the Governor and NOT a Political Affairs Officer.

That he was on interdiction for involvement in political affairs which was contrary to the requirements of a public officer. The interdiction was confirmed by the Chief Officer for the Department of Governance and Administration, Joseph Omondi.

That he was yet to respond to the show cause letter since he was still considering his next cause of action.

Submissions by Joseph Omondi;

That the due process of the law on disciplinary process was followed and that the interdicted officer was yet to respond to the show cause letter.

Submissions by the Deputy Governor

The Deputy Governor, in his written and oral submissions denied the charges and maintained that the allegations do not meet the threshold for gross violation or gross misconduct to warrant his removal from office by impeachment.

He further submitted that the charges against him are not only frivolous but also scandalous.

On the allegation that he misled the members of the public that funds allocated towards completion of the Siaya Stadium had been re-allocated in the Supplementary Budget I for the FY 2022/2023, the Deputy Governor denied and instead told the committee that the public had misinterpreted his utterances while in a funeral gathering. He further alleged and derogatively termed the Members of the Assembly as *“folks doing gymnastics with the budget in Kisumu”*.

He further accused Members of the County Assembly of *completely mutilating the budget* whenever it is presented for consideration.

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Thursday 8th June, 2023 COUNTY ASSEMBLY OF SIAYA DEBATES

When asked to substantiate his allegations that there was discriminatory budgetary allocation to disadvantage residents of Alego Usonga Constituency, the Deputy Governor denied ever making such utterances.

When asked to substantiate his constant assertions on the withdrawal of Kshs. 21 million on one day by the Acting Chief Officer Finance, Mr. Jack Odinga, the Deputy Governor asserted that the monies were not withdrawn but were transferred to another account.

The Deputy Governor could not substantiate the allegation that the County Secretary was forced by the Governor to resign.

On the allegation on the disciplinary case on Mr. Austine Otieno, the Deputy Governor confirmed to the Committee that he did not know the designation of the office until the day he was appearing before the committee. He further apologized for giving out a wrong designation of the officer, but did not substantiate on the disciplinary procedure.

Committee Observations

The Committee confirmed from the Supplementary Budget I for the FY2022/23 that Siaya Stadium had an increase in allocation from Kshs. 50 million to Kshs. 50,839, 101.

The Committee further confirmed that there was no allocation for Migwena Sports Complex in the Budget Estimates for FY2022/23 contrary to the allegations by the Deputy Governor.

The committee reviewed a video clip in which the Deputy Governor is captured saying that funds meant for Siaya Stadium were reallocated to Migwena Sports Complex. The Deputy Governor did not deny the existence of the video clip but claimed that his utterances were taken out of context.

The committee therefore noted dishonesty and misrepresentation of information by the Deputy Governor contrary to Section 27(2) (f) of the Leadership and Integrity Act, 2017 which states that, *A person commits an offence when the person willfully furnishes a county Assembly or a committee with information which is false or misleading or makes a statement before a county assembly or committee that is false or misleading.*

The committee confirmed that Alego Usonga Sub County had the largest allocation in the FY2022/2023 budget estimates contrary to the allegations by the Deputy Governor.

The committee observed from the oral submissions of Mr. Joseph Ogutu, and his letter to the Governor dated 13th February, 2023 on his intention to issue notice of resignation from the county service, that he personally and voluntarily decided to resign and was not compelled, coerced or unduly influenced by any person as had been alleged by the Deputy Governor.

The committee confirmed the allegations by the Deputy Governor as false and misinformation to the public based on the submissions by the CECM for Education and the provisions of the Siaya County Bursary Funds Act, 2016 and Amendments Act, 2019 together with the sampled duly filled bursary forms and bank statements which were availed to the committee.

On the case of Mr. Austine Otieno, the committee observed that the Deputy Governor had given false information on the designation of the officer and the manner in which his disciplinary case was done.

Thursday 8th June, 2023 COUNTY ASSEMBLY OF SIAYA DEBATES

The Committee further observed that Mr. Austine Otieno exhibited condescending attitude in his verbal communication to the Chief Officer and has so far declined to respond to the show cause letter as prescribed in the Human Resource Disciplinary Manual and the Public Officer Ethics Act, 2003.

The Committee noted inconsistency of facts, misrepresentation of information to the public and other public offices and dishonesty on the part of the Deputy Governor on his repeated allegations in national televisions and radio stations that Kshs. 21million was withdrawn in one day.

The Committee observed that, the Deputy Governor, based on his submissions did not have full understanding of the workings and operations of the County Finance Department and had no basis on his allegations.

Committee Findings

The Committee therefore found the allegation on misleading the public by spreading false information to be **SUBSTANTIATED**.

COMMITTEE RESOLUTIONS

Based on the documented submissions from the witnesses', interrogation of written submissions, review of relevant legal statutes and findings, the committee resolved on each allegation as presented below:

CHARGE 1: GROSS VIOLATION OF THE CONSTITUTION AND OTHER LAWS.

Interference With Procurement Process Through Acts Of Bid-Rigging, the Special Committee, found the allegation was proved and therefore **SUBSTANTIATED**.

CHARGE 2. ABUSE OF OFFICE AND GROSS MISCONDUCT.

Bulldozing Officers To Renovate The Office Of The Deputy Governor Outside Approved Budgetary Provisions, the Committee found the allegation was proved and therefore **SUBSTANTIATED**.

On Misuse Of Public Resources, the Special Committee found the allegation was proved and therefore **SUBSTANTIATED**.

On Bullying, the committee found the allegation was proved and therefore **SUBSTANTIATED**.

On Misleading The Public By Giving False Information, the Special committee found the allegation was proved and therefore **SUBSTANTIATED**.

I submit and request Hon. Dorothy Oinga to second.

(Hon. Oinga seconded)

The Speaker: Hon. Members, before I propose the Motion and before you start the debate, the Deputy Governor should be in the House to respond to these allegations. So I direct

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Thursday 8th June, 2023 COUNTY ASSEMBLY OF SIAYA DEBATES

the Clerk to look for the Deputy Governor wherever he is within the precincts in case he is but do not go to his office of home because an invitation had been sent to him so that we do not waste time.

(Serjeant-at –Arms dispatched to look for the DG)

(The Clerk reported failure to find the DG within)

(Question proposed)

The Speaker: That having been reported, I now inform the House that under our Standing Order 74 on the right to be heard, we expected the Deputy Governor to be here to respond to the allegations and that again is pursuant to constitutional provision under Article 47 and 50. Be it as it may, Hon. Members, the House has to make a decision whether to proceed or not. And I will give directions.

Now that the Deputy Governor is not here, the question is do we proceed or not proceed. I would want to advice myself based on whether he was informed to attend this Session or not. The Clerk has provided me with information and evidence that the DG was invited. May I also get confirmation from the Chairperson of the Special Committee that he informed the DG to attend this Plenary Session.

Hon. Otiato: Yes, Mr. Speaker, I do confirm that towards the tail end of our engagement with the Deputy Governor this Tuesday 6th, I indeed inform him that he is invited to attend today's debates at 2:00 p.m. and respond to the allegations.

The Speaker: Ok. Members, that having been reported to the House, I further submit to the House these evidences provided by the Clerk that yesterday at around midnight, the Clerk wrote to the Deputy Governor via e mail, the address that the DG provided during hearing.

(The Speaker read the letter)

The Speaker: Further, there is a communication to the Deputy Governor written on 7th and am reliably informed that this was sent to him via mail and on WhatsApp also.

(The Speaker read the letter)

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Thursday 8th June, 2023 COUNTY ASSEMBLY OF SIAYA DEBATES

The Speaker: Today the 8th June also, a reminder was done to him informing him that he will be required to appear before the County Assembly. That he is required to be at the Assembly during the afternoon Session at 2:30 p.m.,

I am equally informed that there was a telephone conversation between the DG and the secretary to the Assembly Clerk about this session. Therefore in my opinion, the DG was efficiently and sufficiently informed and therefore he has elected not to exercise his democratic right of appearance or to be heard and therefore we would have considered if he had requested for more time but that again, considering the confines of time, this could have not been possible.

Honorable Members this day, the 8th of June, 2023, being the 10th day from the day of Constitution of our Special Committee, of course without counting the 29th, the first day, this being the 10th day, we have no option but to proceed.

Therefore, I direct, that we shall proceed without necessarily, listening to defense from the Deputy Governor. I therefore invite contributions from Members.

Yes, member for North Sakwa.

Hon. Arika: Thank you, Mr. Speaker, for giving me the opportunity to air my views. First of all, I arise to support the Report and I want to assure the good people of North Sakwa that the position I am taking is for their best interest. I would also want to congratulate and to commend the work of the Special Committee of which I was part of. They have done a good job. And actually they are just about to give direction.

I am going to give a few ideas on the conduct of the Deputy Governor, and I want to talk about specifically what has always disturbed me. More so, the withdrawal of Kshs. 21 million. I was scared and I was surprised that when the DG appeared before this House that is two days ago, surprisingly the fox was not able to explain the difference between a transfer and withdrawal and in response from the special committee. Hon. Adala wondered.

The DG has always talked about, the issues of corruption, and actually it is confirmed and it is now within the knowledge of the public that the same person that has been making a lot of noise about, the wastage of resources, has been the culprit that we have been looking for, because it is confirmed that 18 million was spent and was dispensed in the office of the DG in the name of renovation.

Currently we know the status of the economy, we know how things are tough, particularly with the common *mwananchi*. If this is the same person that has been crying all over that there is wastage of resources that there is misuse of appropriation, within our County. This is the same person, that will allow a total of one 18 million to be spent in his office in the name of renovation and to the shocking part of it, that the same person that is alleging on the wastage of resources is actually sitting on a chair costing Ksh1.2million, while many Kenyans, many residents of Siaya lack basic needs, many students are not able to go to school because of lack of school fees.

On the issue of 21 million, it was clearly explained here by Jack Odinga. We actually put the DG to task to actually confirm that indeed what has been alleging that Ksh21 million was withdrawn in a particular day because that is what has always attracted the public.

It was actually explained and confirmed that the Kshs. 21 million that the DG has been making noise about is the amount that was transferred from the IFMIS to an imprest account.

Thursday 8th June, 2023 COUNTY ASSEMBLY OF SIAYA DEBATES

Sometimes you know if a night runner meets with an individual, an innocent individual walking at night, a night runner would imagine that the innocent individual is a night runner.

The assumption by the DG was that any money that is transferred from, an imprest account is amount that is prone to misuse. I was really wondering why the DG would think that any money that is transferred from, IFMIS to an imprest account would be prone to abuse.

Then I started asking myself that could be that the DG was the night runner, and Mr. Odinga was the innocent person here because how come he really believed that that money was going to be abused?

Finally, I am not so religious, but today you'll allow me to quote the Bible and I wish, I'm going to quote the right one. If you read the Bible, there are common words that people use like Jehovah Nisi, Jehovah Shalom, Jehovah Rafah.

It is always believed that this was referred to the name of God. The reality is that they are not, and for avoidance of doubt, I will refer you to the book of Exodus, chapter 17, verse 50. It is clearly confirmed that the word is the name of the altar and not the name of God.

People will read the Bible and will confirm that actually the word Jehovah Nisi is not. The name of God, but it is a name of the altar. But even having confirmed this, people will still not believe this reason being people are not after believing in truth. They're after believing in what they think is the truth.

In this case, Mr. Speaker is about the DG, because it is actually confirmed that even two hours ago, the DG was in public lamenting that when he goes to the Senate, he will be able to confirm that Kshs.21 million was withdrawn. He was here and it was actually confirmed and even himself, he had admitted that that money was not withdrawn, it was transferred, but the moment he left here, he's now telling us that the money was withdrawn.

He wants us to believe that that is the truth. Procurement is part of Finance. DG claims to be knowing about everything about the finance department? But here he wants to pretend that he doesn't know anything about procurement simply because the issue of renovation is touching on the procurement.

I know if it were in church, would really request the DG to repent. If it was in a court of law, he would be charged of giving false information and actually misleading the public, but now that he has found himself here, we have no option but to send the good CPA back home.

I therefore urge Hon. Members, that it's high time we gave the good residents of Siaya the peace of mind. I cannot leave without saying that the notion has been that it was expected that our governor was not going to deliver, but what he's now doing is the opposite.

The Governor is performing very well and if we were to rate the Governor, Mr. Speaker, probably in Siaya County, he's probably the politician with the highest rating and probably followed by Oliver Arika.

(Laughter)

Hon. Arika: I think this is what is shocking. The DG and his company, and they know if they use the word theft, stealing, it will attract the attention of the good residents of Siaya. I want

Thursday 8th June, 2023 COUNTY ASSEMBLY OF SIAYA DEBATES

to tell the good residents of Siaya, I want to tell the good people of North Sakwa that delegated me the duty of representing them here on speaking on their behalf.

That the rumors that the allegations being peddled out here by the Deputy Governor is meant to divert your attention.

I really pray and I really request the Honorable Members that let us deliver justice to Siaya people. I support the report. Thank you.

Hon. Speaker: Hon. Gordon Onguuru, Member for East Asembo Ward.

Hon. Onguuru: Thank you. Honorable speaker allow me to first start by thanking the Special Committee led by my able friend and Chair Honorable Francis Otiato for the commendable job they've done in vindicating me as the initiator of the Motion to impeach the Deputy Governor of Siaya.

It is clear, it is now crystal clear that everything I tabled before this Honorable House to be considered, and which I thank my Honorable Members and colleagues for appending their signatures to stamp the authority for the growth of Siaya County has been proven to be true, and not a witch hunt, as many have thought of.

As an elected member with responsibility to oversight, legislate and represent the people of East Asembo Ward, who gave me a mandate and a small party called UDM to be in this House and be the watchdog on the utilization of resources given to the County Government of Siaya. I am here not to disappoint them.

I want to agree that the Special Committee took their time even against a lot of coercion, intimidation and even threats to deliver this special Report which will guide the operations of this county going forward. It is clear that in the mood of this House even before voting, the cry baby is impeached already.

He can go look for some salvation or redemption somewhere else. But for a fact I want to say this, Mr. Speaker that when we were here and when we invited the Deputy Governor to appear before us he claimed that he has some serious, damaging, crushing evidence which if he tables here and if he lays them bare to the public, the people of Siaya and the world would know the rot in the Executive.

He cried all out that we failed to give him an opportunity to come back and substantiate on the allegations he made to the public. And I want to thank the special committee that you gave him an opportunity and still he failed to do so and he did not even account for the utterances he has been making out there in the public media that there is a lot of misappropriation of funds through IFMIS and through impresst account.

He could not even table the evidence he has been claiming to be holding in his files of how withdrawals has been done by a certain person in the Equity bank Siaya branch several times nine hundred and fifty thousand being withdrawn in the presence of his legal counsel led by Mr. Paul Nyamodi.

He could not even table before the Special Committee such transactions to support his allegations which has gone public to damage the image of this county and to put the county of Siaya as a corruption county.

For sure, Mr. Speaker sir, for tranquility to be in Siaya, Mr. Speaker, one William Oduol must go. For stability of this county as county of heroes to be met, Mr. Speaker, one William

Thursday 8th June, 2023 COUNTY ASSEMBLY OF SIAYA DEBATES

Oduol Denge Wiu must go, for prosperity and growth of this county, Mr. Speaker sir, William Oduol must go.

For protection of image and the people and residents of Siaya, William Odhiambo Oduol must go. For realization of Nyalore manifesto, and the development the people of Siaya County are yawning for, one William Odhiambo Oduol wiu, must go.

We have to set it clear, mr. speaker we have time and I want to request my colleagues that we are given an opportunity and the people of Siaya county are watching unto us that we have to prove the truth.

They say if you allege you carry the burden of proof. We gave Mr. William Odhiambo Oduol an opportunity to prove himself beyond reasonable doubt why we should not impeach him. To prove himself beyond reasonable doubt why would... He thought that the impeachment motion was a witch hunt and the reason to subvert the people and the will of the people of siaya to know the truth.

We gave him an opportunity on a public with full glare of public media to table the dawning evidences he has been claiming over that he is having and he has been jumping from every point. If you u put him here, tomorrow I will present them to EACC, if you give him the special committee, now I will take them to senate.

Mr. Speaker, let's take Oduol where he wants to go. He want to be in the senate to prove himself. Let's give him another chance by impeaching him today so that we can meet him in Senate. I rest my case and I support and I thank the committee for doing a commendable job. Thank you.

Hon. Speaker: Hon Seth Baraka, member for east gem

Hon Seth Baraka: Thank you very much Mr. Speaker, first of all I want to thank this honorable House for having given me a chance to be in the ad hoc committee. It was a nice opportunity to learn and talk about what you understand and not rumors.

Mr. Speaker, I want to say that on a light tone that the swelling of a frog will never deter the cow from drinking water and therefore whether the DG is here or not the report is already out and we have to discuss the important issues for the people of Siaya.

I want to look at this issue objectively and Mr. speaker I want to say that almost all of the issues had been discussed by learned friend Honorable Otiato and as you know that he is a former police officer, these are the people that can arrest you and find bhang in you even if it was not there so in this details, he has looked into the Report and there is nothing much that I can contribute onto this Motion.

I want to ask myself and ask honorable members the number of tenders we had in Siaya and why was the DG so much interested in the tender for seeds and tender of roads. That is my question.

Secondly the DG has the political responsibility to ensure that there is good governance. How does he feel when his office has been renovated and furniture have been purchased to the tune of Kshs.18 million yet the money being used was not budgeted and be forced to take the money from somewhere else no wonder the Rarieda sub county had a zero in terms of the Executive projects.

Thirdly, I want also to ask myself and ask this House, in the Nyalore government, was Mr. oduol elected...

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Thursday 8th June, 2023 COUNTY ASSEMBLY OF SIAYA DEBATES

Hon. Speaker: Yes Hon Washington Booker

Hon Washington Booker: In that case therefore, I request that we take a minute of silence because Rarieda had a zero in terms of development. A minute of silence Mr. Speaker. It is very bad Mr. Speaker.

Hon. Speaker: Hon Washington Booker the house will take a minute after adjournment.

(Consultations)

Hon. Baraka: Ok thank you very much, hon Washington Dasani that's why we add on to hon. Onguuru's point that without Oduol, Rarieda must get something. So I was saying, I was asking myself and was asking this honorable house and the public whether Mr. Oduol was elected as the Deputy Governor for Alego or the Deputy Governor for Siaya. When I look at this instances without going into rumors on who was forced to resign but said he was not forced to resign, on how much money was given to the ICPAK, just on the few points that I have outlined, any sane person will agree with me that one Oduol has not merited to hold a public office.

To acclimatize on that because I know honorable Members also have something to say I just want to urge this House that you need to bear the political responsibility that we are entitled to. It pains to what I have listened to what I have heard all over through the media.

We have given the DG a chance to come and convince us otherwise. He has failed to do it here then he runs to the media of talking of about other huge evidences. We are not here to crucify one Mr. Oduol but I think this house was here to listen to Honourable Oduol and find out if whatever he said is true so that we can save Siaya but I want to say that he has failed us.

He has failed in providing us with the right information that can help us to move ahead. And I want to conclude that he was just rumor mongering and more so the things he has been talking about are hearsays and I can say that they are hot air.

Thank you very much Mr. Speaker and therefore I beg to support this impeachment and if possible I would have just voted otherwise may God bless you.

Hon. Speaker: Hon Phillip, member for North Gem.

Hon Oluoch: thank you, Mr. Speaker, I will stand to support the impeachment Motion of one Deputy Governor my very good friend Hon. William Oduol Denge. When he applied for this job, Mr. Speaker, we know what we want.

When you apply for the job of a cook, you don't complain that there is too much heat in the kitchen. HE Oduol applied for the job of the Deputy Governor not a co- Governor. When he applied to be a Deputy Governor, he ought to have known that he is supposed to deputize and be delegated responsibilities.

Oduol the Deputy Governor maybe or he didn't know that when he applied for this job he was to deputize the Governor of Siaya. And for the betterment for Siaya, for prosperity of Siaya I think my good friend has no choice but go home. For the betterment of the employees and the staffs of Siaya County Executive, Oduol has no choice but to go home.

For the prosperity of the Executive and consistency of the Nyalore administration Oduol has no choice but just to go home.

Thursday 8th June, 2023 COUNTY ASSEMBLY OF SIAYA DEBATES

There is one thing that normally happens. Mr. speaker, I told you this one some time back that when two bulls fight it's the grass that suffers but when a bull and cow are making love the grass suffers but it doesn't suffer as much because the sound produced is sweet. Mr. Speaker.

(Laughter)

Hon. Speaker: Hon. Turphosa

Hon Odinga: The words used by the Hon. Member about bulls and cows are demeaning to women, he should withdraw.

Hon. Speaker: order order hon booker. Yes hon Turphosa, I heard of grass, what's the problem? and cows. What is the problem?

Hon Booker: No problem with the words used.

Hon. Speaker: hon Phillip, if it is in the context which is not unparliamentary would you just withdraw and proceed

Hon Oluoch: mr. speaker, the main issue, maybe you didn't get the joke

Hon. Speaker: I want our honourable ladies to feel comfortable, you might have been a hearsman and you are used to seeing cows. Just withdraw and proceed.

Hon Oluoch: Mr. Speaker I have withdrawn. I was saying that Hon. Oduol ought to have known what he applied for. He applied to be a Deputy Governor of Siaya he did not apply to be a co-governor of and when you are a Deputy you are delegated responsibility.

May be whenever you are not delegated you just be in the office and remain in there. There is no way you expect or force your boss to delegate responsibility to you. So the betterment of Siaya and the Nyalore administration to deliver on it's election promises that they made.

We have no choice but to send my good friend home so that he can apply for the job that he wants. We have 87 political parties that he has a choice of applying for either of the parties to be a Governor of Siaya but he decides to apply to be a Deputy Governor. so his role is to be delegated for responsibilities and whenever he is not delegated responsibilities, he is supposed to stay put.

Mr. Speaker I think the best way is to send our good friend home and I support this Motion of impeachment. He is a good friend of mine but on this one I beg to differ. I support. Thank you.

Hon. Omwende: Thank you, Mr. Speaker. May I also take the same opportunity to thank the Assembly having given me trust and opportunity to be in the ad hoc Committee. Indeed, for sure I have to appreciate. I really learnt a lot during the process.

I have been a Member of the Assembly for the third time but I have never gotten an opportunity to be in an ad hoc Committee. Now that I am having this opportunity I will try to utilize it properly.

Thursday 8th June, 2023 COUNTY ASSEMBLY OF SIAYA DEBATES

In terms of legal background I am now somewhere because of the kind of engagement we had. I have to appreciate the ad hoc committee, it was a real debate. Exchange of articles, standing orders, it was a healthy one. Having said that, my area of concentration or gross misconduct, I will try to concentrate in the area as a state officer.

How do state officers behave? That is the most important thing. I shall try maybe to expound. One, as we know, we have guidance as a state officer on how they behave. It is clear and I will not read all of them. But under the Leadership and Integrity Act of 2017, I thought that our Deputy Governor was having maybe some information that was very important to us.

When given a platform, especially an area of concentration was the Bursary. Once given an opportunity maybe to defend on the allegations that was there in the public, the Deputy Governor could say that I have nothing to say over that.

Mark you, this thing has gone viral. That money has been riddled with corruption. When we are talking this thing, as state officer, there are people that already are weighing the utterance of what you are talking about.

You have your follower, as we talk about this matter, I don't know the damage. The damage that the Deputy Governor has given to the public is a serious damage. And mark you, this is the second in command that is talking about these corruptions.

I realize that Deputy Governor, once he is benefiting, he does not say anything about it, he is quiet about it. But if he does not benefit, then things will go hay way. There is one misleading information, the issue of the budget allocation to Alego, which I believe in this House, already there were rifts that Alego sub-county were getting lion's share.

I was not happy with the Alego constituents, the representatives. How can we be here while the other sub-counties are getting lion's share? But when the report was out, in fact, deputy governor didn't have even information! He was talking about Kshs. 50 million, not knowing Kshs. 800,000 on top of this 50 million.

So, this is not a laughing matter, this is a matter of seriousness that also need a serious concern. You can't just escort with this, you as a state officer, just say any words without any... I would say without somebody being answerable for this.

I don't know how best when saying this, I don't know the penalty? Because you can't say these things, there must be a penalty, even in the court of law, somebody must be answerable. I don't know whether you can give us the... maybe you can give a guideline because Mr. Oduol cannot just go, escorted like this. Because I believe there must be some penalty that can also, be with the same, with what the utterance the deputy governor is talking about. There you can give us advice, if possible, we can even amend, if it's a matter of amending, we can amend part of it so that the penalty also be there, Mr. Otherwise, I thank the Special AdHoc Committee and I support

Hon. Oduor: Thank you, Mr. Speaker, sir. First of all, I want to commend the work of the Special Committee. I just want to add my voice as I support the report. Having gone through this report, I have come to realize that one, Mr. William Oduol, the Deputy Governor, was actually not serving the interest of the Siaya people.

Thursday 8th June, 2023 COUNTY ASSEMBLY OF SIAYA DEBATES

When you go through the Report properly, you will find that the DG was serving his own interests, but he was trying to hide behind the officers that are employed by this government and also hide behind his people whenever he feels that his interest is not taken care of.

Why do I say so? This is because when you look at the way he was handling the procurement officer, Mr. Okwata, it shows that he had a lot of interest when it came to giving out the tenders of seeds. Another officer that I think was just mishandling and was malicious was the acting CEO, Jack Odinga, who happens to come from my ward.

I don't understand how an ICPAK individual could not differentiate transfers and withdrawals! I wonder! He has been walking around saying that he is a qualified accountant CPAK who would come to Siaya and handle things in the right way.

Here is a person who was not here to handle things in the right way, but to make sure that his interest is catered for, and he decided not to know any accounting procedure like withdrawal and transfers.

I find that the DG was dishonest in his utterances, and he contravenes Section 27(2)F of Leadership and Integrity Act of 2017. I therefore support his removal. Thank you.

Hon. Adida: thank you, Mr. Speaker. Allow me to also add my voice in this wonderful Motion. I want to appreciate the special committee was selected to investigate. I want to show my disappointments by the Deputy Governor of Siaya.

I want to say that maybe the Deputy Governor did not really know his role when he was taking up this office. The reason why, as a Deputy Governor, I think it is important that you make peace within the county and you tell the electorates the best that they are supposed to, the best that they are going to get from the government.

It is very unfortunate that the Deputy Governor has continued to feed the public with a lot of lies, and the people of Siaya right now, I know they are so much confused. And I am urging this House that let the Deputy Governor stand dismissed so that even the Governor can have ample time to also work peacefully.

If you look at it keenly, based on the report that we've had, you realize that we had a Deputy Governor who was obsessed with a lot of political ambitions. And I don't fear saying this because you know when you really want to work for the people, you work as a team, but this one is something that has totally failed in it, and I don't think it is right that he should still continue holding this office. Because if you look at it keenly, you realize that this was just an individual who is full of himself.

I say this because, if you want to imagine that a whole Kshs.18 million can be utilized in one office, and without mentioning, in fact, out of the public utterances that our Deputy Governor has been saying, even in the radio stations, he has never mentioned that even his office was renovated at a cost of Kshs.18 million.

This is money which can really spa the living standards of you and the people of this country. I have to say that the Deputy Governor did really not know the portfolio when he came in, and I want to say that this position was not fit for him.

Thursday 8th June, 2023 COUNTY ASSEMBLY OF SIAYA DEBATES

I think the best position for the Deputy Governor would have been even to look for a job at the EACC offices, maybe where he could even be able to even oversight other counties, because that is where he feels that he really fits.

Secondly, I want to say that as a Deputy Governor, you stand to be the subordinate of the Governor. And this one is explicitly inscribed in the Constitution. In any case, maybe the Deputy Governor would want to have a portfolio, then I think it will call upon the amendments of this Constitution and that can only work through a referendum.

Allow me to urge this House that the motion as it has been read, let us impeach the Deputy Governor for the benefit of the people of Siaya. Thank you, so much.

Hon. Speaker: For the record, may the mention of Deputy Speaker be expunged and replaced with the Deputy Governor.

Hon. Olango: Thank you, Hon. Speaker, for giving me also the opportunity to share my views on this very important debate. I want to thank by commending the special committee that has done a very good job and given us a report that is so well founded in facts.

I want to specifically also thank the Chair of the committee. I followed the proceedings from minute one to the end and he was a good Chair. He really led the committee well and that is why we are at this point. Hon. Members, our good County of Siaya has been in news for the last few months on very bad grounds.

The Deputy Governor, who for records purposes is a good friend of mine, has been going from station to station both radio and TV, claiming and disparaging our Honorable Assembly for not giving him an opportunity to come and table the various evidences he claimed to have heard in regards to the mismanagement of County affairs.

When my friend, Hon. Gordon Onguru, tabled this motion, I had hoped that it would be a good opportunity for the Deputy Governor to finally get the chance to table all the evidences that he had claimed he had.

I was really disappointed when at the end of it all I could not see any evidence. I was surprised to learn that the Kshs. 21M withdrawal/theft that has been discussed all over the radio stations was actually a transfer and not withdrawal.

Hon. Member: Point of order!

Hon. Speaker: Yes, Hon. Justus Oguta!

Hon. Oguta: Thank you, Mr. Speaker. I want to thank this House for giving me an opportunity to

Hon. Speaker: You are on a point of order!

Hon. Oguta: The point of order is, as an elder, I want this thing to go straight to the public that there was no Kshs. 21M transferred but Kshs. 13M. I am saying that the Hon. DG has been going to radio stations talking about Kshs. 21M. In the radio stations and Televisions, he has never said that there was Kshs. 13M in the account.

Hon. Olango: Thank you for protecting me, Speaker. On this report, and when I was looking at the presentation that we had on Tuesday, the Hon. DG, when defending himself for attending the ICPAK meeting using taxpayers' money, had insinuated that he was invited by

Thursday 8th June, 2023 COUNTY ASSEMBLY OF SIAYA DEBATES

ICPAK a keynote address, as somebody to give a keynote address to other CPAs. I would expect ICPAK, as a very serious body, to facilitate their keynote speaker. So, in case he was actually invited as a keynote speaker, it is

Hon. Okeyo: Point of order Mr. Speaker.

Hon. Speaker: Yes!

Hon. CPA Okeyo: Thank you, Speaker. Is the Hon. Member saying that ICPAK is not a serious body which I am a Member of?

Hon. Speaker: CPA Mark Okeyo, rest assured, we all know that ICPAK is a very serious organization. So, don't you worry. Engineer, proceed!

Hon. Olango: My point, CPA, was that ICPAK, being a very serious organization, of which you are a member, I would expect, being a serious organization, ICPAK would fund and would facilitate their keynote speakers.

That is why, on this point, the CPA, DG, Oduol Ndege, is guilty of misusing public funds because he went as a member and decided to be facilitated by our own money. There is a doctrine in law, though I'm not a lawyer that he who seeks equity must go in clean hands. I don't know whether I've stated it rightly.

Must come with clean hands. So, the DG is guilty of spearheading rumors and when he comes here he expects us to accept rumors. As a member had already stated before, it is actually unfair, and the people of Siaya, some of them have already bought the propaganda that has been peddled around by our DG, but I want to thank this House for unanimously adopting this Motion and impeaching the DG because whatever happens we have to stand with the truth and the truth is that there was no evidence at all and the DG was just peddling ramous and is guilty as charged by our Mover of the impeachment Motion Hon. Gordon.

I stand to support the Motion and am just waiting to vote yes. Thank you.

Hon. Speaker: Hon. Members, time is not on our side. We have under one hour and therefore, lets try not to be repetitious and just be brief and to the point. The vice chair of the special Committee Hon. Dorothy Oinga.

Hon. Oinga: Thank you, Mr. Speaker Sir, for giving me this opportunity to also add some of the observations that I made when we were investigating this motion. Mr. Speaker, the Constitution of Kenya, Article 10 provides for values and principles of governance.

Some of the principles and values of governance which are relevant to the issues that we are discussing today, Mr. Speaker, are integrity and accountability. The Deputy Governor was expected to behave in a manner that promotes integrity and accountability.

He also ought to behave in a manner that bestowed public confidence in the office that he holds. So, Mr. Speaker, we are also aware that impeachment does not concern itself with culpability or criminality, but accountability and integrity.

The fact that the DG tried to interfere with procurement process, especially of the fertilizer, this one really touched my heart. Because this particular tender was reserved for the youth. It meant that he was profiling the youth because he wanted this tender to be open.

Thursday 8th June, 2023 COUNTY ASSEMBLY OF SIAYA DEBATES

It really made me think that the DG was profiling the youth whom the country and the county has been fighting for to have opportunities everywhere, in tenders, in jobs. So, the DG was in breach of the Constitution by interfering by this process.

The DG also breached the law by peddling rumors and offering untrue information to the public. It was substantiated that one Mr. Austin Omondi was interdicted following the right procedures of disciplinary.

It was also confirmed that the allegation that the DG was alluding to that monies which were meant for Siaya stadium was transferred to Migwena was very wrong because Migwena in the first place was not even in the budget of this financial year. Therefore, Mr. Speaker, all these are a breach of the Constitution based on the two principles of governance which are contained in the Constitution of Kenya, Article 10 of Integrity and Accountability.

I therefore support this Motion and urge the members of this House to agree that the DG is not fit to hold this office. To finish, Mr. Speaker, it is normally said that a House that is divided cannot stand.

The relationship between the Governor and the Deputy Governor is irreparable and therefore the people of Siaya cannot get value for the resources or the work that they sent these leaders to do for them in the office. So for the people of Siaya to get services, I think, Mr. Speaker, we have to let the DG go so that the governor can accomplish his manifesto and dreams that he had for the people of Siaya.

Thank you so much.

Hon. Speaker: Hon. Madingu.

Hon. Madingu: Thank you for giving me this wonderful moment to share my input. I also want to thank this honorable House for granting us a chance, especially myself to being part of this ad hoc committee that was headed by our very able chairman, honorable Otiato.

It is my humble submission to this House. That today as I stand to voice myself on the issue of the impeachment of the deputy governor, that I stand with facts, nothing but facts. Mr. Speaker, I got a chance to form part of this committee where the deputy governor presented himself.

We asked tough questions after listening to a number of radio station presentations, where the deputy governor was requesting earnestly, that he should be given a chance to go and present himself to the Senate because he has very pertinent evidence that once unveils could save Siaya. What am I saying?

This honorable House has been called names but we want to say that we took an oath to preserve and protect the life and rights of the people of Siaya.

Our number one right is to protect the property of the people of Siaya. Looking at the evidence that the deputy governor head he only told us that he's able to present it at the Senate. Many times when you look at many people saying that we are doing our own thing.

Actually, what we are trying to do is to give the deputy governor a chance to go to the Senate so that he can unveil this pertinent information that he has that can save our people and we want the public to understand that this honorable House has not been compromised.

Thursday 8th June, 2023 COUNTY ASSEMBLY OF SIAYA DEBATES

We've been looking for these pertinent issues that can help us get the culprit or even the perpetrators of the corruption menace that they're talking about in Siaya and the DG is not willing to give us and if he's able to give it to the Senate, so be it.

It will be very honorable to this house to give the DG a chance to go to the Senate to present it there. We are trying to prove to this nation that we don't have any personal vendetta with our DG, but we are fighting corruption, the so said corruption that is in Siaya. That's why we are sending the DG to the Senate.

Mr. Speaker, if you look at chapter 11 of the Kenyan Constitution, Article 181 And I read because we are we are legislators. If you look at the removal of a county governor, we are talking of article 181 (C), which is talking about abuse of office and gross misconduct. You cannot mislead the public.

We're also talking about article 182. The Office of the county Governor shall become a vacant if the holder of the office dies. That is that is 182 (A). Do you want our governor to die because of stress? We don't want our governor to die. This is a man who walked in this county trying to fight sell his manifesto.

He has not been given even the first budget to prove his worth and already the song that is being sang out outside there is that we are stealing! What are we stealing? The first budget ever that even the people of Central Gem want to see the legacy of Madingu has not been presented to us. Our first ever budget we've just delivered a drop of water in an ocean through the supplemental. This is a government promise The people that is going to give them is going to work on food and he brought food subsidy and fertilizer, trying to prove his worth but you are saying he stealing.

Remember that the DG is holding a very vital office that should there be that the governor is no more God forbid, he's going to be the next governor. You want to be comfortable with your deputy.

You cannot see your boss as a stumbling block towards you being a governor. This is very wrong. And we know that this report is going to go to the Senate and it is that Senate that gave birth to our own governor.

It is in that house that future governors or Sitting, we want them that are going to make a decision on the issue of our DG they should ask themselves even as they put their prayer item number one that made the good Lord not give them a deputy governor like William Oduol. Because really, if they're going to be governors, they don't want to have a governor.

That to them. If they cannot put their hands on that thing, that thing is already automatic theft. We are praying and we are humbly requesting the Senate that we're going to deliberate to the issue of the impeachment of the deputy governor, you are going to show this nation that we're just trying to define a role of each and every member that is going to serve the public for instance, I am an MCA and also seeing my MP, everything they do.

Makes me sad is an MP and that is wrong. You cannot criticize everything. Just because an MP is building a school and he has not consulted me that now makes my MP become a thief. Mr. Speaker, we are trying to say that I don't know have never done CPA, but I'm privileged to have a partner here and a friend Honorable member who is also a CPA.

What is a CPA? I didn't think that CPA simply means that things must just go your way. Everybody has a professional and that's why I have the procurement guys. If you cannot put your

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Thursday 8th June, 2023 COUNTY ASSEMBLY OF SIAYA DEBATES

hands on a CPA person in procurement services that now become an outright theft. I beg to refuse

Mr. Speaker, even as I proceed, I want to say that I was maniacally bewildered.

(Loud consultations)

Listening to our DG giving polemic remarks on the government that himself is serving, where he is supposed to be part of the solution.

Hon. Speaker: Are you also reading those ones in the Constitution?

Hon. Madingu: Mr. Speaker, I am saying that we don't have any problem with our Deputy Governor. But we look like criminals each and everywhere we go. We are seen by the public as people who have been compromised, people who have been paid.

You go to your village and everybody is bringing their problem believing that even in the issue of the impeachment, we've been paid. We have not been paid! We're just fighting so hard so that the DG can now go outside there and unearth the corruption that is happening in Siaya.

Even as I sum up, Mr. Speaker, I want to say this, that you must be comfortable with your deputy governor, as a governor and in the Senate, how will you feel if you are an MCA and you are requesting for the evidence that is going to bring help you make decision and you're told, take me to Senate? We are just respecting the request of our DG, because we are his juniors he requested that he wanted to be taken to Senate and we are sending him there. So for us to bring peace for Siaya to be known for good reasons, for Siaya to be known for some good development records Oduol has to go to the Senate.

For us to be known that we were elected to listen to the problems and to be part of the solution Oduol has to go to the Senate and bring those solutions. Therefore, I beg my fellow MCAs that even as we speak, let's try and persuade the upper house.

It is the Senate that is the vision bearers of this country. Right now we are talking about Mr. Speaker, God forbid we are talking about the issue of what we call financial autonomy for the MCAs, it is the Senate that is feeling that it is necessary and therefore when we're trying to try to bring a solution to the puzzle of the differences between the deputy governors and the governors it is the Senate that is going to remind these people of their work.

Before you subscribe to be a Deputy Governor, you must know the level of your work, I don't dispute that the current governor is holding an office that his deputy at one given point had admired, and he never got a chance to serve there.

He should respect the person serving right now. Because if you cannot respect the person serving, then you will not get a chance to serve, you must serve others to be served. We cannot have 2 governors.

As I sit down, I want to say this. My fellow MCAs, let's try persuade Senate. This is not a battle of war, it should not go the party ways but it's just something that must be made the nation to understand that when you are going to be a deputy governor, you must create a good working environment with the governor and everything that was said here.

Personally, I requested the deputy governor to produce the evidence that theft was taking place in the procurement and he said that I don't have those documents. How do you say that you don't have documents and automatically that becomes theft?

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Thursday 8th June, 2023 COUNTY ASSEMBLY OF SIAYA DEBATES

If you knock at somebody's house, you went to visit someone and you've Knocked their house, they have not opened the door for you, how do you automatically say those people are eating inside that's why you are not allowed to get in? So to him people are stealing because he did not get a chance to put his hands on the invoices.

He has to go to the Senate, I beg to support

Hon. Adala: Thank you, Mr. Speaker. I address myself to Article One. Article I is bestows sovereignty of the people and that sovereignty of the lies in the hands of our people and that these right can be well exercised by the Constitution of Kenya. That the people of Kenya have a duty to exercise these rights themselves or other they can choose to share these one out with representatives that are elected. We are a House that is sitting here today to act on behalf of the citizens of Siaya on powers given to us under Article One.

Mr. Speaker, much has been said I will address myself to matters that as a House have we addressed this Motion in a way that it means meet the bare minimum requirements. Article 181 again discusses how a DG is removed from office. Subsection B and C explains it well.

Honorable Members walk with me in this journey, where a member working for the executive is invited for a meeting at individual capacity and then uses the funds for the County government up to a tune of over Kshs.. 400,000 and then if we are not looking at that as a gross, misconduct then I don't know what you're talking about that as a House we have not yet met the minimum for a DG to be taken home.

Honourable Members, in our words where we come from, we have various issues that affect us and the very serious among them is the students that land in schools.

All of us are aware that a few months ago, we supported students in high schools and higher institutions of learning. All of us are aware that two weeks ago, we supported from once who joined and with experience from my ward the applicants that applied in My Ward that were so much you need of fee, continuing students were 1200.

Those that we were able to support given that the minimum we could afford for day school students was 5000. So the maximum we were able to support in my Ward was less than 400 people and I think that that's across every other ward.

Why is this so? Because we are talking about inadequate resources that can be advanced for this course. Mr. Speaker, it is laughable that the saints Mr. Clean that has been all over media and funerals and rallies, talking about misuse of funds in Siaya County has got the guts to comfortably sit on a seat worth 1 million.

Mr. Speaker and Hon. Members recently in the Committee of this House we did the visitation to hospitals and Yala Hospital has a dental wing but the dental wing is not working because they lack the dental seat and when we inquired how much that would cost, it is less than 400,000.

Mrs. Speaker, journey with me to Bondo sub-County Hospital, again, there you meet Dr. Rachel Omamo a serious dentist of good standing and repute serving the people of Siaya and when you ask, d you have a challenge? One thing suffices, that the challenge we are having here is that we lack dental seat. Again this goes for less than Kshs. 400,000.

The worst part of it is that if in the submission of Mr. Jared Abayo when he was here and when we ask that was this renovations in the office of the DG so urgent? The answer was no.

Thursday 8th June, 2023 COUNTY ASSEMBLY OF SIAYA DEBATES

When we asked that, was the buying of the seats so urgent, the answer was no. Honourable Members, this House is bestowed with powers to allocate monies.

The item that Kshs. 19 million was consumed, Mr. Speaker and members was something that as a House in the supplementary budget was removed. Why? Based on the fact that from the advice, it was not urgent. That now we are spending Kshs. 1 million on one seat yet the owner of the seat doesn't sit on it since he likes sitting in radio stations. If we were having this Kshs. 1million in terms of school fees on bare minimum of Kshs. 5000, 200 students would be supported in our Wards. This matter needs to be looked at with the seriousness that it takes.

On as to what one wants to do from here, the honors rest on you that the Constitution allows you other legal address that you can seek further moves in the Senate since he has been so eloquent about it.

We want to remind the people of Siaya that the document that we are looking at today, even if you go to Senate, we will come and seriously defend ourselves. The House did it's bit based on the submissions that were made by all including the accused in this case Dr. William Odhiambo Oduol Denge. We are just starting a new financial year, if we don't fix this now it is a cancer that may live with us for the next 5 years.

Other factors remaining constant, we elected the Governor James Orengo and underneath there was a name of Dr. William Oduol. In the words of Hon. Eunice Acieng', we elected him when we loved him and because of that love we are again sending him when we still love him because if your mother-in-law doesn't know how to sit the honors rest on you to look elsewhere. In this case, the Deputy Governor has not understood his functions well.

We wish him well in all his undertakings but this doesn't mean that we hate him or any other thing.

Finally, as a County we have to address this animal and remain united for the betterment of the citizens of Siaya. Thank you, I rise to support.

Hon. Speaker: Hon. Members, now you will take a maximum of two minutes each.

Hon. Okwiry: Thank you, Mr. Speaker, Sir, as a Member of this Hon. House exercising her role and on behalf of the people of West Gem who bestowed upon me the powers to serve them in this House, I will start by appreciating the good work done by the Special Committee and the entire House for standing with the Committee up to this moment.

The impeachment of the Deputy Governor is long overdue. Were it not for the recess it would be a long gone case. I want to support this Motion by saying that the Deputy Governor is a corrupt man. Look at the way he did renovations in his own office, Kshs. 1.2million for an office chair at the expense of Siaya children that are going hungry, the widows that are homeless and students that don't have school fees.

If you look at the Report that is before the House, the Deputy Governor is full of character assassination and defamation. I was privileged to have be in this House when the cross-examination was going on. I looked at how the Acting Chief Officer for Finance Mr. Odinga was doing his oral submissions, it was painful. To make it worse, it is by virtue that he is at the top of the County but it doesn't give him an opportunity to demean the other staff.

If you look at the Report you will see how he was addressing Mr. Okwata, telling him not to listen to appointees other than the elected. Mr. Speaker, Sir, Oduol must go! The worst thing the Deputy Governor has left to us as Hon. Members of this House is the shame. He misled the

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Thursday 8th June, 2023 COUNTY ASSEMBLY OF SIAYA DEBATES

public on bursary and bursary touches directly on individuals. I don't know how we will overcome the perception out there. I accept and support that the Deputy should go home.

Hon. Masidis: For the record, my name is Masidis and I'm the MCA for South East Alego and by that you can see that South East Alego is within Alego-Usonga constituency.

This issue of the Deputy Governor has been a thorn in the flesh of legislators, representatives from Alego because the Deputy Governor comes from Alego. We were at cross-roads with constituents and because of that we took a back seat so that we are not seen as we are compromised.

I am very happy that this report which has been done by a team of neutral parties not from Alego has come out with what I would say a very clear report of the happenings and arrived at a conclusion which I support.

I want to deviate my line of thought a little bit, there is an unintended consequence on this process and that unintended consequence is the portrayal of Alego as getting the lion's share of the budget. It is putting us in the wrong light. What I want to remind the people is that Alego Usonga has got six Wards; among them is the township Ward which is where the headquarters of Siaya...

Hon. Speaker: Hon. Masidis, focus on the debate.

Hon. Masidis: Yes, I'm coming...

Hon. Speaker: No! No! No! I will deny you the chance.

Hon. Masidis: Ok, thank you.

Hon. Speaker: Take a seat, Hon. Eunice.

Hon. Achieng: Thank you, Mr. Speaker, Sir; I want to take this opportunity to fully support the Motion. I also want to thank this House for giving me a chance to be in the Special Committee. Mr. William Oduol is not the right person to be the Deputy Governor for Siaya County; he is an activist. How he behaved when he was being investigated here, he was telling us lies. He said in Siaya County that the people dealing with finances withdraw chunks of money on a daily basis.

I also heard the Deputy Governor talking on the radio and he was saying that there was money that was withdrawn from Siaya Stadium to Migwena Stadium but when he came here the other day he said that he never mentioned that. These are just rumors all through.

Is there a time that the Deputy Governor says the truth and when is that? When he said money was taken from Stadium to Migwena people thought that I had taken that money elsewhere.

I want to assure the people of South Sawka the money was not there and money was not withdrawn from Siaya stadium. Let us fully support the impeachment. Let the Deputy Governor go home and fit where he can fit.

Hon. Booker: The Standing Orders No. 27 allow us to debate until 6:30pm, in case the debate goes past 6:30pm I request the Speaker to give us direction.

Hon. Speaker: Hon. Members I will want to discourage debate beyond 6:30pm because you are coming from far places and the nature of the Business we are transacting today. You must be safe because you are our next soldier. I don't know about the others, especially the Bishops who have spoken here like Hon. Arika. Let's see how it goes but I want us to never go beyond 6:30pm.

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Thursday 8th June, 2023 COUNTY ASSEMBLY OF SIAYA DEBATES

Hon. Omoro: Thank you, Mr. Speaker, Sir. I also stand to echo my voice onto the ongoing debate on behalf of East Ugenya Ward. I was privileged to be in the Special Committee that was investigating this and therefore I support the report. It is a criminal offense for a person of the DG's cadre to try to influence the procurement process by even trying to change the tender specifications in the procurement department.

It is a criminal offense to do procurement of items without a budget allocation to a tune of Kshs.18million and this contravenes section 3 (2) of Public Procurement and Asset Disposal Act.

It is evident that the DG instructed the then Acting Chief Officer, Mr. Abayo to direct the head of procurement and supply chain to initiate the procurement process of the items that were to go to his office.

It is also a criminal offense for a state officer to use funds for individual reasons for this instance the DG was to be facilitated with funds to attend a personal meeting for ICPAK. He carried a long three other people from his office. When enhancing the value for money, it was wrong for the office of the DG up to a tune of Kshs. 1.12million to procure one chair.

The chair that is described as orthopedic chair. The Kshs. 1 million that was used for DG's that Chair is enough to pay school fees for several students. The Kshs. 18 million that is in question, if we were to pay school fees for boarding students, it would be translated to 450 students and 2000students for day scholars.

There was no value for money for this. The DG has always purported that he was elected unanimously by Siaya people but in several occasions he has been agitating the people of Alego Usonga by saying that they are being targeted. I find that the DG is not fit to hold office. I support.

Hon. Speaker: On Hon. Booker's concern, I advise the reason why I would want us to finish in the next 35minutes but still if the House feels you want to extend then may I know. Will I know by way of raising your hands? How many of us want us to extend? None!

Hon. Booker: Mr. Speaker, Sir; we cannot just extend like that but we have to Move a Motion...

Hon. Speaker: I have given directions, how to negate my directions is by way of picking your views. We are in agreement we finish by 6:30pm.

Hon. Okeyo: Thank you, Mr. Speaker, Sir. I wanted to align myself with the Report but I wanted to give it the professional context. As a professional there are two things in accounting; there is one we call substances over the form and the second is completeness over transaction. What the DG presented to us took the nature of form; in an accounting class we don't take the form, we look at the substance.

If you look at the evidence that was presented in this House, you will realize what he was talking about, the form and that makes me not align or disagree with him in terms of principals. At what point in accounting do we define transaction as a fraudulent or a corrupt transaction or as what point do we raise an eye brow.

If you look at the evidence which was presented to this House, you will realize that they lacked what is called completeness. If you talk about hinged withdrawals and you don't tell us the final product; we can't say it's a fraudulent transaction.

Thursday 8th June, 2023 COUNTY ASSEMBLY OF SIAYA DEBATES

I want to align with the Report and support the Report from the ad hoc Committee but I want to give it professional context. I know we have been blamed as a County Assembly that we are supporting blindly. I want to submit to this House that what we received as House lacked the substance. What we were given by the DG had no substance.

Finally, the office of the DG is a very serious office. It has got the high calling, the moral obligation and duty to give accurate information. If you look at how the DG has conducted himself over this matter you will realize he did not handle the process very well. He did not conduct himself well.

We may agree that the form he is talking about needs some attention but how he is presenting the form is a problem. I want to submit and I want to align with Report in this House on two lines; it lacks completeness and the report we were given by the DG took the nature of form and not substance and therefore I want to support the Motion.

Hon. Speaker: Yes Hon. Adiala.

Hon. Adiala: Thank you, Mr. Speaker, Sir; I want to thank the Members for allowing me to form part of the ad hoc Committee. I want to start by saying that the DG has shown a lot of duplicity and insincerity. As a public servant; you need to act prudent in all your undertakings, you need to act prudent in your decisions and your actions. What we are seeing is someone who doesn't want to be team player.

The DG received a letter from the Governor to act on issues, to streamline issues of finance in October last year and when he received the letter it's the same time that renovation of his office was being undertaken. The dates were so close and he tends to say that he knows what was happening in the road sector but he forgets what is happening right in his office.

The cost of all the equipment, renovation plus furniture is enough to have like 6 boreholes in a place called South Uyoma Ward where I come from and when you see someone who wants to act like he is an angel and looking at leaving the important things that he needs to see, I would say that this is hypocrisy.

One thing that our county has been in the limelight for the wrong reasons as part of the ad hoc committee, I got a chance to scrutinize what the DG had but when we looked at it very keenly, what we saw is just hot air nothing substantive. We want a county that works for all of us.

If the Governor delivers even us the MCAs will have something to tell the electorates so I support the Motion and we as the silent majority who wants development in the places that we have we want people to align with the manifesto of *Nyalore* so that we achieve what we promised the electorates. Thank you.

Hon. Speaker: Yes, Member for Ugunja and Majority Leader, Hon. Edwin Otieno Martin.

Hon. Otieno: Thank you, Mr. Speaker, Sir. I want to contribute briefly on the Motion. First, I want to commend the committee that did this able work through their Chair Hon. Otiato. I want to tell you that you have brought us out of shame as an Assembly.

The other day I went for a small trip and I would receive phone calls from friends that just the way my good friend used to put it, Hon. Judy, "Why are you blocking the DG from brining the culprits to book?"

Thursday 8th June, 2023 COUNTY ASSEMBLY OF SIAYA DEBATES

I remember when I went home my kid would joke with me that, “*Daddy mumeiba Siaya mumemaliza*” so today the Special committee has brought us out of shame. You have done a good job, you have been called names but today you have proved you can do it.

Just stay put know from here is when a lot of insults will be hurled on us, but don't mind. That is your pivotal role that you came to do for the people of Siaya.

To the DG, I was wondering when I would wake up in the morning and to hear the DG walking from one radio station to another, I even took him to be a radio presenter than a DG. In a twinkle of an eye, the *Nyalore* government that was initiated by the DG himself and the Governor, he changed it's name to the *Kwalore* government.

Going by the report that was brought before this House today, we found out that it is him, the DG, who took a whooping Kshs. 18 million to benefit himself. So I've been asking myself then, who is corrupt and who can now be termed as *kwalore*? Is it the MCA or the DG himself? Because it's very unfair. Give these MCAs today a million bob, their issue of bursaries will be sought and they will at peace for the whole year only awaiting for another financial year. If you give them to maybe give this money to our children or our pupils who are going to school.

It's a worrying trend that a person in that calibre of DG, would bulldoze staffs of the same government that he serves. A person of DG's calibre would frustrate and make work difficult for the staff to deliver the promises they themselves made to the people of Siaya. It's very sad and I rest my case as I support the motion of impeachment.

Hon. Speaker: Yes, Hon. Cynthia Akinyi.

Hon. Akinyi: Thank you, Mr. Speaker, Sir. I rise to support and the only reason I am supporting this motion is because I want to go down in history that I stood with the people of Siaya.

When I heard that Dr. William Oduol Denge had been chosen by the Governor as his running mate, I was very excited and I am sure a lot of Siaya residents were excited and because of the kind of person we really thought he was and give it to him, Dr. William Denge is a very brilliant son of Siaya and so then I thought that he would use his good brain to create positive impact on the people of Siaya, to change lives as they all promised during the campaigns.

So it came as a disappointment the other day when I was seated here during the committee submissions and I watched this good brain become a rumour monger become a heckler. It was really sad for me. It was a sad day.

I still say he has a good brain and because of that he's able to, how I wish he'd use his networks, even in the media houses to sell this county, to bring in investors, use his networks in those radio stations to, you know, tell people about Siaya the good things that she can do in Siaya. I believe he can.

I think that the kind of personality that, my good friend Dr. William Denge has is not meant for a deputy. He cannot deputize anyone because I think the kind of personality he has, he has to be on top. And so really this job is not for him.

I would've actually advised him to resign. You say that I went, I tried and I was not able to do it. Then you live honourably, serve the people of Syria in a different capacity. But because he did not have the confidence to do that. He did not have the courage to resign. Then that is one of the reasons why then I will stand and support this Motion that will help him to go home so that he can use his good brain to do other useful things than what he has been doing for the last two, three months.

Thursday 8th June, 2023 COUNTY ASSEMBLY OF SIAYA DEBATES

The DG stood here and told us that the only reason why he was following up issues of the imprest account is because the Governor gave him the mandate to oversee the Finance Department. Finance department is made of, finance and procurement.

So he would follow up every procurement of seeds, fertilizer, roads. He would follow up how the imprest account is being used. But when it came to his office, that is where he draws the line. So that one, he does not know, he can't touch it. So they use Kshs. 18 million to renovate the office for one person.

I sat here thinking to myself and wondering, how many ECDE centres would Kshs.18 million feed? How many sanitary pads would Kshs. 18 million buy for our girls to keep them in school? How many small little loans would *Abedo* women get to build their small businesses? And bring economic, freedom to the residents of Siaya.

So for me, it's, it's a sad day because we're losing a, a good brain. We are losing a brilliant man, but I just would like us to help him go home so that then he can come back in a different capacity. Thank you. And probably serve the people of Siaya.

Hon. Speaker: Yes, the Deputy Speaker, Member for West Ugenya.

Hon. Akinyi: Thank you, Mr. Speaker, Sir. Allow me also to support, I didn't want contribute so much but my attention has been drawn by some words that have been uttered by one of my fellow friend Hon, Madingu. He said that we don't have a problem with the DG. We have a very big problem with the DG and that is why we are impeaching the DD today. Going by the mood of this House, it's automatically known that Members arranged to impeach the DG.

The report that has been brought to us before us here by the Special Committee is a self-explanatory report. We are waiting to hear from the Senate what they will say, but to us, we have read the report and understood and clearly put it on records that we are impeaching the DG based on what has been brought before us, the findings of the committee.

I wanted this one to go into records, that matters substantiation, when we say that some words as supposed to be substantiated, substantiation goes hand in hand by Articles, Sections, Standing Orders and this is what DG did not know and have not been aware of. What has been substantiated here is based on the Articles, Sections, Standing Orders and County Government Act. I support.

Hon. Speaker: I want to ask the Mover to reply. Please, Hon. Members. I can see Hon. Simon seems to have something. Is it so burning?

Hon. Angule: It is not all that pressing.

Hon. Speaker: So you can as well keep it or you have already risen?

Hon. Angule: I've already risen.

Hon. Speaker: Okay. Quickly please. One minute.

Hon. Angule: Yes, it'll not take a minute. When these things started, somebody said, that when a hippo comes from water and tells you that the crocodile is ill or unwell, don't doubt. And here is a case where now, we had given the Deputy Governor time to give us evidence to prove that there was corruption in the Executive.

We have come to prove that there is no evidence to prove that there's corruption in the Executive. So I also stand to support the committee, the ad hoc committee that was shared by my neighbour, Hon. Otiato. I commend you for the good work you have done.

It is said normally in English that when you plant, don't plant a thorn on my pathway, because tomorrow you might forget and come to my home barefooted. I think what Mr. Oduol has done, he has planted thorns on our pathways. I don't know how we'll come to our home barefooted. You can use your literature to summarize that one. Thank you.

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Thursday 8th June, 2023 COUNTY ASSEMBLY OF SIAYA DEBATES

Hon. Speaker: And finally, the Chair of Public Accounts Committee. The Member for Yala Township, Hon. William Kinyanyi

Hon. Kinyanyi: Thank you, Mr. Speaker, Sir. I was almost walking out, but now you given me a chance.

Hon. Speaker: In protest?

Hon. Kinyanyi: No. I'm saying you've given me a chance. Let me now speak. And I think I should also appreciate Mr. Oduol for giving me a job. You know, this is the beginning for this. There's a part still coming the way my learned friend, the other side, the CPA says that Mr. Oduol did it unprofessionally, actually it was unprofessionally. As a CEO, he should have started with his audit department for internal audit to get a proper result.

Two, if these things were there, he would've gone to the Auditor General to get his complaints audited and to be done properly.

Three, he would ask for a special audit for all these things and what he has said, now I'm seeing that have a job. I and Auditors, we have a job. We must follow this seat that costed Kshs. 1.2 million. I thank Hon. Oduol for doing that and for misusing the county money. So we have a job, the PAC team, there's a job for.

Two, the Auditor General must follow this., EACC must follow this, if the money was properly used. So sometimes before you do something, think of yourself before you talk loud. And I think this is where no KBC, no Mayienga, no Ramogi will defend this. There's enough evidence, Kshs. 1.2 million, Kshs. 18 million, there'll be a proper audit and I'll also ask the House that we do special audit on all these accounts. Thank you. Let me not talk much. Thank you.

Hon. Speaker: Mover will you reply.

Hon. Otiato: Thank you, Mr. Speaker, Sir. In like two minutes, I should be done with this. Once again, I want to thank the House for positively debating this matter and Mr. Speaker on this, I have two issues.

One, to in general, as you have heard, what Members have said, and as an Investigator, there is one thing that I want to report that beyond reasonable doubt, it has been proved that our Deputy Governor Oduol Denge is incompetent to the highest level and I want to substantiate that in three lines.

One, you realize that in the Code of Conduct that our DG swore to, there is a section that are saying that any information that you get by the virtue of office you hold should ever be protected. Today. Dr. Oduol is walking in all radio stations using documents that he purportedly received by the virtue of the office that is a DG.

He really needs to go home and the other day, it is shaming to hear somebody saying that the statements I have here are from Equity. He's so insensitive to a level that he don't know is interfering with business of another organization on very stupid, flimsy ground. Without even thinking, Mr. Oduol should be going home.

Look at how Mr. Oduol handles the issues of procurement when we ask him in his office that the money is lost. How did you procure this? Do you know what he says? "That at the end of it all, ask the Director Procurement."

It technically means that Dr. Oduol who is a CPA K doesn't know the role of Director Procurement in this county. As a Deputy Governor, if you don't know that the procurement entity belongs to the Chief Officer and that in your office you have a Chief Officer and Director Procurement only provides advisory. Why are you seated in that office?

Thursday 8th June, 2023 COUNTY ASSEMBLY OF SIAYA DEBATES

The other day, Dr. Oduol tells us that he had proposed in this supplementary budget, one that the money should be given and be taken to his office for construction, and that there are some folks, he calls this Assembly folks, that there are some folks who goes to Kisumu and do their Orthodox and throw away projects.

Hon. Oduol is not aware that in Supplementary Budget you cannot introduce substantially new projects. Supplementary remains supplementary, and he goes ahead and call this House when the House has refused that the House of Fox do Orthodox.

Allow me to say this for severally and everybody in Siaya I have been getting calls and people talking around and they say outside there and Hon. Oduol knows and he has said that even if we impeach him, the Senate is going to return him. I do request our able colleagues at the Senate. This is a broken marriage. Don't force us with a woman that we cannot live with.

(Applause)

I am requesting the Senate, look at the ruling that you had on Wairia case on the import of impeachment. It is not about criminality. It is not about culpability, but we are talking about political responsibility here. We do request this honourable Senate in the spirit of joining us and helping Siaya to move forward.

It has been proved that with all these standards, the person we picked is very good internationally, is very good in business, but has never worked in the public office, and therefore, for sure, we better rest it here. The Senate helps us. Whatever the Senate is going to do should do it for the benefit of Siaya beyond the party lines. Thank you Mr. Speaker.

(Applause)

(Question put and agreed to)

I said I will deal with roll call, therefore I direct the clerks to proceed and call out the names.

m(Doors locked for voting)

(Voting by roll call on going)

Hon. Members, I will communicate and looks like I am communicating the obvious that, the Members in support of the motion for removal, those who have **voted yes, I vote yes are 42.**

(Applause)

I vote no are zero.

(Laughter)

I abstain are zero, and therefore the House has unanimously passed the Motion on removal from office of William Oduol. So Members in line with the provisions of section 33(1)(9)(a) read together Standing Order, 71, 11 and 72 I Shall within two days inform the Speaker of the Senate off the resolution of this House to impeach the Deputy Governor, William Odiambo Oduol. Yes, Hon. Booker, what is it?

Hon. Booker: Would you allow us tomorrow to take Hon. Otare to occupy the office?

(Laughter)

Hon. Speaker: You are out of Order. On a light note, the law still allows the Deputy Governor to still exercise his roles and functions as the Deputy Governor until when he is done at the Senate. But let me stop there.

I want to give some guidance on this Motion before we go to the next Order, is that I've realized there could be typos here and there, and therefore I want to direct that the typos be addressed within the spirits and substance and content of the Report without having to alter the meaning of the report line by line and such amendments be it report, Motion was of noted somewhere whether even 2022 instead of 2023. The same be communicated to the Deputy Governor, the witnesses, the Assembly of course, and Members.

Secondly, I also want to take note and seriously so that this House will not allow in future that the House be intimidated at any given point when we are exercising our roles.

(Applause)

I want to refer you to the Powers and Privileges Act 2017, and it reads that, “a person shall not assault, threaten, use abusive language, obstruct, molest or insult any member proceeding to being within or leaving the presence of the county assembly or endeavour to compel any member by force insult or menace to declare himself or herself in favour of or against any position or proposition on a matter pending or a matter being handled by the House.

A person shall not assault, threaten, use, abusive language, interfere with molest, resist or obstruct any member of staff while in execution of his or her duty.”

Assault a member shall not assault or threaten a member or unlawfully deprive a member of any benefit on account of member's conduct in the assembly.

And because we witnessed the other day noise aimed at disrupting proceedings of the House, whatever committee of the House, I direct the Office of the Clerk through the office of the Serjeant -at -Arms to report this attempted disruption to the police for action so that we don't have this exported to the Senate next time.

And that we don't have this attempted at the House next time. And once that is reported, you further write a letter to the Inspector General of Police for action to be taken, because this House must be given the freedom to operate within the confines of the law.

Thursday 8th June, 2023 COUNTY ASSEMBLY OF SIAYA DEBATES

The same report will accompany our report to the Senate so that Senate will understand circumstances under which we debated this matter. And I think that is well guided.

MOTION

ADJOURNMENT

Hon. Members, there being no other Business, this house adjourns until Tuesday, 13th June, 2023 in the chambers.

The House rose at 6.45 p.m.