

REPUBLIC OF KENYA



COUNTY ASSEMBLY OF SIAYA

THIRD ASSEMBLY - SECOND SESSION

MOTION ON REMOVAL FROM OFFICE OF THE SIAYA COUNTY DEPUTY GOVERNOR, WILLIAM ODUOL BY IMPEACHMENT PURSUANT TO ARTICLE 181(1)(a)(c) AND ARTICLE 75, OF THE CONSTITUTION OF KENYA, 2010; SECTION 33 OF THE COUNTY GOVERNMENTS ACT, 2012, AND STANDING ORDER 72 OF THE COUNTY ASSEMBLY OF SIAYA STANDING ORDERS.

MR. SPEAKER SIR

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 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:

1. GROSS VIOLATION OF CONSTITUTION AND OTHER LAWS

I. INTERFERENCE WITH PROCUREMENT PROCESS THROUGH ACTS OF BID-RIGGING

- a. 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”*
- b. 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.
- c. 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.
- d. 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.

2. ABUSE OF OFFICE AND GROSS MISCONDUCT

I. 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 Ksh 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.

II. MISUSE OF PUBLIC RESOURCES

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

III. BULLYING

- a. 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;
- b. 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.
- c. 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

- d. 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.*

IV. 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:

- a. 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.

- b. 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.
- c. 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
- d. 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.
- e. 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.

Sign:

Date:

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HON. GORDON ONGUURU
MCA, EAST ASEMBO WARD