

Wednesday, 9<sup>th</sup> October, 2019 COUNTY ASSEMBLY OF SIAYA DEBATES

## REPUBLIC OF KENYA

### SIAYA COUNTY ASSEMBLY

#### THE HANSARD

##### Second County Assembly-Third session

Wednesday, 9<sup>th</sup> October, 2019

The House met at the Chambers at 9.30 a.m.

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

#### PRAYER

#### COMMUNICATION FROM THE CHAIR

##### VISITING STUDENTS AND TEACHERS FROM CENTRAL GEM WARD

**Hon. Speaker:** Hon. Members, I wish to recognize the presence of Teachers and students from Luri Secondary School in Central Gem Ward. They are seated at the public gallery. They are accompanied by the Principal, Mrs. Judith A, Odhuno, can you welcome the Madam, together with Mr. Joel Embandu, Mr. Brian Onyango, Mercy Juma. Vovinton Ajowi, Ezra Onyango, and Mr. Oscar Donde.

I extend a warm welcome to them and wish them a happy fruit full visit. I am also informed that the students are form four students, and I wish you all the best in the fourth coming examinations.

*(Applause)*

I will allow their Member to welcome them, the Member representing Central Gem at some point, but for now I am proceeding with the communication, so the Hon. Member representing Central Gem, prepare your speech in a while.

#### MESSAGE

##### GOVERNOR'S RESPONSE ON INVITATION

**Hon. Speaker:** Hon. Members, yesterday I took you through a letter that we wrote to the Governor, inviting him to appear before the Committee on General Oversight. So I had listed the grounds upon which we invited the Governor and the options that we had. Therefore I had promised that I would read his communication today. This is how the Governor replied;

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I refer to your letter Ref. SC.ASS/CORRES/C.EXC/19 VOL XIII of 17<sup>th</sup> September, 2019 requesting my attendance before the Assembly Committee on General Oversight for dialogue on issues raised therein.

I wish to thank the Assembly from the onset on this invitation especially bearing in mind that such forms of dialogue are not only important in fostering unity between leaders and the two arms of Siaya County Government but are also critical drivers for delivery of the services to the people that we all serve.

In this regard, I wish to suggest that we consider doing a consultative dialogue to discuss both the issues raised in your said letter as well as other broader issues of importance to the Government and the people of Siaya as a whole which will also include the participation of the Members of my Executive and other relevant senior Members of Staff.

If this suggestion is agreeable to the Assembly, kindly notify us for timely organization of the venue and other logistical arrangements for the same.

In the meantime, I wish to briefly respond to the issues raised in your said letter as follows;

1. On the issues of appointment of Chief Officers on acting capacity, I wish to state that as an Executive, we fully appreciate the concerns of the Assembly on this matter. Kindly note that at the beginning of my second tour of duty, I was under the impression that the contracts for the Chief Officers that were appointed during my first tour of duty had elapsed at the end of my said first term.

That is the basis upon which my Government placed advertisements seeking to make replacements. However, we noted later on that the said contracts were in fact running and were due to lapse sometime in the month of May this year. This meant that our first advert on the same became a nullity.

Be that as it may, my reading of the law and that of the officers whose advice I relied on in effecting the acting appointment was in favor of my said decision. Regrettably the Assembly hold a different view from ours, which is why we think that vide a letter dated 4<sup>th</sup> March 2019, the Assembly instructed the law firm of Carrey Joseph to seek an Advisory Opinion from the Supreme Court on the issue of whether or not the Governor has the powers to appoint persons who have not been vetted by the Assembly as the Chief Officers in acting capacity.

The matter is registered as SUPREME COURT ADVISORY OPINION NO. 1 OF 2019 and it is still a live matter before the court. We hold the view that we await the opinion of the court on that issue before any conclusive decision is arrived at.

2. On the issue of challenges in Budget implementation, we wish to note that the County Government has not experienced any major challenges in implementing the Budget that would warrant any negative listing. Budget making is a joint process between the Executive and the Assembly and the same has always been executed on time. However, if there are any challenges that were experienced, it was during the rejection of the Supplementary Budget by the Assembly for reasons that we still think were unwarranted.

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The process of re making that Budget was long and no doubt it had some negative effects on the procurement, implementation and the absorption rate of the County Government. We are not aware of any negative ranking of any entity especially being that the County Government has never been involved in any survey seeking to rank Counties.

The latest attempt to rank Counties has been vehemently objected to by the council of Governors for the reason that Counties have their own unique circumstances among several other reasons.

3. On the issue of delivery of State of County address, I wish to note that I derive that power from the law and that I have always faithfully respected the same. This being a yearly event, I held my last state of County address at ATC on 31<sup>st</sup> December, 2018 where all Members of the Assembly were invited but unfortunately never attended.

I have purposed to conduct the next State of the County address in the month of December on a date and venue to be communicated later and the invitation to that effect will be extended to the Assembly.

4. On the impeachment of the CECM Health, your letter dated 15<sup>th</sup> August, 2019 was received in my office on 16<sup>th</sup> of August, 2019 during which time, I was on official engagements. This letter only came to my attention on 19<sup>th</sup> August 2019 when I came back to the office.

I marked the same to the office of County Attorney on the same date for advice on the mode of implementation of the same, but a response was made to me indicating that the CECM Health had moved to court to challenge the impeachment and affected service of the Petition on 21<sup>st</sup> August, 2019 with an advice that the matter was now sub judice and any attempt to act on it would run contrary to the law. Subsequent to that we were equally served with stay Orders issued on 9<sup>th</sup> September, 2019.

Hon. Members, this is the response, I will convene the Committee of General Oversight meeting, and then we will take a decision for this response from the Governor. Next Order

### **PETITION**

#### **BODABODA OPERATORS PETITION ON NOMINATION OF A CANDIDATE**

**Hon. Speaker:** Hon. Members, I am aware that there is a petition which I am going through which has been sent through by a group of Bodaboda operators on nomination of a candidate, or vetting of a certain candidate whose approval we suspended on account of another petition that came from the same group.

I am also aware; there is some intelligence we are receiving of an attempt by a certain group of bodabodas yesterday to come and demonstrate in the Assembly, to ask you or coerce the Assembly to act on that Nominee. You are aware that the provisions of the law are in such a

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way that if you coerce or in a way try to convince the Assembly to do its work, then you can get disqualified.

I will therefore peruse the law, and look at the petition and advise as soon as possible, either today afternoon or Tuesday next week, but wherever you go, ask any nominee before the Assembly never to try even to influence, because that leads to automatic disqualification.

Matters of Integrity are so critical that when you send us signatures purporting that somebody faked your signatures, then the next day you send other signatures, purporting to withdraw the same, as an Assembly that approves you on the basis of integrity.

we can be tempted to take that then to external investigators to ensure that the motive is established, so that we do not take anything for granted. Be warned that you cannot coerce the Assembly to do its work. Next Order!

### STATEMENT

#### WELCOME SPEECH TO STUDENTS FROM LURI SECONDARY SCHOOL

**Hon. Speaker:** So I will ask the Member representing Central Gem to say a word to the visiting school before we embark on the Business of the House.

**Hon. Abigail:** Thank you so much, Mr. Speaker, and thank you so much for allowing students from my Ward to visit our Chambers, it is a great honor. I wish to take this opportunity to welcome Students and Teachers from Luri School. With your permission, I would request them to all rise so that the Hon. Members can give them a warm welcome the way we do it in the House.

*(Applause)*

Thank you so much, you can have your seats. That is how we normally do it, is how we welcome you to this Honorable House. I would say that I am grateful that you came, to see the way we interact within this House, and you see the way the Hon. Members behave in the Assembly.

I pray for success to be your portion in the coming exams and that after your school, you may display discipline in whatever sector you will engage in. I thank you for coming and may God bless you.

**Hon. Speaker:** Hon. Members, be notified that after our sitting today, we will be having a meeting with the LAPFUND Team to explain to us the issues of statements, I will not divulge much, then at 1.00 p.m. we will also be converging as we discussed yesterday to receive our trophies officially. So stay around. We are also expecting responses from various statements today. There is also a matter here which I wanted to address.

The Member for West Ugenya had an issue with the Budget Committee which they needed to clarify and provide answers to the members of West Ugenya, as well as the contractor. There is a Contractor by the name Family Total General Contractors Limited.

Apparently they had been awarded a contract for fencing, and the contract read' this is to notify you that you have been awarded a contract for fencing and construction of a gate at Nyaminia Youth Polytechnic in West Ugenya ward. The details are there.

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Apparently the contractor finished his work, but the allocation is missing in the rollover Budget. So kindly the Budget Committee, take note of that and give a response even informally as soon as Friday. Yes, Hon. Booker.

**Hon. Booker:** Thank you, Mr. Speaker. I have numerous Statements to respond to, but I would like to start with the very hot one by Hon. Edwin Odhiambo, MCA South Sakwa about the payment of Kodhacha Owuoya Contractor Lesley Communication.

The above mentioned contract was worth Kshs 129774544. The activities originally planned were, light grading, light bush clearance, and culvert installation. However, the road condition as of the time of implementation required heavy grading, as opposed to light grading, heavy bush clearance as opposed to light bush clearance.

This necessitated the variations that were made in the works. That is how the payments were made, and the Department of Public Works does not pay ghost projects as alleged. Attached herewith are details of payments made with these communications. We have the attachments for the Hon. Members to go through.

**Hon. Speaker:** Hon Edwin? Are you satisfied with the submission? Any supplementary questions?

**Hon. Odhiambo:** Thank you, Mr. Speaker, Sir. According to the response which has been read by the Hon. Member for South Uyoma on behalf of the department of Roads, I want to say that I am not satisfied with the response. I would like to confirm to this House that the road had allocation of Kshs. 1.3 million, Kshs. 3.5 million and Kshs. 2.7 million.

Instead of going back and forth, I would request that we have a one on one with the Executive so that we can deliberate on this well because a number of things have to be put in place. What has been attached in this response have not been signed and this means that none of them is ready to be culpable.

**Hon. Speaker:** Chairman or the person who was answering, what is your take on the authenticity of the documents? I can see, indeed they are not signed and did you at any one point invite the concerned Member of the Assembly while interrogating the CEC?

**Hon. Booker:** Thank you, very much Mr. Speaker. The documents are not signed and I cannot start complaining that they are signed. I also concur with the Hon. Member for South Sakwa that not at any one time did we invite him when we were interrogating the CEC. I would only request that we grant him his prayers that we invite the roads department to the Committee on General Oversight so that we can all interrogate him because the issue here seems to be very weighty. Thank you.

**Hon. Speaker:** Hon. Olasi!

**Hon. Olasi:** Thank you, Mr. Speaker. Allow me to start by joining Hon. Abigail and the House at large. The Member for South Sakwa clearly indicates here the allocations. I believe what we are getting here, ---

**Hon. Speaker:** Hon. Otiato, Member for Yimbo East!

**Hon. Otiato:** Thank you, Mr. Speaker. I am seeing signatures from Hon. Jaoko Oburu, CECM Public Works. One issue that we have to deal with, there is a systematic way that the Executive has adopted in dealing or delaying responses to this House.

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You will realize, I am not sure, if you check at these dates, this response was given way back before 13<sup>th</sup> August. We are now in October and we are saying that three months cannot be able to get a proper answer.

If you read what is written here, the above mentioned contract was worth Kshs. 1.2 million, now who did the assessment to those roads? Was it the MCA or was it an engineer of roads? If an engineer of roads did an assessment and found we had to do light grading, light bush clearing and the basis of it being put in the Budget

Again takes us back to validity of our budgeting process. How then was this department able to present a budget of Kshs. 1.2 million to be approved by this House then after that during implementation you realize it is not light grading it is heavy grading.

It has been requested by the Hon. Member, we really should be seeing this Minister before this House. If you go to the payment voucher, I know this Minister went to this department when all these people are out of this office and we are assuming that this is an extract from the project file in the department.

When the question was raised, he went to the file and did a photocopy of some of the documents to bring. Going by this, it is clear that the payments were done using illegal documents. An engineer never signed these documents then it makes us believe that even PMCs were not aware of these documents, so the payment was a fraud. I rest my case.

**Hon. Odongo:** Thank you, Mr. Speaker. First, I can see that these documents were received in the County Assembly of Siaya on 13<sup>th</sup> August, 2019. What I wanted to add, I think the very House we are seated in, we had a ruling that before the response is brought to this House, the Committee should be in a position to invite the person who sent a statement request and get satisfied before the response is brought to this House. I wonder why the Committee did not invite the owner of the statement when they invited the CEC.

**Hon. Speaker:** On that matter, may I conclude this way, and I think I will make official communication on this. That Committees will be given timelines between 7 to 14 days within which to respond to statement requests or just give progress report. As a matter of practice we want to ensure that every Committee summoning the CECM to answer question to the question asked must endeavor to include the person asking that question.

On issues of authenticity, I agree with you, you could have written a cover letter but if the documents which speak on the amounts and on payments and authority to pay are not signed then who do we hold responsible?

That is why we say that the Committee should have done better by ensuring that critiquing the documents sent to you so that by now you would be asking the CECM when you meet next that look at the people who signed this document, we want also to question them.

As it is, if you go tomorrow they give you another printout with no signature then they say this is not what they gave you initially. So make sure the documents you are given are authentic. So we rule that the concerned Committee to ensure that you send invitation to invite the CECM and also the Member for South Sakwa to be part of the meeting.

You will be discussing or investigating among other things the authenticity of the documents, the number of allocations and also exploring the approvals for payments. Did we

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have the input of PMCs? That is when you will give us a report and we give you up to Thursday next week, you must bring us that report.

Let it not be only for this particular question, any other question that we will get in future, you must make it a tradition that you give sufficient notice to invite the relevant CEC and let the Member be present and critic, interrogate further so that you just don't come and read. If it was a matter of reading then we will all be given copies and we go home.

**Hon. Booker:** Thank you, very much Mr. Speaker, Sir; for the guidance you have given out I would also like to say that when S.M. Otieno was arguing a case of Wambui Otieno and the late husband; he said a toad doesn't leap in daylight unless there is something to eat. Maybe the Roads Committee was also trying to show the Hon. Members the rot in the Roads department so that all of you could see. Allow me to read the next Statement of Hon. Morris Aringo, MCA for West Sakwa. This is in reference to your letter ref ACA/ADM/COR/C/EXECUTIVE/18/VOL. 7165, 19<sup>th</sup> March, 2019.

Our response on the subject is as follows; you stated that the classroom in Nyawita Primary School was blown off by wind on 20th February, 2019. 30 pupils were affected and that they are currently learning under a tree. I want to state that the classroom roof stated is a core mandate of the National Government.

The National Government through Nyawita Primary school management is supposed to do the replacement of the roof. The disaster fund has a component in both the National and the County Government. In the County Government of Siaya the disaster fund is domiciled in the department of Governance and Administration.

Thus the department of Public Works, Roads, Energy and Transport couldn't take any action until a notification was given to them by the department of Governance and Administration.

In such a scenario where the funds are domiciled in another department our responsibility would only be limited to preparing the tender document and supervision of work. It further says we apologize for the late response to your request, thank you very much.

**Hon. Speaker:** Hon. Morris Aringo; are you satisfied with the response or you have supplementary questions?

**Hon. Aringo:** Thank you, Mr. Speaker, Sir; I want to say that I am not satisfied with the response. As indicated in the response, this was a disaster and it was beyond the scope of community of Nyawita and it happened close to 7months ago. What I am getting here is the department is trying to let us know that the funds were not domiciled in the department but in another department.

My worry is that why did it take the department 6months to reply to this straight forward issue; they would have responded within a week so that we chase it through the avenues they are telling us. I want to say that the response is coming too late; it has been overtaken by events. I am happy to report that I got a good Samaritan who did not only replace the roof but actually constructed a new classroom.

**Hon. Omoro:** Thank you, Mr. Speaker, Sir; I take this opportunity to welcome our visitors; students and teachers from Luri Secondary School. Feel at home. My sentiment was just

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a quick one; a direct response to Hon. Aringo's last statements that he went round and pushed for the construction of the roof that was blown off by wind and there was no remedy to the extent that a well-wisher came in and fixed the problem.

As much as it delayed or maybe the County Government never took charge of doing the repair; it is clearly stated here that it's function of the National Government. I think in our respective leadership positions we also have the area elected MP that controls the CDF; it was too bad for the area leadership to take too long like 7 months taking cognizant of the fact that the roof was blown by the wind and therefore the pupils there were living a risk of bad weather. Next time the area leadership should be advised to work with speed and respond to mitigate disasters.

**Hon. Otiato:** Mr. Speaker, Sir; we are too quick to make judgement, possibly among all of us who are speaking and nobody is talking about who is this who was affected. Are we talking about the 30 pupils and if by any chance that the Primary school because the County Government of Siaya couldn't afford to build a classroom they have donated one of the class to host this ECDE pupils?

The Member is asking that now can you move in and repair the roof; the ECDE pupils are under a tree because that House has been affected.

If that is the case; then the only solution was our kids were domiciled in a primary school classroom and now the primary school has rejected them out of that House. The kind of answer we would be expecting; we are doing an ECDE for those pupils in that school. We won't go to an MP now because you happened to have accommodated our pupils in your school; now do them a roof. I think we ought to have said we are doing an ECDE classroom for this.

**Hon. Speaker:** Hon. Omoro.

**Hon. Omoro:** Thank you, Mr. Speaker, Sir; I don't know why Hon. Otiato is defending my previous statement because the statement was very categorical that the roof of a classroom in a primary school was blown off.

It was never specified if it was an ECDE block; had it been that the statement came that I am doing a statement request over the blown off roof of an ECDE block in such a Primary school then it would have really been in order and in fact we would have acted in that direction but all the same I think the best thing is let us not put our eggs in one basket. As responded I think it is vivid and very clear that point is taken home.

**Hon. Speaker:** Did you just talk about the roof or even the plight of the students and the pupils?

**Hon. Aringo:** My concern is that why had they to take them over 6 months to reply; even if it wasn't an ECDE classroom? They would have given the response in time so that we go to the relevant department, that's my issue.

**Hon. Speaker:** What was your Statement, Hon. Aringo?

**Hon. Aringo:** The Statement was requesting to have the blown off roof replaced; that was an ECDE classroom which is domiciled within Nyawita Primary School.

**Hon. Speaker:** Hon. Members, I don't have the Statement but I also don't want you to read Hon. Otiato out of context because when you look at the physical infrastructure in a

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secondary school, it is very quick to say it is a National function. How about when you pay fees for a student there? It then doesn't become a National function; there politicians are benefitting and they are happy about it.

How about today if that is burnt down completely? Then we hear County Government saying that they are contributing 10 iron sheets under our program, will we reject? What we need to do as a County Government; we appreciate its National Government function but we also appreciate that we live within the same County.

If we have provisions for disaster funds then we dictate where we take the disaster funds. We will look at it in a broad perspective and that is how best to handle this. You have been answered; I think that has been handled. Those who feel that we need to enlarge our emergency funds, disaster management funds to include such then we are at liberty to do it.

**Hon. Oriaro:** I don't know today why I am not in my usual mood but I have got one observation that should be the observation of your Chair and this Hon. House. We have been enjoying statements to response but my wish is that we don't go for the Kenshian philosophy of the end justifying the means.

It should be means justifying the ends; the authorities where to which our attention is being drawn in those responses. We should be very keen on this; we are comfortably deliberating on it. As an acting County secretary also in this response; what does the law say about the office of the County Secretary?

Isn't it a Constitutional office whose very existence; the holder of it must be approved by the House. Somebody acting and you even see the CCM recognizing his/her existence in giving buttress to his response. We should be keen on such like; the law doesn't allow us to have an acting County Secretary and these are the people who in the end also engage in signing contracts. If we are going by the Kenshian's way, then we will have no reason to appearing as if we are dissatisfied with their activities because that person is not accountable to us.

**Hon. Speaker:** On that Hon. Members I always say you have the tools; you can bring a Motion to question the legitimacy of the office holder. You can even summon the relevant CEC or the Governor himself to answer as to why you have an acting County Secretary. You can even resolve not to associate with an acting County Secretary or acknowledge his correspondents; that is within you powers as a House but as far as that question is concerned I think we have exhausted it. u

**Hon. Otiato:** Being that it is a matter of concern; it has taken 6months to get a response. I'm aware through my connections within the Executive that they are given up to possibly tomorrow to present their final budgets under Executive for Supplementary. I did ask a question on the status of ECDEs within Yimbo East and I know about two or three ECDs under Kapera.

It's been a month or two and we have not gotten a response; we cannot even take advantage of factoring this matter in the supplementary so that we sort out the mess that is happening down there. I don't what we can do to get this responses as soon as possible and if there is anything that we can do on a supplementary we do. From your ruling you can be able to help us; thank you.

**Hon. Speaker:** I appreciate a genuine concern but when you are talking about issues and discrepancies in the budget we need to address them quickly but I also asked you people to write to me your concern so that I relay them to the Budget Committee.

What I can say at this point is that any time that supplementary will come before we process it we will have to register all individual concerns from all the Wards and that becomes the starting point in processing that supplementary.

The supplementary budget will come and if it is meant to rectify omissions that would be a perfect opportunity to input those concerns and we will ensure that the Member concerned will come before the Budget Committee and the treasury, CECM concerned and those other Members and they will be justifying why that is an omission which must find itself in the supplementary.

At that I also hope we will be having parent budget with us; everybody having a copy, having the supplementary, issues and rollovers like the issue for West Ugenya because it is missing in a current budget and it's a matter which has been concluded which has to be factored in in the supplementary.

**Hon. Booker:** Thank you, Mr. Speaker, Sir; I also wish to say something before I respond to this statement. The issue of Hon. Aringo is like blaming a morgue attendant for a baby who was not born properly in the maternity.

**Hon. Speaker:** Focus on the next Statement.

**Hon. Booker:** Allow me to respond to a Statement by Hon. Peter Owuor.

Reference is made to your letter ref: SCA/ADM/CORR/C.EXECL/19 VOL XIII – 39 dated 24<sup>th</sup> July 2019.

The drainage system is an integral part of our pavement design, and therefore, construction and maintenance processes and the drainage system considerations consume a substantial amount of the annual roads Budget.

I am therefore writing in response to Hon. Peter Oor's request as follows:

1. The department of Public Works, Roads, Transport, and Energy and Infrastructure treats routine maintenance of roads and drainage as a priority. Routine road maintenance works entails bush clearing, drainage works and light grading. The department relies on the approved Budget to prepare a work plan for this exercise. In addition, the Roads Maintenance Levy Fund (RMLF) is also used to maintain existing County Roads.

The department will continue to emphasize the importance of adequate resources for roads maintenance during the budgeting process in order to maintain a consistent routine maintenance of roads drainages in the County.

Based on resources allocated for maintenance drainage, the department has undertaken works in Yala Township, Migingo market in Bondo and Siaya Town.

Other works include regular bush clearing, tunnel drainage and channel clearing in the rural and major town roads in the County.

2. The department engages local youth and women during routine maintenance of roads in various Wards for bush clearing, culvert installation and culvert clearing. A draft copy policy paper on Labour based road maintenance is ready and will be presented by the CECM to cabinet for approval to actualize the use of funds already allocated in the 2019 – 2020 Budget.

Hon. Jaoko Oburu

CECM- Public Works, Roads, Energy, Transport and Infrastructure

**Hon. Speaker:** Hon. Oor.

**Hon. Oor:** Mr. Speaker, Sir, I have seen the response, but before I say anything on it, I want to first, welcome students from Gem together with the teachers who are here. The response is not what I was expecting and I think this was just done to please me, which I am not!

They have only mentioned three major towns that they are working on yet we have so many other towns that need to be worked on as well. They need to be serious with their work because if they are not I will have to face them in their offices.

The issue of 30% that I brought to this House has taken long leaving the taxpayer with nothing while the contractors go scot free with a lot of money. Therefore, they either increase the money or work on the issue, thank you.

**Hon. Speaker:** Any issues or anybody with any matter about the statement? Therefore, I promise I am going to give guidelines on how to handle Statements going forward. They will not just be mere letters to the Executive then they respond from the comfort of their offices then we just read.

It will have to be meaningful interactions where you ask and we have a forum where the person asking the Committee is there and the concerned members of the Executive are also answerable. One question can lead into another and you can discover more so that we have meaningful reports coming to the House.

We will also have a layer where when Statement are not satisfactory or issues are not concluded properly then we take it to another level of the Committee on General Oversight where we come and ask them here and they come and respond.

Timelines will have to be put there. You cannot do it as if you have the whole world and the whole time for yourself. Seven days is sufficient for notice for them to appear and another seven days sufficient for you to interrogate the answers and give us the response.

Any other issues, is there another one? Ok, they are so many today.

**Hon. Booker:** Thank you, Mr. Speaker, Sir. Allow me to respond to a Statement by Hon. Otiato about river Yala weir at Magombe.

We wish to state as follows:

1. Dominion Farm did the weir when the County Council of Siaya, County Council of Bondo and Lake Basin Authority entered a lease agreement, which includes construction of the works stated above.
2. We do not have a copy of the NLC judgement for preparation of demolition BQs of the structure.
3. Detailed drawings are currently not in our possession.

However, by a copy of this letter, our Director Public Works will initiate the process of obtaining these documents from the archives. Thank you.

The letter was copied to;

1. H.E the Governor.
2. H.E the Deputy Governor.
3. CECM- Lands, Physical Planning, Housing and Urban Development.
4. CECM- Water and Irrigation.
5. County Secretary.
6. CO- Public Works Roads, Energy, Transport and Infrastructure.
7. Director Works.

**Hon. Speaker:** Hon. Otiato.

**Hon. Otiato:** Thank you, Mr. Speaker, Sir. How I wish next time when the secretariat will be bringing this Statement, we get copies of the actual Statement, as it has always been the practice so that even Members deliberating on it will be able to know or have the content of actual question.

From response number 1, it was in dispute that the Weir construction started by the Lake Basin or the former Council, our question was very simple. We want to know whether there were approvals for such a construction. During that time, I believe we had Council engineers who would approve such constructions and am aware that during this particular construction there were no approvals done.

During the period at which it was to be done there was an increase and in water control, when you increase the depth of water terms of Weir even with one inch we will affect over 500 meters back.

Therefore, the issue here was that if they could not deliver and I am happy that we have a CECM who happens to becoming from Bondo and I would like to say that his grandmother and uncles are among the people in Magombe whose lands had been taken by the water and are saying that he is taking time.

We needed this sorted as early as yesterday so that people don't continue suffering. We have people whose lands as well as posho mills have been submerged in water. We need this to be treated with a lot of urgency because we are now in January and we need to start ploughing to claim the land that has been lost.

The Minister says in his second response that he does not have a copy of NCL judgement. Then there is only one thing that comes to my mind about this minister. That he is grossly incompetent, I made it very clear, and I gave a gazette notice on how to do service of court orders.

1. I can serve you through a gazette publication and this is something that has been publicized so you do not again ask me to serve it to you.
2. It is in the same ministry two months ago that did organize, survey has been done by the County Government, and currently the survey is going on by the County Government at Yala Swamp based on that NLC ruling.

Therefore, when a particular department says that they do not have the NLC judgement while another department in the same Government is using the same ruling to undertake some activities, so what is he trying to tell us? Does it mean that works department operates separately from other arms of this Government?

Mr. Speaker, Sir, how I wish we realize that questions which we are asking revolves around the department of Roads and Public works, and it also revolves around one individual. If next week by Monday we call this person and all of us sit with him in one sitting then by Thursday we shall be done with this thing. I am not comfortable with what we have here, we really need to get further details on this particular Statement.

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

**Hon. Oriaro:** Thank you Mr. Speaker Sir. Let me say that my reason for being here is being here on behalf of Central Alego Ward people, and that still takes me to my earlier sentiments. Firstly, I would appreciate the chair of this Committee on Roads is an engineer and when transactions are done before being brought to us they ought to have perused through the response here.

The response says here that they are not in possession of drawings. Currently they are not, maybe tomorrow they will be. In engineering terms or technological terms, does it make sense to

talk about drawing? What kind of drawings? That is coming from a CECM on Roads and they are also going ahead to say and I want to be very particular on this. Number 3, should such a statement come from a CECM? If a CECM can be giving such statement, is he competent?

Did we approve him to be a CECM? We should not be taken for a ride and I am saying that without fearing anybody. The Weir was done by Dominion Farms as carolary of a lease entered into by County Government of Siaya, Bondo and Lake Basin. Coming from our CECM, can the minister even convince a meeting with a villager from Central Alego?

A minister, they call themselves ministers, has a content that is outside the content of even a mere villager. We do not have a copy of National Land Commission judgement for preparation and I want this to be read given that our students are here for preparation of demolition of BQs yet they don't have drawings! Oriaro finds such unpalatable and I want this to be communicated to the public.

The people we put in charge if they are not there substantively then we are taking the people of Siaya for a ride. Moreover, it is this Honorable House that should stand tall on matters oversight and there is no short cut here.

**Hon. Speaker:** Yes, Hon. Odongo.

**Hon. Odongo:** Thank you, Mr. Speaker, Sir. First, I would request the Hon. Member who has just spoke to give us the right name to the CECM today because he says they call themselves Minister. I don't know what we should call them according to him because our students are also here and they know that CECMs are the ministers. Therefore, I request after this that he give us the other name.

Mine is still a blame to the secretariat following on Hon. Otiato's earlier deliberations. So if Hon. Otiato who is the author of the Statement is disputing that the response is not in line to his request yet it was received by our secretariat, the clerk of that Committee. Did the clerk read the response or did he have the request while receiving the response? I would like to know that.

**Hon. Speaker:** Yes, Hon. Olsi.

**Hon. Olsi:** Thank you Mr. Speaker Sir. What I want to remind the Hon. Member, is that after receiving the response or the responses from the Executive it is upon the Committee to go through the report and bring to the House what they have adopted. It is not the work of the clerk to do so. I rest my case.

**Hon. Speaker:** Hon. Odongo.

**Hon. Olsi:** Thank you, Mr. Speaker, Sir. It is even good that the Member who has just spoken is also a Member of that Committee and therefore, the question is to him and the entire Committee.

I believe that the clerk is the secretary to that Committee and the custodian of all minutes and that is why I am blaming him, and if it is not so then according to the response that has been read whereby the Member who brought the Statement request is disputing that the response is not in line with his request. As a Member of the Committee are you satisfied with the response and did you read it?

**Hon. Speaker:** Hon. Members, just to put things in perspective for the guidance of the House as a matter of fact, when a matter Statement request is put by a Member of this House it is Committed to the Committee not even the Chair person.

The chairperson should convene a meeting and you look at the questions asked or terms of reference. You use it to communicate to the Executive to give you answers. When this answers come they don't come to the secretariat they come to the Committee just through the secretariat.

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The chairperson convenes a meeting before you come and read these responses here you interrogate. Do the answers tally with the questions asked, are there new findings or gray areas then you can call again the CECM or the relevant office holders from the Executive to answer some of those issues. I would expect that when you are doing that you have the person also who asked the question.

So when you are coming here, as a Committee you can also dismiss a report and tell us this is the report we got from the Executive but we are not satisfied and as a result we are summoning this CECM for further interrogation. It is not garbage in, garbage out! You are not messengers, you are supposed to oversight them and interrogate further.

For example, when somebody says, I saw here a Statement request answered like the allocation was this. You cannot just come here and say, "He has written the allocation was this." I expect the Committee to note in the first FY how much was allocated. Therefore, you ask him, "You are saying this, in which FY was this allocated?"

Then you interrogate further in the FY 2015/2016, 2016/2017 and 2017/2018 so that you also give us your position. You could as well as also say this is just allocation for one FY and therefore, we are not satisfied.

Therefore, Hon. Members this is what we need to practice that when questions are asked let us answer them satisfactorily, but more so, with investigative minds because we cannot oversight by garbage in garbage out. Even by just reading what is written to us.

Hon Odongo had asked how we refer to this people. Hon. Oriaro, so that the speaker answers for you this so for the guidance of all of us. Even in the National Government, we do not have ministers we have Cabinet secretaries and in the County Governments we have CECMs County Executive Committee Members.

So those baptism they give themselves and we give them is for them, but for the students they should leave here knowing that the equivalent of a Cabinet Secretary in the National Government back in the County Government is the County Executive Committee Members. That is for guidance of all of us.

**MOTION**  
ADJOURNMENT

**Hon. Speaker:** Hon. Members would we be upstanding for adjournment.

So Members you will stay behind for communication with Lap fund and any other thing in relation to the afternoon session.

Hon. Members, there being no other business this House stands adjourned until today Wednesday, 9<sup>th</sup> October, 2019 at 2.30 p.m. in the chamber.

The House rose at 11.58 a.m.